

File No. 170345

Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date May 25, 2017

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Linda Wong Date May 19, 2017
Completed by: Linda Wong Date _____

1 [Real Property Lease Extension - BRCP 1390 Market, LLC - 1390 Market Street - \$3,898,578
2 in Initial Year]

3 **Resolution approving the Fourth Amendment to a lease between BRCP 1390 Market,**
4 **LLC, as Landlord, and the City and County of San Francisco, as tenant, for**
5 **approximately 69,402 square feet at 1390 Market Street (Fox Plaza), for use by the**
6 **Office of the City Attorney at an initial annual rent of \$3,898,578.41 (or \$354,416.22 per**
7 **month with one month abated) and 3% annual increases thereafter, extending the term**
8 **for five years from January 1, 2018, to December 31, 2022; and approving the continued**
9 **use of a portion of the premises for child care services.**

10
11 WHEREAS, The City Attorney has occupied space at 1390 Market Street (Fox Plaza)
12 since the 1980s; and

13 WHEREAS, The City Attorney space at Fox Plaza provides good proximity to City Hall
14 and to the Superior Court, Federal Court, and City departments in the Civic Center area; and

15 WHEREAS, The current lease between the City and BRCP 1390 Market LLC
16 ("Landlord") for approximately 69,402 square feet of space at Fox Plaza (the "Lease") expires
17 on December 31, 2017, but includes two 5-year extension options each at 95% of the market
18 rental value; and

19 WHEREAS, The City's Real Estate Division and Landlord have determined that 95% of
20 fair market rental, considering all factors, for the five (5) year extension period is equal
21 to \$354,416.22 per month (approximately \$61.28 per square foot, annually) with annual three
22 percent (3%) increases starting in January 2019; and

23 WHEREAS, The proposed rent was found to be less than fair market rent by an
24 independent MAI appraisal, and this determination was confirmed by an appraisal review,
25 consistent with Administrative Code Chapter 23; and

1 WHEREAS, The Real Estate Division and Landlord have negotiated an amendment to
2 the Lease, substantially in the form on file with the Clerk of the Board in File No. 170345
3 (the "Lease Amendment"); now, therefore, be it

4 RESOLVED, That in accordance with the recommendation of the City Attorney and the
5 Director of Property, the Board of Supervisors approves the Lease Amendment and
6 authorizes the Director of Real Estate to take all actions necessary to enter into and perform
7 the City's obligations under the Lease Amendment; and, be it

8 FURTHER RESOLVED, As set forth in the Lease Amendment, (i) the extension term
9 shall commence upon January 1, 2018, and terminate on December 31, 2022; (ii) the monthly
10 base rent for the period from January 1, 2018, to December 31, 2019, shall be \$354,416.22
11 with 3% increases starting on January 1, 2019; (iii) the City shall pay for its prorata share of
12 operating expenses over a 2018 base year, and shall continue to pay its separately metered
13 electricity costs for 48,265 square feet of the Premises and for other typical tenant expenses;
14 and (iv) the base rent shall be abated for one month of the extended term; and, be it

15 FURTHER RESOLVED, That the City shall continue to use a portion of the Premises
16 for provision of childcare services by Marin Day School or other day care provider for \$1 per
17 year (the "Day Care License"), providing a service that lessens the burden of government and
18 is consistent with the requirements of Chapter 29B of the Administrative Code; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
20 Property to enter into any amendments or modifications to the Lease or the Day Care License
21 (including without limitation, the exhibits) that the Director of Property determines, in
22 consultation with the City Attorney, are in the best interest of the City, do not materially
23 increase the obligations or liabilities of the City, do not materially decrease the benefits to the
24 City, or are necessary or advisable to effectuate the purposes of this resolution, and are in
25 compliance with all applicable laws; and, be it

1 FURTHER RESOLVED, That the City shall occupy the Premises for the full term of the
2 Lease (as amended) unless funds for the City's rental payments are not appropriated in any
3 subsequent fiscal year at which time City may terminate the Lease as set forth in the Lease;
4 and, be it

5 FURTHER RESOLVED, That within thirty (30) days of the execution of the Lease
6 Amendment, the Director of Real Estate shall provide a copy to the Clerk of the Board for the
7 Board's file.

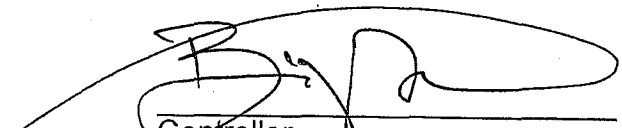
8 Signatures on next Page

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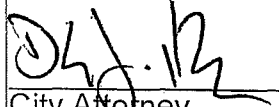
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\$2,813,111.09 Available
(6 months current rent plus 5 months
extension rent)
Index No. 035004- 03011



Controller
Subject to the enactment of the 2017/2018
Annual Appropriation Ordinance

RECOMMENDED:



City Attorney



Director of Property
Real Estate Division

<p>Item 3 File 17-0345</p>	<p>Department: City Attorney's Office (CAO) Real Estate Division (RED)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution would authorize a Fourth Amendment to the existing lease between BRCP 1390 Market, LLC, as landlord, and the City and County of San Francisco, as tenant, for approximately 69,402 square feet at 1390 Market Street (Fox Plaza), for use by the City Attorney's Office. Initial annual rent is \$3,898,578.41 (or \$354,416.22 per month with one month abated) with 3 percent annual increases thereafter. The lease term is extended for five years from January 1, 2018 to December 31, 2022 and continues use of a portion of the premises for child care services. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The Board of Supervisors approved the original seven-year lease in 2000. • The First Amendment set the parameters for relocating the City Attorney's Office to new space within 1390 Market Street. • The Second Amendment exercised the 5-year option to extend the lease from January 1, 2008 to December 31, 2012. • The Third Amendment authorized an extension of the term of the lease for five years from January 1, 2013 to December 31, 2017 and granted the City two additional 5-year extension options. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The current monthly rent for the existing lease is \$173,505, equal to \$30.00 per square foot per year. Under the proposed lease extension, the rent would increase to \$354,416.22 per month (effective as of January 1, 2018), which is equal to an annual rent rate of \$61.28 per square foot, an increase of 104.3 percent. In a reported dated February 20, 2017, Mateo Advisors, LLC (retained by the San Francisco Real Estate Division and BRCP), appraised the fair market value of the property at \$66.00 per square foot per year. • Total rent to be paid by the City Attorney's Office over the five-year term is \$22,225,094. Total operating costs are estimated at \$97,301, resulting in a total cost of \$22,322,395. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

Administrative Code Section 23.27 requires Board of Supervisors approval of leases that are longer than one year where the City is the tenant.

BACKGROUND

In May 2000, the Board of Supervisors approved a seven-year lease (Resolution 505-00) from January 1, 2001 through December, 31, 2007, between the City and County of San Francisco, as tenant, and BRCP 1390 Market, LLC, as landlord, at 1390 Market Street, with one five-year option to extend through December 2012. The lease provided approximately 62,814 square feet of office space for the City Attorney's Office. The City has entered into three prior lease amendments:

- The First Amendment set the parameters for relocating the City Attorney's Office to new space within 1390 Market Street, at the request of the landlord, and reduced the rent for the option term.
- The Second Amendment exercised the 5-year option to extend the lease, from January 1, 2008 to December 31, 2012 and increased the leased space to 68,783 square feet.
- The Third Amendment authorized an extension of the term of the lease for five years from January 1, 2013 to December 31, 2017 for 69,402 square feet. The amended lease granted the City two additional five-year extension options through December 2027.

Since the start of the lease in 2001, the terms under that lease for the City Attorney provided for the use of a portion of the premises by the Marin Day School, a non-profit agency, for the operation of a child care facility.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Fourth Amendment to the existing lease between BRCP 1390 Market, LLC, as landlord, and the City and County of San Francisco, as tenant, for approximately 69,402 square feet at 1390 Market Street (Fox Plaza), for use by the City Attorney's Office. The proposed Fourth Amendment (1) extends the lease term for five years from January 1, 2018 to December 31, 2022 with one five-year option to extend, (2) sets the initial annual rent at \$3,898,578 (or \$354,416 per month with one month abated) and 3 percent annual increases thereafter, and (3) approves the continued use of 1,737 square feet of the premises for child care services.

The leased space includes 1,737 square feet used for infant and young toddler care services under a program operated by Marin Day School, a non-profit. Marin Day School pays the City for this space at the nominal rent of \$1.00 per year in return for the child care services provided to the City.

The City shall also continue to pay for its proportion of the building’s operating expenses (property taxes, insurance, maintenance and repair, utilities, refuse removal, janitorial and security). According to Mr. Charlie Dunn, Senior Real Property Officer in the Real Estate Division, these expenses are currently estimated to be \$1,527.25 per month.

Table 1 below summarizes the terms and conditions of the proposed lease extension.

Table 1. Terms and Conditions of Proposed Lease Extension

	Proposed Lease Extension
Premises	69,402 square feet
Use	67,665 square feet for City Attorney’s Offices 1,737 square feet for infant and toddler care
Base Rent (monthly)	\$354,416.22
Estimated Operating Expenses (monthly)	\$1,527.25
Base Rent Increase Date	January 1, starting in 2019
Base Rent Increase Amount	3 percent annually
Term	Five years from January 1, 2018 through December 31, 2022
Options to Extend	One (1) five-year option at 95% fair market rate

Source: Real Estate Division

FISCAL IMPACT

The current monthly rent for the existing lease is \$173,505, equal to \$30.00 per square foot per year. Under the proposed lease extension, the rent would increase to \$354,416.22 per month (effective as of January 1, 2018), which is equal to an annual rent rate of \$61.28 per square foot, an increase of 104.3 percent.

In a reported dated February 20, 2017, Mateo Advisors, LLC (retained by the San Francisco Real Estate Division and BRCP), appraised the fair market value of the property at \$66.00 per square foot per year. This was established by comparisons with five leases for nearby properties. Clifford Advisory, LLC (retained by the Real Estate Division), provided a review of this appraisal and found that it was reasonable and supported based upon the data and analyses performed. The review also found the appraisal to conform to the Uniform Standards of Professional Appraisal Practice. According to Mr. Dunn, the proposed rent rate of \$61.28 per square is less than 95 percent of the appraised fair market value rent.

Rents will be increased annually (on January 1 of each year) by 3 percent. According to Mr. Dunn, this reflects current typical lease agreements in the commercial real estate market. The

rent is estimated to rise to \$63.12 per square foot on January 1, 2019, \$65.01 per square foot on January 1, 2020, \$66.96 per square foot on January 1, 2021 and to \$68.97 per square foot on January 1, 2022.

As Table 2 shows below, the total rent to be paid by the City Attorney's Office over the five-year lease extension is \$22,225,094. Total operating costs are estimated at \$97,301, resulting in a total cost of \$22,322,395 over the five-year lease extension. This cost would be paid from the City's General Fund, subject to Board of Supervisors appropriation approval.

Table 2: Total Costs by Year under Proposed Lease Extension

Lease Year	Annual Rent	Annual Operating Costs ¹	Total Cost
Year 1 - 2018	\$3,898,578	\$18,327	\$3,916,905
Year 2 - 2019	\$4,380,533	\$18,877	\$4,399,410
Year 3 - 2020	\$4,511,949	\$19,443	\$4,531,392
Year 4 - 2021	\$4,647,307	\$20,026	\$4,667,334
Year 5 - 2022	\$4,786,727	\$20,627	\$4,807,354
Total	\$22,225,094	\$97,301	\$22,322,395

Source: Real Estate Division

RECOMMENDATION

Approve the proposed resolution.

¹ Assumes an annual increase of 3 percent.

FOURTH AMENDMENT TO LEASE

LEASE EXTENSION

THIS FOURTH AMENDMENT TO LEASE (this "**Fourth Amendment**") is made and entered into as of _____, 2017, by and between **BRCP 1390 Market, LLC**, a Delaware limited liability company ("**Landlord**") and the **City and County of San Francisco**, a municipal corporation ("**Tenant**" or "**City**").

RECITALS

- A. Landlord and Tenant are parties to that certain Office Lease dated September 12, 2000 (the "**Lease**"), as amended by the First Amendment to Lease dated June 13, 2006, the Second Amendment to Lease dated September 25, 2007, and the Third Amendment to Lease dated March 31, 2012 (the "**Third Amendment**"), for the premises consisting of approximately 69,402 rentable square feet known as Suite 110 on the ground floor, Suites 240 and 250 on the 2nd floor, Suites 401 and 418 on the 4th floor, Suite 500 on the 5th floor, Suite 600 on the 6th floor, Suite 700 on the 7th floor, and Suites 1008 and 1010 on the 10th floor, as described in Attachment 1 (collectively, the "**Premises**"), all in a building known as Fox Plaza, 1390 Market Street, San Francisco, CA (the "**Building**").
- B. The Term of the Lease expires December 31, 2017, subject to two options to extend the Term, each for a period of five (5) years, as set forth in the Third Amendment. The extension options are referred to in the Third Amendment as the "**Third Extension Options**" and extension terms are referred to as the "**Third Extension Terms**". The first Third Extension Term (i.e., the period from January 1, 2018 to December 31, 2022) shall now be referred to as the "**2018 Extension Term**" and the second Third Extension Term (i.e., the period from January 1, 2023 to December 31, 2027) shall be referred to as the "**2023 Extension Term**".
- C. Tenant exercised the first of the Third Extension Options, and the parties have agreed upon the Base Rent for the 2018 Extension Term.
- D. Landlord and Tenant now wish to memorialize the extension of the Term as a result of Tenant's exercise of the first Third Extension Option and the agreed upon Base Rent for the 2018 Extension Term, as well as to make certain amendments to the Lease more particularly set forth below.

AMENDMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **LEASE EXTENSION.** Landlord and City agree to extend the Term to December 31, 2022 as a result of the City's exercise of the first Third Extension Option. On the Effective Date (as defined in Section 17 of this Fourth Amendment), all references in the Lease to the Term

shall mean the Term as extended by the 2018 Extension Term to December 31, 2022. Nothing in this Amendment affects the second Third Extension Option which, if exercised by the City as set forth in the Third Amendment, would extend the Term for the 2023 Extension Term.

2. **BASE RENT AND DIRECT TAXES DURING 2018 EXTENSION TERM.** The following language is added to the end of Lease Paragraph 4(C)(a):

“City’s lease of the Premises during the 2018 Extension Term shall be on all of the terms and conditions set forth in the Lease, except that: (i) at the start of the 2018 Extension Term, the Base Monthly Rent shall be adjusted to Three Hundred Fifty Four Thousand Four Hundred Sixteen Dollars and Twenty-two Cents (\$354,416.22) (or approximately \$61.28 per square foot), and shall be increased by three percent (3%) annually on each January 1 thereafter starting January 1 2019; (ii) the Base Year and the Base Tax Year, for purposes of determining City’s Additional Rent from and after the start of the 2018 Extension Term, shall be calendar 2018, and there shall be no Additional Rent for Operating Expenses during calendar year 2018; and (iii) notwithstanding anything in the Lease to the contrary, if a Re-assessment occurs during the 2018 Extension Term due to any sale, transfer or subdivision of any interest in or title to the Building or the land on which the Building is located that occurs during the 2018 Extension Term, Tenant’s share of any increase in Direct Taxes will be limited as follows: (a) for calendar year 2018, there will be no increase; (b) for calendar year 2019, Tenant shall pay twenty percent (20%) of the amount that would otherwise be due by Tenant under the Lease as a result of the increase (the “**Increase Amount**”); (c) for calendar year 2020, Tenant shall pay 40% of the Increase Amount; (d) for calendar year 2021, Tenant shall pay sixty percent (60%) of the Increase Amount; and (e) for calendar year 2022, Tenant shall pay eighty percent (80%) of the Increase Amount.”

3. **FREE RENT.** Base Rent for July 2018 shall be abated.

4. **LANDLORD’S OBLIGATION TO CONSTRUCT IMPROVEMENTS DURING THIS EXTENSION PERIOD.** The Leasehold Improvement Allowance for the 2018 Extension Term is Six Hundred Ninety-Four Thousand and Twenty Dollars (\$694,020) rather than the CPI adjusted amount under Section 6 of the Third Amendment. Landlord’s obligation to pay for tenant improvements shall not exceed the Leasehold Improvement Allowance (unless City agrees in writing to pay the amounts above the Leasehold Improvement Allowance as set forth in the Third Amendment). All of the other terms and conditions for use and expenditure of the Leasehold Improvement Allowance shall remain as set forth in the Third Amendment.

5. **LANDLORD’S RIGHT TO MAKE SEISMIC IMPROVEMENTS.**

A. **Construction Activities.**

(a) Tenant acknowledges that certain seismic improvements are being considered at the Building that involve installing diagonal braces in a single column bay (window opening) in two locations from the ground floor through the seventh floor of the Building and small steel plates installed at an additional four locations per floor (the “**Construction Activities**”). The Construction Activities are intended to improve the seismic performance of the Building by reducing building movement during an earthquake. The Construction Activities will be

undertaken, if at all, as a voluntary seismic upgrade to the Building (and, according to Landlord's architect, is not required by any Building codes) at Landlord's election and at no cost to Tenant. Tenant understands that the Construction Activities will impact Tenant's access to and use of certain common areas of the Building and certain portions of the Premises as shown in Attachment 2. During the periods access or use is denied, such spaces are referred to herein as the "**Restricted Common Areas**" and the "**Restricted Premises**", respectively. Tenant consents to the Construction Activities, and the limitations on Tenant's use of the Restricted Common Areas and the Restricted Premises, on the terms and conditions set forth in this Fourth Amendment.

(b) Throughout the Term, including during Construction Activities, Tenant shall have access to and possession of all of the Premises that are not part of the Restricted Premises. Unless otherwise agreed to by Tenant, the portion of the Construction Activity that impacts the Premises, as opposed to the Common Areas or the exterior of the Building (the "**Premises Construction Activities**"), shall occur in phases, one floor of the Premises at a time, so that the Restricted Premises shall not affect more than one floor of the Premises at any time and Tenant shall not be dislocated from space on more than one floor at a time.

B. Construction Activity Coordination.

(a) Landlord will provide Tenant with reasonable advance notice, but not less than four (4) weeks' notice, of upcoming Premises Construction Activities and the anticipated schedule and work program for the Restricted Premises. Landlord agrees to meet with Tenant weekly before and during Premises Construction Activities and reasonably address Tenant's ongoing concerns, and to work out the location of any Replacement Space (as defined below) and a mutually and reasonably agreed schedule for relocation work in an effort to minimize any disruption to Tenant. Landlord agrees to provide an overall construction schedule and updated "two week look ahead" schedules at the start of each week during which the Premises Construction Activities are being performed. Landlord acknowledges that Tenant's work is privileged and confidential and Landlord and Tenant agree to work cooperatively to provide Landlord's workers access through the Premises to the Restricted Premises, as needed, in a manner that meets Tenant's reasonable security requirements.

(b) Before any part of the Premises can become Restricted Premises, Landlord shall prepare, at no cost to Tenant, replacement space on third (3rd), eleventh (11th) or twelfth (12th) floors of the Building, or an alternative location reasonably approved by the Tenant, that provides substantially the same functionality (but not the same finishes) and no less than the same square footage as the applicable Restricted Premises, with no less than the same number of offices and conference rooms and the same telephone, computer and internet connectivity as compared to the applicable Restricted Premises (each, a "**Replacement Space**"). As part of such relocation, Landlord shall provide data and telephone connections to Tenant's servers located on the sixth (6th) floor and other necessary equipment (the "**Communication Connections**") for the Replacement Space so as to ensure the same connectivity and to prevent any interruption in telephone or internet service to affected employees of Tenant during their occupancy of the applicable Replacement Space. The Replacement Spaces currently existing in the Building have been built-out and are ready for occupancy, however, if required by law, Landlord shall obtain any necessary regulatory approvals for use of the Replacement Space before Tenant's occupancy. Tenant shall review and approve each Replacement Space, including the Communication Connections, before any

relocation, which approval shall not be unreasonably withheld, conditioned, or delayed, and Tenant shall respond in writing within five (5) business days to Landlord's request for approval.

C. Relocation from Restricted Premises.

(a) Upon Tenant's approval of the applicable Replacement Space, Landlord shall, at no cost to Tenant, promptly move Tenant's furniture, files, equipment and personal property (collectively, the "**Personal Property**") from the affected Restricted Premises to the Replacement Space.

(b) Landlord agrees to hire a relocation or move consultant reasonably acceptable to Tenant to assist in the securing and moving of the Personal Property. Tenant agrees that Linda Fink with WK Design is an acceptable move consultant. All relocations (from the Restricted Premises to the Replacement Space, and from the Replacement Space back to the Premises) shall start after 6:00 pm on Friday and be fully complete by 8:00 on Monday, except as may otherwise be agreed by Tenant. Tenant's only responsibility will be to clear work surfaces into Landlord supplied boxes and disconnect and reconnect telephone and computer equipment. Landlord shall remove files from file cabinets as needed to transport the cabinets without damage, and shall be responsible for any items lost or damaged during a relocation. Landlord and Tenant shall reasonably cooperate to prepare an inventory of Tenant's files and property to be relocated, which inventory shall be prepared by Landlord and approved by Tenant.

(c) Landlord shall pay all costs associated with Construction Activities, including restoring each part of the Restricted Premises impacted by Construction Activities to good condition and repairing any damage to the Premises caused by the Construction Activities or Landlord's construction workers. By way of example, if the Construction Activities disturb the existing dropped ceiling, Landlord shall make such improvements that the ceiling is uniform and consistent with the ceiling of the other portions of the Premises. Without limiting the foregoing, Landlord shall paint the walls and install new carpet in each of the Restricted Premises (consistent with existing paint color and carpet) before returning possession of such space to Tenant.

(d) Upon completion of the Premises Construction Activity and Landlord's restoration of the Restricted Premises as it relates to a floor of the Premises, Landlord shall notify Tenant. Landlord shall obtain the approval of the San Francisco Building Department (to the extent required) for Tenant to occupy the Restricted Premises before alleging that the work has been completed. Tenant shall review and inspect the restoration of the Premises, and notify Landlord of any items that have not been completed in accordance with the standards set forth in this Fourth Amendment. Upon Tenant's approval of the restoration work with respect to the applicable Restricted Premises, which approval shall not be unreasonably withheld, conditioned or delayed, Landlord shall, at no cost to Tenant, move the Personal Property back to the applicable Restricted Premises, consistent with the placement of such materials before the relocation, and restore the Communications Connections. Such work shall be performed at a mutually agreed upon time.

(e) Upon Landlord's return of each part of the Restricted Premises and the Personal Property in the condition required under this Fourth Amendment, the applicable Restricted Premises shall terminate. The parties shall memorialize in writing the start and end date for each of

the Restricted Premises for purposes of the Rent abatement set forth in Section 5.E of this Fourth Amendment.

D. Construction Work.

(a) Landlord shall cause the Construction Activities, including the work in and around the Restricted Premises, to be performed in a good and professional manner in accordance with sound building practices and consistent with other first-class buildings in the Civic Center region of San Francisco. Such work shall be performed by licensed and insured contractors and shall be performed in accordance with all applicable laws and regulations, and all such work in the Premises shall otherwise performed in accordance with the terms of the Lease, as amended hereby. Landlord shall use good faith efforts to cause such work to be performed and completed with due diligence and without interruption, subject to standard force majeure delays. In accordance with and subject to the limitations set forth in Section 17 of the Lease, the parties confirm that Landlord's indemnity obligations under Section 17 shall extend to any losses (other than any loss of use or enjoyment of the Restricted Premises or loss of business) or injuries resulting from the Construction Activities and the relocations contemplated by this Fourth Amendment.

(b) Landlord will obtain all required permits before starting work. Tenant, in approving this Fourth Amendment, is acting in its proprietary capacity as a tenant of the Property and not as a regulatory entity.

(c) Before starting Premises Construction Activities, Landlord shall take appropriate measures to insulate the Restricted Premises from the remainder of the Premises and to protect the remainder of the Premises from noise, dust and damage caused by the construction so that work can continue in these spaces during business hours. Unless otherwise approved by Tenant, no construction materials will travel through the Premises to the Restricted Premises except after 7:00 pm and before 8:00 am, and on weekends. During Landlord's use of the Restricted Premises and the Restricted Common Areas, Landlord shall take commercially reasonable measures necessary to minimize the disruption to Tenant's use and occupancy of the remainder of the Premises at all times, including but not limited to performing construction work which would produce excessive noise or any dust or disruption in the Premises (outside of the Restricted Premises) on weekends or after 7:00 pm and before 8:00 am; provided that Tenant acknowledges that certain Construction Activities producing noise (but not excessive noise that unreasonably disturbs Tenant's use of the Premises as a public law office) shall be performed on floors below and above the Premises during normal business hours for the Building, and Tenant shall not seek indemnification from Landlord under Section 17 as a result of such noise.

(d) If applicable due to the presence of asbestos containing materials in any Restricted Premises, Landlord shall timely perform and provide the results for routine air testing pursuant to a schedule, quantity and quality approved by City's Environment Health's asbestos and lead divisions.

(e) Tenant acknowledges and agrees that Landlord may install barricades and scaffolding on or about the Building and the common areas as needed during the Construction Activities.

(f) Except for prearranged and OSHA compliant inspections during construction coordination meetings, Tenant shall not enter or use the Restricted Premises during the Construction Activities.

(g) Landlord agrees that any person performing labor in the with respect to the Premises Construction Activities shall be paid not less than the highest prevailing rate of wages, and Landlord shall include this requirement in all construction contracts, as set forth in Lease section 28.I and San Francisco Administrative Code Section 23.61.

E. Rent Abatement. During the time that Tenant cannot use the Restricted Premises (on a floor by floor basis), Tenant shall receive a proportionate abatement of Base Rent and a proportionate reduction in Tenant's Percentage Share of Operating Expenses based on the square footage of the Restricted Premises. Tenant shall not be required to pay Base Rent or Operating Expenses for any Replacement Space.

F. Recognition of and Payment for Inconvenience and Associated Costs. In consideration of the disruption and inconvenience to Tenant resulting from the Premises Construction Activities and Tenant's loss of the Restricted Premises for the limited periods contemplated by this Fourth Amendment, if the Premises Construction Activities proceed, Landlord shall make a one-time payment to Tenant in the amount of Five Hundred Thousand Dollars (\$500,000). Payment will be made within ten (10) business days of the start of the Premises Construction Activities (i.e., the date that Landlord notifies Tenant that the contractor is to begin the work in the Restricted Premises). In addition, if the City's aggregate required occupancy of Replacement Spaces exceeds fifteen (15) months from the commencement of the Premises Construction Activities and such delay is not caused by the acts or omissions of Tenant, its agents or employees, Landlord shall provide to Tenant a credit against Rent in the amount of Twenty-Five Thousand Dollars (\$25,000) for each calendar month, or portion thereof, that the City's occupancy of Relocation Spaces continues (prorated based on the number of days in that calendar month). Landlord shall not be required to make the above payment (or provide the credit) if its elects not to proceed with the Premises Construction Activities. Upon receipt of the payments in this paragraph and Landlord's fulfillment of its obligations relating to the Construction Activities and the relocations (including Landlord's indemnity as set forth in Section 5.D(a) above), Landlord shall have no additional liability to Tenant resulting from the disruption and inconvenience caused by the Construction Activities.

G. General Cooperation. Tenant acknowledges and agrees that the Construction Activities as provided herein may be performed by Landlord in the Restricted Premises and Building during normal business hours for the Building. Landlord and Tenant agree to cooperate with each other in order to enable the Construction Activities to be performed in a timely manner and with as little inconvenience to the operation of Tenant's business in the Premises (exclusive of any Restricted Premises from which Tenant has been relocated) as is reasonably possible.

6. LANDLORD'S ADDRESS. Landlord's address set forth in the Lease for notices and payment of rent and other amounts due under the Lease is hereby deleted in its entirety and replaced by the following:

Landlord's notice address:

BRCP 1390 Market, LLC
c/o Broadreach Capital Partners
248 Homer Avenue
Palo Alto, California 94301
Attention: Asset Manager

With copy to

Fox Plaza Property Management Office
1390 Market Street, Suite 316
San Francisco, California 94102

Landlord's address for rent and other payments:

BRCP 1390 Market, LLC
c/o Transwestern
P.O. Box 51864
Los Angeles, California 90051-6191

7. **ADDITIONAL PROVISIONS.** The Lease is amended and updated to include the provisions in Attachment 3, which replace the corresponding language in the Lease.
8. **NO BROKERS.** Tenant represents and warrants that it has not dealt with any real estate broker in connection with this Fourth Amendment, and no compensation is due to Tenant's broker in connection with this Fourth Amendment. Tenant agrees to indemnify and hold Landlord harmless for any loss, cost, liability or expense incurred by Landlord as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Tenant in breach of the foregoing warranty. Landlord represents and warrants that it has not dealt with any real estate broker in connection with this Fourth Amendment, and no compensation is due to Landlord's broker in connection with this Fourth Amendment. Landlord agrees to indemnify and hold Tenant harmless for any loss, cost, liability or expense incurred by Tenant as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Landlord in breach of the foregoing warranty.
9. **DEFINED TERMS.** All capitalized terms used but not defined in this Fourth Amendment will have the meanings set forth for such terms in the Lease. All terms that are defined in this Fourth Amendment and used in any provisions that are added to the Lease pursuant to this Fourth Amendment will have the meanings in the Lease set forth for such terms in this Fourth Amendment.
10. **WHOLE AGREEMENT.** This Fourth Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Except as amended herein, there shall be no other changes or modifications to the Lease between the parties and the Lease and the terms and provision contained therein shall remain in full force and effect.

11. **MISCELLANEOUS**. This Fourth Amendment shall be binding upon the parties hereto, their heirs, successors and assigns. Except as modified hereby, there shall be no other changes or modifications to the Lease unless in writing and executed by the parties. No reference to this Fourth Amendment is necessary in any instrument or document at any time referring to the Lease. From and after the Effective Date, any reference to the Lease shall be deemed a reference to such document as amended hereby. This Fourth Amendment shall be governed by, construed and enforced in accordance with, the laws of the State of California.

12. **CONFIRMATION OF LEASE**. As amended by this Fourth Amendment, Landlord and Tenant confirm and ratify in all respects the terms and conditions of the Lease, and further confirm that, except as provided in this Fourth Amendment, there are no outstanding tenant improvement obligations of Landlord regarding the Premises. The execution of this Fourth Amendment shall not constitute a waiver of relinquishment of any rights which Landlord or Tenant may have relating to the Lease.

13. **NO JOINT VENTURE**. This Fourth Amendment or any activity by Tenant hereunder does not create a partnership or joint venture between Tenant and Landlord relating to the Lease or otherwise. This Fourth Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord.

14. **COUNTERPARTS**. This Fourth Amendment may be executed in one or more counterparts, each of which shall be deemed an original, including transmittals by facsimile, all of which together shall constitute one and the same instrument.

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

16. **STATUTORY DISCLOSURES; COMPLIANCE**. For purposes of Section 1938(a) of the California Civil Code, Landlord hereby discloses to Tenant, and Tenant hereby acknowledges, that the Premises have not undergone inspection by a Certified Access Specialist (CASp). As required by Section 1938(e) of the California Civil Code, Landlord hereby states as follows: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises." In furtherance of the foregoing, Landlord and Tenant hereby agree as follows: (a) any CASp inspection requested by Tenant shall be conducted, at Tenant's sole cost and expense, by a CASp approved by Landlord, subject to Landlord's reasonable rules and requirements; (b) such inspection shall be limited to the Premises and access to the Premises; (c) Tenant is not a Small Business and San Francisco Administrative Code section 38.5 does not apply to this Lease; and (d) Tenant, at its sole cost and expense, shall be responsible for making any improvements or repairs to correct violations

of construction-related accessibility standards identified as a result of any such inspection by Tenant, which work shall be performed in accordance with the terms of the Lease. Notwithstanding the foregoing, (A) if any disability access improvements or upgrades are triggered by the Construction Activities, Landlord shall make such improvements or upgrades at no cost to Tenant, and (B) notwithstanding anything to the contrary set forth in the Lease, (x) if any disability access improvements or upgrades are triggered by tenant improvements or alterations selected or performed by or on behalf of Tenant, then Tenant shall be responsible for the cost of such improvements or upgrades under the Leasehold Improvement Allowance (and for amounts above the Leasehold Improvement Allowance as set forth in the Third Amendment), and (y) Tenant hereby acknowledges that subject to the application Leasehold Improvement Allowance to the cost thereof, Tenant shall be solely responsible for compliance with applicable laws, regulations and ordinances (including with respect to any upgrades or modifications required by the ADA or any similar statutes) arising from or triggered by any tenant improvements, alterations or additions performed by or on behalf of Tenant.

17. **EFFECTIVE DATE.** This Fourth Amendment shall become effective on the date (the "Effective Date") that (i) the City's Board of Supervisors enacts such resolution authorizing this Fourth Amendment and (ii) the Fourth Amendment is fully executed and delivered by both parties.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS FOURTH AMENDMENT, LANDLORD 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 A RESOLUTION APPROVING THIS FOURTH AMENDMENT 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 FOURTH AMENDMENT SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS FOURTH AMENDMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS FOURTH AMENDMENT 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 left blank

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Fourth Amendment as of the day and year first above written.

LANDLORD

TENANT

BRCP 1390 Market, LLC, a Delaware limited liability company

City and County of San Francisco, a municipal corporation

By: BRCP Realty II, L.P.,
a Delaware limited partnership
Its: Sole Member

By: _____
Name: John Updike, Director of Real Estate

By: BRCP Gen-Par II, LLC,
a Delaware limited liability company
Its: General Partner

RECOMMENDED:
DENNIS J. HERRERA, City Attorney

By: _____

Name: _____

By: _____

Its: _____

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney

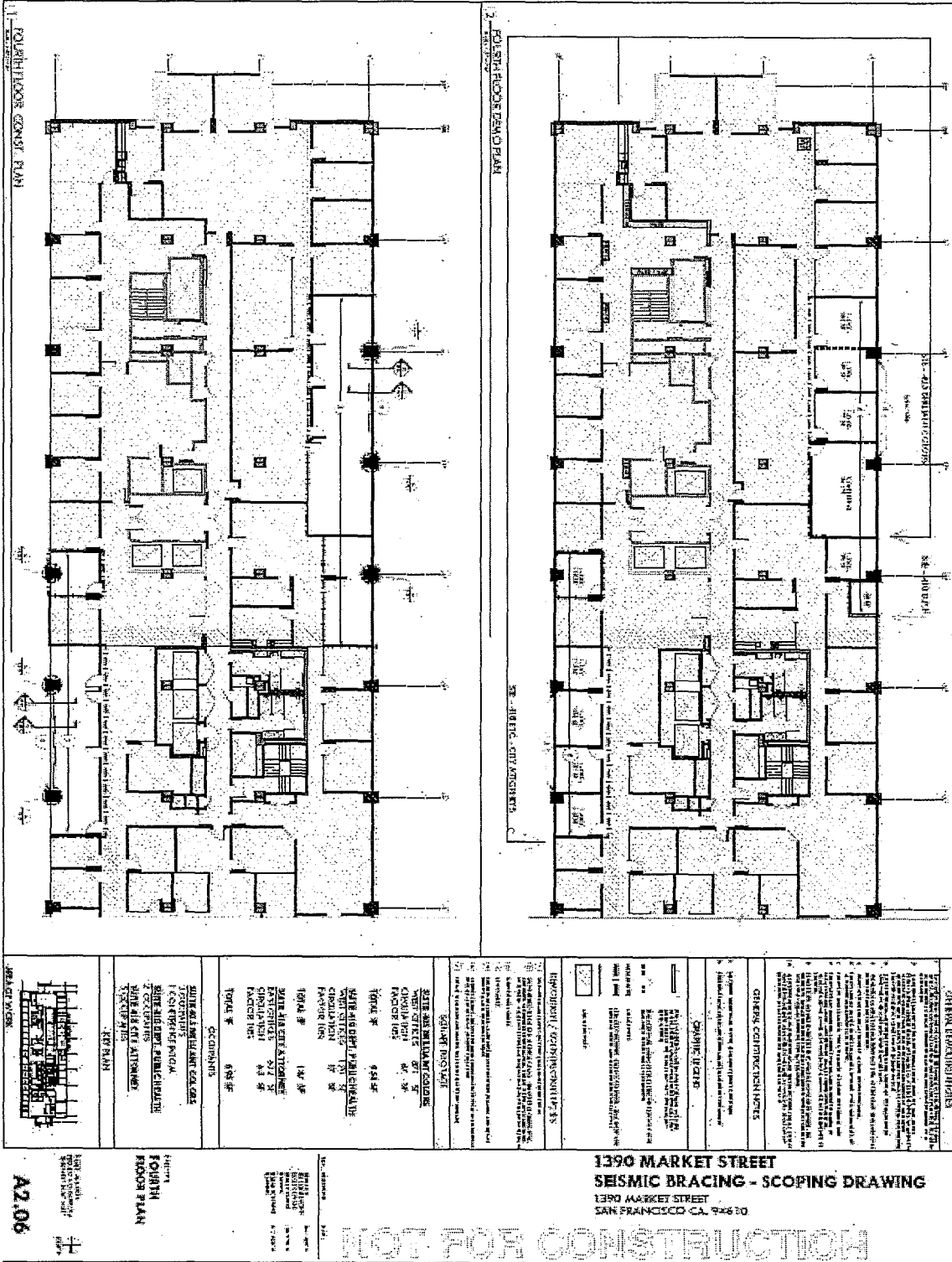
ATTACHMENT 1

Premises

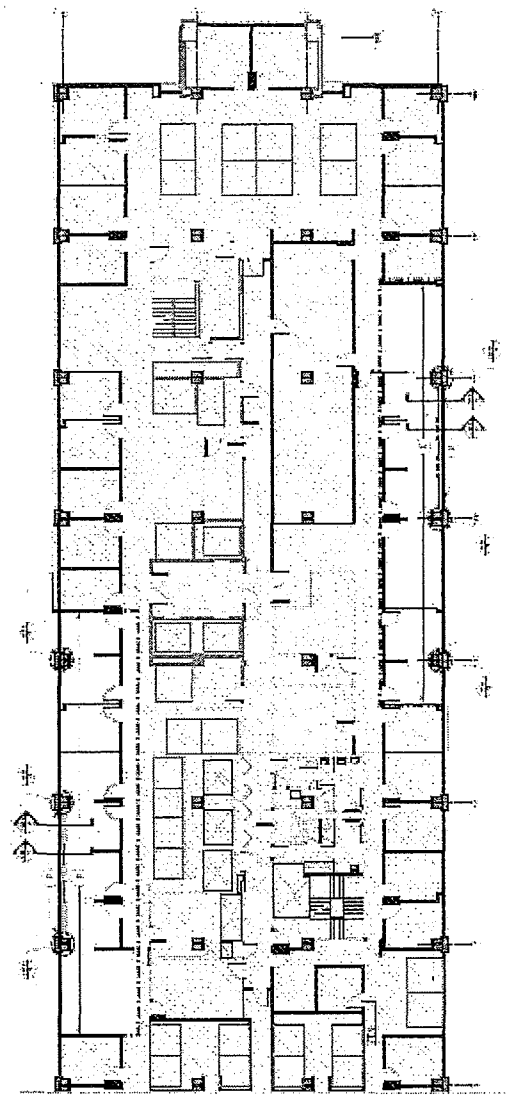
SUITE	SQ. FT.
1008-1010	3,601
7TH Floor	18,488
6TH Floor	18,168
5TH Floor	18,127
401, 408, 418	9,281
Ground Floor Suite 110	1,737
Total Rentable Sq. Ft.	69,402
% Share of Operating Expenses	31.75%

ATTACHMENT 2

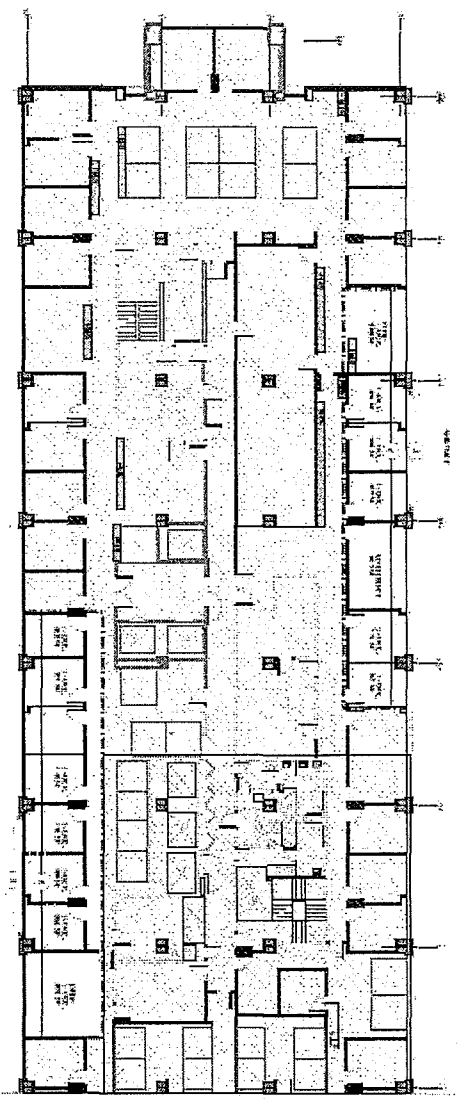
Restricted Premises



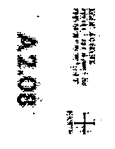
32ND FLOOR CONCRETE PLAN



33RD FLOOR BRACING PLAN



<p>GENERAL NOTES:</p> <p>1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE U.S. NATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.</p> <p>2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.</p> <p>3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES.</p> <p>4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL EXISTING UTILITIES AND STRUCTURAL MEMBERS AT ALL TIMES.</p> <p>5. ALL DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.</p> <p>6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING STRUCTURAL MEMBERS AND UTILITIES.</p> <p>8. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE SPECIFICATIONS AND DRAWINGS.</p> <p>9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.</p> <p>10. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES.</p>	
<p>SEISMIC BRACING SYSTEM:</p> <p>1. BRACING SYSTEM SHALL BE DESIGNED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE U.S. NATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.</p> <p>2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.</p> <p>3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES.</p> <p>4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL EXISTING UTILITIES AND STRUCTURAL MEMBERS AT ALL TIMES.</p> <p>5. ALL DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.</p> <p>6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.</p> <p>7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING STRUCTURAL MEMBERS AND UTILITIES.</p> <p>8. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE SPECIFICATIONS AND DRAWINGS.</p> <p>9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPLICABLE AGENCIES.</p> <p>10. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE APPLICABLE AGENCIES.</p>	
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32ND FLOOR CONCRETE PLAN
33RD FLOOR BRACING PLAN

DATE: 10/15/2022
DRAWN BY: [Name]
CHECKED BY: [Name]
PROJECT: 1390 MARKET STREET
SHEET: A2.08

**1390 MARKET STREET
SEISMIC BRACING - SCOPING DRAWING**
1390 MARKET STREET
SAN FRANCISCO, CA 94610

NOT FOR CONSTRUCTION

ATTACHMENT 3

Updated City Provisions

Conflicts of Interest

Through its execution of this Lease, Landlord acknowledges that it is familiar with the provisions of 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, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Landlord becomes aware of any such fact during the Term of this Lease, Landlord shall immediately notify City.

Notification of Limitations on Contributions

Through its execution of this Lease, Landlord 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 six months after the date the contract is approved. Landlord 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 \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each Landlord; each member of Landlord's board of directors, and Landlord's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord further agrees to provide to City the name of each person, entity or committee described above.

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

JON GIVNER
Deputy City Attorney

2017 APR -3 AM 10:40

JHB

Direct Dial: (415) 554-4694
Email: jon.givner@sfgov.org

April 3, 2017

Office of the Clerk of the Board of Supervisors
City Hall, Room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Introduction of Resolution Approving Renewal of Lease of Real Property at
1390 Market Street

Madame Clerk:

Attached for introduction is a proposed resolution authorizing a lease renewal for five years at Fox Plaza (1390 Market Street), for use by the City Attorney's Office.

The City Attorney has leased space at Fox Plaza for over 30 years. The City Attorney's Office occupies approximately 69,402 square feet (the "Premises") at a monthly rent of \$173,505. The Premises includes 1,737 square feet of space used for infant and young toddler care services under a program operated by Marin Day Schools. Marin Day School occupies its portion of the Premises at the nominal rent of \$1 per year.

The current lease with BRCP 1390 Market, LLC is set to expire on December 31, 2017, and includes an option to extend the term for an additional five years at 95% of the then fair market rent, subject to Board of Supervisors approval. The proposed resolution authorizes the extension of the current lease, including the infant care, for five years to December 31, 2022. Following this extension (if approved), the City has one more five-year extension option.

The proposed Base Rent for the renewed lease will be \$354,416.22 per month (or \$61.28 per square foot annually), with 3% annual increases. The proposed lease extension is fully serviced, except for separately metered electricity on approximately 48,265 square feet at an additional cost of approximately \$1,527.25 per month (payable to the San Francisco Public Utilities Commission). The City will continue to pay the standard increases in operating expenses over a new Base Year of 2018.

The proposed lease renewal also includes one month of rent abatement, resulting in a first-year effective rent of less than \$57 per sq. ft., or approximately 86% of fair market rent. The proposed lease extension also includes a \$694,020, or \$10-per-square-foot tenant improvement allowance. Attachment #1 provides a "before and after" table.

The fair market rent has been appraised at \$66 per square foot by MAI appraisal by Mateo Advisors and the Mateo Advisors appraisal has been confirmed by Clifford & Associates, MAI.

The Premises provide the City Attorney close proximity to state and federal courts, City Hall and City client departments in the Civic Center area. The continuation of the existing lease will also result in significant cost savings by avoiding the costs, lost productivity, and lost billable hours that would be associated with moving to alternative space.

Letter to Clerk of the Board of Supervisors
Page 2
April 3, 2017

We recommend approval of the proposed lease renewal. If members of the Board have any questions regarding this lease renewal, feel free to contact me or Charlie Dunn in Real Estate Division of the City Administrator's Office at 554-9861.

Very truly yours,

DENNIS J. HERRERA
City Attorney

A handwritten signature in black ink, appearing to read 'Jon Givner', written over a horizontal line.

JON GIVNER
Deputy City Attorney

Attachment #1
1390 Market Lease

	Current	Proposed
Premises	69,402 SF	No Change
Use	67,665 SF City Attorney's Offices 1,737 SF infant and toddler care	No Change
Base Rent	\$173,505 monthly	\$354,416.22 monthly
Rent Abatement	None	One month (a savings of \$354,416.22)
Estimated Operating Expenses	\$1,527.25 monthly	No change
Base Rent Increase Date	None	Annually on January 1, starting in 2019
Base Rent Increase Amount	None	3%
Lease Expiration	December 31, 2017.	December 31, 2022
Options to Extend	Two (2) further five year options at 95% FMR	One (1) further five year option at 95% FMR

OFFICE LEASE

between

CALFOX, INC.,
Managing Agent for Owner,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO
as Tenant

For the lease of

Fox Plaza, 1390 Market Street
Suites 240, 250, 401, 418, 500, 600, 1008 and 1010
San Francisco, California

September 12, 2000

OFFICE LEASE

Table of Contents

<u>Paragraph</u>		<u>Page</u>
1.	PARTIES	1
2.	PREMISES	1
3.	COVENANTS	1
4.	TERM	1
5.	TENANT IMPROVEMENTS	3
6.	RENT	3
7.	SURRENDER	9
8.	HOLDING OVER	9
9.	DELIVERY OF POSSESSION	10
10.	USE	10
11.	RULES	11
12.	ASSIGNMENT	11
13.	SALE	12
14.	MAINTENANCE AND REPAIRS; ALTERATIONS	12
15.	DAMAGE OR DESTRUCTION	13
16.	ENTRY	15
17.	HOLD HARMLESS	16
18.	SERVICES AND UTILITIES	16
19.	DEFAULT	18
20.	INSURANCE	19
21.	EMINENT DOMAIN	20
22.	ESTOPPEL CERTIFICATE; SUBORDINATION AND ATTORNMEN	21
23.	LANDLORD'S RIGHT TO BUILD	22
24.	ASBESTOS; HAZARDOUS MATERIAL	22
25.	CONTROLLER'S CERTIFICATION OF FUNDS	25
26.	FUTURE ELEVATOR	25
27.	NON DISCRIMINATION IN CITY CONTRACTS AND BENEFITS ORDINANCE	25
28.	MISCELLANEOUS	26
29.	COMMUNICATION LINE REPAIRS	29
30.	DIRECTOR OF PROPERTY	30
31.	RELOCATION	30
32.	INFANT CARE FACILITY	30
33.	FLOOR LOAD	31
34.	NOISE OR VIBRATION	31
35.	MAINTENANCE OF TENANTS AUXILIARY POWER HVAC SYSTEM	31
36.	BENEFICIAL OCCUPANCY, SUITE 240	31
37.	SIGNAGE	32
38.	FREQUENCY INTERFERENCE	32
39.	TENANT ADVANCE	32
40.	RIGHT OF FIRST OFFER TO LEASE	33
41.	ATTACHMENTS	34
	Signatures	36

BASIC LEASE INFORMATION

The following is a summary of basic lease information for convenience of reference only. In the event of any conflict or inconsistency between the information below and any provision of the Lease, the provision in the Lease shall control.

Lease Reference Date:	September 12, 2000
Landlord:	CALFOX, INC., as managing agent for building owner, Polk Market Co.
Tenant:	CITY AND COUNTY OF SAN FRANCISCO
Building (Paragraph 2):	Fox Plaza 1390 Market St. San Francisco, CA
Premises (Paragraph 2):	Suites 240, 250 on the 2 nd Floor Suites 401, 418 on the 4 th Floor Suite 500 on the 5 th Floor Suite 600 on the 6 th Floor Suites 1008, 1010 on the 10 th Floor
Rentable Area of Premises (Paragraph 2):	Total rentable area of Premises: approximately sixty-two thousand eight hundred fourteen (62,814) square feet Suite 240: approximately one thousand six hundred sixty-five (1,665) square feet Suite 250: approximately eleven thousand nine hundred seventy-two (11,972) square feet Suite 401: approximately five thousand five hundred twenty-one (5,521) square feet Suite 418: approximately three thousand seven hundred sixty (3,760) square feet Suite 500: approximately eighteen thousand one hundred twenty-seven (18,127) square feet Suite 600: approximately eighteen thousand one hundred sixty-eight (18,168) square feet Suite 1008: approximately one thousand four hundred fifteen (1,415) square feet Suite 1010: approximately two thousand one hundred eighty-six (2,186) square feet
Initial Term (Paragraph 4):	Commencement Date: January 1, 2001 Expiration Date: December 31, 2007
Extension Options (Paragraph 4):	One (1) option to extend for a period of five (5) years, exercisable by City by notice to Landlord prior to April 1, 2007, with Base Monthly Rental at the then fair market value.

Base Monthly Rental (Paragraph 6):	For the entire Premises, City will pay Base Rent in the amount of Two Hundred Thirty-One Thousand Five Hundred Thirty and 25/100 Dollars (\$231,530.25) per month throughout the Initial Term.
Additional Rent (Paragraph 6):	Commencing January 1, 2002, City pays its share of operating expenses and direct taxes of the office portion of the building.
Base Year (Paragraph 6):	Calendar year 2000
City's Percentage Share (Paragraph 6.B.):	26.92% (only applicable after January 1, 2002)
Use (Paragraph 10 and 32):	Administrative offices of the Office of the City Attorney and the Public Transportation Department for the City and County of San Francisco with infant childcare facilities located within Suite 250.
Tenant Improvements (Paragraph 5 and Work Letter):	Landlord to provide specified improvements and a future allowance.
Services and Utilities (Paragraph 18):	Fully serviced lease, with certain suites separately metered for electricity for power other than central mechanical, elevator and the common area power. See also Paragraph 35 for computer room tenant requirements.
Notice Address of Landlord (Paragraph 28):	425 California Street, Suite 2300 San Francisco, CA 94104 Fax No.: (415) 677-0699
Key Contact for Landlord:	Daniel W. Aljoe
Telephone No.:	(415) 986-0600
E-Mail:	daljoe@calfox.com
Notice Address for Tenant (Paragraph 28)	Real Estate Department 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Attn: Anthony J. DeLucchi, Director of Property Fax No.: (415) 552-9216

and to: Office of the City Attorney
City Hall
1 Dr. Carlton B. Goodlett Place
Room 234
San Francisco, CA 94102
Attn: Jesse Capin Smith,
Deputy City Attorney
Fax No.: (415) 554-4755

Key Contact for Tenant: Charlie Dunn
Telephone No.: (415) 554-9861
Alternate Contact for Tenant: City Attorney Office Manager
Telephone No.: (415) 554-3800
Brokers (Paragraph 28): None

OFFICE LEASE

1. PARTIES. THIS LEASE, dated for reference purposes only as of September 12, 2000, is made by and between CALFOX, INC., a California corporation, as managing agent for owner, Polk Market Co., ("Landlord"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Tenant" or "City").

2. PREMISES. Landlord does hereby lease to Tenant, and Tenant does hereby lease from Landlord, those certain premises situated in the City and County of San Francisco, State of California, known as Suites 240 and 250 on the second floor, Suites 401 and 418 on the fourth floor, Suite 500 on the fifth floor, Suite 600 on the sixth floor, and Suites 1008 and 1010 on the tenth floor of that certain building known as Fox Plaza, 1390 Market Street, San Francisco (the "Building"), and as shown on the floor plans attached hereto as Exhibit "A," hereinafter called the "Premises."

Tenant shall have the non-exclusive right to use and enjoy the elevator lobbies, corridors, sidewalks, elevators, stairways and other public areas of the Building and land upon which the Building is located (collectively, the "Common Areas") and the non-exclusive right of access to and from the Premises by the entrances of the Building. The Common Areas shall be subject to the exclusive control and management of Landlord, and Tenant shall use the Common Areas in accordance with the restrictions contained herein and the Rules and Regulations as provided in Paragraph 11 below. Landlord may, from time to time, alter, eliminate, relocate or reserve for private use any of the Common Areas and may temporarily close or restrict the use of any Common Areas as needed for repairs, provided that any and all such changes shall not materially interfere with Tenant's use and enjoyment of the Premises or Tenant's ability to conduct normal administrative office operations in the Premises.

3. COVENANTS. It is mutually agreed that the letting hereunder is upon and subject to the following terms, covenants and conditions. Tenant covenants, as a material part of the consideration for this Lease, to keep and perform each and all of the terms, covenants and conditions by it to be kept or performed, and this Lease is made upon the condition of such performance.

4. TERM.

A. The Premises are leased for an initial term (the "Initial Term") commencing on January 1, 2000. The Term of this Lease shall end on December 31, 2007 or such earlier date on which this Lease terminates pursuant hereto, provided that City shall have the right to extend the Initial Term pursuant to Paragraph 4.C. [Extension Options], below. The word "Term" as used herein shall refer to the Initial Term and any Extended Terms if City exercises any of the Extension Options as provided herein.

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "Commencement Date" and the "Expiration Date." If the Commencement Date occurs on a date other than January 1, 2001, then promptly thereafter Landlord shall deliver to City a notice substantially in the form of Exhibit "B" attached hereto, confirming the actual Commencement Date and Expiration Date, but Landlord's failure to do so shall not affect the commencement of the Initial Term.

B. Tenant may terminate this Lease by giving Landlord at least ninety (90) (but not more than one hundred twenty (120)) days written notice if, and only if, at the

time that the City's Board of Supervisors and Mayor approve the City Attorney's budget for any entire fiscal year, (I) sufficient funds for the payment of Rent and any other payments required under this Lease for such entire fiscal year are not appropriated, and (ii) no funds are appropriated in such budget related to the lease, use, occupancy, maintenance, or relocation of office space for the City Attorney, whether located in a City-owned or privately-owned building. If Tenant gives Landlord such notice of termination, this Lease shall terminate upon the last date sufficient funds are appropriated but no later than one hundred twenty (120) days after such failure to appropriate funds (the "Termination Date") with the same effect as if the Termination Date were the Expiration Date hereof; but such termination shall not relieve City of any obligation arising under this Lease prior to the Expiration Date or surrender of the Premises, whichever is later. If this Lease is terminated for non-appropriation, City shall not appropriate funds for the purpose of renting, using, occupying, maintaining or relocating to similar premises in any City or non-City owned building for the City Attorney's Office for a period of one (1) year from and after the Termination Date. If this Lease is terminated for non-appropriation, rent shall be apportioned as of the Termination Date and any prepaid portion of rent for any period after such date shall be refunded by Landlord to City.

C. Extension Option. City shall have the right to extend the Initial Term of this Lease for the additional term set forth below as follows:

1. Extension Option. City shall have the option to extend the Initial Term for an additional term ("Extended Term") of five (5) years commencing upon the expiration of the Initial Term ("Extension Option"). City's lease of the Premises during the Extended Term shall be on all of the terms and conditions set forth in this Lease, except that the Base Monthly Rent shall be adjusted to the prevailing market rate for the Premises, as further described below. Additionally, City shall pay Additional Rent for its share of increased Operating Expenses and Direct Taxes as described below. Landlord will provide building standard carpet and paint throughout the Premises at the commencement of the Extended Term, provided that the determination of prevailing market rate described below shall take into account such tenant improvements provided by Landlord. City may exercise the Extension Option, if at all, by giving written notice to Landlord no later than January 1, 2007; provided, however, if City is in material default hereunder on the date of giving such notice and fails to cure such default as provided herein, Landlord may reject such exercise by delivering written notice thereof to City promptly after such failure to cure. Landlord acknowledges and agrees that City's notice of its intent to exercise the Extension Option shall be subject to enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute discretion, approving and authorizing the same, within ninety (90) days after the date such notice of exercise is given. If such approval and authorization is not received by Landlord within ninety (90) days after the date such notice of exercise is given, City's Extension Option shall terminate and City shall have no further option to extend the Term.

2. Determination of Base Monthly Rent for the Extended Terms. At the commencement of the Extended Term, the Base Monthly Rent shall be adjusted to the prevailing market rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location and quality to the Premises situated within the Civic Center area of San Francisco ("Reference Area"); provided, however, in no event shall the Base Monthly Rent be reduced below the Base Monthly Rent for the lease year prior to commencement of such Extended Term, and provided further that City shall continue to pay Additional Rent based on a Base Year of 2000. As used herein, the term "prevailing market rate" shall mean the base rental for such comparable space at the time of the appraisal, taking into account (i) any Additional Rent and all other payments and escalations payable hereunder.

(ii) floor location and size of the premises covered by leases of such comparable space, (iii) the duration of the renewal term and the term of such comparable leases, (iv) free rent given under such comparable leases and any other tenant concessions, (v) building standard tenant improvement allowances, any other allowances given under such comparable leases, (vi) the quality of property management of the comparable space, and (vii) services provided by the Landlord inclusive in the monthly rent.

Within fifteen (15) days following City's notice of exercise of the Extension Option, Landlord shall provide City with its determination of prevailing market rate, together with sufficient detail for City to evaluate Landlord's determination. If City disputes Landlord's determination of the prevailing market rate, City shall so notify Landlord within fourteen (14) days following Landlord's notice to City of the prevailing market rate and such dispute shall be resolved as follows:

(a) Within thirty (30) days following Landlord's notice to City of the prevailing market rate, Landlord and City shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement.

(b) If within this thirty (30) day period Landlord and City cannot reach agreement as to the prevailing market rate, they shall each select one appraiser to determine the prevailing market rate. Each such appraiser shall arrive at a determination of the prevailing market rate and submit his or her conclusions to Landlord and City within thirty (30) days of the expiration of the thirty (30) day consultation period described in (a) above.

(c) If only one appraisal is submitted within the requisite time period, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then the two appraisers shall immediately select a third appraiser who will within thirty (30) days of his or her selection make a determination of the prevailing market rate and submit such determination to Landlord and City. This third appraisal will then be averaged with the closer of the two previous appraisals and the result shall be the prevailing market rate.

(d) If City's Director of Property does not approve of the prevailing market rate as determined by the appraisal procedure specified above, the Director of Property shall revoke the exercise of the Extension Option by City in writing within twenty (20) days of the determination of the prevailing market rate.

(e) All appraisers specified herein shall be members of the American Institute of Real Estate Appraisers (MAI) with not less than five (5) years' experience appraising leases of commercial properties similar to the Premises in the Civic Center area. Landlord and City shall pay the cost of the appraiser selected by such party and one-half of the cost of the third appraiser plus one-half of any other costs incurred in the arbitration.

5. TENANT IMPROVEMENTS. Landlord shall furnish and install the Tenant Improvements set forth in the Exhibit "F" Work Letter at Landlord's expense.

6. RENT. Rent shall be paid by Tenant to Landlord in lawful money of the United States of America at the office of Landlord at 425 California Street, Suite 2300, San Francisco, California 94104, or at such other place as Landlord may designate upon at least 30 days' prior written notice to Tenant. Tenant shall pay rent in advance, on the first day of each month during the Term of this Lease, free from all claims, demands or set-offs against Landlord of any kind or

character whatsoever except as otherwise expressly provided in this Lease. Rent shall begin on the Commencement Date hereunder, and shall be prorated for any partial month based on a thirty (30)-day month. City shall pay to Landlord any charges or other amounts required under this Lease as additional rent ("Additional Rent"), including the charges for Direct Taxes and Operating Expenses provided for herein. The Base Monthly Rent and Additional Rent are sometimes collectively referred to below as "Rent."

A. Base Monthly Rental. City agrees to pay monthly rent throughout the Initial Term (sometimes referred to herein as the "Base Monthly Rental" or "Base Monthly Rent") in the amount of Two Hundred Thirty-One Thousand Five Hundred Thirty and 25/100 Dollars (\$231,530.25) for the entire Premises including Suite 240.

(i) In the event Suite 240 has not been delivered to City Substantially Complete (as defined in the Work Letter attached as Exhibit F) prior to January 1, 2001, City shall pay a Base Monthly Rental of Two Hundred Twenty-Five Thousand Two Hundred Eighty-Six and 50/100 Dollars (\$225,286.50) until such date as Suite 240 has been delivered.

(ii) In the event Suite 240 has been delivered to City for Beneficial Occupancy (as defined in Paragraph 36) Substantially Complete (as defined in the Work Letter attached as Exhibit F) prior to January 1, 2001, the City shall pay to Landlord additional rental of Six Thousand Two Hundred Forty-Three and 75/100 Dollars (\$6,243.75) per month for Suite 240 until December 31, 2000.

If the date of delivery for Suite 240 occurs on a day other than the first day of the calendar month, then the Suite 240 Base Monthly Rental of Six Thousand Two Hundred Forty-Three and 75/100 Dollars (\$6,243.75) shall be prorated based on the number of days in such month.

B. Additional Rent.

1. Commencing on January 1, 2002, for the duration of the Term, as it may be extended, Tenant shall pay to Landlord Additional Rent, in an amount equal to (a) Tenant's Share specified herein below of any increase in Operating Expenses of the Office Portion of the Building (defined below in this Paragraph) paid or incurred by Landlord on account of the operating or maintenance of the Building above such Operating Expenses paid or incurred by Landlord during the Base Year specified herein below and (b) Tenant's Share specified herein below of any increase in Direct Taxes (defined below in this Paragraph) for the Office Portion of the Building paid or incurred by Landlord in excess of those paid or incurred in the Base Tax Year specified herein below, (all such rentals, charges and sums other than minimum monthly rent being referred to in this Lease as "Additional Rent," whether or not the same may be designated Additional Rent). If such amounts are not paid at the time they are due and payable under this Lease, they shall nevertheless be collectable as Additional Rent with the next installment of the Base Monthly Rental. Nothing herein contained shall be deemed to suspend or excuse the payment of any amount of money or charge at the time the same becomes due and payable hereunder, except as otherwise expressly provided in this Lease. Where the time for payment of any Additional Rent is not specified herein, the same shall be due and payable twenty-one (21) days after receipt of Landlord's invoice. If at any time during the Term of the Lease, less than ninety-five percent (95%) of the total rentable area of the Office Portion of the Building is occupied, the Operating Expenses and Direct Taxes shall be adjusted by Landlord to reasonably approximate the Operating Expenses and Direct Taxes which would have been incurred if the Office Portion of the Building had been at least ninety-five percent (95%) occupied.

In December of each calendar year during the Term, Landlord shall notify Tenant in writing of Landlord's estimate of the amount of any increase in Operating Expenses for the succeeding calendar year over Operating Expenses for the Base Year, the amount of any increase in Direct Taxes over those paid or incurred in the Base Year and of the amount of such estimated increases payable by Tenant. Commencing January 1, 2002, Tenant shall pay to Landlord on the first day of each calendar month, one-twelfth (1/12) of the amount of such estimated increases in Operating Expenses and Direct Taxes payable by Tenant hereunder. Such statement shall specify in reasonable detail the basis of Landlord's estimates. Statements of the amount of actual Operating Expenses for the preceding calendar year, of Direct Taxes for the appropriate fiscal year and the amount of such increases payable by Tenant shall be given to Tenant by May 1st of each succeeding calendar year subsequent to the Base Year. All amounts payable by Tenant as shown on such statement, less any amounts theretofore paid by Tenant on account of Landlord's estimate of increases in Operating Expenses and Direct Taxes made pursuant to this Paragraph, shall be paid by Tenant upon delivery of such statement to Tenant. In the event that Tenant has paid in any given year estimated increases beyond those later determined from actual reconciliation, then such over-payment shall be applied toward the next installments of Base Monthly Rental and Additional Rent until satisfied in full or, if the Lease terminates before all of such over-payment has been applied to Base Monthly Rental and Additional Rent due and payable hereunder, the balance of the over-payment shall be promptly refunded to Tenant.

2. The amount of any increase in Operating Expenses and Direct Taxes payable by Tenant for the calendar year in which this Lease terminates shall be prorated on the basis which the number of days from and including the commencement of such calendar year to and including the date on which this Lease terminates bears to three hundred sixty-five (365) and shall be due and payable when rendered notwithstanding termination of this Lease.

3. The term "Operating Expenses" as used herein shall mean all reasonable direct costs of operation, maintenance and management of the Office Portion of the Building (as hereinafter defined) which directly benefit the Building's operation, are generally accepted office building operational expenses and conform with generally accepted accounting practices. The term "Operating Expenses" as used herein shall exclude those costs which are the exclusive responsibility of Tenant or any other tenant of the Building under this Lease or other applicable leases including, without limitation, utility costs paid by Tenant pursuant to Paragraph 18 hereof, which costs shall be clearly excluded on Landlord's statements to Tenant. By way of illustration, but not limitation, Operating Expenses shall include the direct and reasonable cost or charges for the following items: heat, light, water, sewer, steam, and other utilities (including without limitation any temporary or permanent utility surcharge or other exaction, whether now or hereafter imposed), waste disposal, janitorial services, stationary engineering services, lobby attendant services, window cleaning, air conditioning, materials and supplies, equipment and tools and service agreements on elevators, equipment, insurance premiums, licenses, permits and inspections, wages and salaries, related employee benefits and payroll taxes, accounting and legal expenses, management fees, depreciation on personal property, including, without limitation, window coverings, provided by Landlord and carpeting in public corridors and Common Areas, amortization of the capital cost of operating cost saving installations, depreciation or amortization of required capital improvements to Common Areas or Building systems serving Common Areas imposed by governmental regulation, and the cost of contesting the validity or applicability of any governmental enactments which may affect Operating Expenses. The cost of real estate brokerage commissions and promotions, and legal fees for document review and evictions shall not be included as Operating Expenses. Notwithstanding anything to the contrary above, Operating Expenses shall exclude those items described on the attached Exhibit "E."

The term "Direct Taxes" as used herein shall mean the Office Portion of the Building's share of all real property taxes and assessments, imposition, levies and fees on the Building and the land on which the Building is situated and shall also include all personal property taxes levied on the property used in the operation of the Building; taxes of every kind and nature whatsoever levied and assessed in lieu of, in substitution for, or in addition to, existing or additional real property taxes on the Building or land, whether or not now customary or within the contemplation of the parties hereto, other than taxes associated with Tenant equipment, furniture, fixtures and other personal property to the extent that Landlord is reimbursed therefor by Tenant or by any other tenant of the Building; taxes upon the gross or net rental income of Landlord derived from the Building and land (excluding, however, state and federal personal or corporate income taxes measured by the income of Landlord from all sources) and a reasonable cost to Landlord of contesting the amount or validity or applicability of any of the aforementioned taxes. Net recoveries through protest, appeals or other actions taken by Landlord in its discretion, after deduction of all costs and expenses, including counsel and other fees, shall be deducted from Direct Taxes for the year of receipt. Notwithstanding the foregoing, Direct Taxes shall exclude (i) franchise, transfer, inheritance, or capital stock taxes or income taxes measured by the net income of Landlord from all sources unless, due to a change in the method of taxation, any of such taxes is levied or assessed against Landlord as a substitute for, or as an addition to, in whole or in part, any other tax that would otherwise include reasonable legal fees, costs, and disbursements incurred in connection with proceedings to contest, determine, or reduce Direct Taxes, (ii) any penalties, fines, interest or charges attributable to the late payment of any taxes, except to the extent the same is attributable to Tenant's failure to pay its portion of Direct Taxes hereunder, (iii) any personal property taxes payable by Tenant hereunder or by any other tenant or occupant of the Building.

During the Initial Term only, Tenant's share of any increase in Direct Taxes resulting from the re-assessment of the Building, which re-assessment is attributable to the sale or transfer of any interest in or title to the Building, the land upon which the Building sits, the Indenture of Lease identified in Paragraph 22 or any other lease of the land or the Building (collectively, a "Re-assessment") shall be limited to not more than One Dollar (\$1.00) per square foot of the Premises per year from and after the year of the Re-assessment over Tenant's share of Direct Taxes per square foot without the Re-assessment ("Tax Limit"). Tenant will not be responsible for the amount by which any increase in Tenant's share of Direct Taxes due to a Re-assessment exceeds the Tax Limit in any calendar year. The Tax Limit will not apply to Tenant's share of Direct Taxes from a Re-assessment during the Extended Term.

For example, assume the Building is sold and Re-assessed in 2004 and Tenant's share of Direct Taxes for calendar year 2004 resulting from the Re-assessment is \$2.30 per rentable square foot of the Premises. If Tenant's share of Direct Taxes in the absence of the Re-assessment would have been \$0.60 per rentable square foot, the increase attributable to the Re-assessment is \$1.70 per rentable square foot ($\$2.30/\text{RSF} - \$0.60/\text{RSF}$). Because the Tax Limit would limit the increase in Tenant's share of Direct Taxes due to a Re-assessment to \$1.00 per rentable square foot increase per year, Tenant's share of Direct Taxes in 2004 would be \$1.60 per rentable square foot of the Premises. In 2005, if Tenant's share of Direct Taxes was \$2.36 per rentable square foot ($1.02 \times \$2.30$), Tenant would pay \$2.36 per rentable square foot, which represents a \$0.76 per rentable square foot increase from the previous year. For purposes of this example only, in no event would Tenant's share of Direct Taxes exceed \$2.60 per rentable square foot in 2005.

In calculating Operating Expenses of the Office Portion of the Building and Direct Taxes of the Office Portion of the Building, the parties recognize that the Building is a multi-use facility with retail and a large residential area. Certain expenses are shared by residential and retail areas and actual usage cannot be determined. The parties agree to the

following allocations of total Building Operating Expenses and Direct Taxes to the Office Portion of the Building:

(a) Real estate taxes, licenses, gross receipts tax, landscaping, insurance, management fee, water, waste disposal, gas, administrative salaries and expense, public area maintenance and life safety maintenance: Forty-five and 98/100ths percent (45.98%).

(b) Electrical: From total electric charges paid by Landlord, deduct (i) apartment consumption, if paid by Landlord, (ii) apartment related equipment electric consumption listed on Rent Board Utility Pass Through, (iii) retail and office tenant electrical reimbursements, (iv) garage consumption, and (v) for Suites 250, 500 and 600 only thirty-nine and 9/10ths percent (39.9%) of total electric charges, the percentage to which City and Landlord have stipulated as representing electrical costs for lighting and power outlets in office spaces of the Building. The remaining electrical cost shall be allocated to Office Portion of the Building.

(c) Other expenses and taxes shall be prorated to Office Portion of the Building based upon invoice or identified use. If an item cannot be specifically identified to an area of the Building, the proration method set forth in (a) above shall be used.

4. The annual determination and statement of Operating Expenses and Direct Taxes as those terms are defined in Paragraph 6.B.3. above shall be made in reasonable detail and shall be certified by an accounting or auditing officer designated by Landlord. A copy of such determination shall be made available to Tenant upon demand. Tenant shall have the right to have the statement audited within one year of the payments made in reliance thereon, in conformity with generally accepted accounting principles, and standard building office expenses, subject to cash-basis accounting if used by Landlord, by Tenant's Controller or by an accounting firm mutually acceptable to Landlord and Tenant, at the offices of Landlord and during regular business hours. Tenant shall keep (and shall cause its agents and employees conducting the audit to keep) confidential any and all information contained in such statement, except to the extent disclosure of such information is required by ordinance, statute, regulation, a court order or decision, or any other law. Any investigation of such statement conducted by Tenant shall be conducted for it by Tenant's Controller or by a so-called "Big Six" accounting firm under a compensation arrangement that does not provide for incentive payments based upon the amount of savings that the audit procures. The audit shall be binding on the parties; if the audit determines an over-payment by Tenant, Landlord shall promptly refund the amount of such overpayment to Tenant; if the audit determines an underpayment by Tenant, Tenant shall promptly pay the amount of such underpayment to Landlord. Should the audit determine an overcharging by Landlord of three percent (3%) or more of the amount determined by the audit to be chargeable to Tenant, then Landlord shall pay the cost of the audit; should the variance between the amount charged by Landlord and the amount determined by the audit to be chargeable to Tenant have a variance of less than three percent (3%), then Tenant shall pay the cost of the audit. Landlord shall maintain at the Building in a safe and orderly manner all of its records pertaining to this Lease and Direct Taxes and Operating Expenses and any other charges paid by Tenant pursuant hereto, for a period of not less than three (3) years following expiration of the Term of this Lease. Landlord shall maintain such records on a current basis, and in sufficient detail to facilitate adequate audit and review thereof. All such books and records shall be available for inspection, copying and audit by Tenant and its representatives, at Tenant's expense, in accordance with the audit provisions above.

5. The Base Year referred to herein above is defined as calendar year 2000; the Base Tax Year referred to herein above is defined as the tax payments payable during calendar year 2000, except that any tax or assessment resulting from a new tax or from an assessment district imposed after the date of execution of the herein Lease and which has an

initial assessment date prior to January 1, 2001 shall be excluded from Direct Taxes of the Base Year.

Tenant's Share, as referred to herein above, is defined as:

<u>Premises</u>	<u>Tenant's Share</u>	<u>Tenant's Rentable Area</u>
Suite 240	0.71%	1,665 s. f.
Suite 250	5.13%	11,972 s.f.
Suite 401	2.37%	5,521 s.f.
Suite 418	1.61%	3,760 s.f.
Suite 500	7.77%	18,127 s.f.
Suite 600	7.79%	18,168 s.f.
Suite 1008	0.60%	1,415 s.f.
Suite 1010	0.94%	2,186 s.f.

For purposes hereof, the Premises contain the rentable area of 62,814 square feet and the Office Portion of the Building contains a total rentable area of 233,339 square feet. As used, herein, the term "rentable area" shall mean that measurement of rentable interior floor area computed in accordance with the "Standard Method for Measuring Floor Area in Office Buildings, the American National Standard" (ANSI Z65.1 1996), approved June 7, 1996 by American National Standard Institute Incorporated, and adopted by Building Owners and Managers Association International in 1996.

The "Office Portion of the Building," as referred to herein, is defined as that portion of the Building on the first to the 12th floors, excluding (i) the retail area on the first and second floors containing a rentable area of 21,419 square feet, (ii) the residential portion of the Building above the 12th floor, and (iii) the building garage.

C. Electronic Funds Transfer.

1. Landlord Option to Collect Via Electronic Funds Transfer ("EFT").

Tenant agrees to pay Basic Monthly Rental and (after Tenant's review and approval) Tenant's share of Operating Expenses and Direct Taxes to Landlord via wire transfer or other form of EFT. Such payments shall be transferred to Landlord's designated bank account on the date due, or, in the event that the due date is on a weekend or bank holiday, then on the business day immediately preceding such due date. If City makes payment by automated clearing house ("ACH") or other form of automatic deduction EFT payment available to its departments, Tenant

will diligently pursue and arrange payment of Basic Monthly Rental and (after Tenant's review and approval) Tenant's share of Operating Expenses and Direct Taxes to Landlord via ACH or other available method.

2. Fees and Charges. Tenant shall promptly pay all reasonable service fees and related bank charges to Landlord resulting from insufficient funds in Tenant's designated bank account or de-authorized EFT transactions. Landlord shall credit Tenant for any bona fide bank charges up to \$20.00 per transfer charged by Tenant's bank or financial institution incurred by Tenant due to Tenant's EFT payment.

3. Tenant to Notify of Change in Bank. In the event that Tenant elects to change the bank or financial institution from which any Rent under the Lease is automatically debited, Tenant shall notify Landlord of such change no later than fifteen (15) days prior to the date of the next Rent payment and shall take all steps necessary to ensure timely payments are made.

4. Mistake in Debit. Tenant shall remain responsible to Landlord for all payments of Rent, even if Tenant's bank account is incorrectly debited in any given month. If any error in the debit is made in the favor of Tenant, Tenant shall correct the underpayment within ten (10) business days of receipt of notice from Landlord. If any error in the debit is made in favor of Landlord, Landlord shall refund the overpayment within the sooner of ten (10) business days of Landlord's discovery of the error or ten (10) business days after receipt of notice from Tenant.

5. Tenant EFT Default. Tenant's failure to comply with the provisions of this Paragraph 6.C shall, upon notice, constitute an event of default of the Lease if not cured within the time set forth in the Lease. For the purposes of this paragraph, cure of an EFT default shall mean timely delivery to Landlord of a cashier's check for all sums due and reactivation of EFT payments as required by this paragraph.

7. SURRENDER. Tenant agrees to surrender the Premises at the termination of the tenancy herein created, in the same condition as herein agreed they have been received, except for reasonable use and wear thereof and damage by act of God, the elements, fire or any other casualty not caused by Tenant. Upon termination of this Lease, Tenant shall remove from the Premises all of its personal property described in Paragraph 14 below and any Tenant Work City is required to remove from the Premises pursuant to the provisions of Paragraph 14 hereof. Tenant shall repair or pay for the cost of repairing any damage to the Premises or the Building resulting from such removal. Tenant shall not be obligated to remove or demolish any of the Tenant Improvements. The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger and shall at the option of Landlord, terminate all of any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to him of any or all such subleases or subtenancies, in the absence of any other agreement between Landlord and Tenant or such subtenants.

8. HOLDING OVER. If Tenant holds possession of the Premises after the Term of this Lease, Tenant shall, at the option of Landlord to be exercised by Landlord's giving written notice to Tenant, become a tenant from month to month upon the terms and conditions herein specified, so far as applicable, at a Base Monthly Rental equal to prevailing fair market rent but in no event less than one hundred sixty percent (160%) of the sum of Base Monthly Rental and Additional Rent payable for the final month of the Term, payable as if the Term of this Lease had been extended. Tenant shall continue to be such tenant until thirty (30) days after Tenant shall have given to Landlord or Landlord shall have given to Tenant a written notice of intention to terminate such month-to-month tenancy. Unless Landlord shall consent to the holdover tenancy

as provided above, Tenant shall be a tenant at sufferance only, whether or not Landlord shall accept any rent from Tenant while Tenant is so holding over.

9. DELIVERY OF POSSESSION. In the event of the inability of Landlord to deliver possession of Suite 240 at the time of the commencement of the Term of this Lease in the condition required hereunder, neither Landlord nor its agents shall be liable for any damage caused thereby, nor shall this Lease thereby become void or voidable, nor shall the Term herein specified be in any way extended, but in such event Tenant shall not be liable for any Base Monthly Rental, Additional Rent or other charges for Suite 240 until such time as Landlord can deliver possession in accordance with the provisions of this Lease

10. USE. The Premises are to be used for administrative offices of the City Attorney's Office and for no other purpose without the written consent of Landlord. The Premises shall not be used for a police, sheriff, correctional, probation, social services intake, social services disbursement, medical, counseling clinic or drug treatment facility or for an employment agency or high volume public visitation. Tenant shall not do or permit anything to be done in or about the Premises, nor bring nor keep anything therein which will in any way materially increase or cause a cancellation or a policy exclusion of fire or other insurance upon the Building, or any of its contents, or which shall violate any law, ordinance, rule or regulation affecting the occupancy and use of the Premises, which is or may hereafter be enacted or promulgated by any public authority, or obstruct or interfere with the rights of other tenants of the Building, or injure or annoy them, nor use, nor allow the Premises, to be used, for any improper, immoral, unlawful or objectionable purpose, or for any kind of eating house, or for sleeping purposes, or for washing clothes, or cooking therein (except for microwave cooking in the kitchens), and nothing shall be prepared, manufactured, or mixed in the Premises which would emit an odor into the corridors of the Building. Tenant will not, without the written consent of Landlord, either (1) use any apparatus or device in connection with the Premises which will injure, vibrate or shake the Premises or materially increase the amount of electricity or water usually furnished or supplied to the Premises, or (2) connect with the water pipes any apparatus or device for the purpose of using water.

Landlord shall maintain the Building in a good, clean and safe manner and shall not permit any other tenants of the Building to disturb or interfere with Tenant's use of the Premises, or permit to be done in or about the Building or anything that is illegal, will be dangerous to life or limb or will constitute a nuisance to Tenant, its agents, contractors, officers, employees and invitees.

If Tenant's use of any of the Premises is interrupted as a result of the Premises' being rendered unsafe for human occupancy due to Landlord's failure to comply with its obligations under this Lease or for any other reason, then, without limiting any of Tenant's other rights or remedies hereunder or at law or in equity, Landlord shall immediately undertake all necessary steps to correct such condition, and, in the event such condition continues for five (5) days, the Base Monthly Rental and Additional Rent shall be subject to abatement based on the then current monthly rental rate per rentable square foot and on the extent to which such default materially interferes with Tenant's ability to conduct normal administrative office operations in the Premises. If any such condition shall continue for thirty (30) days or more after Landlord has been advised in writing by Tenant and shall materially impair Tenant's ability to carry on its business in the Premises, then Landlord shall promptly provide Tenant with its good-faith estimate of the time required to restore the Premises or eliminate the condition. If Tenant's normal and safe use of the Premises cannot be restored within ninety (90) days of the date City's use was interrupted, then Tenant may, without limiting any of its other rights or remedies hereunder or at law or in equity, by written notice given to Landlord given within one hundred (100) days after the date of Tenant's notice, terminate this Lease as of the date specified in such

notice, which date shall not be less than thirty (30) nor more than ninety (90) days after the date of Landlord's notice.

11. RULES. Tenant shall faithfully observe and comply with the rules and regulations that Landlord shall promulgate from time to time for the safety, care and cleanliness of the Premises and the preservation of good order thereon, as provided below. The current rules and regulations for the Premises are attached hereto as Exhibit "D" (the "Rules and Regulations") and are hereby expressly made a part hereof. Any reasonable additions or modifications thereto by Landlord shall be binding upon Tenant upon Landlord's delivery to Tenant of a copy thereof, provided that such additions or modifications shall not reduce the obligations of Landlord hereunder nor materially interfere with Tenant's use of the Premises, and such additions or modifications must be applicable to other office tenants in the Building. Landlord agrees to administer the Rules and Regulations in a fair and nondiscriminatory manner, and to cause other tenants or occupants to comply with the Rules and Regulations.

12. ASSIGNMENT. Tenant will not assign, mortgage or hypothecate this Lease, or any interest therein, or permit the use of the Premises by any person or persons other than Tenant, or sublet the Premises, or any part thereof, without the written consent of Landlord, provided that Tenant may assign this Lease or sublet the Premises to any other department or agency of the City and County of San Francisco for administrative office use by giving Landlord written notice thereof so long as such administrative office use by any such other City department or agency shall not (i) include psychological or substance abuse counseling, medical treatment, correctional, police or probation work as part of the business conducted on the Premises, (ii) involve substantial walk-in visitation from the general public without appointments (such as a welfare or recorder's office) or (iii) cause a material increase in the demands upon the utilities, services or Common Areas of the Building. Consent to any assignment or subletting requiring Landlord's consent as provided above shall not operate as a waiver of the necessity for such a consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding under or through Tenant. Landlord shall not unreasonably withhold its consent to subletting or assigning the Premises, subject to the following provisions:

A. If Tenant desires at any time to assign this Lease or sublet all or any portion of the Premises, Tenant shall first notify Landlord at least sixty (60) days prior to the proposed effective date of the assignment or sublease, in writing, of its desire to do so and shall submit in writing to Landlord (1) the name of the proposed subtenant or assignee, (2) the nature of the proposed subtenant's or assignee's business to be carried on in the Premises, (3) a copy of the proposed sublease or assignment and (4) financial statements for the two most recent completed fiscal years of the proposed subtenant or assignee, and a bank and a landlord reference. Thereafter, Tenant shall furnish such supplemental information as Landlord may reasonably request concerning the proposed subtenant or assignee. At any time within fifteen (15) days after Landlord's receipt of the information specified above, Landlord may by written notice to Tenant elect to (1) terminate this Lease not less than forty-five (45) nor more than ninety (90) days after the end of such fifteen (15)-day period as to the portion of the Premises so proposed to be assigned or subleased, with a proportionate abatement in rent payable hereunder, (2) consent to the sublease or assignment, or (3) reasonably disapprove of the sublease or assignment, setting forth in writing Landlord's ground for so doing. Such grounds may include, without limitation, a material increase in the impact upon the Common Areas of the Building, a material increase in the demands upon the utilities and services supplied by Landlord, a possible material adverse effect upon the reputation of the Building from the nature of the business to be conducted, or a reputation for financial reliability on the part of the proposed subtenant or assignee which is unsatisfactory in the reasonable judgment of Landlord. If Landlord consents to the sublease or assignment within the fifteen (15)-day period or if Landlord takes no action within that period, Tenant may thereafter enter into such assignment or sublease of the Premises, or a portion

thereof, upon the terms and conditions and as of the effective date set forth in the information furnished by Tenant to Landlord.

B. Each permitted assignee, transferee or sublessee, other than Landlord, shall assume and be deemed to have assumed this Lease and shall be and remain liable jointly and severally with Tenant for the payment of the rent and for the due performance or satisfaction of all of the provisions, covenants, conditions and agreements herein contained on Tenant's part to be performed or satisfied. No permitted assignment shall be binding on Landlord unless such assignee or Tenant shall deliver to Landlord a counterpart of such assignment which contains a covenant of assumption by the assignee, but the failure or refusal of the assignee to execute such instrument of assumption shall not release or discharge the assignee from its liability as set forth above.

C. Any notice by Tenant to Landlord pursuant to Paragraph 12.A. of a proposed assignment or subletting that requires Landlord's consent, shall be accompanied by a payment of Three Hundred Fifty and No/100 Dollars (\$350.00) as a non-refundable fee for Landlord's time and the processing of Tenant's request for Landlord's consent. In the event that Tenant should sublease to another tenant, Tenant shall pay to Landlord monthly on or before the first of each month sixty percent (60%) of the excess rent actually received, if any, from such subtenant or subtenants over and above the concurrent underlying Rent payable by Tenant to Landlord for that portion of the Premises being sublet, after deduction of tenant improvement costs, leasing commissions, free rent (if any), advertising expenses, and other reasonable and ordinary costs incurred by Tenant associated with such sublet. Tenant shall furnish Landlord with a true signed copy of such sublease or subleases and any supplementary agreements or amendments thereto, within five (5) days after their respective execution.

13. SALE. If Landlord sells or conveys the Building containing the Premises and the successor-in-interest of Landlord expressly assumes the terms, covenants and conditions of this Lease in writing, then upon notice to Tenant of the name and address of Landlord's successor, Landlord shall be released thereby from any further liability upon any of such terms, covenants and conditions upon receipt of a copy of such assumption, and Tenant agrees to look solely to the responsibility of such successor-in-interest of Landlord for claims arising on or after the date of the transfer.

14. MAINTENANCE AND REPAIRS; ALTERATIONS. Tenant has examined and inspected and knows the condition of the Premises and every part thereof and, subject to the provisions of Paragraph 5 hereof, the Work Letter and the Plan (Exhibits "F" and "G"), accepts the Premises in their present "as is" condition. Tenant shall maintain the interior portions of the Premises and shall keep the Premises in good working order and in a safe and sanitary condition, subject to Landlord's obligations hereunder and except for ordinary wear and tear and damage by casualty. Tenant shall not alter, repair or change the Premises without the prior written consent of Landlord. However, installation of furnishings, fixtures, equipment or decorative improvements, none of which affect the Building systems or structural integrity of the Premises, shall not constitute an alteration requiring Landlord's consent for purposes hereof. Tenant waives the provisions of California Civil Code Section 1932(1), 1941 and 1942 with regard to Landlord's obligation for tenantability of the Premises and Tenant's right to make repairs at Landlord's expense. Tenant, with prior written approval by Landlord, shall have the right during the Term hereof to make alterations, attach fixtures and erect additions or structures ("Tenant Work") in or upon the Premises provided the same shall not be detrimental to the structural integrity or appearance of the Building. All Tenant Work shall at once become part of the realty and belong to the Landlord. Movable furniture and equipment and other items of personal property shall remain the property of Tenant. However, at Landlord's election, Tenant shall, at Tenant's expense, remove any or all Tenant Work and restore the Premises to the condition

before the last day of the Term if Landlord requires such removal at the time of Landlord's consent to any such Tenant Work as provided below. At least thirty (30) days before the commencement of Tenant Work, Tenant shall submit to Landlord reproducible plans, specifications, and product samples of the proposed Tenant Work for Landlord's review and consent. Tenant shall be responsible to assure that the Tenant Work shall include properly engineered modifications to Landlord's air conditioning, lighting, fire sprinkler and life safety systems and shall comply with all governmental regulations, including life safety, handicap and seismic requirements applicable to such Tenant Work, which compliance shall be done at Tenant's sole cost and expense. Repair of all damage or injury done to the Premises by Tenant, or by any person who may be in or upon the Premises with the consent of Tenant, shall be paid for by Tenant. To the extent permissible under applicable laws, Tenant shall not at any time prior to or during the Term hereof, either directly or indirectly, use any contractors, labor or materials whose use would conflict with union contractors or labor engaged by Tenant or by Landlord or by others in the construction, maintenance, or operation of the demised Premises or the Building.

Landlord shall maintain in first-class condition consistent with other Class A office buildings in the Civic Center area, the exterior and structural portions of the Building (including, without limitation, the roof, foundation, bearing and exterior walls and subflooring), the windows in the Building, the Common Areas of the Building, 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"). except for damage occasioned by the act of Tenant, which damage, upon Landlord's request, shall be repaired by Tenant at Tenant's expense. Landlord shall maintain the Common Areas of the Building and the Building Systems in compliance with all applicable earthquake, life safety and disability access laws and all other applicable laws, rules and regulations of all governmental authorities, including, without limitation, the Americans with Disabilities Act, so long as Tenant is using the Premises for their intended purpose and the repairs are not made necessary due to the negligence or willful misconduct of Tenant or by any Tenant Work made by or on behalf of Tenant to the Premises. The foregoing sentence notwithstanding, Landlord shall retain any right to which it may be entitled to contest or appeal an interpretation of said laws, rules and regulations prior to compliance. Tenant shall maintain its use of the Premises in compliance with all applicable laws, statutes and regulations, except that Tenant shall not be required to make any structural or non-structural alterations in order to comply therewith unless such alterations shall be necessitated by Tenant's unique use of the Premises or any Tenant Work made by or on behalf of Tenant to the Premises.

15. DAMAGE OR DESTRUCTION. For the purposes of this Section 15 (Damage or Destruction), Landlord's and City's rights below to terminate the Lease in its entirety shall be for damage which renders more than seventy five percent (75%) of the Premises inaccessible, untenable, or unusable and such condition cannot be remedied by Landlord within the one hundred fifty (150) days after the date of damage as provided below. It is hereby agreed that for damage which renders less than seventy five percent (75%) of the Premises inaccessible, untenable, or unusable, and such condition cannot be remedied by Landlord within the one hundred fifty (150) days after the date of damage as provided below, that references to termination in this Section shall be only for those portions of the Premises which are rendered inaccessible, untenable, or unusable and to affect such a termination for less than seventy five percent (75%) of the Premises, the Lease shall be amended in writing to exclude those damaged portions of the Premises and modified to reflect the appropriate adjusted Rent and City's share of Operating Expenses and Direct Taxes based on the remaining undamaged area of the Premises.

If during the Term the Premises or any major Building System, e.g., mechanical or electrical, is totally or partially damaged or destroyed from any cause, rendering the Premises

totally or partially inaccessible, untenable or unusable, Landlord shall restore the Premises (including the Tenant Improvements) to substantially the same condition as they were in immediately before destruction, if the restoration can be made under the existing laws and can be completed within one hundred fifty (150) days after the date of destruction.

In such event, this Lease shall remain in full force and effect; provided, however, unless such damage is the result of the negligence or willful misconduct of Tenant or Tenant's employees or invitees, Tenant shall be entitled to a proportionate reduction of Base Monthly Rental and Additional Rent while such repairs to be made hereunder by Landlord are being made. Such proportionate reduction shall be based upon the then current monthly rental rate per rentable square foot and the extent to which such damage and the making of such repairs by Landlord shall interfere with Tenant's ability to conduct normal administrative office operations in the Premises.

Within thirty (30) business days after the date of such damage, Landlord shall notify Tenant whether or not, in Landlord's reasonable judgment made in good faith, such repairs can be made within one hundred fifty (150) days after the date of such damage. If such repairs cannot be made within such one hundred fifty (150) day period, then either party may, by written notice to the other given at any time within fifty (50) business days after the date of such notice, terminate this Lease as of the date specified in such notice, which termination date shall be not less than thirty (30) nor more than ninety (90) business days after the date of Landlord's notice. If Landlord and Tenant do not terminate this Lease and if restoration is permitted under the existing laws, Landlord shall restore the Premises within a reasonable time and this Lease shall continue in full force and effect. If the existing laws do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party. In case of termination, the Base Monthly Rental and Additional Rent shall be reduced by a proportionate amount based upon the then current monthly rental rate per rentable square foot and the extent to which such damage interferes with the conduct of City's business in the Premises, and City shall pay such reduced Base Monthly Rental and Additional Rent up to the date of termination. Landlord shall refund to City any Base Monthly Rental and Additional Rent previously paid for any period of time subsequent to such date of termination.

Provided that the events are not the result of Landlord's or its authorized representatives' active negligence or willful misconduct, Landlord shall not be required to repair any injury or damage by fire or other cause, or to make any restoration or replacement of any Tenant Work made by or on behalf of Tenant (unless Landlord's insurance covers the same) or of any of Tenant's personal property including, but not limited to, any decorations, partitions, railings, or office fixtures. Except as provided above, Tenant shall be responsible for restoring or replacing such Tenant Work and personal property in the event of damage if Tenant desires to repair or restore the same. Except for any abatement of Base Monthly Rental and Additional Rent, Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration (except to the extent of events that result from Landlord's or its employees, contractors, agents or authorized representatives' willful misconduct or negligent acts or omissions), nor shall Tenant have the right to terminate this Lease as the result of any statutory provision now or hereafter in effect pertaining to the damage and destruction of the Premises or the Building, except as expressly provided herein. Tenant hereby waives the provisions of Sections 1932(2) and 1933(4) of the California Civil Code.

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant. Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers; wires, appliances, plumbing, air conditioning or

lighting fixtures, or from any other cause, whether such damage or injury results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant except to the extent that such events are the result of Landlord's or its employees, contractors, agents or authorized representatives' willful misconduct or negligent acts or omissions or breach of Landlord's obligations hereunder. Landlord shall not be liable for any damages arising from any act or neglect of any other tenant of the Building.

Notwithstanding the foregoing, in the event the Premises are damaged or destroyed by reason of earthquake or flood, and such damage or destruction is not fully covered by insurance proceeds payable under the insurance policies Landlord is required to carry hereunder (excluding any deductible, for which Landlord shall be responsible), Landlord may terminate this Lease by written notice to City within thirty (30) days of the date Landlord receives written notice that such damage is not covered by insurance. If Landlord does not elect to terminate this Lease as provided above, the Lease shall remain in full force and effect, and Landlord shall repair and restore the Premises as provided above.

If at any time during the last six (6) months of the Term of this Lease there is substantial damage (that is damage that would take more than two (2) months to repair) that Landlord would be required to repair hereunder, Landlord or City may, at the respective option of each, terminate this Lease with respect to the floor affected by the damage 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.

16. ENTRY. Landlord reserves and shall at all reasonable times and with reasonable advance notice of not less than 24 hours (except in emergency situations, in which case Landlord shall use efforts to give notice as appropriate under the circumstances) have the right to enter the Premises to inspect the same; to supply any service to be provided by Landlord to Tenant hereunder (except that no advance notice will be required for any regularly scheduled service, such as regular janitorial service and building engineering); to submit the Premises to prospective purchasers or tenants; to post notices of non-responsibility and for "for lease" or "for sale" signs; and to alter, improve or repair the Premises and any portion of the Building and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing the entrance to the Premises shall not be blocked thereby, and further providing that the business of Tenant shall not be unreasonably interfered with. In connection therewith, Landlord agrees to perform such alterations, improvements and repairs to the Premises or any portion of the Building in an expeditious manner calculated to least interfere with Tenant's business operations at the Premises. Unless a claim arises due to Landlord's negligence or willful misconduct or breach of Landlord's obligations under this Lease, Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For the purpose of access as provided above, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the right to use any and all means which Landlord may deem proper to open such doors in an emergency, in order to obtain entry to the Premises, and any entry to the Premises obtained by Landlord by any of such means, or otherwise, shall not under any circumstances be construed or deemed to be forcible or unlawful entry into, or a detainer of the Premises, or an eviction of Tenant from the Premises or any portion thereof; with the further understanding that if Landlord gains access by forcible entry (unless at the request of Tenant), Landlord, at its sole expense, shall repair the doors and any other damage to the Premises to the same condition as before such entry and will take the necessary steps to protect and safeguard the Premises until permanent repairs are made. All extraordinary cost and expenses incurred by Tenant as a result of the

exercise by Landlord of its right of entry hereunder shall be borne by Landlord unless Tenant requests Landlord to enter the Premises, or except on account of a default by Tenant under the Lease, in which case such costs and expenses shall be borne by Tenant. As used herein, "extraordinary costs and expenses" refers to the costs and expenses not normally incident to the conduct of Tenant's business operations in the Premises, such as the provision of additional security, or provision of additional electrical or HVAC service;

17. HOLD HARMLESS. To the fullest extent permitted by law, Landlord shall not be liable to Tenant for any damage to Tenant or Tenant's property from any cause except as otherwise provided in this Lease and except for the willful misconduct and negligent acts and omissions of Landlord, its officers, employees, agents, contractors and representatives, or occasioned directly by Landlord's breach of its obligations under this Lease.

To the fullest extent permitted by law, Tenant shall hold Landlord and Landlord's officers, agents and employees harmless from, and shall defend them against, any and all claims, direct or vicarious liability, damage or loss arising out of: (a) any injury to or death of any person or damage to or destruction of any property occurring in or on the Premises, or any part thereof, (b) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease to be performed by Tenant hereunder, or (c) any willful misconduct or negligent acts or omissions of Tenant, its employees, agents, representatives and contractors in, or its invitees or visitors on or about the Premises. The foregoing indemnity obligation of Tenant shall exclude only claims, liability, damage or loss to the extent that they result from the active negligence or willful misconduct of Landlord or Landlord's officers, employees, agents, contractors and authorized representatives and which are not caused by Tenant's actions. The provisions of this Paragraph shall survive the termination of this Lease, with respect to any damage, destruction, injury or death occurring prior to such termination.

To the fullest extent permitted by law, Landlord shall hold Tenant and Tenant's officers, agents and employees harmless from, and shall defend them against, any and all claims, direct or vicarious liability, damage or loss arising out of: (a) any injury to or death of any person or damage to or destruction of any property occurring in or on the Common Areas of the Building, (b) any default by Landlord in the observance or performance of any of the terms, covenants or conditions of this Lease to be performed by Landlord hereunder, or (c) any willful misconduct or negligent acts or omissions of Landlord, its employees, agents, representatives and contractors in, on or about the Premises. The foregoing indemnity obligation of Landlord shall exclude only claims, liability, damage or loss to the extent that they result from the active negligence or willful misconduct of Tenant or Tenant's officers, employees, agents, contractors and authorized representatives and which are not caused by Landlord's actions. The provisions of this Paragraph shall survive the termination of this Lease, with respect to any damage, destruction, injury or death occurring prior to such termination.

18. SERVICES AND UTILITIES. Provided Tenant shall not be in default hereunder, and subject to the provisions elsewhere herein contained and to the Rules and Regulations of the Building, Landlord agrees to furnish to the Premises from 7:30 a.m. to 5:15 p.m., Monday through Friday (exclusive of Saturdays, Sundays and legal holidays) heating and air conditioning in the amount necessary in Landlord's reasonable judgment for the comfortable use and occupancy of the Premises for Tenant's business operations. Passenger elevator service, electric current and water will be available twenty-four (24) hours a day, three hundred sixty-five (365) days a year. Landlord shall also furnish to Tenant janitorial supplies and services and scavenger service in accordance with the standards attached hereto as Exhibit "C." Freight elevator service shall be available upon Tenant's reasonable advance oral request, in accordance with the Rules and Regulations. Landlord shall also furnish lobby attendant service consisting of a lobby attendant stationed in the lobby of the Building by the elevators serving the Premises, on a

twenty-four (24)-hours-a-day, three hundred sixty-five (365)-days-a-year basis. All services provided by Landlord under this Lease shall be furnished in a manner consistent with such services normally provided in other Class A office buildings similar to the Building in the San Francisco Civic Center area as of the Commencement Date of this Lease.

Suites 250, 500 and 600 of the Premises shall be separately metered for electricity for power, other than central mechanical, elevator and Common Area power which costs shall be at Landlord's expense subject to reimbursement as detailed in Paragraph 6. Tenant shall pay directly to the local public utility, prior to delinquency, all charges for electricity for such portions of the Premises. Any interruption of service due to non-payment of such utility bills by Tenant shall not be deemed an interruption of an Essential Service as set forth below. If the local public utility shall for any reason cease to separately meter electricity for the Premises, Landlord shall submeter such electrical usage and Tenant shall agree to reimburse Landlord monthly at Landlord's cost per kilowatt hour which reimbursement shall be deemed "Additional Rent" as set forth herein.

Except as provided below, Landlord shall not be in default hereunder or be liable for any damages directly or indirectly resulting from, nor shall the rental herein reserved be abated by reasons of (i) the installation, use or interruption of use of any equipment in connection with the furnishing of any of the foregoing utilities and services, (ii) failure to furnish or delay in furnishing any such utilities or services when such failure or delay is caused by Acts of God or the elements, labor disturbances of any character, any other accidents or other conditions beyond the reasonable control of Landlord, or by the making of repairs or improvements to the Premises or to the Building, or (iii) the limitation, curtailment, rationing or restriction on use of water or electricity, gas or any other form of energy or any other service or utility whatsoever serving the Premises or the Building in compliance with any mandatory or voluntary governmental laws, ordinances, regulations or requirements.

In the event Landlord is unable to supply any of the Building's sanitary, electrical, heating, air conditioning, water or other essential services serving the Premises (collectively, "Essential Services") and such inability of Landlord materially impairs Tenant's ability to conduct normal administrative office operations in the Premises for a period of five (5) or more consecutive days after notice from Tenant if such failure is in the reasonable control of Landlord, or a period of ten (10) or more consecutive days after notice from Tenant if such failure is not within the reasonable control of Landlord, then the Base Monthly Rental and additional charges hereunder shall be abated based on the then current monthly rental rate per rentable square foot and the extent such inability of Landlord materially impairs Tenant's ability to conduct normal administrative office operations in the Premises. Such abatement shall continue until the Essential Services have been restored so that the lack of any remaining services no longer materially impairs Tenant's ability to conduct normal administrative office operations in the Premises. Landlord shall use reasonable diligence to restore disrupted Essential Services as soon as possible. If any such condition shall continue for thirty (30) days or more after Landlord has been advised in writing, then Landlord shall promptly provide written notice to Tenant with its good faith estimate of the time required to restore the disrupted Essential Services. If such Essential Services cannot be restored within one hundred fifty (150) days of the date such services were interrupted and such failure materially interferes with Tenant's ability to conduct normal administrative office operations in the Premises, then Tenant may, without limiting any of its other rights or remedies hereunder or at law or in equity, by written notice given to Landlord within fifty (50) days after the date such Essential Services were disrupted, terminate this Lease as of the date specified in such notice, which termination date shall not be less than thirty (30) nor more than ninety (90) days after the date of Landlord's notice. Tenant shall not be entitled to any abatement of Base Monthly Rental and additional charges or right to terminate if

Landlord's inability to supply Essential Services to Tenant is due to the acts, omissions or negligence of Tenant, its employees, officers, contractors, agents or representatives.

19. DEFAULT. The failure to perform or honor each covenant, condition and representation made under this Lease shall constitute a default hereunder by Tenant upon expiration of the appropriate grace period hereinafter provided. Tenant shall have a period of ten (10) days from the date of written notice from Landlord within which to cure any default in the payment of Base Monthly Rental or other money hereunder, provided that for the first two (2) payments of Base Monthly Rental and Additional Rent at the beginning of each new fiscal year for City. City shall have twenty (20) days to cure any such nonpayment after the payment of Base Monthly Rental and Additional Rent is due. Tenant shall have a period of thirty (30) days after written notice from Landlord within which to cure any other default under this Lease, provided, however, that with respect to defaults which cannot be reasonably cured within thirty (30) days, the default shall not be deemed to be uncured if Tenant commences to cure within thirty (30) days from Landlord's notice and continues to prosecute diligently the curing thereof. Such notices shall be coincident with and not in addition to any required for an unlawful detainer. Upon an uncured default of this Lease by Tenant, Landlord shall have the following rights and remedies in addition to any other rights or remedies available to Landlord at law or in equity:

A. The rights and remedies provided by California Civil Code Section 1951.2, including but not limited to, recovery of the worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that the Tenant proves could be reasonably avoided, as computed pursuant to Section 1951.2(b).

B. The rights and remedies provided by California Civil Code Section 1951.4, that allows Landlord to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover rent as it becomes due, for so long as Landlord does not terminate Tenant's right to possession, if Tenant has the right to sublet or assign, subject only to reasonable limitations. Acts of maintenance or preservation, efforts to relet the Premises or the appointment of a receiver upon Landlord's initiative to protect its interest under this Lease shall not constitute a termination of Tenant's right to possession. If Tenant has vacated the Premises and Landlord exercises its rights under California Civil Code Section 1951.4, Landlord may from time to time sublet the Premises or any part thereof for such term or terms (which may extend beyond the Term of this Lease) and at such rent and such other terms as Landlord may obtain on the market, with the right to make alterations and repairs to the Premises. Upon each such subletting, (i) Tenant shall be immediately liable to pay to Landlord, in addition to Base Monthly Rent and Additional Rent hereunder, any commercially reasonable real estate commissions paid by Landlord in connection with such subletting and commercially reasonable cost of such subletting and such alterations and repairs incurred by Landlord and the amount, if any, by which the Base Monthly Rental and Additional Rent owing hereunder for the period of such subletting (to the extent such period does not exceed the Term hereof) exceeds the amount agreed to be paid as Base Monthly Rental and Additional Rent for the Premises for such period pursuant to such subletting or (ii) at the option of Landlord, rents received from such subletting shall be applied, first, to payment of any indebtedness other than rent due hereunder, from Tenant to Landlord; second, to the payment of any costs of such subletting and of such alterations and repairs; third, to payment of Base Monthly Rental and Additional Rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future Base Monthly Rental and Additional Rent as the same becomes due hereunder. If Tenant has been credited with any rent to be received by such subletting under option (i) above and such rent shall not be promptly paid to Landlord by the subtenant(s), or if such rentals received from such subletting under option (ii) during any month be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall

be calculated and paid monthly. No taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to Tenant. Notwithstanding any such subletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach;

C. The right to terminate this Lease by giving notice to Tenant in accordance with applicable law;

D. The right and power to enter the Premises and remove therefrom all persons and property, to store such property in a public warehouse or elsewhere at the cost of and for the account of Tenant, and to sell such property and apply the proceeds therefrom, pursuant to applicable California law; and

E. The right to have a receiver appointed for Tenant, upon application by Landlord, to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to Landlord pursuant to applicable law.

20. INSURANCE. Tenant shall, at its sole cost and expense, obtain and keep in force during the Term of this Lease as it may be extended, liability and property damage insurance with limits of not less than Five Million and No/100 Dollars (\$5,000,000.00) to protect Landlord and Tenant against liability to the public and property, incident to the use of or resulting from any accident occurring in, on or about the Premises and facilities, to indemnify against the claims of one (1) or more persons. Such insurance described above shall be issued by companies qualified to do and doing business in the State of California, rated at least "A plus XV" by Best's Insurance Reports and as may be approved by Landlord, shall name Landlord as an additional insured, shall be primary and noncontributing with any insurance which may be carried by Landlord, and shall provide that such policy(ies) cannot be canceled or altered without thirty (30) days' prior written notice to Landlord. Within ten (10) days of Landlord's execution of this Lease, each such policy or official policy duplicate(s) or official certificate(s) thereof shall be submitted to Landlord for Landlord's review and approval and for Landlord's retention. Should Tenant fail to provide policy(ies) or certificate(s) or renewals thereof, Tenant shall be in default under the terms, covenants and conditions of this Lease.

Notwithstanding the foregoing paragraph, City, but not City's assignee or sublessee (unless another department or agency of the City of San Francisco), may elect not to carry such insurance, thereby being "self-insured," provided that Tenant shall notify Landlord in writing of such election. Landlord hereby acknowledges that Tenant has elected as of the Commencement Date to self-insure and no further notice of such election shall be required. Nothing herein shall limit indemnity made by Tenant in favor of Landlord in Paragraph 17 above.

At all times during the Term, Landlord shall keep the Building (excluding the land upon which it is located) insured against damage and destruction by fire, vandalism, malicious mischief, sprinkler damage and other perils customarily covered under an all-risk 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. Such insurance coverage shall include the Tenant Improvements. Landlord shall, prior to the Commencement Date and thereafter prior to any expiration of such policy, provide to City an original certificate of insurance issued by the insurance carrier, evidencing the insurance required above. The certificate shall expressly provide that the policy is not cancelable or subject to reduction of coverage or otherwise be subject to modification except after thirty (30) days' prior written notice to Tenant.

21. EMINENT DOMAIN. For purposes hereof, the following terms shall have the following meanings:

"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.

"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.

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

A. 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 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

B. Total Taking; Automatic Termination. If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

C. Partial Taking; Election to Terminate. 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: (A) 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 provided, however, Landlord is given an opportunity to cure the effect on City and its operations in the Premises on or before the Date of Taking, at Landlord's sole cost, by making alterations to the Premises or providing alternate space elsewhere in the Building (such alternate space shall contain approximately the same rentable area and be in the same configuration as the space so taken and shall be altered to provide the same quantity and quality of Tenant Improvements as the space so taken), (B) 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 (C) City elects to terminate.

In the case of a partial Taking of a substantial portion of the Building, City and Landlord shall each have the right to terminate this Lease by written notice to the other within thirty (30) days after such date, 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.

Either party electing to terminate under the provisions of this Paragraph shall do so by giving the other party 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.

D. Rent; Award. Upon termination of this Lease pursuant to an election under this Paragraph above, then: (i) City's obligation to pay Base Monthly Rental and Additional Rent shall continue up until the date of termination, and thereafter shall cease, except that Base Monthly Rental and Additional Rent shall be reduced as provided in this Paragraph below for any period during which this Lease continues in effect after the Date of Taking, and (ii) 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 business or damage to City's personal property or Tenant's Work.

E. 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 this Paragraph 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 Monthly Rental shall be reduced by an amount that is in the same ratio to the Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking based upon the then current monthly rental rate per rentable square foot, (b) Tenant's Share for purposes of determining Additional Rent shall be reduced to reflect the amount of area of the Premises taken, and (c) 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 business or damage to City's personal property or Tenant's Work.

F. Temporary Takings. Notwithstanding anything to the contrary in this Paragraph, 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 Base Monthly Rental and additional charges 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 the total Base Monthly Rental and additional charges owing by City for the period of the Taking.

22. ESTOPPEL CERTIFICATE; SUBORDINATION AND ATTORNMENT. Within ten (10) days after notice from Landlord, Tenant shall execute and deliver at no charge to Landlord, or to such party as Landlord may designate, in recordable form, a certificate stating (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the date and nature of each modification), (b) the date, if any, to which rental and other sums payable hereunder have been paid, (c) that no notice has been received by Tenant of any default which has not been cured, except as to defaults specified in such certificate and (d) such other matters as may be reasonably requested by Landlord. Failure to deliver the certificate within the ten (10) days shall be conclusive upon Tenant for the benefit of Landlord and any successor to Landlord, that this Lease is in full force and effect and has not been modified except as may be represented by Landlord.

Tenant is hereby informed that the Building of which the demised Premises are a part is leased by Landlord under the terms of a ground lease (Indenture of Lease) between Massachusetts Mutual Life Insurance Company and Two Polk Corporation, Fox San Francisco Plaza Corporation & Sunset-Fox Plaza, Inc., dated September 30, 1964. Tenant will, upon request of Massachusetts Mutual Life Insurance Company ("Lessor") or any holder ("holder") of a first deed of trust covering the leasehold estate created under such Indenture of Lease ("encumbrance"), agree to attorn to such Lessor or such holder in the event of a termination of such Indenture of Lease, a sale under the power of sale contained in such deed of trust, or a foreclosure of such deed of trust provided that:

A. such Indenture of Lease or other encumbrance or a separate written agreement between Tenant and Lessor or any holder of an encumbrance shall contain a covenant that permits the proceeds of all property insurance covering the Building or Premises (other than rental interruption insurance), and all proceeds of any appropriation, to be paid over or made available for the repair, replacement and rebuilding of the Premises and/or Building as provided in this Lease; and

B. a written agreement is entered into by Lessor or holder and is recorded providing that notwithstanding any default in the encumbrance by Landlord and the foreclosure or termination thereof, or the enforcement by Lessor or any holder of any rights or remedies thereunder or with respect thereto, (including, without limitation, a sale thereunder) Tenant shall be joined or made a party to any such foreclosure, termination or other proceeding and this Lease shall be recognized to be and shall remain in full force and effect, and Tenant shall be permitted to remain in quiet and peaceable possession of the Premises throughout the Term in accordance with the provisions of this Lease, as long as no event of default by Tenant is outstanding beyond any cure period provided herein as of the date of such foreclosure or termination.

In the event of any such request of Tenant for attornment, Landlord shall, upon Tenant's request, deliver to Tenant the instrument or instruments between Landlord and Lessor or any holder that contain the covenants of Holder required hereunder, which instrument shall be enforceable by City. In the event that any ground lease or master lease terminates for any reason or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the tenant of the successor-in-interest to Landlord, at the option of such successor-in-interest, provided such successor-in-interest recognizes this Lease and agrees not to disturb Tenant's quiet enjoyment of the Premises. Upon request by Landlord, Tenant shall execute and deliver such instruments as may be reasonably necessary or convenient to evidence such subordination and/or attornment.

23. LANDLORD'S RIGHT TO BUILD. During the Term hereof, Landlord shall have the right to construct an additional building, including a tower, in the block bounded by Market Street, Polk Street and Hayes Street, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, provided that Landlord shall always ensure adequate access to the Premises. Landlord shall give Tenant at least ninety (90) days' prior written notice of any such construction activity. Landlord shall perform all construction work as expeditiously as possible and shall use reasonable diligence to minimize any interference with Tenant's normal administrative office operations in the Premises as a result of such construction or any pre-construction or post-construction activities. To the extent that Tenant's normal administrative office functions in any portion of the Premises are impaired by such construction, then Base Monthly Rental and Additional Rent (if applicable) for the space so affected shall be abated to the extent and for the duration of such disruption based upon the then current monthly rental rate per rentable square foot. Tenant's acknowledgement of Landlord's right to construct an additional building as provided above is made in City's capacity as Tenant only. Nothing herein shall be deemed to constitute approval of any such project by any governmental agency or authority with jurisdiction. If such construction occurs during the last six (6) months of the Term and such construction materially adversely affects Tenant's use of the Premises, Tenant shall have the right to terminate this Lease as to the floor on which the affected Premises are located.

24. ASBESTOS; HAZARDOUS MATERIAL. The sprayed-on fireproofing materials applied to certain structural members in the Building (which structural members are primarily located above the ceiling in the Premises) contain asbestos. In order to preserve the air quality of the Building, and prevent exposure to asbestos-containing materials, Landlord has established

rules and regulations governing the manner in which alterations and improvements are to be undertaken in the areas where the subject fireproofing is located. Tenant must comply with all such rules and regulations established by the Landlord. Such rules and regulations may be modified from time to time by Landlord, provided no such modification results in any material interference with Tenant's business in the Premises for the purposes provided herein. If any governmental entity promulgates or revises a statute, ordinance, code or regulation, or imposes mandatory controls or mandatory guidelines with respect to such asbestos-containing materials, or if Landlord is required to make alterations to, or to remove such asbestos-containing materials, Landlord shall comply with such mandatory controls or mandatory guidelines (including, without limitation, any asbestos worker safety laws that impose a duty of Tenant toward Tenant's employees) and shall, in its reasonable discretion, comply with any applicable voluntary guidelines. Except as required by applicable law (including, without limitation, any asbestos worker safety law that imposes a duty of Tenant toward Tenant's employees), Landlord shall have no obligation to remove, encapsulate or remediate the asbestos-containing materials but may elect to do so in its sole discretion. So long as Tenant is not displaced from the Premises, or any portion thereof, and Tenant's use of the Premises is not materially adversely affected, any compliance or the making of alterations, or the removal of all or a portion of such asbestos-containing materials by Landlord, whether in the Premises or elsewhere in the Building, shall not, in any event, (a) entitle the Tenant to receive any damages, (b) relieve Tenant of the obligation to pay any sums due hereunder, (c) constitute or be construed as a constructive or other eviction of Tenant, or (d) constitute or be construed as a breach of Tenant's quiet enjoyment.

However, if such compliance, alterations or removal do materially interfere with Tenant's ability to conduct normal administrative office operations in the Premises Tenant shall be entitled to an abatement of rent based on the extent to which Tenant's ability to conduct normal administrative office operations in the Premises is impaired, and if such compliance, alterations or removal cannot be completed within ninety (90) days, Tenant shall have the right to terminate this Lease upon written notice to Landlord. Any asbestos abatement work by Landlord shall be done in an expeditious, first-class professional manner and in accordance with construction specifications approved by an independent asbestos consultant (certified by the Division of Occupational Safety and Health after July 1, 1992, according to the requirements of SB 732). In addition, the performance of the abatement work shall be monitored by such consultant, or another independent asbestos consultant meeting the qualifications specified above. Before asbestos abatement areas are released for re-occupancy, the consultant shall certify in writing to Tenant, that the areas have been determined to be safe for reoccupation based on air monitoring results, according to applicable law and industry standard practice.

Landlord shall keep all records regarding asbestos-related work performed at the Building at a location where it is accessible to Building occupants for review. Landlord shall provide notices and maintain records in compliance with California Health and Safety Code Section 25915 et seq. Tenant acknowledges receipt of a copy of such notice dated February 16, 2000, which is attached to this Lease.

Landlord hereby represents and warrants to City that, to best of Landlord's knowledge, neither the Premises, the Building nor the real property upon which the Building is located (collectively, the "Property") is in violation of any federal, state, local or administrative law, rule, regulation, order or requirement relating to Hazardous Material (as defined below), industrial hygiene or other environmental conditions (collectively, "Environmental Laws"). To the best of Landlord's knowledge, the Property does not contain any underground storage tanks, nor do the Premises or the Building consist of any building materials that contain Hazardous Material except as expressly provided herein above with respect to the presence of asbestos-containing materials and in the attached Notice to Fox Plaza Employees and Contractors. No Hazardous

Material is presently stored or located on or in the Property by Landlord or, to the best of Landlord's knowledge, by any tenant or occupant of the Property other than City, except for such substances used in such limited quantities as is customary in office use and common office cleaning products as further described in the Hazardous Materials Storage Permit Application Filing Form submitted by Landlord in March 1991, as the same may be revised, provided such storage and use is and shall be in compliance with Environmental Laws throughout the Term hereof. To the best of Landlord's knowledge, there has been no release and there is no threatened release of any Hazardous Material on, in, under or about the Property. The Property is not subject to any claim by any governmental regulatory agency or third party related to the release, or threatened release, of any Hazardous Material, and to the best of Landlord's knowledge 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) with respect to the presence of Hazardous Material on, in, under or about the Property, or the migration of Hazardous Material from or to other property. Without limiting any other provisions of this Lease, Landlord shall indemnify and hold harmless Tenant against and from any and all claims, judgments, damages, penalties, fines, costs, liabilities, losses and expenses arising during or after the Term of this Lease as a result of any breach of any of the foregoing representations or warranties or any presence of Hazardous Material on or in the Property unless City is responsible therefor as provided herein.

Tenant covenants and agrees that neither Tenant nor any of Tenant's agents, employees, contractors, invitees, assignees or sublessees, shall cause or permit any Hazardous Material (as hereinafter defined) to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or the Property, or transported to or from the Premises or the Property, in violation of any Environmental Laws; provided that nothing herein shall prevent Tenant from using such substances in such limited amounts as are customarily used in offices so long as such use is in compliance with all applicable Environmental Laws. If Tenant breaches any of its obligations contained herein, or, if any act or omission of Tenant or any of its agents, employees, contractors, invitees, assignees or sublessees results in any contamination of the Premises or the Building or in the release or threatened release of Hazardous Material from, on or about the Premises or the Building, then Tenant shall indemnify and hold harmless Landlord against and from any and all claims, judgments, damages, penalties, fines, costs, liabilities, losses and expenses arising during or after the Term of this Lease as a result of such release or threatened release except to the extent caused by Landlord, its agents, employees, contractors, invitees or licensees.

As used herein, the term "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. Sections 9601 et seq.), or pursuant to Section 25316 of the California Health and Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health and 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. The term "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.

25. CONTROLLER'S CERTIFICATION OF FUNDS. Notwithstanding anything to the contrary, except as set forth in Paragraph 4.B herein, there shall be no obligation for the payment or expenditure of money by the City under this Lease unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 6.302 of the Charter of such City and County, 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.

26. FUTURE ELEVATOR. Landlord shall have the right to exclude approximately two hundred fifty-two (252) square feet from the fourth, fifth and sixth floor portions of the Premises in order to install an additional elevator as shown as Space "X" on Exhibit "A," page 1, by serving sixty (60) days' advance written notice on Tenant. At the end of such sixty (60)-day period, Tenant shall vacate and surrender Space "X." Landlord shall install demising walls at Landlord's expense, and shall pay for any costs of relocating Tenant from such portion of the Premises. Tenant hereby agrees not to place or locate equipment or operations in the Space "X" areas which would be unreasonably expensive or difficult to relocate. Tenant's Base Monthly Rental shall be reduced proportionately by the area so excluded based upon the then current monthly rental rate per rentable square foot, and Tenant's Share of Direct Taxes and Operating Expenses shall be reduced proportionately by the area so excluded. Landlord shall perform all construction work as expeditiously as possible and shall use its best efforts to minimize any interference with Tenant's normal administrative office operations in the Premises as a result of such construction or any pre-construction or post-construction activities.

27. NON DISCRIMINATION IN CITY CONTRACTS AND BENEFITS ORDINANCE.

A. Covenant Not to Discriminate. In the performance of this Lease, Landlord covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any City employee working with, or applicant for employment with, Landlord in any of Landlord's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Landlord.

B. Subcontracts. Landlord shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Landlord shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

C. Non-Discrimination in Benefits. Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the condition set forth in Section 12.B2(b) of the San Francisco Administrative Code.

D. HRC Form. As a condition to this Lease, Landlord represents it has not changed the information previously provided in its "Chapter 12B Declaration: Nondiscrimination in

Contracts and Benefits" form (Form HRC-12B-101). Landlord hereby represents that prior to execution of the Lease: (i) Landlord executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (ii) the HRC approved such form. City's Department of Real Estate has confirmed that the HRC approved such form.

E. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty and No/100 Dollars (\$50.00) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

28. MISCELLANEOUS.

A. Notices. Except as otherwise provided herein, all notices to be given between the parties hereto shall be in writing and may be served personally or by depositing in the same in the United States mail, postage prepaid and addressed to Landlord, 425 California Street, Suite 2300, San Francisco, CA 94104 and to Tenant in care of Director of Property, 25 Van Ness Avenue, Suite 400, San Francisco, CA 94102, or to such other address as either Landlord or Tenant may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Paragraph. Any such notice or other communication shall be deemed to have been rendered or given two (2) days after the date when it shall have been mailed if sent by certified mail, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by telefacsimile to the telephone number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by facsimile.

B. Prior Agreements. This Lease, together with its exhibits, contains all the agreements of the parties hereto and supersedes any previous negotiations or prior leases, terms, services or oral commitments. There have been no representations made by the Landlord or understanding made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties hereto.

C. Severability; Governing Law. If any provision of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Lease shall be governed by and construed pursuant to the laws of the State of California and City's Charter.

D. Interpretation. The captions preceding the paragraphs and subparagraphs 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 intents 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 Landlord 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. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in masculine gender include the feminine and neuter. Time is of the essence of this Lease.

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

F. Remedies Cumulative. The rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be expressly provided herein.

G. Successors. Subject to the provisions hereof relating to assignment and subletting, this Lease is intended to and does bind the heirs, executors, administrators, successors and assigns of any and all of the parties hereto.

H. MacBride Principles. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

I. Prevailing Wages. Landlord agrees that any person performing labor in the construction of the Tenant Improvements or any other improvements which Landlord is obligated to provide under this Lease shall be paid not less than the highest prevailing rate of wages and that Landlord shall include, in any contract for construction of the Tenant Improvements or such other improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord further agrees that, as to the construction of the Tenant Improvements under this Lease, Landlord shall comply with all the provisions of subsection (b) of the San Francisco Charter Section 7.204 and Sections 6.33 through 6.45 of the San Francisco Administrative Code that relate to payment of prevailing wages.

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

K. Tropical Hardwood and Virgin Redwood Ban. Except as expressly permitted by the application of Sections 12I.3.b and 12I.4.b of the San Francisco Administrative Code, neither Landlord nor any of its contractors shall provide any items to City in the construction of the Leasehold Improvements or otherwise in the performance of this Lease which are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood, or virgin redwood wood products. In the event Landlord fails to comply in good faith with any of the provisions of Section 12I of the San Francisco Administrative Code, Landlord shall be liable for liquidated damages for each violation in any amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord 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.

L. Bicycle Storage. Article 1.5 of the San Francisco Planning Code ("Code") requires the provision of bicycle storage at City leased buildings at no cost to Landlord and if funds are available. Landlord agrees to continue, at no cost to Landlord, to provide the previously installed bicycle storage facilities in compliance with Article 1.5 of the Code.

M. Resource Efficient City Buildings. Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Administrative Code Sections 82.1 to 82.8 relating to resource-efficient City buildings and resource-efficient pilot projects. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections as such sections apply to the Premises. With regard to the indoor air quality portion of the recently enacted Administrative Code changes, City has not established standards as described in Section 82.1 of the Administrative Code. In the event City's future indoor air quality standards require changes to the Building's HVAC system when no new construction is occurring on the Premises, and such requirements are not being applied uniformly to existing Class A buildings in San Francisco which are not performing new construction, then the City shall pay all pre-approved direct costs which City requires Landlord to incur in order to comply with the increased standards.

N. 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.

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

P. Brokerage Fees; Indemnity. 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. 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 and hold harmless the other party from all claims, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Paragraph shall survive any termination of this Lease.

Q. Attorney Fees. In the event that either Landlord or Tenant 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 party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs

and reasonable attorneys' fees and costs. For purposes of this Agreement, Tenant shall not be precluded from contending in any action or proceeding that the reasonable fees of attorneys of the Office of the City Attorney of the City and County of San Francisco should 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 Attorneys' services were rendered who practice in the City of San Francisco law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

R. Representations. Landlord covenants and represents that it has full right, power and authority to grant the leasehold estate hereunder, and covenants that Tenant, upon paying the Base Monthly Rental and Additional 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 Landlord or on account of any action, inaction or agreement of Landlord, its agents or employees. Landlord further covenants and represents that Landlord has good and marketable title to the Building and leasehold title to the real property on which it is located, free and clear of all claims, encumbrances and liens except for the Indenture of Lease noted in Paragraph 22 and any other encumbrances approved in writing by Tenant prior to the date hereof. Without limiting the provisions of this Lease, Landlord agrees to indemnify and defend Tenant against and hold Tenant harmless from any and all liabilities, claims, suits, demands, judgments, costs, interest and expenses (including, without limitation, reasonable attorneys' fees) arising out of any claim that would interfere with Tenant's right to quiet enjoyment as provided in this Paragraph.

Landlord represents and warrants that each and all the persons signing this Lease on behalf of the managing agent of the Building are duly authorized to do so, that the managing agent is duly authorized to execute this Lease on behalf of the owner of the Building, and that this Lease does not violate any provision of any agreement to which Landlord or the Property is subject. Upon City's request, Tenant shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

Landlord represents and warrants to Tenant that Landlord 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 Landlord's knowledge no such filing is threatened. In the event that Landlord becomes subject of any bankruptcy, insolvency, rehabilitation, reorganization or other debtor-relief case or proceeding under any applicable federal or state law, whether now existing or hereinafter enacted, Tenant shall not be deprived of Tenant's leasehold estate created hereby or any rights or benefits of Tenant under this Lease without Tenant's consent given in its sole discretion. The parties agree that Tenant'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, Tenant shall have the right to (i) contract directly with any third-party provider of such services, facilities or amenities to obtain the same, and (ii) offset against the Rent payable hereunder any and all reasonable costs and expenses incurred by Tenant in obtaining such services, facilities or amenities.

29. COMMUNICATION LINE REPAIRS. Tenant agrees that any new or existing telephone or data line serving its Premises located within the Building shall be its sole responsibility to maintain, repair, upgrade or replace unless the line is damaged by an act of Landlord, its agents, employees or subcontractors. "Line" as used herein shall include both copper and fiberoptic cable and wire, conduit, switchboard, splice box, riser and related items. Tenant shall be responsible for any loss, damage or injury caused by Tenant, its employees, agents or

subcontractors to building communication lines. Access to telephone risers, closets and equipment outside of the Premises may be reasonably controlled by Landlord to prevent disturbance of asbestos and to regulate security of telephone/data equipment. If repair or replacement of a line shall pierce a fire-rated separation, Tenant shall be responsible for costs of restoring the integrity of such separation.

30. DIRECTOR OF PROPERTY. All approvals, consents or other determinations permitted or required by City as Tenant hereunder shall be made by or through City's Director of Property unless otherwise provided in this Lease, subject to applicable law.

31. RELOCATION. Landlord shall have the right, from time to time during the Term of this Lease, to relocate Suites 401, 418, 1008, 1010, to another location in the Building, provided (a) Landlord shall give Tenant at least three (3) months' notice prior to the effective date of such relocation, (b) the new Premises shall contain a rentable area no less than 95% of the original Premises, shall provide the same number of private offices and other rooms as the original Premises, and shall be altered to provide the same quantity and quality of Tenant Improvements as those in the original Premises, (c) there shall be no increase in rent due to such relocation, and (d) Basic Monthly Rent and Tenant's share of Operating Expenses and Direct Taxes shall be proportionately reduced if the rentable square footage is reduced. If such option is exercised, Landlord shall pay all costs of the Tenant Improvements for such alternate space, shall complete all such improvements before relocating City; and such relocation shall occur over a single weekend and be accomplished so as to minimize the disruption to the business of City. Landlord shall reimburse City for all reasonable and necessary costs including but not limited to weekend moving costs, data and telephone relocation, new letterhead and business cards, and up to \$1,000 for City's move supervision. If Tenant is relocated, Landlord and Tenant agree to execute an amendment to this Lease reflecting the relocation of the Premises.

32. INFANT CARE FACILITY. For the purposes of this paragraph, "infant" shall mean a child from six weeks to twenty-four months of age. Notwithstanding any other provisions of this lease, Tenant may, without Landlord's consent, use a portion of the Premises, not to exceed the existing area shown on Exhibit "A" - Suite 250, for a licensed infant care facility ("facility"), subject to the following conditions:

(a) The operator of the facility must have a minimum of five (5) years experience in infant care without any fines or sanctions by regulatory authorities and be licensed by the State of California to provide infant care in the facility. Tenant shall provide documentation establishing that such license has been obtained.

(b) The facility shall be used solely for care of infants. Tenant shall develop an emergency life safety plan and evacuation plan for the facility. The maximum infant occupancy shall be the maximum permitted by code and operator's license, but in no event more than twelve (12) infants.

(c) Should the existence or operation of the facility require any code-related building modifications, including, but not limited to, modifications of restrooms, plumbing, ventilation, recreation areas, exiting, fire sprinklers, life safety, signage, security or equipment, Landlord shall not be required to install the modifications or to permit Tenant to install them or, if Tenant is permitted to install the modifications, to reimburse Tenant for such modifications.

(d) The operator shall provide and maintain insurance from an insurer or insurers acceptable to Landlord evidencing coverage for comprehensive general liability and property damage (occurrence form) with limits of not less than \$5,000,000.00 per occurrence, which names Landlord and Tenant as additional insureds. Such policy shall be primary and non-

contributing with any insurance carried by Landlord and shall provide that the policy cannot be canceled or altered without thirty (30) days prior written notice to Landlord. The operator shall furnish Landlord with a certificate of such insurance.

(e) Such facility shall be available only to the children of employees of City or such other tenants of Fox Plaza as may be approved by both Tenant and Landlord.

(f) Such facility shall be operated only during normal weekday working hours of tenants of Fox Plaza.

(g) Should Landlord's liability insurance premium and maintenance costs be directly increased due to the existence and operation of the facility, Tenant shall reimburse Landlord for the increase.

(h) Notwithstanding any other provision of this Lease, to the fullest extent permitted by law, Tenant shall defend, indemnify, and hold Landlord harmless from any claim arising from the use, occupancy or condition of the facility excepting claims resulting from the negligence or willful misconduct of Landlord or Landlord's authorized representatives.

33. FLOOR LOAD. Tenant shall not place a load upon any floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry and which is allowed by law. Landlord acknowledges that as of the Commencement Date, Tenant's placement of fixtures and equipment in the Premises is acceptable to Landlord, and Landlord will not require Tenant to change such placement unless required to by law. Landlord reserves the right to prescribe the weight and position of all safes and heavy installations which Tenant wishes to place in the Premises after the Commencement Date so as to properly distribute the weight thereof. Should Tenant move any safe, heavy equipment or bulky matter in or about the Building, it shall do so in full compliance with the applicable codes of the City and County of San Francisco and in consideration of the structural design of the Building. Tenant shall submit to Landlord notice of the terms and manner in which it plans to make the move, for Landlord's approval, which Landlord agrees will not be unreasonably withheld or delayed.

34. NOISE OR VIBRATION. Business machines and mechanical equipment belonging to Tenant which cause noise and/or vibration that may be transmitted to the structure of the Building or to any leased space to such a degree as to reasonably be objectionable to Landlord or to any tenants in the Building shall be placed and maintained by Tenant, at Tenant's expense, in settings of cork, rubber or spring type noise and/or vibration eliminators sufficient to eliminate such vibration and/or noise transmission. Landlord acknowledges that, as of the Commencement Date, Tenant's machines and equipment do not cause objectionable noise and/or vibration.

35. MAINTENANCE OF TENANTS AUXILIARY POWER HVAC SYSTEM. Tenant shall contract for preventive maintenance and repair of its HVAC, Emergency, Security, and Uninterruptible Power Supply Systems for Tenant's telephone and computer equipment. In addition, Tenant shall reimburse Landlord for costs actually and reasonably incurred by Landlord in required maintenance of Tenant's 5th and 6th floor computer room auxiliary power and HVAC system that is requested or contracted for by Tenant. In making any request for reimbursement of such maintenance costs, Landlord shall furnish to Tenant copies of all invoices and statements evidencing such costs, together with such other information as Tenant may reasonably request to verify the costs.

36. BENEFICIAL OCCUPANCY, SUITE 240. In the event that Landlord delivers Suite 240 prior to the Commencement Date with the Tenant Improvements required herein Substantially Completed (as defined in the Work Letter), Tenant shall have beneficial occupancy of Suite 240.

subject to all terms and conditions of this Lease, and shall pay Rent for Suite 240 as set forth in Paragraph 6.A.ii.

37. SIGNAGE. No sign, placard, banner, picture advertisement, name or notice shall be inscribed, displayed printed or affixed by Tenant, its employees, agents, contractors or representatives that is visible from outside of the Premises or on the outside of the Building without the written consent of Landlord first had and obtained. Landlord reserves the right to impose uniform signage for all public areas of the Building and to change said signage standards from time to time.

38. FREQUENCY INTERFERENCE. Tenant shall not be liable for any interference caused by Tenant to any telecommunications system in or attached to the Building, including but not limited to radio and switching equipment, antennae, cables and wires (collectively, "Telecommunications Equipment,") installed by Landlord or other tenants in the Building that is installed after the installation of Tenant's own Telecommunications Equipment. Any interference caused by Tenant to any Telecommunications Equipment that was installed prior to the installation of Tenant's Telecommunications Equipment shall be remedied by Tenant as soon as reasonably possible. Any interference caused by another tenant of the Building to any of Tenant's Telecommunications Equipment due to equipment that was installed after the installation of Tenant's Telecommunications Equipment shall be remedied by such other tenant as soon as reasonably possible. If the parties are unable to agree as to the party responsible for such interference and the appropriate remedy within a fourteen (14) day period, the matter shall be subject to non-binding arbitration in accordance with the commercial Rules of the American Arbitration Association at its office nearest the Building. The dispute shall be submitted to and determined by a mutually agreeable arbitrator knowledgeable and experienced in the operation of the telecommunication systems. If the parties are not able to agree upon the choice of an arbitrator then the parties shall each appoint one arbitrator who meets the qualifications set forth above, and the two arbitrators shall jointly appoint a third arbitrator, independent of either arbitrator, who also shall meet the qualifications set forth above. No provisions of this Lease shall be subject to arbitration except as specifically provided herein. In no event shall the failure to pay Rent when due be subject to arbitration, regardless of whether such nonpayment or payment is related to disputes under those provisions which are subject to arbitration under this Paragraph. If Tenant is required to stop using its Telecommunications Equipment to effectively remedy frequency interference to others, Tenant shall not be entitled to compensation from Landlord nor shall there be an abatement in Rent therefor.

39. TENANT ADVANCE. It is agreed that the Base Monthly Rental for the Premises includes the repayment of an advance to Tenant for the Tenant Improvements listed in Paragraph 5 hereof, and for Preparatory Work as hereinafter defined, which sum shall be repaid by applying the payments of the Base Monthly Rental to such repayment plus interest of 10% per annum from the date of delivery of the Premises until such repayment plus interest is repaid in full. Such repayment and interest are included in the Base Monthly Rent as set forth in Paragraph 6 hereof. Notwithstanding the foregoing, in the event of an early termination of this Lease pursuant to Paragraph 4 hereof or for any reason other than Tenant's default hereunder, the advance to Tenant shall be forgiven and there shall be no right of recovery against Tenant for any unpaid principal or interest, and Landlord shall release Tenant from and waive any liability with respect thereto. Landlord shall indemnify and hold harmless Tenant, its officer, directors, agents and representatives, from and against any and all claims, losses, fines, penalties, costs, damages and expenses (including, without limitation, attorneys' fees) arising out of this Paragraph.

The Preparatory Work is work performed for the Improvements including, without limitation: demolition, removal and replacement of systems and materials, and common area and restroom work.

40. RIGHT OF FIRST OFFER TO LEASE.

A. City shall have the right of first offer to expand the Premises by adding Suite 410 currently occupied by SCA Environmental, Inc. consisting of 4,384 rentable square feet with a lease expiration of May 31, 2004, and/ or Suite 425 currently occupied by the California Department of Corporations consisting of 4,534 rentable square feet with a lease expiration of December 31, 2002 (collectively, the "First Offer Space(s)") of the Building to the Premises at the then fair market rental for such spaces. Tenant's right of first offer to lease each of the First Offer Spaces shall be a one time opportunity to lease such spaces upon the expiration of the current leases (a "Scheduled Lease Expiration") or earlier termination of the current leases (an "Unscheduled Lease Expiration"), before Landlord leases them to a third party, including the current tenant or other tenant who has a subsequent right to lease such space.

Provided City is not then in default under this Lease, for each First Offer Space, between eight (8) and ten (10) months prior to the above Scheduled Lease Expiration dates for the leases to the above mentioned third-party tenants, Landlord shall notify City in writing (the "First Offer Notice") of Landlord's good faith determination of the then fair market rental, improvement work and other terms and conditions upon which Landlord is willing to lease the First Offer Space described in the First Offer Notice. Landlord's good faith determination shall be determined in accordance with the factors described in Paragraph 4C.2 above. For an Unscheduled Lease Expiration, Landlord may give the First Offer Notice at any time but not more than ten (10) months prior to the date the First Offer Space is likely to become available.

B. For Scheduled Lease Expirations, the following shall apply:

If City fails to give Landlord notice within thirty (30) days after receipt of the First Offer Notice, Landlord thereafter shall have the right to lease the First Offer Space described in the First Offer Notice to any third party at any terms acceptable to Landlord.

If City, within thirty (30) days after receipt of the First Offer Notice, indicates in writing its agreement to lease the First Offer Space on the terms described in the First Offer Notice, then the Lease shall be amended in writing to include such space in the Premises on the same terms and conditions described in the First Offer Notice and otherwise on the terms and conditions contained in this Lease. The Base Rent payable under this Lease shall be increased by the amount of Rent payable in connection with the First Offer Space described in the First Offer Notice, and City's share of Operating Expenses and Direct Taxes shall be adjusted to reflect the addition of such space.

If City, within thirty (30) days after receipt of the First Offer Notice, indicates in writing its agreement to lease the First Offer Space described in the First Offer Notice but disputes Landlord's good faith determination of the then fair market rental, improvement work and other terms and conditions, then the fair market rental shall be determined following the procedure detailed in Paragraph 4C.2. Once the fair market rental has been determined, the Lease shall be amended in writing to include such space in the Premises on such determined terms and conditions and otherwise on the terms and conditions contained in this Lease. The Base Rent payable under this Lease shall be increased and City's share of Operating Expenses and Direct Taxes shall be adjusted to reflect the addition of such space.

C. For an Unscheduled Lease Expiration, the following shall apply:

If City fails to give Landlord notice within thirty (30) days after receipt of the First Offer Notice, Landlord thereafter shall have the right to lease the First Offer Space described in the First Offer Notice to any third party at any terms acceptable to Landlord.

If City, within thirty (30) days after receipt of the First Offer Notice, indicates in writing its agreement to lease the First Offer Space on the terms described in the First Offer Notice, then the Lease shall be amended in writing to include such space in the Premises on the same terms and conditions described in the First Offer Notice and otherwise on the terms and conditions contained in this Lease. The Base Rent payable under this Lease shall be increased by the amount of Rent payable in connection with the First Offer Space described in the First Offer Notice, and City's share of Operating Expenses and Direct Taxes shall be adjusted to reflect the addition of such space. Unlike a Scheduled Lease Expiration, City shall not have the right to require that the fair market rent be determined in accordance with Section 4C.2 and must either accept Landlord's determination or decline to add such space to the Premises.

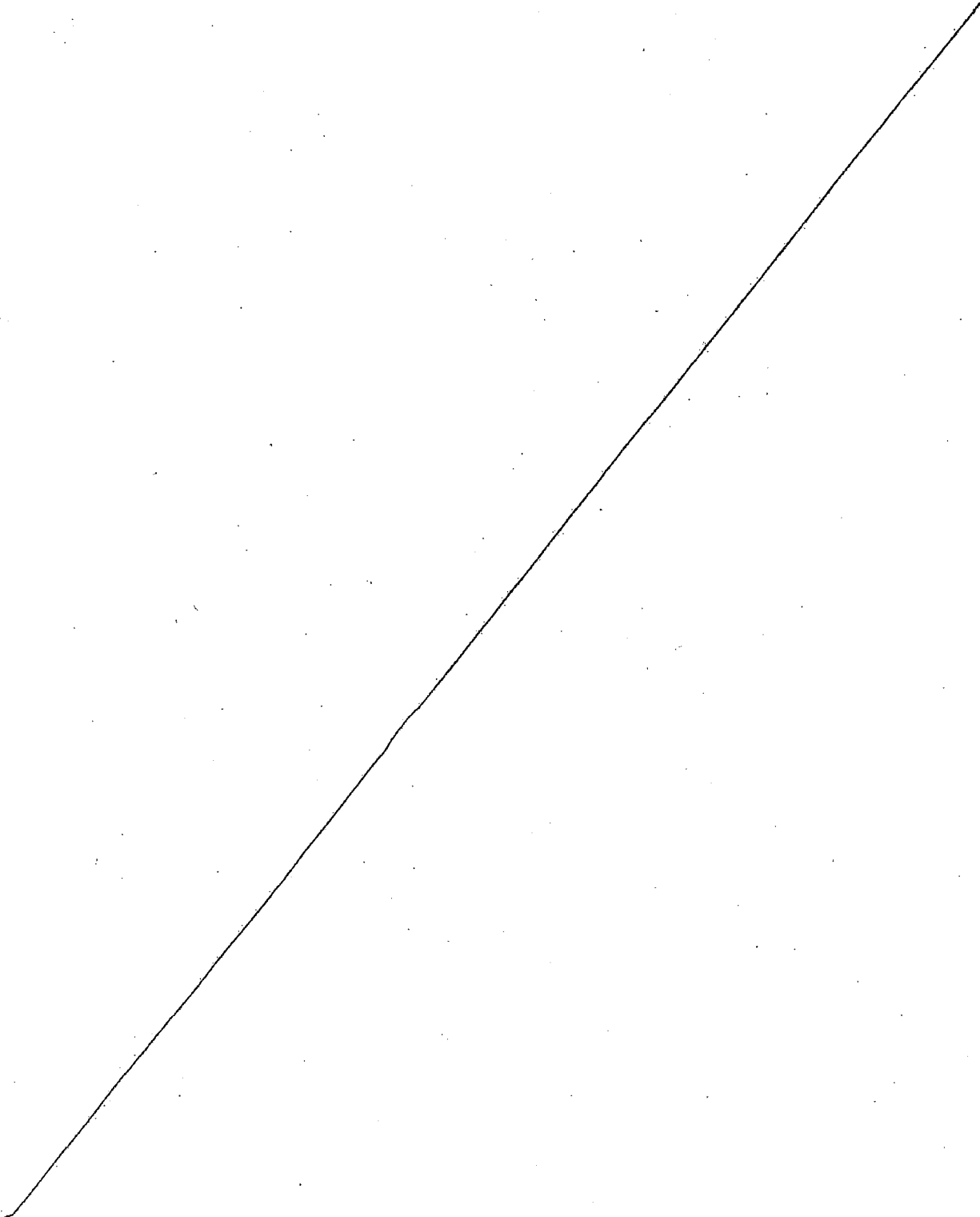
D. Notwithstanding any of the foregoing, City's exercise, in any case, of its Right of First Offer with respect to any First Offer Space shall be subject to approval thereof by the Board of Supervisors and the Mayor, in their respective sole discretion, within sixty (60) days after determination of the Rent for such space. In the event City does not provide Landlord written evidence of such approval by the Board of Supervisors and the Mayor within seventy five (75) days after determination of the Rent for such space, Landlord thereafter shall have the right to lease the First Offer Space described in the First Offer Notice to any third party at any terms acceptable to Landlord.

41. ATTACHMENTS. The following items are attached hereto as of the time of signing and are an integral part of this Lease:

- Exhibit A – Floor Plan
- Exhibit B – Notice of Lease Commencement
- Exhibit C – Janitorial Standards
- Exhibit D – Rules and Regulations dated August 4, 1992
- Exhibit E – Exclusions from Operating Costs
- Exhibit F – Work Letter including Schedule 1 for Suites (a) 240, 250 (b) 401, 408 (c) 500 (d) 600 (e) 1018 and 1010
- Exhibit G – Tenant Improvements
- Exhibit H – Notice to Fox Plaza Employees and Contractors dated February 16, 2000

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, THE PARTIES ACKNOWLEDGE AND AGREE THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS AND UNTIL A RESOLUTION OF CITY'S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS LEASE, AND AUTHORIZING THE MAYOR AND DIRECTOR OF PROPERTY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED BY THIS LEASE. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY UNDER THIS LEASE ARE CONTINGENT UPON, AND SUBJECT TO, THE DUE ENACTMENT OF SUCH A RESOLUTION. THIS LEASE SHALL BE NULL AND VOID IF SUCH RESOLUTION IS NOT ENACTED BY THE MAYOR AND THE BOARD OF SUPERVISORS IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THE TRANSACTIONS CONTEMPLATED BY THIS LEASE BY ANY DEPARTMENT OR AGENCY OF THE CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH

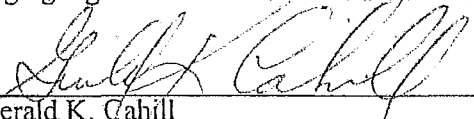
RESOLUTION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.



IN WITNESS WHEREOF, the parties hereto have executed this Lease, in triplicate, as of the date first above written.

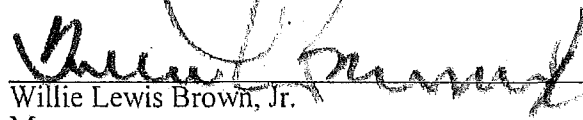
LANDLORD:

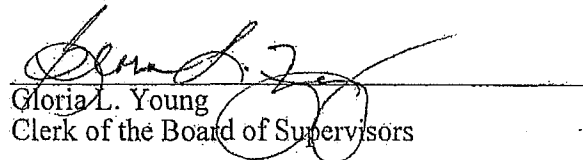
CALFOX, INC.,
a California corporation.
As Managing Agent for Owner, Polk Market Co.

By 
Gerald K. Cahill
President


TENANT:


CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation


Willie Lewis Brown, Jr.
Mayor


Gloria L. Young
Clerk of the Board of Supervisors

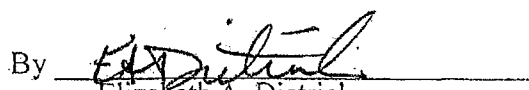
RECOMMENDED:

 *SCESC Smith, Chief Counsel, for*
Louise H. Renne
City Attorney

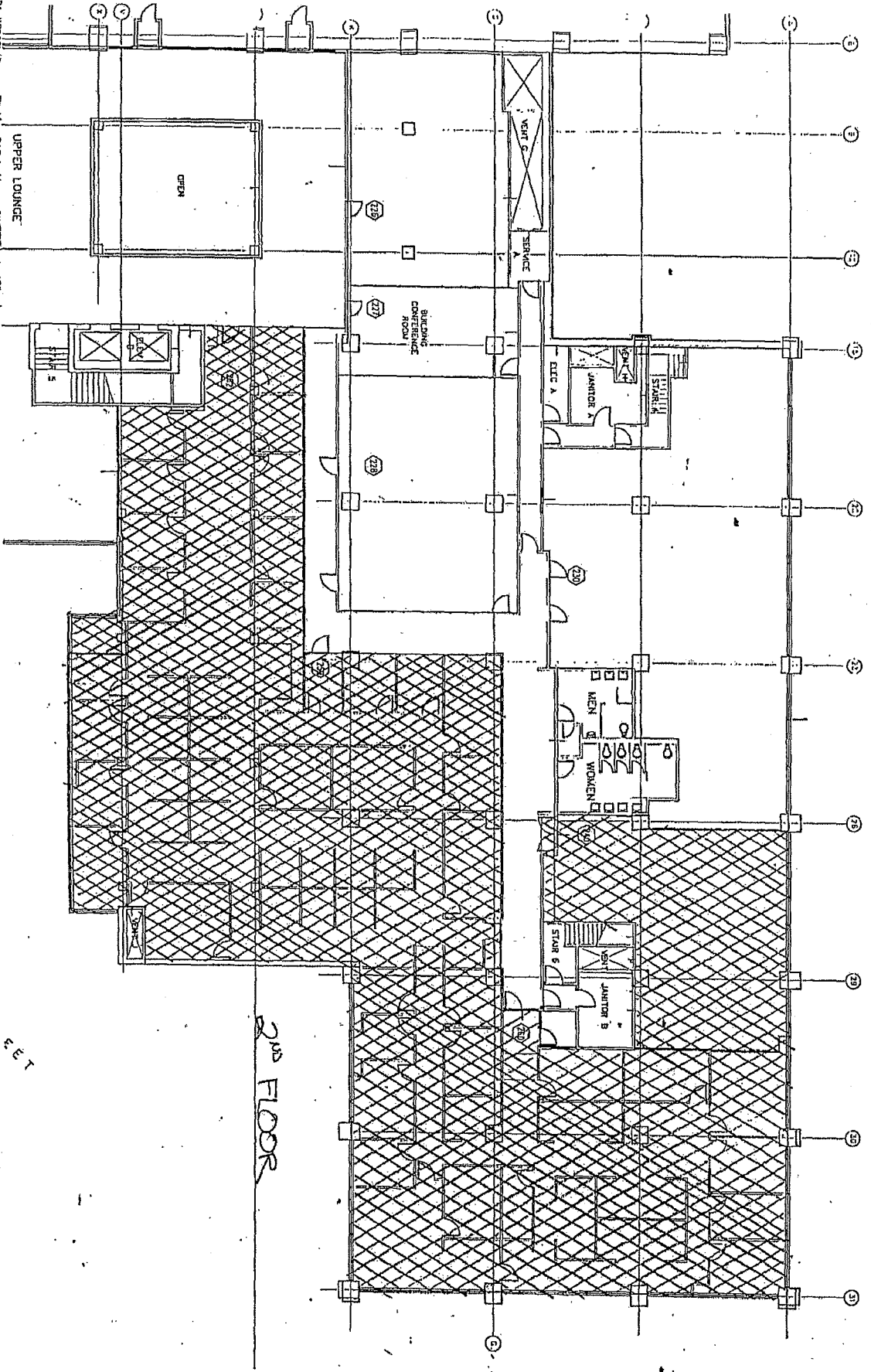

Anthony DeLucchi
Director of Property *CD*

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

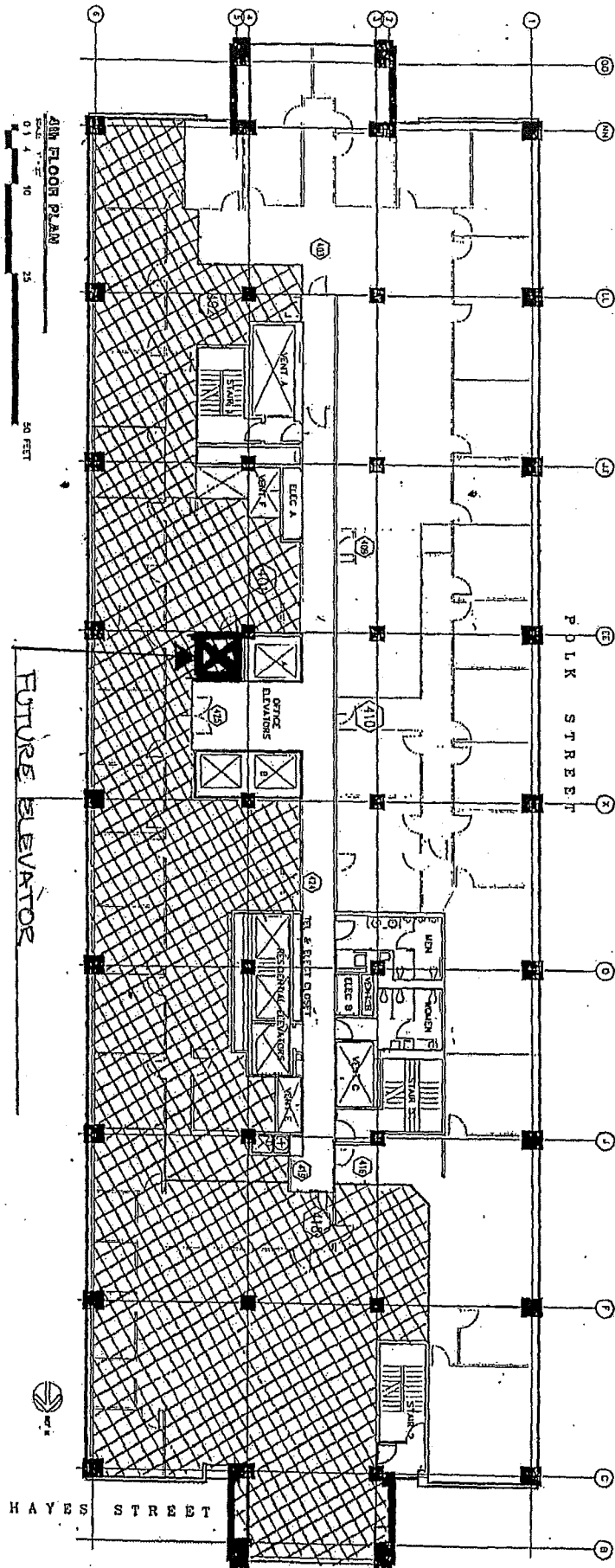
By 
Elizabeth A. Dietrich
Deputy City Attorney

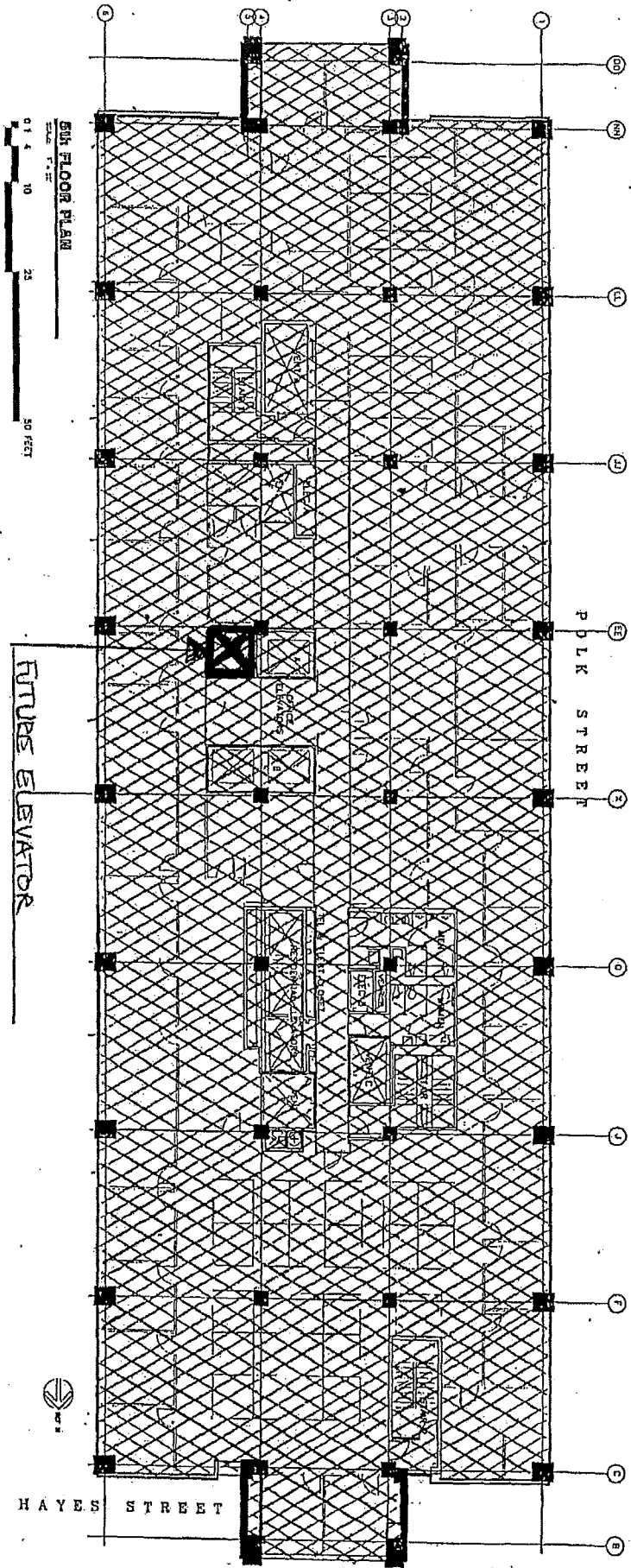
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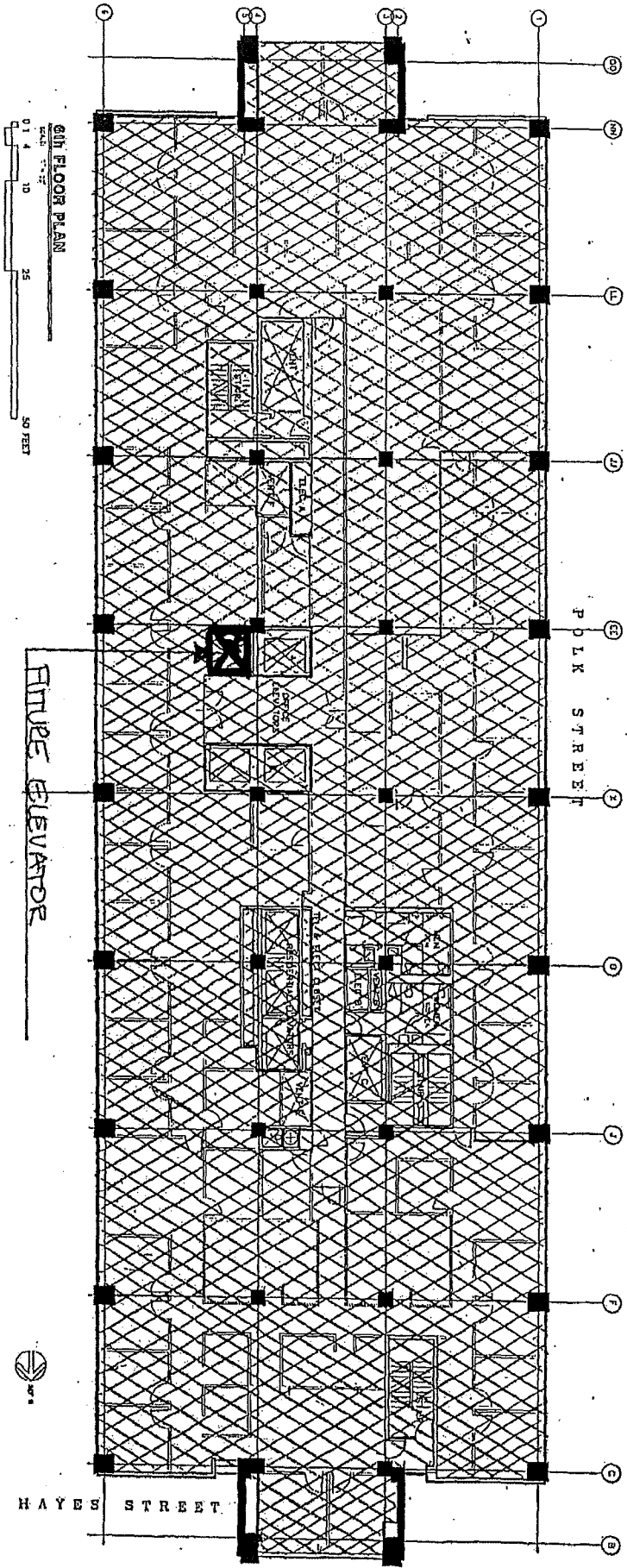


E.E.T.

2ND FLOOR







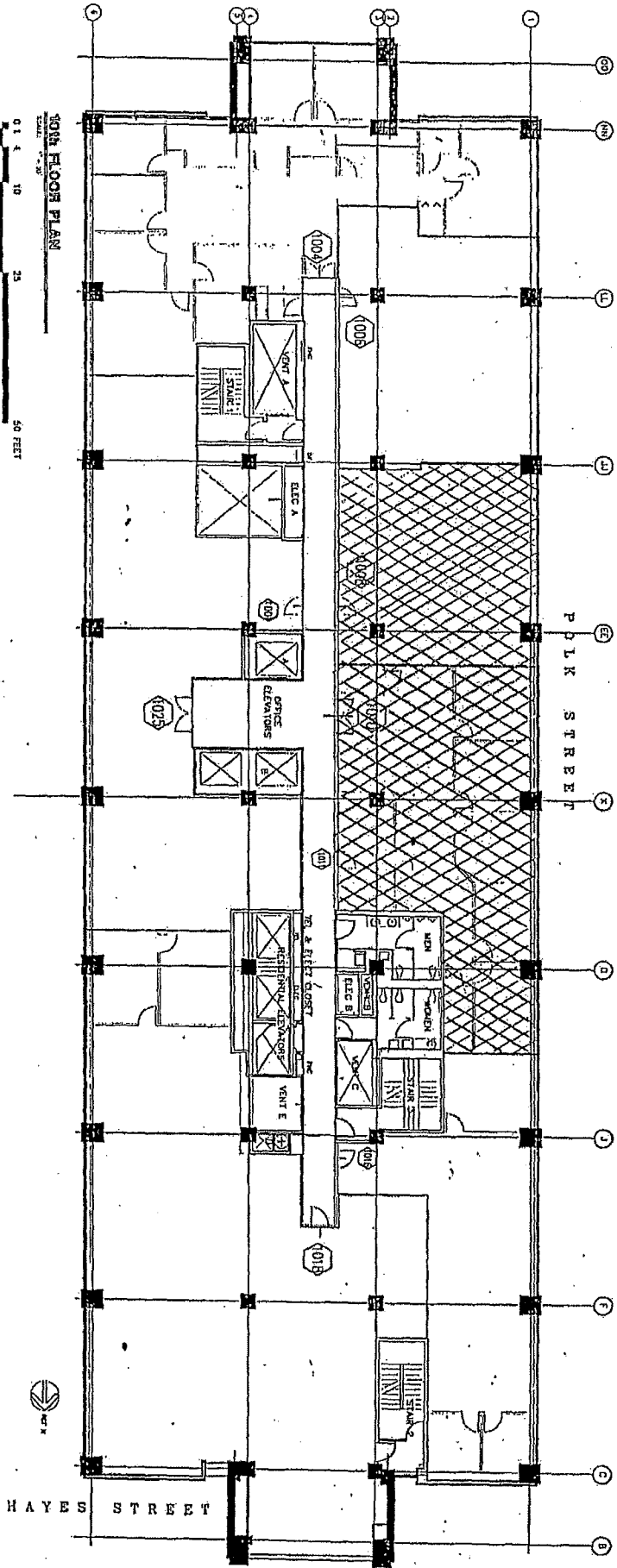
6th FLOOR PLAN
Scale: 1/8" = 1'-0"

50 FEET

FUTURE ELEVATOR

HAYES STREET

POLK STREET



30TH FLOOR PLAN

SCALE: 1/8" = 1'-0"

0 1 4 10 25 50 FEET

EXHIBIT B

[Date]

Mr. Anthony J. DeLucchi
Director of Property
Real Estate Department
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102

RE: Acknowledgement of Commencement Date, Lease Between
_____ (Landlord), and the
CITY AND COUNTY OF SAN FRANCISCO (Tenant),
for premises known as _____
located at _____

Dear Mr. DeLucchi:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Paragraph 4 of the Lease) is _____, 200_.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

By _____
Title _____

Accepted and Agreed:

By: _____
Director of Property

Dated _____

EXHIBIT C

JANITORIAL STANDARDS

Landlord shall furnish, at its cost, janitorial service to the Premises and Common Areas as follows:

FIVE DAYS PER WEEK
(EXCEPT HOLIDAYS) –
PREMISES:

Empty wastepaper baskets, trash containers and other receptacles.

Vacuum carpets and rugs (spot clean as reasonably required). Sweep and dust mop resilient and hard floors. Wet mop spillage. Wet mop VCT.

Dust and wipe clean office furniture, file cabinets, water fountains and coolers, empty waste water. Arrange office furniture (computer equipment not to be moved or tampered with).

Dust windowsills and counters.

FIVE DAYS PER WEEK
(EXCEPT HOLIDAYS) –
COMMON AREAS:

Clean restrooms, sanitize fixtures and floor surfaces. Refill restroom dispensers.

Mop, vacuum, sweep and dust common areas and stairwells as required.

Clean elevators, vacuum carpets and rugs (spot clean as reasonably required). Sweep and dust mop resilient and hard floors.

LOBBIES AND ENTRYWAYS:

Maintain in first-class appearance.

SEMI-ANNUALLY –
WINDOWS:

Wash interior and exterior windows.

ANNUALLY
CARPETS:

Shampoo high traffic areas.

BUILDING RECYCLING:

As needed, but not less than once per week, pick up of recycling materials from City provided (or scavenger service provided) bins from centrally located areas within the Premises and delivery to Building recycling containers (for Recycling service pick up).

Nightly removal of cardboard boxes (place there after 5:00 p.m.) from outside entrances to the Premises.

Reasonable supervision by Landlord of janitorial staff to insure that recyclable materials, if properly sorted by Tenant, are recycled and not mixed with non-recyclable materials.

If Landlord uses an outside janitorial service, said service shall bond its employees.

EXHIBIT D

RULES AND REGULATIONS OF FOX PLAZA

In the event of any conflict or inconsistency between any of the Rules and Regulations set forth herein below and any of the provisions of the Lease between Landlord and Tenant, the Lease provisions shall control.

1. SIGNS: No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed, printed or affixed on or to any part of the outside or inside of the Building without the written consent of Landlord first had and obtained, and Landlord shall have the right to remove any such objectionable sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant (Lessee). Upon approval, Tenant will affix the sign to the wall as directed; no glue or screws will be used. If a sign is glued, the costs incurred to repair the damage resulting from removal of the sign will be the responsibility of the Tenant. Notwithstanding the foregoing, as of the date of the Lease Landlord approves all of Tenant's existing signs, placards, pictures, names and notices inscribed, displayed, printed or affixed on or to any part of the outside or inside of the Building.
2. BULLETIN BOARD: The Bulletin Board or Directory of the Building will be provided exclusively for the name and location of Tenant only; and Landlord reserves the right to exclude any other names therefrom, and also charge Tenant for Landlord's cost to provide directory strips for each and every name, in addition to the name of Tenant, placed by it upon such Bulletin Board or Directory.
3. LOCKS: No additional locks shall be placed upon any doors of the Premises, and Tenant agrees not to have any duplicate keys made without the consent of Landlord; provided, however, Landlord agrees that all employees of Tenant working in the Premises shall have a copy of the key(s) to the Premises. If more than two keys for any door lock are desired, the additional number shall be paid for by Tenant. Upon termination of Tenant's lease, Tenant shall surrender all keys.
4. WIRING: When wiring of any kind is introduced, it must be connected as directed by Landlord, and no boring or cutting for wires will be allowed except with the consent of Landlord. The location of telephones, call boxes, telephone boards, and other office equipment affixed to the Premises shall be reasonably prescribed by Landlord.
5. NON-RESPONSIBILITY: Landlord is not responsible to any tenant for non-observance or violation of the Rules and Regulations by any other tenant, except as may be otherwise provided in the Lease.

6. OBSTRUCTING LIGHT: Tenant shall not allow anything to be placed against or near the glass in the partitions or in the doors between the Premises leased and in the halls or corridors. The doors between the Premises and the corridors of the Building shall at all times, except when in actual use for ingress and egress, be kept closed.
7. HALLS AND STAIRWAYS: The entries, passages, stairways and elevators shall not be obstructed by Tenant, or used for any other purpose than ingress or egress to and from their respective offices. Tenant shall not bring into or keep within the Building any animal, vehicle, or bicycle, except for see-eye dogs for any sight impaired employees or invitees of Tenant and any mechanized wheelchairs or similar devices.
8. PLUMBING: The wash basins, water closets and urinals shall not be used for any purpose other than those for which they were constructed.
9. CLOSING PRECAUTIONS: Tenant shall see that the windows, transoms and doors of the Premises are closed and securely locked before leaving the Building and Tenant shall exercise due care and caution that all water faucets or water apparatus are entirely shut off before Tenant or Tenant's employees leave the Building, and that all electricity, gas or air shall likewise be carefully shut off, so as to prevent waste or damage. Tenant shall make good all injuries sustained by other tenants or occupants of the Building or by Landlord due to any default or carelessness herein.
10. MOVING FURNITURE, SAFES, ETC.: No furniture, freight or equipment of any kind shall be brought into or removed from the Building without prior notice to Landlord or Landlord's agent, and all moving of same, into or out of the Building, by tenants, shall be done at such times and such manner as Landlord shall designate. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy property brought into the Building, and also the times and manner of moving the same into and out of the Building. Landlord will not be responsible for loss or for damage to any such safe or property from any cause; but all damage done to the Building by moving or maintaining any such safe, furniture, freight, equipment or property shall be repaired at the expense of Tenant. Tenant shall advise Landlord at least seven days in advance of any move.
11. JANITOR SERVICE: Tenant shall not employ any person or persons other than the janitor of Landlord for the purpose of cleaning the leased Premises, unless otherwise agreed. Except with the written consent of Landlord, no person shall be permitted to enter the Building for the purpose of cleaning same. Tenants shall not cause any unnecessary labor by carelessness or indifference in the preservation of good order and cleanliness. Janitor service shall not include moving of furniture, shampooing of rugs or carpets, or other special services. Janitor service will not be furnished when rooms are occupied during the regular hours when janitor service is provided. Window cleaning shall be done only at the regular and customary times determined by Landlord for such services.
12. VIOLATION OF RULES: Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the

influence of liquor or drugs, or who shall in any manner do any act in violation of any of the Rules and Regulations of the Building.

13. REQUIREMENTS: The requirements of Tenant will be attended to only upon application at the office of the Building. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instruction from the office, and no employee will admit any person (tenant or otherwise) to any office without specific instructions from the Office of the Building.
14. ROOMS USED IN COMMON: Rooms used in common by tenants including Mall areas, elevators, restrooms, corridors and exterior plaza shall be subject to these Rules and Regulations as they may apply and to any special regulations posted therein, including, but not limited to, "no smoking" regulations.
15. ENTRANCE DOORS: Landlord reserves the right to close and keep locked all entrance and exit doors of the Building during such hours as Landlord may deem to be advisable for the adequate protection of the property. All tenants, their employees, or other persons entering or leaving the Building at any time when it is so locked are required to sign the Building register when so doing, and the Security Guard in charge may refuse to admit to the Building while it is locked, Tenant or any of Tenant's employees, or any other person, without a Valid Building Pass, or other satisfactory identification showing his right to access to the Building at such time. Landlord assumes no responsibility and shall not be liable for any error in regard to any such pass or identification, or from the admission of any authorized person to the Building.
16. ELECTRICITY: Tenant may operate a reasonable number of typical office machines, including adding machines, personal computers, calculators, clocks, coffee machines, microwave oven, refrigerator and small copy machines. Tenant may not operate large office machines, including, but not limited to, mini or mainframe computers, additional air conditioning units and similar large-scale equipment without Landlord's prior written approval, except that Landlord hereby approves any and all such equipment existing as of the date of the Lease.
17. COOKING: No cooking except microwave cooking shall be done or permitted by tenants in their respective Premises, nor shall Premises occupied by tenants be used for the storage of merchandise, washing clothing, lodging, or any improper, objectionable or immoral purposes.
18. HEATING: No tenant shall use or keep in the Building any kerosene, gasoline or inflammable or combustible fluid or material or use any method of heating or air conditioning other than that supplied by Landlord.
19. VENDING MACHINES: No vending of food or beverage dispensing machine or machines of any description shall be installed, maintained or operated upon any premise in the Building without the written permission of the Landlord.

20. NAME: Landlord, with prior written notice to Tenant, at any time may change the name of the Building.
21. FREIGHT ELEVATOR: The Building freight elevator will be used for all deliveries of supplies, packages, equipment, furniture and other deliveries. Landlord shall set the hours for use of the freight elevator. Should Landlord permit deliveries on passenger elevators, such permission shall not be deemed a precedent for other deliveries in passenger elevators.
22. PRECAUTIONS TO PREVENT ASBESTOS EXPOSURE: The sprayed-on fireproofing materials covering the structural steel throughout the Building and other items in ceiling plenum areas and the Building's telephone and electrical closets, as well as certain mineral core doors, certain vinyl tile, and pipe lagging in mechanical spaces and other areas contain asbestos. Asbestos is known to the State of California to cause cancer. In tenant spaces, this asbestos-containing material is located in the ceiling plenum (above the ceiling tiles) and in the telephone and electrical closets. Landlord has established special procedures for all repairs, maintenance, alterations, additions, modifications, improvements or other such work to be undertaken by Tenant in areas of the Building where asbestos-containing material may be present. Before Tenant or its contractors remove or otherwise disturb any ceiling tiles, or do any work in the electrical or telephone closets, Tenant must notify the Asbestos Site Manager through the Office of the Building about such work. The Asbestos Site Manager must issue Tenant a work permit before any such work begins. Tenant and its contractor(s) must strictly comply with all work permit requirements, all directions (written or oral) and all asbestos work procedures, plans and documents given them by Building Management. Tenant shall also immediately report to the Asbestos Site Manager through the Building Management Office any time Tenant observes or suspects there has been a spill or other release of asbestos containing materials.
23. "BUILDING": The word "Building" as used in these Rules and Regulations means the Building which is a part of the Premises leased pursuant to the Lease to which these Rules and Regulations are attached. Each tenant shall be liable to Landlord for any loss, cost expense, damage or liability, including attorney's fees, caused or occasioned by the failure of such first named tenant to comply with these Rules and Regulations, but Landlord shall have no liability for such failure or for failing or being unable to enforce compliance therewith by any tenant except as may be otherwise provided in the Lease, and such failure by Landlord or non-compliance by any other tenant shall not be grounds for termination of the Lease to which these Rules and Regulations are attached by the Tenant thereunder.

EXHIBIT E

EXCLUSIONS FROM OPERATING EXPENSES

1. Costs of capital repairs, capital improvements and equipment, except for those (i) required by laws enacted on or after the date of the Lease amortized over the useful life of the improvement and/or equipment, together with interest at the prime rate published by the Wall Street Journal on the date incurred, (ii) acquired to immediately (i.e., within one year) reduce operating expenses amortized at an annual rate reasonably calculated to equal the amount of operating expenses to be saved in each calendar year throughout the Term (as determined at the time Landlord elected to proceed with the capital improvement or acquisition of the capital equipment to reduce operating expenses), together with interest at the prime rate published by the Wall Street Journal on the date project is completed;
2. Rentals for items (except when needed in connection with normal repairs and maintenance of permanent systems) which if purchased rather than rented, would constitute a capital improvement which is specifically excluded in item 1 above (excluding, however, equipment not affixed to the Building which is used in providing janitorial or similar services);
3. Costs incurred by Landlord for the repair of damage to the Building, to the extent that Landlord is reimbursed by insurance proceeds (excluding any deductible) and costs occasioned by the exercise of the right of eminent domain;
4. Costs, including, without limitation, permit, license and inspection costs, incurred with respect to the installation of improvements made for other tenants or occupants of the Building or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for other tenants or occupants in the Building;
5. Depreciation, amortization and interest payments, except to the extent provided herein pursuant to items 1(i) and 1(ii) above and except on materials, tools, supplies, and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation, amortization and interest payments would otherwise have been included in the charge for such third party's services, all as determined in accordance with generally accepted accounting principles, consistently applied (as applied to commercial real estate), and when depreciation or amortization is permitted or required, the item shall be amortized over its reasonably anticipated useful life (as reasonably determined by Landlord);
6. Leasing commissions, attorneys' fees, space planning costs and all other costs and expenses in connection with negotiations with present or prospective tenants or other occupants in the Building or any present or future ground lessors or holders of any mortgages or other encumbrances affecting any of the Building or the defense of Landlord's title to the Building or the real property on which it is located;

7. Expenses in connection with services or other benefits which are not offered to City or for which City is charged directly but which are provided to another tenant or occupant of the Building;
8. Costs incurred by Landlord due to violation by Landlord or any other tenant or occupant of the Building of applicable laws, rules or regulations, the terms and conditions of any lease, ground lease, mortgage or deed of trust, or other covenants, conditions or restrictions encumbering the Building;
9. Overhead and profit increments paid to Landlord or to subsidiaries or affiliates of Landlord, or to any party as a result of a non-competitive selection process, for management, or other services, supplies or materials, to the extent the same exceed the costs of such goods and/or services rendered by unaffiliated third parties on a competitive, arms-length basis;
10. Any ground lease rental or rental under any other underlying lease;
11. Except as specifically permitted by items 1(i) and 1(ii) above, interest, principal, points and fees on debts or amortization on any mortgage, deed of trust or any other debt instrument encumbering any of the Building;
12. Any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord or in the parking garage in the Building;
13. Except for making repairs or keeping permanent systems in operation while repairs are being made, rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature, excluding equipment not affixed to the Building which is used in providing janitorial or similar services;
14. All items and services for which City or any other tenant or occupant of the Building separately reimburses Landlord (other than through such tenant's or occupant's proportionate share of operating expenses), or which Landlord provides selectively to one or more other tenants or occupants without reimbursement, or which are not provided in reasonable proportion to the space leased by City but which Landlord provides to another tenant or other occupant of the Office Portion of the Building;
15. Advertising or promotional expenditures, and the costs of acquiring and installing signs in or on any of the Building identifying the owner of the Building or any other tenant or occupant of the Building;
16. Electric power costs for which any other office tenant or occupant directly contracts with the local public service company;
17. Services provided, taxes attributable to, and costs incurred in connection with the operation of retail, restaurant and garage operations in the Building;

18. Costs incurred in connection with capital improvements to the Building to comply with handicap, life, fire and safety codes in effect prior to the date of the Lease, and costs incurred in connection with upgrading the Building to comply with the Americans with Disabilities Act of 1990, the proposed San Francisco Sprinkler ordinance and the San Francisco Unreinforced Masonry Building Ordinance;
19. Tax penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments when due;
20. Costs arising from the presence of Hazardous Material in or about the Building including, without limitation, groundwater or soil conditions, except if such Hazardous Material is brought on to the Building by City in violation of applicable laws;
21. Landlord's charitable or political contributions;
22. To the extent the following costs arise during any applicable warranty periods, costs as a result of repairs of latent defects in the Building core and shell or improvements installed by Landlord or in the Building Systems, and any costs incurred by Landlord in the event any portion of the Building is made untenable by fire or other casualty required to be insured against pursuant to the terms of the Lease;
23. Capital costs for sculpture, paintings or other objects of art;
24. Costs (including, without limitation, all attorneys' fees and costs of settlement, judgments and payments in lieu thereof) arising from claims, disputes or potential disputes, including, without limitation, tax disputes where the tenants of the Building would receive benefits if Landlord prevails) in connection with potential or actual claims, litigation or arbitrations pertaining to Landlord and/or the Building.
25. Landlord's general corporate overhead and general and administrative expenses not related to the operation or management of the Building; and
26. Any other expense that under AICPA generally accepted accounting principles ("GAAP") would not be considered a maintenance or operating expense.

2. Permits

a. Responsibility for Obtaining Permits. Landlord shall have the responsibility for obtaining all governmental permits and approvals required to commence and complete the Tenant Improvement Work, and promptly upon receipt thereof shall deliver copies of all of such permits and approvals to City and Landlord. Landlord shall use its best efforts to obtain all such approvals and permits as soon as possible after execution by City of this Lease, in order to comply with the construction schedule referred to in paragraph 5.a. below. Tenant shall reasonably cooperate with Landlord in obtaining such approvals and permits, without expense to Tenant.

3. Construction

a. Construction of Tenant Improvements. Landlord shall cause the Tenant Improvements to be constructed and installed in a good and professional manner in accordance with sound building practice consistent with other first-class buildings in the Civic Center area and in conformity with the Final Plans, the terms of this Work Letter and the Lease. City shall not have any obligation with respect to any such work other than as provided herein or in the Lease.

b. General Conditions. The performance of all Tenant Improvement Work by Landlord shall be subject to the following terms and conditions:

i. All of the Tenant Improvement Work shall be performed in compliance with all laws, codes, regulations and building requirements bearing on construction of the Tenant Improvements;

ii. The construction of the Tenant Improvements shall comply with all applicable laws (including, without limitation, the applicable portions of the Americans With Disabilities Act); and

iii. Landlord and its Contractor shall be responsible for all required insurance; and

iv. Landlord shall through its approved Contractor furnish and install all improvements that are required to bring the Premises, and the path of travel to the Premises, into compliance at the commencement of the herein Lease with City's standards for accessibility by disabled persons, consisting of the items set forth in the attached Schedule 2. Landlord shall not be responsible for making accessible any of Tenant's furniture, workstations, shelving or equipment which Landlord does not design or install.

c. Asbestos-Related Work. In the event that Landlord or City encounter any asbestos containing materials ("ACM") in the Building in connection with the construction of the Tenant Improvement Work, Landlord agrees promptly to cease performance and to be responsible, in Landlord's reasonable discretion and in compliance with applicable laws, codes, regulations and building requirements for all work relating to the containment, removal and disposal of such ACM as necessary for such construction and agrees to bear all costs thereof.

d. Installation of Furniture Systems, Telecommunications and Other Equipment. Landlord and City acknowledge that the Tenant Improvement Work shall be completed by Landlord exclusive of the installation of furniture systems and telecommunications, data and computer cabling facilities and equipment. City shall be

responsible for installing such systems, facilities and equipment, provided that Landlord shall furnish access to City and its consultants and contractors to the main telephone service serving the floors on which the Premises are located and all other parts of the Building for which access is needed for proper installation of all such systems, facilities and equipment. City shall have the right to enter the Premises and such other portions of the Building at reasonable times during the course of construction of the Tenant Improvements in order to install such systems, facilities and equipment. City and Landlord shall use their good faith efforts to coordinate any such activities to allow the Tenant Improvements and the installation of such furniture systems, telecommunications, data and computer cabling facilities and equipment to be completed in a timely and cost-effective manner. It is understood that Landlord will perform all above-ceiling work related to installation of Tenant-furnished telephone and data cable.

4. Payment for Work

All costs of the Tenant Improvement Work shall be performed at Landlord's sole cost and expense. Landlord shall not be entitled to an administrative fee from Tenant relating to the Tenant Improvement Work.

5. Substantial Completion

a. Construction Period. Landlord shall keep City apprised of the status of permit approval and the progress of construction. From time to time during the construction of the Tenant Improvements, City shall have the right upon reasonable advance oral or written notice to Landlord to enter the Premises at reasonable times to inspect the Premises, provided such inspections do not unreasonably interfere with the construction. Landlord or its representative may accompany City during any such inspection. When construction progress so permits, but not less than fifteen (15) days in advance of completion, Landlord shall notify City of the approximate date on which the Tenant Improvement Work will be Substantially Completed in accordance with the Final Plans and the provisions hereof. Landlord shall notify City when the Tenant Improvement Work is in fact Substantially Completed and the Premises are ready for occupancy by City, and City or its representatives shall be permitted to accompany Landlord or its architect on an inspection of the Premises on such date or other mutually agreeable date soon thereafter.

b. Substantial Completion. The Tenant Improvements shall be deemed to be "Substantially Completed" and "Substantial Completion" shall be deemed to occur for purposes hereof when the Tenant Improvements are sufficiently complete in accordance with the Final Plans and the terms of this Work Letter and City shall have approved the Tenant Improvements after its inspection of the Premises. City may, at its respective option, approve the Tenant Improvements even though there remain minor details that would not interfere with City's use. Landlord shall diligently pursue to completion all such details. Notwithstanding the foregoing, City shall have the right to present to Landlord within thirty (30) days after Substantial Completion, or as soon thereafter as practicable, a written punchlist consisting of any items that have not been finished in accordance with the Plans and the terms of this Work Letter. Landlord shall promptly complete all defective or incomplete items identified in such punchlist, and in any event within thirty (30) days after the delivery of such list. City's failure to include any item on such list shall not alter Landlord's responsibility hereunder to complete all Tenant Improvement Work in accordance with the Final Plans and the provisions hereof, nor constitute a waiver of any latent defects.

6. Delays in Construction

a. Unavoidable Delays. For purposes hereof, "Unavoidable Delays" shall mean any delays by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, permit issuance without default and beyond the reasonable control of Landlord, other labor disputes, inability to obtain labor or materials after diligent and timely efforts, enemy action, civil commotion, protests, riots, demonstrations, federal or state governmental restrictions, or by any other reason beyond the reasonable control of the party obligated to perform. In the event of any such delays, Landlord shall give prompt written notice to City of the occurrence of such event and the projected delay in performance and thereafter shall keep City regularly informed of the status of such Unavoidable Delay.

b. Tenant Delays. Subject to any Unavoidable Delays, City shall be responsible for any delay in the construction of the Tenant Improvements due solely and directly to any of the following (collectively, "Tenant Delays"): (i) a delay in granting its reasonable approval of plans and specifications (beyond the period granted therefor), (ii) City's material changes in the Final Plans after City has approved them, (iii) a delay in excess of one (1) week in delivery of data or telephone cables, and (iv) a delay in excess of one (1) week in Tenant's installation of furniture systems. No such Tenant Delays in the completion of construction of the Tenant Improvement Work shall be considered in the determination of the Commencement Date of the Lease and the Tenant Improvements shall be considered to be Substantially Completed on the date by which the Tenant Improvements would have been completed if there had been no such delay. Notwithstanding the foregoing, City shall be responsible only to the extent any delays are actually caused by Tenant Delays.

c. Landlord Delays. If Landlord's delivery of possession of Suite 240 to City is delayed due to Landlord's failure to complete construction of the Tenant Improvements in a timely manner (subject to Tenant Delays), Landlord and Tenant shall have the rights and obligations provided in paragraph 9 of the Lease.

7. General Provisions

a. Notices. Except as may be otherwise specifically provided herein, any notice given under this Work Letter shall be in writing and given by delivering the notice in person, by commercial courier or by sending it by first-class mail, certified mail with a return receipt requested, or Express Mail, return receipt requested, with postage prepaid, and addressed to the parties as follows:

City: Real Estate Department
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property

Landlord: 425 California Street
Suite 2300
San Francisco, CA 94104
Attn: Daniel W. Aljoe

or such other address as a party may designate to the others as its new address for such purpose by notice given to the others in accordance with the provisions of this paragraph. 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 (1) day after the date when it is mailed if sent by

U.S. Express Mail, or upon the date personal deliver is made. Neither party may give official or binding notice by facsimile.

b. Prevailing Wages for Construction Work. In constructing the Tenant Improvements, Landlord shall comply with the prevailing wages provisions contained in paragraph 28 of the Lease.

c. Tropical Hardwood Ban. In constructing the Tenant Improvements, Landlord shall comply with the tropical hardwood ban provisions contained in paragraph 28 of the Lease.

d. Calendar Days. Unless otherwise provided herein, all periods specified by a number of days shall refer to calendar days.

e. Approvals. Notwithstanding anything to the contrary herein, no approval by City of the Final Plans, completion of the Tenant Improvement Work or any other approvals by City hereunder shall be deemed to constitute approval of any governmental or regulatory authority with jurisdiction over the Premises. All approvals or other determinations of City as Tenant hereunder may be made by City's Director of Property unless otherwise specified herein.

f. Time of Essence. Time is of the essence with respect to all provisions of this Work Letter.

ATTACHMENTS: SCHEDULE I (5 pages)

**SCHEDULE I
TO
WORK LETTER – EXHIBIT F
SUITES 240 AND 250**

Landlord shall furnish and install tenant improvements as shown on the Plans and as described herein. It is understood that any furniture, equipment, panel systems, work stations, divider screens and signage shown on such plan are schematic and not to be furnished by Landlord nor indicate the size, quality or quantity of Tenant's furniture and equipment unless specifically stated in this Work Letter.

1. In colors selected by City, supply and install Building standard carpet and base and paint in a Building standard paint to areas selected by Tenant in Suites 240 and 250 in contiguous areas of approximately 3,000 sq. ft. from which tenant shall temporarily vacate. Vinyl composition tile will be installed in the rooms as designated on the Plans as "VCT." Work will be performed on consecutive weekend days, such that work will be completed as a continuous, uninterrupted project. Landlord shall submit a staging plan and schedule of such project to City for City's reasonable approval. The Tenant will be responsible for the following work prior to carpeting and/or painting:
 - a) boxing and labeling all loose items inside and on top of all desks and cabinets and/or shelves and removing all pictures or other attachments from walls.
 - b) emptying and boxing the top two drawers of any five drawer file cabinet and/or open shelving units and replacing the items at the completion of the project.
 - c) disconnecting and removing of all computer and/or telephone equipment and reinstalling the same.

Landlord shall be responsible for:

- a) Supplying boxes.
 - b) Moving all boxes, equipment, and furniture
 - c) Providing reasonable security.
2. Check the airflow at each existing HVAC supply grill and provide Tenant with air balance and zoning report. Balance the air quantities as indicated by the report. Air quantities will be based on a standard office layout with a standard occupant load. Clean the existing supply grills throughout the tenant space.
 3. Repaint and install new carpet in the public corridor with a Building standard carpet and paint. Add building standard lighting as required.

4. Remodel and upgrade the existing men's and women's restrooms on the east side of the second floor to comply with current ADA standards. New finishes will include new wall and floor tile, and new fixtures, toilet partitions, counters and lavatories using the 4th floor restroom standard for finishes.
5. Install a new hallway as shown on the attached plan connecting Suites 240 and 250.

**SCHEDULE I
TO
WORK LETTER – EXHIBIT F**

SUITES 401 AND 418

Landlord shall furnish and install tenant improvements as shown on the Plans and as described herein. It is understood that any furniture, equipment, panel systems, work stations, divider screens and signage shown on such plan are schematic and not to be furnished by Landlord nor indicate the size, quality or quantity of Tenant's furniture and equipment unless specifically stated in this Work Letter.

1. Provide a maximum improvement allowance of \$55,686.00 ($\$6/\text{RSF} \times 9,281 \text{ RSF}$) for improvements to areas selected by Tenant in Suites 410 and 418. Work will be performed as a single continuous project. All tenant relocation costs and/ or after hours/ weekend costs shall be paid from such allowance or paid to Landlord by City as an additional City cost.
2. Check the airflow at each existing HVAC supply grill and provide Tenant with air balance and zoning report. Balance the air quantities as indicated by the report. Air quantities will be based on a standard office space with a standard occupant load. Clean the existing supply grills throughout the tenant space.
3. Repaint and install new carpet in the elevator lobby and public corridor with a building standard carpet and paint.

**SCHEDULE I
TO
WORK LETTER – EXHIBIT F
SUITE 500**

Landlord shall furnish and install tenant improvements as shown on the Plans and as described herein. It is understood that any furniture, equipment, panel systems, work stations, divider screens and signage shown on such plan are schematic and not to be furnished by Landlord nor indicate the size, quality or quantity of Tenant's furniture and equipment unless specifically stated in this Work Letter.

1. Provide a maximum improvement allowance of \$108,762 (\$6/RSF x 18,127 RSF) for improvements in areas selected by Tenant in Suite 500. Work will be performed as a single continuous project. All tenant relocation costs and/ or after hours/ weekend costs shall be paid from such allowance or paid to Landlord by City as an additional City cost.
2. Check the airflow at each existing HVAC supply grill and provide Tenant with air balance and zoning report. Balance the air quantities indicated by the report. Air quantities will be based on a standard office space with a standard occupant load. Clean the existing supply grills throughout the tenant space.
3. Repaint and install new carpet in the elevator lobby and public corridor with a Building standard carpet and paint.
4. Remodel and upgrade the existing men's and women's restrooms to comply with current ADA standards. New finishes will include new wall and floor tile, and new fixtures, toilet partitions, counters and lavatories using the 4th floor restroom as a standard for finishes.
5. **New Construction:** Remove and dispose of approximately fifteen (15) lineal feet of drywall partition, install approximately forty-five (45) feet of new ceiling high drywall, install two (2) building standard 3'-0" x 7'-0" doors with frames and hardware, paint the new walls to match the existing paint color, add three (3) wall power outlets and two (2) wall mounted telephone/data outlets as shown on the Plans. Modify HVAC and lighting as appropriate to accommodate the new construction. Work will be performed as a single continuous project. City shall be responsible for removing all personal property from the area.

SCHEDULE I
TO
WORK LETTER – EXHIBIT F

SUITE 600

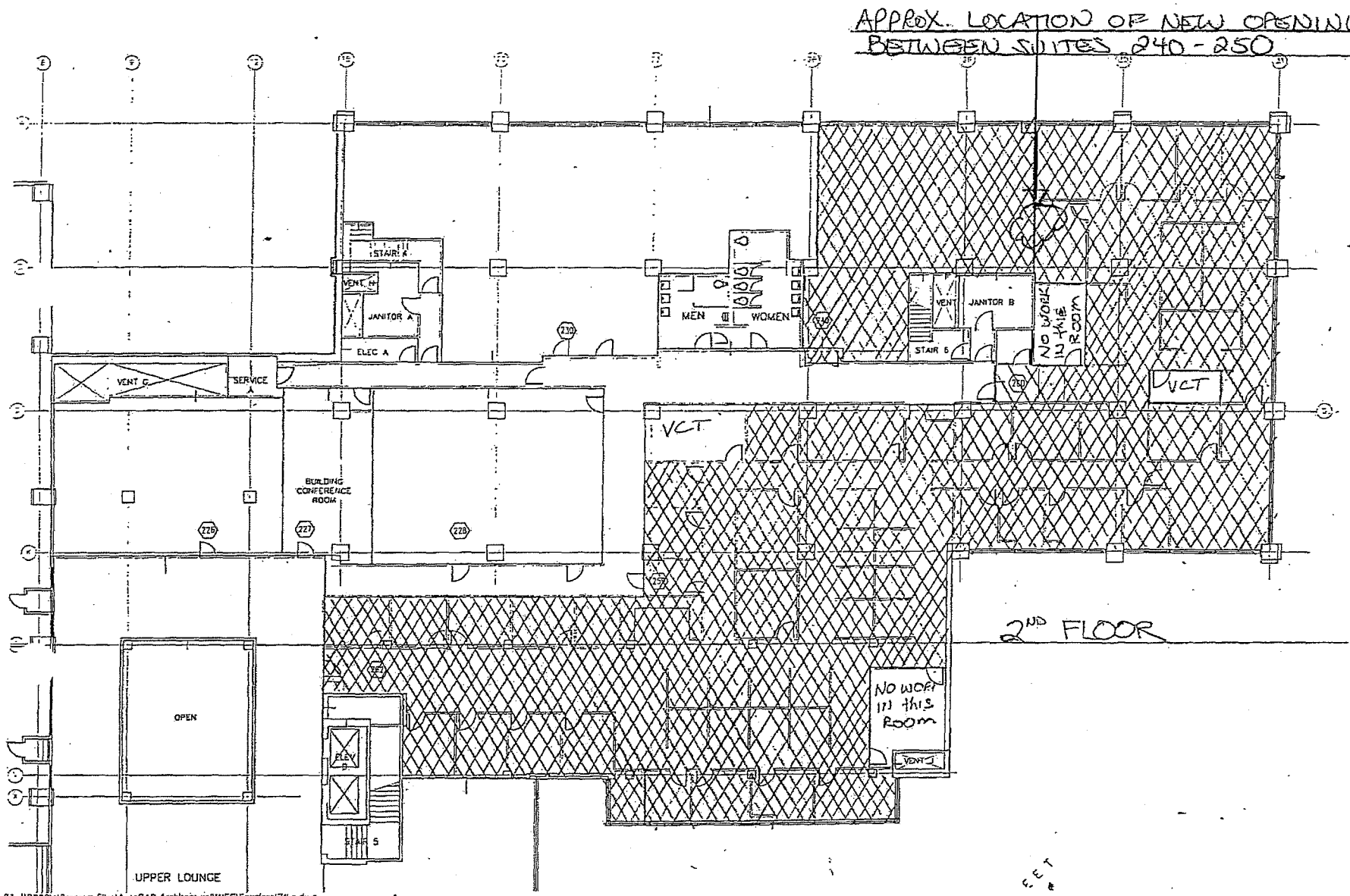
Landlord shall furnish and install tenant improvements as shown on the Plans and as described herein. It is understood that any furniture, equipment, panel systems, work stations, divider screens and signage shown on such plan are schematic and not to be furnished by Landlord nor indicate the size, quality or quantity of Tenant's furniture and equipment unless specifically stated in this Work Letter.

1. Provide a maximum allowance of \$109,008 ($\$6/\text{RSF} \times 18,168 \text{ RSF}$) for improvements in areas selected by Tenant in Suite 600. Work will be performed as a single continuous project. All tenant relocation costs and/or after hours/ weekend costs shall be paid from such allowance or paid to Landlord by City as an additional City cost.
2. Check the airflow at each existing HVAC supply grill and provide Tenant with air balance and zoning report. Balance the air quantities as indicated by the report. Air quantities will be based on a standard office space with a standard occupant load. Clean the existing supply grills throughout the tenant space.
3. Repaint and install new carpet in the elevator lobby and public corridor with a building standard carpet and paint.
4. Remodel and upgrade the existing men's and women's restrooms to the current ADA standards. New finishes will include new wall and floor tile, and new fixtures, toilet partitions, counters and lavatories using the 4th floor restroom as a standard for finishes.
5. Install fire/smoke doors at the elevator lobby and freight elevator.
6. **6th Floor Construction:** Install approximately eighty (80) lineal feet of drywall partition as shown on the Plans, install five (5) building standard doors, frames, hardware and sidelights with tempered glass, paint the new walls to match the adjacent wall color. Install light switches in the private offices. Modify HVAC and lighting as appropriate to accommodate the new construction. Work will be performed as a single continuous project. Work will be performed after working hours and on weekends. City shall be responsible for removing all personal property from the area.

**SCHEDULE I
TO
WORK LETTER – EXHIBIT F
SUITES 1008 AND 1010**

Landlord shall furnish and install tenant improvements as shown on the Plans and as described herein. It is understood that any furniture, equipment, panel systems, work stations, divider screens and signage shown on such plan are schematic and not to be furnished by Landlord nor indicate the size, quality or quantity of Tenant's furniture and equipment unless specifically stated in this Work Letter.

1. Provide a maximum allowance of \$21,606 ($\$6/\text{RSF} \times 3,601 \text{ RSF}$) for improvements in areas selected by Tenant in Suites 1008 and 1010. Work will be performed as a single continuous project. All tenant relocation costs and/ or after hours/ weekend costs shall be paid from such allowance or paid to Landlord by City as an additional City cost.
2. Check the airflow at each existing HVAC supply grill and provide Tenant with air balance and zoning report. Balance the air quantities as indicated by the report. Air quantities will be based on a standard office space with a standard occupant load. Clean the existing supply grills throughout the tenant space.
3. Repaint and install new carpet in the elevator lobby and public corridor with a building standard carpet and paint.



APPROX. LOCATION OF NEW OPENING
BETWEEN SUITES 240-250

2ND FLOOR

NO WORK
IN THIS
ROOM

FEET

y:31 \\P3001c1\Program Files\AutoCAD Architectural\WECU\Fox\faxal211-e.dwg

Crosshatched area to receive
Building standard carpet and paint.

EXHIBIT G

EXHIBIT G

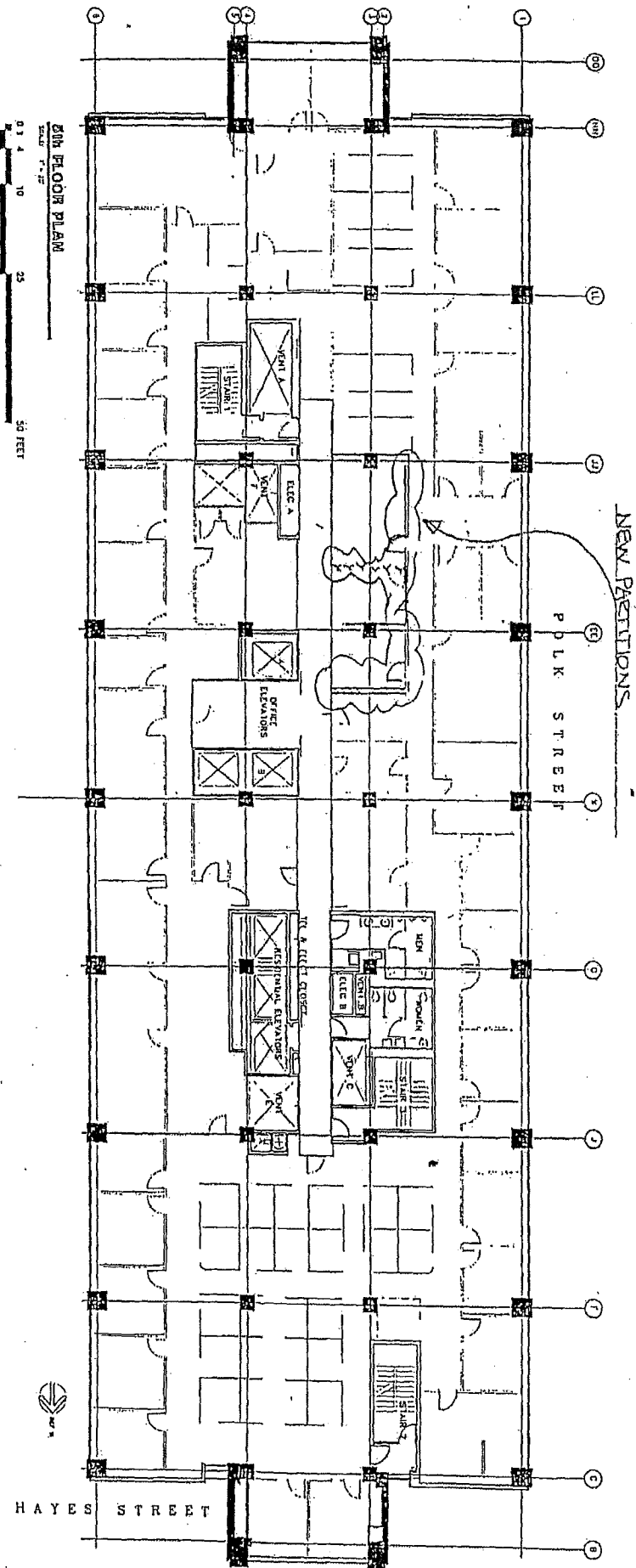
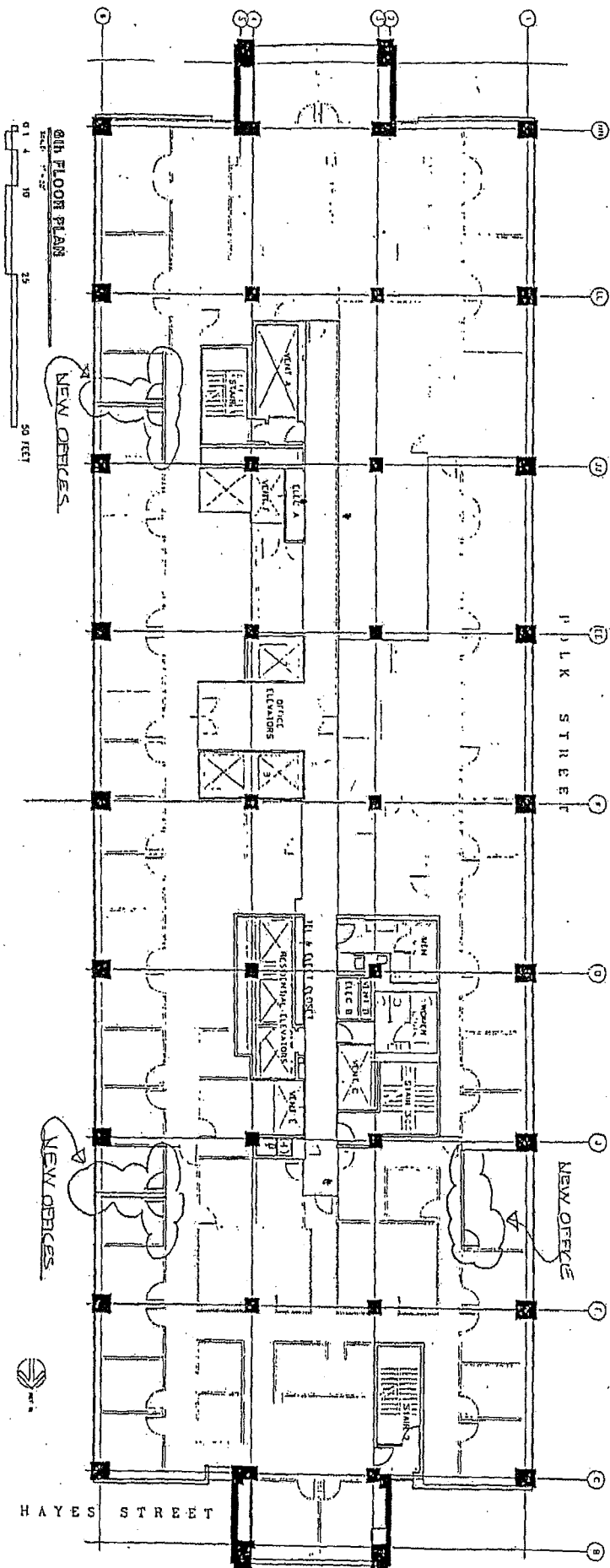


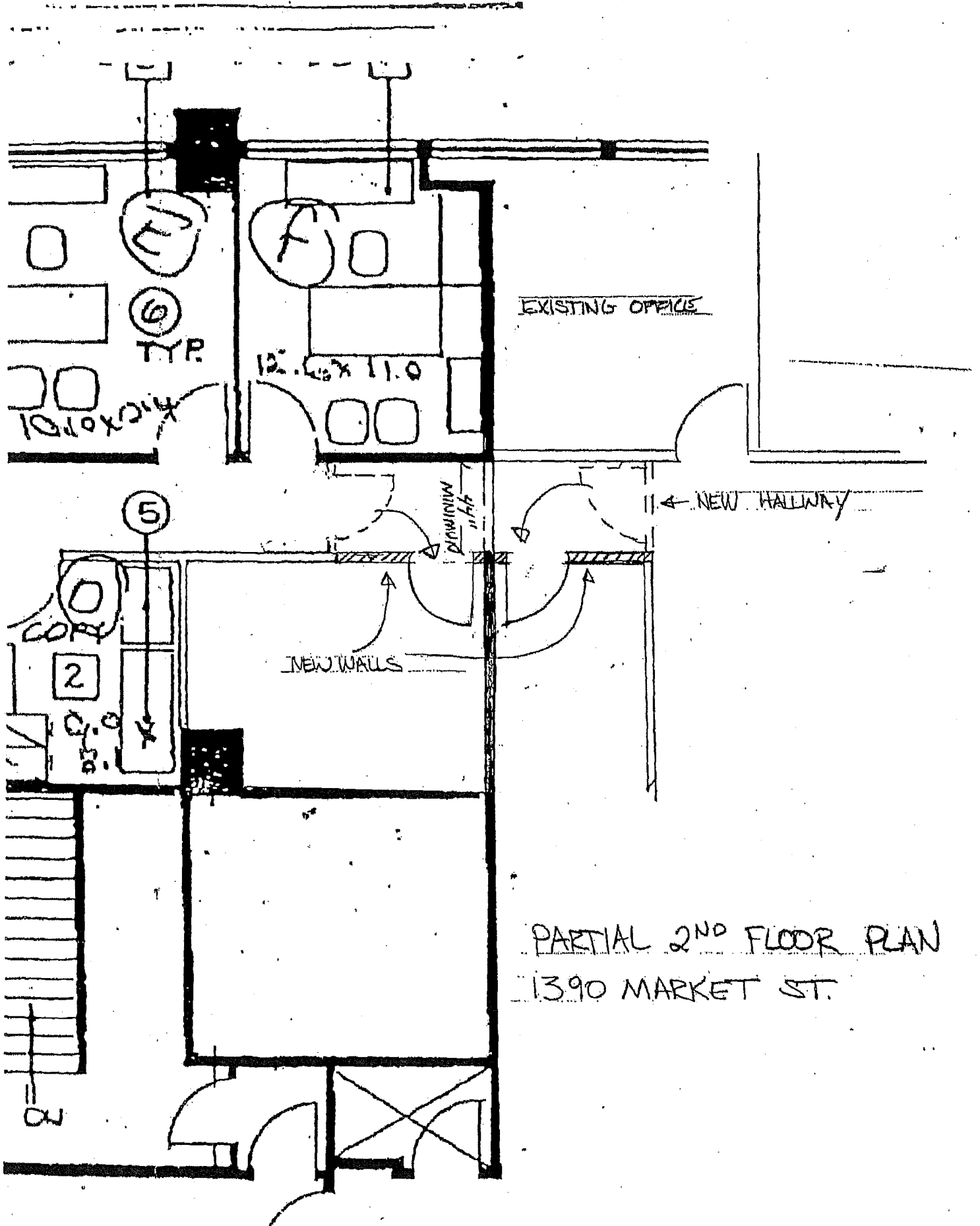
EXHIBIT G



31 W 200th Program Final AutoCAD Architecture\WEC\FoxFLAZA\F1.12.dwg

EXHIBIT G

EXHIBIT G



PARTIAL 2ND FLOOR PLAN
 1390 MARKET ST.

EXHIBIT H
FOX PLAZA
NOTICE TO EMPLOYEES/CONTRACTORS

California Health and Safety Code Sections 25915-25924 requires that periodic notification be given to employees and contractors regarding commercial and public buildings in which asbestos-containing material ("ACM") is present. We are providing this notice to you in compliance with this law and to provide related information.

ACM is present at the Fox Plaza Building (the "Building") as (1) sprayed-on fireproofing covering the structural steel and other structural elements in the Building; (2) part of the core of certain fire-rated doors; (3) the insulation on pipes and similar items; and (4) as a component in some of the Building's floor tiles and its adhesive. On commercial and mechanical floors, the sprayed-on fireproofing ACM can be found in the space above the suspended ceilings, in telephone and electrical closets, in mechanical rooms, and behind drywall or plaster soffits, columns, and exterior walls. On apartment floors, the sprayed-on fireproofing ACM is generally located behind plaster or drywall soffits, ceilings, columns, and exterior walls, and is located in locked electrical closets and in certain non-accessible mechanical areas.

ACM can become a health risk by moving, drilling, boring, or otherwise disturbing it. Contractors and Employees who are not specially qualified and trained in ACM work procedures should not handle or in any way disturb ACM. If you have any reason to believe the asbestos containing materials have been disturbed or damaged, please call the Property Manager of Fox Plaza at (415) 626-6900.

Building Management has implemented a comprehensive Asbestos Management Plan which governs asbestos-related plans and work procedures for work in or to areas of the Building in which ACM is located. All work which might in any way disturb ACM must be reviewed and approved by the Building's Asbestos Control Coordinator. The existing rigorous procedures established for the work procedures meet or exceed the relevant state and federal standards. Building Management has prepared rules for tenants and for contractors, which are part of the Asbestos Management Plan and which will require tenants, contractors and other workers to (a) obtain authorization from Building Management for work in areas of the Building in which ACM is located, and (b) to perform such work in compliance with the asbestos work procedures. The Asbestos Management Plan is designed to protect the health and safety of all occupants, and to maintain good building air quality.

Asbestos exposure can cause asbestosis and other respiratory diseases, and is listed under Proposition 65, California Health and Safety Code Sections 25249.5 - 25249.13, as a chemical known to the State of California to cause cancer. There are uncertainties surrounding the level which can cause disease. The major reason for implementing the Asbestos Management Plan is to prevent airborne asbestos exposure of Building Occupants. If you would like to obtain further information regarding potential health risks or impacts of airborne asbestos, please contact the California Occupational Safety and Health Administration at (916) 920-6123 or the Federal Occupational Safety and Health Administration at (916) 978-5641.

Air monitoring measurements have been taken annually as part of a comprehensive building-wide ambient air monitoring study by an independent industrial hygiene consulting firm, IHI Environmental ("IHI"). IHI has advised the Building management that because of the stringent management programs and removal procedures put in place in Fox Plaza that fiber release has been minimized. All samples taken in the Annual Air Sampling Survey were significantly below the CAL/OSHA Permissible Level of 0.1 f/cc. 19 of 20 samples had fiber counts below the PCM criteria of 0.01 f/cc established in the Asbestos Management Plan. The one sample with a fiber count greater than 0.01 f/cc was reanalyzed by TEM which can distinguish asbestos from other fibers. That sample did not contain asbestos fibers. In addition to these reports, air quality measurements have also been taken during the Building's asbestos abatement projects and for various other reasons. ACM survey reports which collectively identify the presence, type and location of ACM in the Building, and include a description of the bulk sample analysis procedures, are also maintained in the Managing Agent's Office. The most recent reports are listed below. An industrial hygiene consulting firm specializing in asbestos surveys will be conducting periodic reinspections of the ACM to monitor its condition.

The Managing Agent's Office is at the office of Calfox, Inc., 425 California Street, Suite 2300, San Francisco. The asbestos-related documents covered by the asbestos notification laws are maintained there and are available for you to review and copy, at tenant's cost, upon request during regular business hours. Also upon request, these documents can be made available at the Fox Plaza Building Office. Please do not hesitate to call the Property Manager at (415) 626-6900 if you wish to arrange for access to these materials.

RECENT REPORTS

Annual Asbestos Air Sampling Survey (02/08/00)
Triennial Re-Inspection Survey (02/16/00)
12th Floor Abatement Project/Report - 11/19/99 and 08/10/99
7th Floor Abatement Project/Report - 09/13/99

CD

FILE NO. 000851

RESOLUTION NO. 505-00

RO#99117

*File 1390 Market
C Atty*

(Lease of Real Property)

AUTHORIZING A LEASE RENEWAL FOR APPROXIMATELY THREE FLOORS OF SPACE AT 1390 MARKET STREET FOR THE CITY ATTORNEY FOR A TERM OF SEVEN YEARS.

RESOLVED, That in accordance with the recommendation of the City Attorney and the Director of Property, the Mayor, the Clerk of the Board of Supervisors and the Director of Property are hereby authorized to take all actions, on behalf of the City and County of San Francisco, as Tenant, to execute a written lease and other related documents with Calfox, Inc., as Landlord, of approximately 62,814 square feet of space in the building commonly known as Fox Plaza, 1390 Market St., San Francisco, California, for use by the City Attorney on the terms and conditions contained herein and substantially in the form on file with the Clerk of the Board; and be it

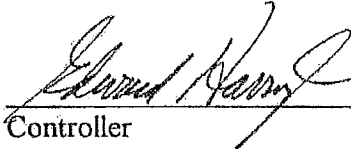
FURTHER RESOLVED, The lease shall commence upon the expiration of the existing lease (January 1, 2001) and terminate seven (7) years thereafter (December 31, 2007). The City shall have a five year option to extend the term. The monthly rent for the term shall be \$231,526.86 (approximately \$3.69 per square foot). Where the leased premises are separately metered (approximately 48,265 sq ft of the area), the City shall pay for its own electricity. The City will pay other typical tenant costs including any operating expense increases over a 2000 base year; and be it

FURTHER RESOLVED, That the lease may include an appropriate clause (in a form [REAL ESTATE])

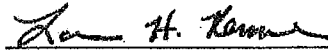
1 increase the rent or otherwise materially increase the obligations or liabilities of the City, are
2 necessary or advisable to effectuate the purposes of the lease, the license or this resolution, and
3 are in compliance with all applicable laws, including City's Charter; and be it.

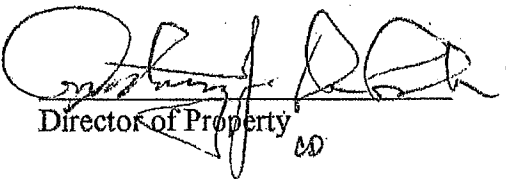
4 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
5 with respect to such lease and license agreement are hereby approved, confirmed and ratified.
6
7

8 \$1,389,161.16 Available
9 Appropriation No.
10 IG- AGF-AAA
11 CAT-CAT01-FC2
12 035004

13 
14 Controller
15 Subject to funds being approved in
16 the Annual Appropriation
17 Ordinance for the 2000-2001 Fiscal
18 Year

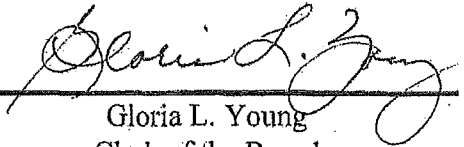
19 RECOMMENDED:

20 
21 City Attorney

22 
23 Director of Property
24
25

File No. 000851

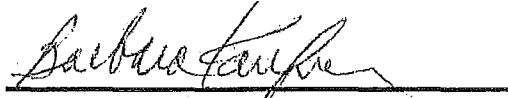
I hereby certify that the foregoing Resolution was **ADOPTED** on May 30, 2000 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

JUN - 9 2000

Date Approved



Mayor Willie L. Brown Jr.

FIRST AMENDMENT TO LEASE

[City Attorney]

THIS FIRST AMENDMENT TO LEASE (this "First Amendment") is made and entered into as of June 13, 2006, by and between API Fox Plaza, LLC, a Delaware limited liability company ("Landlord") and the City and County of San Francisco, a municipal corporation ("Tenant" or "City").

RECITALS

- A. Calfox, Inc., as managing agent for Polk Market Co., a predecessor-in-interest to Landlord ("Original Landlord"), and Tenant entered into that certain Office Lease dated September 12, 2000 (the "Lease") for premises known as Suites 240 and 250 on the 2nd floor (the "Second Floor Premises"), Suites 401 and 418 on the 4th floor, Suite 500 on the 5th floor, Suite 600 on the 6th floor, and Suites 1008 and 1010 on the 10th floor (the "Tower Premises", together with the Second Floor Premises, the "Original Premises"), all in a building known as Fox Plaza, 1390 Market Street, San Francisco, CA (the "Building").
- B. The Lease's initial term expires December 31, 2007. The Lease provides City with one (1) five year option to extend the Term (the "Extension Option", as defined in the Lease).
- C. Landlord is the successor-in-interest to Original Landlord and is the current owner of the Building. Landlord intends to subdivide the Building and land and sell that portion of the Building and land that contains the Second Floor Premises (the "Transfer Parcel"). As a result, Landlord desires to relocate the Second Floor Premises, at Landlord's sole cost, to certain non-residential portions (generally located on the 1st floor through the 12th floor) of the tower portion of the Building ("Landlord's Commercial Parcel").
- D. Landlord and Tenant now wish to amend the Lease to (i) permit Landlord to relocate the Second Floor Premises before commencement of the Option Term, at Landlord's sole cost, to space approved by City within Landlord's Commercial Parcel (the "Relocation Premises"), and (ii) make certain other modifications to the Lease more particularly set forth below.

AMENDMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **EXTENSION OPTION.** Effective on the date of this First Amendment, Paragraph 4(C) of the Lease is deleted and replaced with the following:

"C. **Extension Option.** City shall have the option to extend the Term the Initial Term for an additional term ("Extended Term") of five (5) years commencing upon the expiration of the Initial Term ("Extension Option"). Upon commencement of the Extended Term, all references in the Lease to the Term shall mean the Term as extended by the Extended Term.

(a) City's lease of the Premises during the Extended Term shall be on all of the terms and conditions set forth in the Lease, except that (i) at the start of the Extended Term, the Base Monthly Rent shall be adjusted to \$157,035.00 (approximately \$30 psf), and shall remain fixed at this amount for the remainder of the Term; (ii) the Base Year and the Base Tax Year, for purposes of determining City's Additional Rent, shall be calendar 2008, and there shall be no Additional Rent during calendar year 2008; (iii) subject to Landlord's completion of the relocation as set forth below, the Second Floor Premises shall be deleted from the Premises and the Relocation Premises shall be added to the Premises; and (iv) City shall not be responsible for any increase in Direct Taxes or other costs or expenses resulting from any sale, transfer or subdivision of any interest in or title to the Building or the land on which the Building is located during calendar years 2006, 2007, or 2008.

(b) Upon City's exercise of the Extension Option, Landlord shall relocate the Second Floor Premises to the Relocation Premises on or before the start of the Extended Term in accordance with the terms set forth in this Lease. The Relocation Premises shall be located in two separate spaces of Landlord's Commercial Parcel in space reasonably acceptable to City and as determined by space planning to replicate the functions currently located in the Second Floor Premises. The Relocation Premises shall contain a rentable area no greater or less than one hundred percent (100%) of the Second Floor Premises without City's prior consent, which City may withhold in its sole discretion. The portion of the Relocation Premises to be used by Tenant for its' infant care program shall be located in contiguous, code-complying space for use as an infant care facility on the [fourth (4th)] floor or a lower floor of the Building and otherwise in accordance with all applicable laws and regulations. The remainder of the Relocation Premises shall be located in contiguous, code-complying office space on the seventh (7th) floor of the Building within the area shown in Exhibit A-1 attached hereto. Landlord shall be responsible for obtaining any necessary approvals for proposed uses of the Relocation Premises prior to Tenant's occupancy, including but not limited to approval by the San Francisco Department of Building Inspection and the Fire Marshall.

(c) The Relocation Premises shall be altered, at Landlord's sole cost, to provide turnkey improvements pursuant to plans approved by City. Landlord shall complete all improvements in accordance with applicable law and the approved plans, and Landlord shall obtain final building permit sign-offs and any additional required approvals before commencing the relocation of Tenant from the Second Floor Premises to the Relocation Premises. Tenant shall have no obligation to vacate the Second Floor Premises unless and until all necessary approvals and permits have been obtained. No later than December 31, 2007, Landlord and Landlord's architect shall submit space plans and basic construction specifications for the Relocation Premises to City for its approval. Landlord shall use good faith efforts to produce acceptable space plans and specifications prior to April 1, 2007. Such plans shall provide at least the same quantity and quality of tenant improvements as are currently located in the Second Floor Premises, including security improvements, offices and conference rooms, and specialized facilities in the infant care program space. Such plans shall also include or provide: (i) a server room of not less than 144 square feet which shall also include, without limitation, 24 hour air conditioning, anti-static tiles, sleeves and risers, and 6 dedicated 15 amp electrical outlets; (ii) labeled or color coded 2 data and 2 telephone "CAT 5e" or better wiring for each room, equipment and each work station terminated to City's telecommunication or data equipment as the case may be; (iii) turnkey electrical outlets including additional dedicated outlets as required and a minimum of 1 floor plex electrical outlet for each room, equipment, and work station; (iv) for the relocation of City furniture and workstations, and if such relocation can not be accomplished so as to provide the same aesthetics, layouts or use, then Landlord shall provide new or like new furniture and workstations; (v) HVAC designed to meet ASHRAE standards for City's build out and, notwithstanding the foregoing, HVAC zoning of not less than 1 zone per 1200 rentable square feet, appropriate locations of thermostats and air supply and return vents; and (vi) in the event that City chooses to perform the telecommunication and data wiring for the Relocated Premises, then Landlord shall provide to City a rent credit in the amount of City's actual costs for the telecommunication and data wiring and related equipment for the month immediately following City's expenditure and each successive month until exhaustion of the credit.

(d) At the start of the Extended Term, Landlord shall provide to City a credit against Base Rent in the amount of \$1000 for City's reprinting business cards and letterhead. Landlord shall pay all other costs of relocating City to the Relocation Premises including but not limited to moving costs and City's reasonable supervision costs. City shall only be responsible for clearing desks and work surfaces and for disconnecting computers and wiring. Such relocation shall occur over weekends in accordance with a schedule reasonably acceptable to both parties, and be accomplished so as to minimize the disruption to the business of Tenant.

(e) In addition to the improvements to the Relocation Premises, Landlord shall also be required to make the following improvements to the Tower Premises at Landlord's sole cost (the "Additional Improvements"): (i) new carpet and paint throughout the Tower Premises, reasonably acceptable to City; (ii) upgrades to the HVAC system to a standard equivalent to that done for Suites 900-903 and as recommended by the American Society of Heating, Refrigerating and Air-Conditioning

Engineers (ASHRAE); and (iii) such additional improvements as may be requested by City at the time of exercise of the Extension Option, and as may be agreed to or changed by the parties thereafter following consultation with Landlord's architects or agents, with a tenant allowance of \$245,885.00 (approximately \$5.00 psf on the Tower Premises), provided City may request additional work above the allowance if City agrees to pay Landlord for the work above the allowance. Landlord shall complete the Additional Improvements after normal working hours pursuant to a schedule approved by City, but in no event later than June 30, 2009, and such work shall be completed in a manner designed to minimize any disruption to City's business.

(f) City may exercise the Extension Option, if at all, by giving written notice to Landlord no later than April 1, 2007; provided, however, if Landlord has not completed the space plans and specifications for the Relocation Premises and the Tower Premises by April 1, 2007, then City shall have the right to extend the notice date for the Extension Option to the date that is ten (10) days following Landlord's completion of such plans and specifications reasonably acceptable to City. If City is in material default hereunder on the date of giving such notice and fails to cure such default following notice as provided herein, Landlord may reject such exercise by delivering written notice thereof to City promptly after any such failure to cure. If, for any reason, the Relocation Premises are not ready for City's occupancy by the start of the Extended Term, the Lease shall continue on all of the terms and conditions set forth herein, including but not limited to the Base Rent set forth in subparagraph (a) above, provided, City shall not be required to vacate the Second Floor Premises and move into the Relocation Premises until the Relocation Premises are (i) substantially complete and ready for City's occupancy, and (ii) Landlord has completed the relocation of City. If, for any reason, the Relocation Premises or the Additional Improvements to the Tower Premises are not ready for City's occupancy by the June 30, 2008, City shall have the right to terminate the Lease anytime thereafter, without cost or penalty, by providing Landlord with thirty (30) days' advance written notice.

(g) Landlord acknowledges and agrees that City's notice of its intent to exercise the Extension Option shall be subject to enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute discretion, approving and authorizing the same no later than July 1, 2007. If such approval and authorization is not received by Landlord on or before July 1, 2007, City's Extension Options shall terminate and City shall have no further option to extend the Term.

(h) Upon the relocation of City from the Second Floor Premises to the Relocated Premises in accordance with this section, Landlord and Tenant agree to execute an amendment to the Lease reflecting the change in the description of the Premises. Any such amendment shall be ministerial, and shall not require the prior approval of the City's Board of Supervisors, although it shall be subject to the prior written approval of City's Director of Real Estate and the City Attorney.

2. **HOLDING OVER.** As of the Effective Date of this First Amendment, the following language shall be added to the end of Lease Paragraph 8: "Notwithstanding anything to the contrary above, if Tenant holds possession of the Premises after the Initial Term and does not exercise the Extension Option, then Tenant shall become a month-to-month Tenant for a period of up to six (6) months, and during such six (6) month period the Base Rent payable by City shall be \$235,552.50 (approximately \$45 psf) per month."

3. **LANDLORD'S ADDRESS.** Effective as of the date of this First Amendment, Landlord's address for payment of Rent and for notices given pursuant to the Lease is:

1390 Market Street, Suite 108, San Francisco, CA 94102, or at such other place as Landlord may designate in writing.

4. **LANDLORD'S LIABILITY.** It is agreed by and between the parties hereto that Landlord shall be responsible for all aspects of the performance of the Lease and if the Extension Option is exercised, the successful completion of the terms herein, including the relocation provisions. After a successful relocation of City to the Relocation Premises and Landlord's subdivision and transfer of the Transfer Parcel, City shall have all rights and remedies for a Landlord default as set forth in the Lease, provided, City shall have no right to seek attachment against or to place a lien on the Transfer Parcel.

5. **NO BROKERS.** Tenant represents and warrants that it has not dealt with any real estate broker in connection with this First Amendment, and no compensation is due to Tenant's broker in connection with this First Amendment. Tenant agrees to indemnify and hold Landlord harmless for any loss, cost, liability or expense incurred by Landlord as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Tenant in breach of the foregoing warranty. Landlord represents and warrants that it has not dealt with any real estate broker in connection with this First Amendment, and no compensation is due to Landlord's broker in connection with this First Amendment. Landlord agrees to indemnify and hold Tenant harmless for any loss, cost, liability or expense incurred by Tenant as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Landlord in breach of the foregoing warranty.

6. **DEFINED TERMS.** All capitalized terms used but not defined in this First Amendment will have the meanings set forth for such terms in the Lease. All terms that are defined in this First Amendment and used in any provisions that are added to the Lease pursuant to this First Amendment will have the meanings in the Lease set forth for such terms in this First Amendment.

7. **WHOLE AGREEMENT.** This First Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Except as amended herein, there shall be no other changes or modifications to the Lease between the parties and the Lease and the terms and provision contained therein shall remain in full force and effect.

8. **MISCELLANEOUS.** This First Amendment shall be binding upon the parties hereto, their heirs, successors and assigns. Except as modified hereby, there shall be no other changes or modifications to this First Amendment or to the Lease unless in writing and executed by the parties hereto. No reference to this First Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended hereby. This First Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

9. **CONFIRMATION OF LEASE.** As amended by this First Amendment, Landlord and Tenant confirm and ratify in all respects the terms and conditions of the Lease, and further confirm that, except as provided in Section 1 of this First Amendment, there are no outstanding tenant improvement obligations of Landlord regarding the Premises. The execution of this First Amendment shall not constitute a waiver of relinquishment of any rights which Landlord or Tenant may have relating to the Lease.

10. **NO JOINT VENTURE.** This First Amendment or any activity by Tenant hereunder does not create a partnership or joint venture between Tenant and Landlord relating to the Lease or otherwise. This First Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord.

11. **COUNTERPARTS.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original, including transmittals by facsimile, all of which together shall constitute one and the same instrument.

12. **EFFECTIVE DATE.** This First Amendment shall become effective on the date that this First Amendment is fully executed and delivered by both parties.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this First Amendment as of the day and year first above written.

LANDLORD

API Fox Plaza, LLC, a Delaware limited liability company

By: W. Robert Smith

Name: W. ROBERT SMITH

Its: SENIOR VP

TENANT

City and County of San Francisco, a municipal corporation

By: Amy L. Brown

Name: Amy Brown, Director of Real Estate

RECOMMENDED:

DENNIS J. HERRERA, City Attorney

By: [Signature]

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: [Signature]
Deputy City Attorney

EXHIBIT A-1

Relocation Premises

SECOND AMENDMENT TO LEASE
EXERCISE OF OPTION TO EXTEND

THIS SECOND AMENDMENT TO LEASE (this "Second Amendment") is made and entered into as of September 25, 2007, by and between BRCP 1390 MARKET, LLC, a Delaware limited liability company ("Landlord") and the City and County of San Francisco, a municipal corporation ("Tenant" or "City").

RECITALS

- A. Landlord (as successor in interest to API Fox Plaza, LLC, a Delaware limited liability company, success in interest to Calfox, Inc. (managing agent for Polk Market Co.) and Tenant entered into that certain Office Lease dated September 12, 2000 (the "Lease") as subsequently amended by the First Amendment to Lease dated June 13, 2006 for premises known as Suites 240 and 250 on the 2nd floor (the "Second Floor Premises"), Suites 401 and 418 on the 4th floor, Suite 500 on the 5th floor, Suite 600 on the 6th floor, and Suites 1008 and 1010 on the 10th floor (the "Tower Premises", together with the Second Floor Premises, the "Original Premises"), all in a building known as Fox Plaza, 1390 Market Street, San Francisco, California (the "Building").
- B. Landlord is the successor-in-interest to Original Landlord and is the current owner of the Building.
- C. The Lease's initial term expires December 31, 2007. The First Amendment to Lease provides City with one (1) five year option to extend the Term (the "Extension Option", as defined in the Lease) and Landlord certain rights to relocate the Transfer Parcel to Landlord's Commercial Tower.
- D. Landlord and Tenant now wish to amend the Lease to exercise the option to extend the Term, relocate the Transfer Parcel to the Relocation Premises and make certain other modifications to the Lease more particularly set forth below.

AMENDMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

- 1. **EXTENSION OPTION.** City hereby exercises the option to extend the Initial Term for an additional term ("Extended Term") of five (5) years commencing upon the expiration of the Initial Term ("Extension Option") (though December 31 2012). Upon commencement of the Extended Term, all references in the Lease to the Term shall mean the Term as extended by the Extended Term.
- 2. **AMENDMENTS.**

(a) Paragraph 4(C)(a) of the Lease is hereby deleted in its entirety and replaced with the following new Paragraph 4(C)(a):

"(a) City's lease of the Premises during the Extended Term shall be on all of the terms and conditions set forth in the Lease, except that (i) at the start of the Extended Term, the Base Monthly Rent shall be adjusted to \$172,952.33 (approximately \$30.17 psf), and shall remain fixed at this amount for the remainder of the Term; (ii) the Base Year and the Base Tax Year, for purposes of determining City's Additional Rent, shall be calendar 2008, and there shall be no Additional Rent during calendar year 2008; (iii) subject to Landlord's completion of the relocation as set forth below, the Second Floor Premises shall be deleted from the Premises and the Relocation Premises shall be added to the Premises; and (iv) City shall not be responsible for any increase in Direct Taxes or other costs or expenses resulting from any sale, transfer or subdivision of any interest in or title to the Building or the land on which the Building is located during calendar years 2006, 2007, or 2008."

(b) Upon Relocation, the Parties agree to the Premises (including the Relocation Premises) generally shown on Exhibit A. Notwithstanding the foregoing, Landlord reserves the right to make nonmaterial modifications to boundaries of the ground floor portion of the Relocation Premises, and to change the location of such portion of the Relocation Premises to another portion of the Building located on the ground floor, provided that (i) the ground floor Relocation Premises are in the same approximate configuration as described in Preliminary Space Plans and Specifications attached hereto as Exhibit B, as reasonably determined by the City's Director of Property, and (ii) the total square footage of the ground floor Relocation Premises does not decrease without the prior written consent of the Director of Property. The infant care facility will remain within the Second Floor Premises until such relocation to the ground floor Relocation Premises is completed.

(c) City hereby approves the Premises as shown in Exhibit A and the plans and specifications as shown in Exhibit B. In the event of any changes to the ground floor Relocation Premises as provided above, Landlord and City shall correct and replace Exhibit A with a revised Exhibit A to reflect the actual ground floor Relocation Premises as finally constructed.

3. **LANDLORD'S ADDRESS.** Effective as of the date of this Second Amendment, Landlord's address for payment of Rent and for the Building Office portion of addresses for notices given pursuant to the Lease is:

1390 Market Street, Suite 316, San Francisco, CA 94102, or at such other place as Landlord may designate in writing.

4. **ADDITIONAL PROVISIONS.** Landlord hereby agrees to comply with the provisions of Exhibit C.

5. **NO BROKERS.** Tenant represents and warrants that it has not dealt with any real estate broker in connection with this Second Amendment, and no compensation is

due to Tenant's broker in connection with this Second Amendment. Tenant agrees to indemnify and hold Landlord harmless for any loss, cost, liability or expense incurred by Landlord as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Tenant in breach of the foregoing warranty. Landlord represents and warrants that it has not dealt with any real estate broker in connection with this Second Amendment, and no compensation is due to Landlord's broker in connection with this Second Amendment. Landlord agrees to indemnify and hold Tenant harmless for any loss, cost, liability or expense incurred by Tenant as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Landlord in breach of the foregoing warranty.

6. **DEFINED TERMS.** All capitalized terms used but not defined in this Second Amendment will have the meanings set forth for such terms in the Lease. All terms that are defined in this Second Amendment and used in any provisions that are added to the Lease pursuant to this Second Amendment will have the meanings in the Lease set forth for such terms in this Second Amendment.

7. **WHOLE AGREEMENT.** This Second Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Except as amended herein, there shall be no other changes or modifications to the Lease between the parties and the Lease and the terms and provision contained therein shall remain in full force and effect.

8. **MISCELLANEOUS.** This Second Amendment shall be binding upon the parties hereto, their heirs, successors and assigns. Except as modified hereby, there shall be no other changes or modifications to this Second Amendment or to the Lease unless in writing and executed by the parties hereto. No reference to this Second Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended hereby. This Second Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

9. **CONFIRMATION OF LEASE.** As amended by this Second Amendment, Landlord and Tenant confirm and ratify in all respects the terms and conditions of the Lease, and further confirm that, except as provided in Section 1 of the First Amendment and Section 2 of this Second Amendment, there are no outstanding tenant improvement obligations of Landlord regarding the Premises. The execution of this Second Amendment shall not constitute a waiver of relinquishment of any rights which Landlord or Tenant may have relating to the Lease.

10. **NO JOINT VENTURE.** This Second Amendment or any activity by Tenant hereunder does not create a partnership or joint venture between Tenant and Landlord relating to the Lease or otherwise. This Second Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord.

11. **COUNTERPARTS.** This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, including transmittals by facsimile, all of which together shall constitute one and the same instrument.

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

13. **EFFECTIVE DATE.** This Second Amendment shall become effective on the date that (i) the City enacts such resolution authorizing this Second Amendment and (ii) the Second Amendment is fully executed and delivered by both parties.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD 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 A RESOLUTION 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.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Second Amendment as of the day and year first above written.

LANDLORD

TENANT

~~API Fox Plaza, LLC, a Delaware limited liability company~~

City and County of San Francisco, a municipal corporation

By: _____
BRCP 1390 Market, LLC, a Delaware limited liability company
Its: Agent

By: Amy D Brown
Name: Amy Brown, Director of Real Estate

RECOMMENDED:

By: _____
BRCP Realty II, L.P., a Delaware limited partnership
Its: Sole Member

DENNIS J. HERRERA, City Attorney

By: [Signature]

By: _____
BRCP Gen-Par II, LLC, a Delaware limited liability company
Its: General Partner

Approved by Board of Supervisors on May 22, 2007, Resolution No. 27807 (File No. 070506)

By: [Signature]
Name: Marcum D. "Eli" Khouri
 Managing Director
Its: _____

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: [Signature]
Deputy City Attorney

EXHIBIT A

Premises

Current Premises:

<u>SUITE</u>	<u>SQ. FT.</u>
1008-1010	3,601
6 TH Floor	18,168
5 TH Floor	18,127
401, 408, 418	9,281
240 – 250	<u>13,637</u>
Total Rentable Sq Ft	<u>62,814</u>
Total Monthly Rent	\$157,035.00
% Share of Operating Expenses	<u>26.92%</u>

Upon Commencement of Expansion Premises:

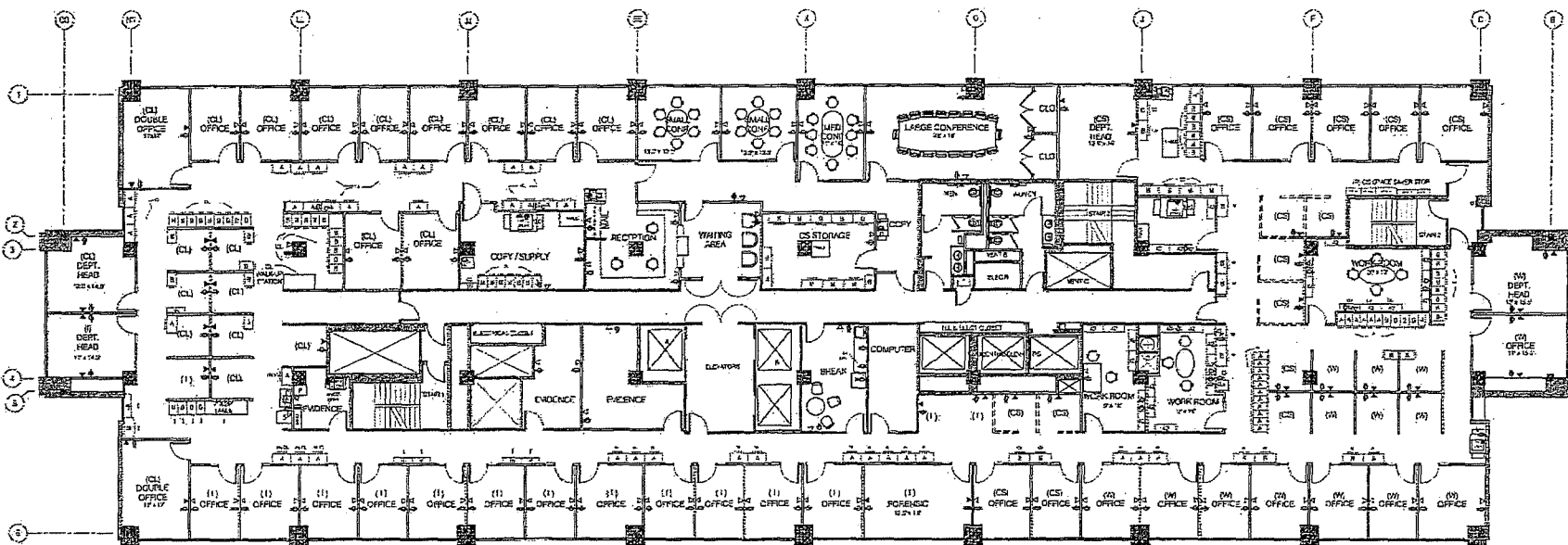
<u>SUITE</u>	<u>SQ. FT.</u>
1008-1010	3,601
6 TH Floor	18,168
5 TH Floor	18,127
401, 408, 418	9,281
240 – 250	<u>13,637</u>
Subtotal	<u>62,814</u>
7 TH (Expansion Premises)	5,969
Total Rentable Sq. Ft.	<u>68,803</u>
Total Monthly Rent	\$172,952.33
% Share of Operating Expenses	31.75%

Upon Relocation of the 2nd Floor Premises & Commencement of Expansion Premises:

<u>SUITE</u>	<u>SQ. FT.</u>
1008-1010	3,601
7 TH Floor	18,488
6 TH Floor	18,168
5 TH Floor	18,127
401, 408, 418	9,281
Ground Floor Suite 110	<u>1,737</u>
Total Rentable Sq. Ft.	<u>69,402</u>
Total Monthly Rent	\$172,952.33
% Share of Operating Expenses	31.75%

POLK STREET

1390 MARKET



- COMMON AREA FILE COUNTS**
- CLAMS:**
 (23) LATERAL FILE A
 (28) VERTICAL FILE B
 (1) SHELF
- INVESTIGATIONS:**
 (1) LATERAL FILE B
 (4) VERTICAL FILE B
 (1) SHELF
 (1) SHELF (45" WIDE)
- WORKERS COMP:**
 (2) LATERAL FILE A
 (2) LATERAL FILE B
 (2) VERTICAL FILE A
 (2) VERTICAL FILE B
 (2) SHELF
- CONSTRUCTION:**
 (1) LATERAL FILE B
 (2) VERTICAL FILE B

- LEGEND:**
- SHIELD FACE/VIEW
 - SHIELD BACK/VIEW
 - SHIELD SIDE/VIEW
 - SHIELD END/VIEW
 - SHIELD FRONT/VIEW
 - SHIELD REAR/VIEW
 - SHIELD TOP/VIEW
 - SHIELD BOTTOM/VIEW
 - SHIELD LEFT/VIEW
 - SHIELD RIGHT/VIEW
 - SHIELD ISOMETRIC
 - SHIELD 3D
 - SHIELD 2D
 - SHIELD 1D
 - SHIELD 0D
 - SHIELD 4D
 - SHIELD 5D
 - SHIELD 6D
 - SHIELD 7D
 - SHIELD 8D
 - SHIELD 9D
 - SHIELD 10D
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 - SHIELD 99D
 - SHIELD 100D

- ROOM IDENTIFICATION LEGEND**
- (1) - INVESTIGATIONS
 (CL) - CLAMS
 (WC) - WORKERS COMP.
 (CS) - CONSTRUCTION
- NOTES:**
- PROVIDE ALL. PRICE TO INSTALL FLOOR DUCT POWER & DATA AT THE LARGE CONF. HARDWIRED TO TENANT CONF TABLE
 - ALL DIMENSIONS SHOWN ARE APPROXIMATE AND NOT TO BE CONSIDERED AS GUARANTEED SIZES
 - CUBES ARE 7' AT CLR. INSIDE DIM. TYP. AT ALL LOCATIONS
 - POWER / DATA SCOPE AT COMPUTER ROOM IS TBD

REVISIONS

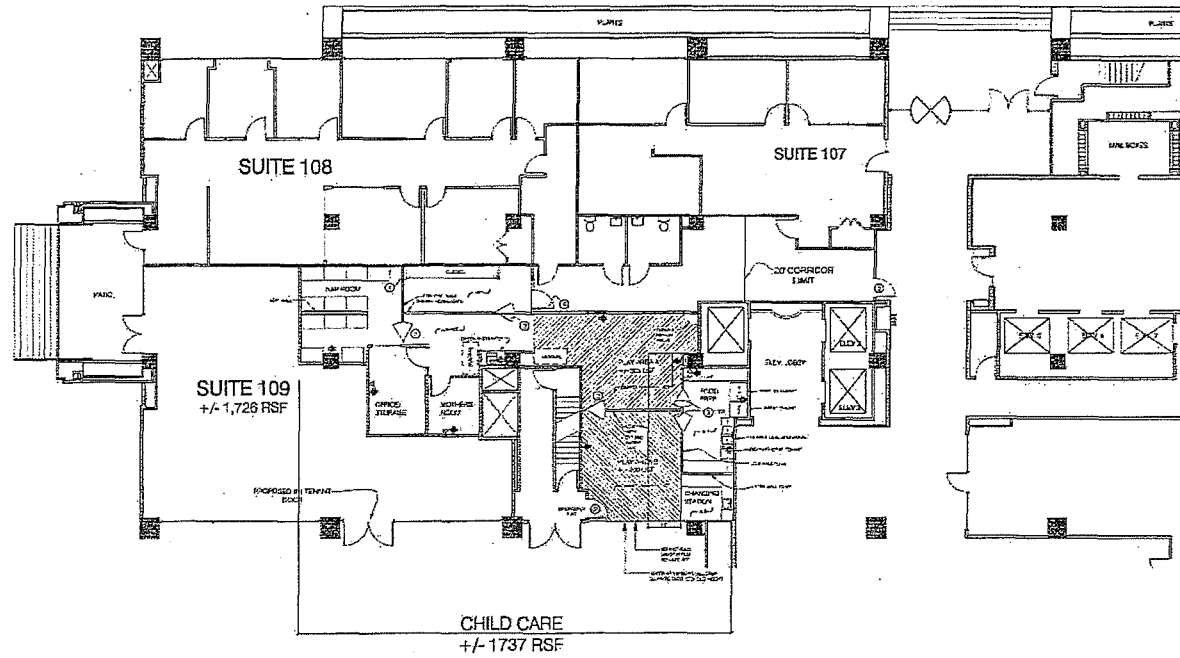
DATE

PROJECT NAME
CITY ATTORNEY

SHEET TITLE
PRELIMINARY SPACE PLAN
SUITE 700
CITY ATTORNEY

PROJECT NUMBER: 04201.01
 DRAWN BY: FR
 DATE: 05/06/07
 SCALE: 1/8" = 1'-0"
 THIS IS NOT A CONTRACT
 DRAWING NUMBER

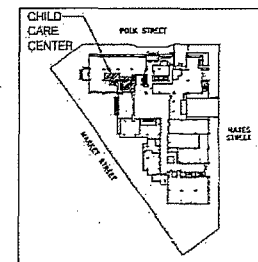
1390 MARKET
FIRST FLOOR
CHILD CARE
CENTER



1 SPACE PLAN
SP.6 1/8" = 1'-0"

NOTES:

1. CAMERAS WILL BE REQUIRED IN NAP ROOM FOR FULL VISUAL COVERAGE. EIGHT HORIZONS REQUESTS 24 MONITORS TO BE LOCATED IN THE OFFICE, FOOD PREP AND PLAY AREAS, RESPONSE DUTY FOR COST AND INSTALLATION T&E.
2. DETAILS OF SECURITY T.B.O.
3. WHERE FIRE MARSHALL & CODE ALLOW, PROVIDE TOP-MOUNTED DOOR LATCHES ONLY. INVERT LEVER HARDWARE IS REQUIRED, PROVIDE IN DIRECTION OF EGRESS ONLY.
4. RELOCATE LOCKSET & PEEP-HOLE FROM (S) CHILD-CARE ENTRY DOOR TO HERE.



KEY PLAN

REVISION	DATE
1 TENANT REVISION	03/26/07
2 TENANT REVISION	04/12/07
3 TENANT REVISION	05/07/07

PROJECT NAME:

FIRST FLOOR

CHILD CARE

SPACE PLAN

PROJECT NUMBER: 06001.11

DRAWN BY: FR

DATE: 05/08/07

SCALE: AS SHOWN

TITLE BLOCK: 20 X 30

DRAWING NUMBER:

SP.6

EXHIBIT B

Space Plan and Specifications

1. Plans: The Permit Plans and Specifications for the 7th floors, dated August 16, 2007 including the revision and alternates requested by City, and Preliminary Space Plans for the Ground Floor dated 5/7/07, prepared by Weske Associates are attached hereto by reference.

2. Additional Specifications: Such plans shall also include or provide:

(i) the server room shall also include, without limitation, 24 hour air conditioning, anti-static tiles, sleeves and risers, and 6 dedicated 15 amp electrical outlets;

(ii) labeled or color coded 2 data and 2 telephone "CAT 5e" or better wiring for each room, equipment and each work station ready to be terminated to City's telecommunication or data equipment as the case may be;

(iii) turnkey electrical outlets including additional dedicated outlets as required and a minimum of 1 floor plex electrical outlet for each room, equipment, and work station;

(iv) HVAC designed to meet ASHRAE standards for City's build out and, notwithstanding the foregoing, HVAC zoning of not less than 1 zone per 1200 rentable square feet, appropriate locations of thermostats and air supply and return vents.

(v) For the ground floor, Landlord's cost shall provide monitoring cameras and any other improvements and/ or equipment required for obtaining state infant care licensing shall be borne equally by City and Landlord..

3. General: Landlord shall be responsible for obtaining any necessary approvals for proposed uses of the Relocation Premises prior to Tenant's occupancy, including but not limited to approval by the Mayor's Office of Disability, San Francisco Department of Building Inspection and the Fire Marshall. With regards to the Infant Care Program, Landlord shall be responsible for the physical improvements necessary to obtain California State licensing and City shall be responsible for program requirements of such licensing. The cost of the camera system shall be split equally between Landlord and City.

Landlord shall complete all improvements in accordance with applicable law and the approved plans, and Landlord shall obtain Temporary Occupancy Permits and subsequent final building permit sign-offs and any additional required approvals before commencing the relocation of Tenant from the Second Floor Premises to the Relocation Premises. Tenant shall have no obligation to vacate the Second Floor Premises (but will continue to pay rent on the 2nd floor premises) unless and until all necessary approvals and permits have been obtained

EXHIBIT C

City Provisions

1.1 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 after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of 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.

1.2 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.

1.3 MacBride Principles - Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

1.4 Prevailing Wages for Construction Work

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises, which Landlord provides under this Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Landlord shall include, in any contract for construction of such Leasehold Improvements or other improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

1.5 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

In the performance of this Lease, Landlord covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any City employee working with, or applicant for employment with, Landlord in any of Landlord's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Landlord.

(b) Subcontracts

Landlord shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Landlord shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Non-Discrimination in Benefits

Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the condition set forth in Section 12.B2(b) of the San Francisco Administrative Code.

(d) HRC Form

As a condition to this Lease, Landlord shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "HRC"). Landlord hereby represents that prior to execution of the Lease: (a) Landlord executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (b) the HRC approved such form.

(e) Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in

violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

1.6 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 Landlord nor any of its contractors shall provide any items to City in the construction of the Leasehold Improvements 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 Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Landlord shall be liable for liquidated damages for each violation in an amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord 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.

1.7 Bicycle Storage Facilities

Article 1.5, Section 155.1, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle storage at City-leased buildings at no cost to Landlord and if funds are available. Landlord agrees to continue at no cost to the City, the existing bicycle facilities located in the garage. In the event public and/or private donations, grants or other funds for additional facilities become available, at any time during the Term of this Lease including any extension thereof, City may, by giving a 60-day advanced written notice to Landlord, install additional compliant bicycle storage in the Building garage provided the garage owner approves the same. Landlord agrees to use best efforts to obtain such approval. If parking spaces are lost, City shall pay the monthly rent value for any such parking spaces used for such bicycle parking, and Landlord also agrees that City may install bicycle racks in other location(s) in front of the Building, which are required to meet the Class 1 and/or Class 2 requirements of the Planning Code. Landlord, at no cost to Landlord, shall reasonably cooperate with City regarding the location of such spaces in furtherance of the implementation of such requirements of the Planning Code. The above notwithstanding, City acknowledges that Landlord does not own the entire building and only has limited rights to the parking garage and the common areas.

1.8 Resource-Efficient City Buildings and Pilot Projects

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections.

1.9 Certification by Landlord

By executing this Lease, Landlord certifies that neither Landlord 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 Landlord 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. Landlord acknowledges that this certification is a material term of this Lease.

1.10 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.

1.11 Conflicts of Interest

Through its execution of this Lease, Landlord 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, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Landlord becomes aware of any such fact during the Term of this Lease, Landlord shall immediately notify City.

1.12 Notification of Limitations on Contributions

Through its execution of this Lease, Landlord 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 City for the selling or leasing of any land or building to or from City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

1.13 Preservative-Treated Wood Containing Arsenic

As of July 1, 2003, Landlord 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. Landlord 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 Landlord 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.

1.14 Graffiti Removal

(a) Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

(b) Landlord shall use good faith and best efforts to remove all graffiti from the Building and from any real property owned or leased by Landlord in the City and County of San Francisco within forty eight (48) hours of the earlier of Landlord's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Landlord to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

(c) Any failure of Landlord to comply with this section of this Lease shall constitute a breach of this Lease.

FILE NO. 070506

RESOLUTION NO.

278-07

1 [Lease of Real Property]

2 **Resolution authorizing the exercise of an option to extend an approximate 68,783**
3 **square foot lease at 1390 Market Street for use by the City Attorney.**
4

5 WHEREAS, The City Attorney has occupied space at 1390 Market Street since the
6 1980's; and

7 WHEREAS, The current lease of 62,814 square feet for the City Attorney expires
8 December 31, 2007; and

9 WHEREAS, The building at 1390 Market St. provides good proximity to the City
10 Attorney's office at City Hall and to other City Departments; and

11 WHEREAS, Over the past seven years, enterprise departments, have requested more
12 assistance from the City Attorney and leasing an additional 5,969 square feet will allow for
13 appropriate areas for case management, attorney offices, meeting and deposition space for
14 such work; and

15 WHEREAS, Relocating leased facilities to other leased facilities is costly and
16 disruptive; and

17 WHEREAS, The Director of Property believes the proposed renewal transaction
18 represents Fair Market Rent; and

19 WHEREAS, A portion of those leased facilities are used by Marin Day School for use
20 as Infant Care facilities which provide valuable services to the City; and, now, therefore, be it

21 **RESOLVED**, That in accordance with the recommendation of the City Attorney and the
22 Director of Property, the Director of Property is hereby authorized to take all actions, on behalf
23 of the City and County of San Francisco, as Tenant, to execute an amendment (copy of which
24 is on file with the Clerk of the Board, the "Amendment") and other related documents with API
25

Supervisor Peskin
Real Estate Division
BOARD OF SUPERVISORS

Page 1
4/12/2007

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1 Fox Plaza, LLC ("Landlord") or its successors in interest, for approximately 68,783 square feet
2 in the building commonly known as 1390 Market Street, San Francisco, California, on the
3 terms and conditions herein and on a form approved by the City Attorney; and, be it

4 FURTHER RESOLVED, That the lease renewal shall commence upon January 1, 2008
5 for the existing premises and substantial completion of the improvement for the 5,969 of
6 expansion space and terminate on December 31, 2012. The monthly base rent for the
7 extended term shall be \$172,952.33 (or approximately \$30.17 per square foot per year) and
8 except as provided below, shall remain flat for the five year term; and, be it

9 FURTHER RESOLVED, That the City shall pay for typical tenant expenses including
10 for its prorata share of operating expenses over a 2008 Base Year and for other typical tenant
11 expenses; and, be it

12 FURTHER RESOLVED, That the City shall continue to use a portion of the Premises
13 for provision of childcare services by Marin Day School, a California non profit corporation for
14 \$1 per year; and, be it

15 FURTHER RESOLVED, That the lease shall include a clause approved by the City
16 Attorney, indemnifying and holding harmless the Landlord, from and agreeing to defend the
17 Landlord against any and all claims, costs and expenses, including, without limitation,
18 reasonable attorney's fees, incurred as a result of City's use of the premises, any default by
19 the City in the performance of any of its obligations under the lease, or any acts or omissions
20 of City or its agents, in, on or about the premises or the property on which the premises are
21 located, excluding those claims, costs and expenses incurred as a result of the active gross
22 negligence or willful misconduct of Landlord or its agents; and, be it

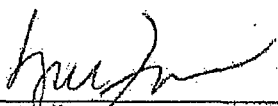
23 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
24 with respect to such lease are hereby approved, confirmed and ratified; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
2 Property to enter into any amendments or modifications to the Lease (including without
3 limitation, the exhibits) that the Director of Property determines, in consultation with the City
4 Attorney, are in the best interest of the City, do not increase the rent or otherwise materially
5 increase the obligations or liabilities of the City, are necessary or advisable to effectuate the
6 purposes of the Lease or this resolution, and are in compliance with all applicable laws,
7 including City's Charter; and, be it

8 FURTHER RESOLVED, That the City shall occupy the entire Premises for the full term
9 of the lease unless funds for the City Attorney's rental payments are not appropriated in any
10 subsequent fiscal year at which time City may terminate the lease with reasonable advance
11 written notice to Landlord. Such termination shall then be effective upon surrender of the
12 Premises. In the event of termination for non-appropriation, City agrees that it will not
13 appropriate funds for the purpose of renting similar premises in a non-City building to conduct
14 City Attorney operations for at least a year from such Termination Date. Said Lease shall be
15 subject to certification as to funds by the Controller, pursuant to Section 3.105 of the Charter.

16
17 \$1,037,713.98 Available
(Rent 1/1/08 to 6/30/08)

18 Index No. 1G-AGF-AAA-CAT-CATO1-FC2
19 035004

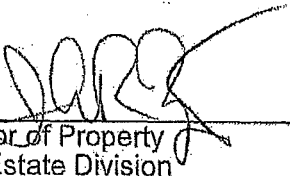
20
21 
22 Controller
23 Subject to the enactment of the 2007/2008
24 Annual Appropriation Ordinance

25 RECOMMENDED:


City Attorney

Real Estate Division
BOARD OF SUPERVISORS

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Director of Property
Real Estate Division

Real Estate Division
BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Resolution

File Number: 070506

Date Passed:

Resolution authorizing the exercise of an option to extend an approximate 68,783 square foot lease at 1390 Market Street for use by the City Attorney.

May 22, 2007 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 070506

I hereby certify that the foregoing Resolution
was ADOPTED on May 22, 2007 by the
Board of Supervisors of the City and County
of San Francisco.

Kay Gulhengay
Interim Clerk of the Board

MAY 31 2007

Date Approved

Mayor Gavin Newsom

THIRD AMENDMENT TO LEASE

LEASE EXTENSION

THIS THIRD AMENDMENT TO LEASE (this "Third Amendment") is made and entered into as of March 31, 2012, by and between BRCP 1390 Market, LLC, a Delaware limited liability company ("Landlord") and the City and County of San Francisco, a municipal corporation ("Tenant" or "City").

RECITALS

- A. Calfox, Inc., as managing agent for Polk Market Co., a predecessor-in-interest to Landlord ("Original Landlord"), and Tenant entered into that certain Office Lease dated September 12, 2000 (the "Original Lease") as subsequently amended by the (1) First Amendment to Lease dated June 13, 2006 between City and API Fox Plaza, LLC ("Subsequent Landlord") as successor in interest to Original Landlord, and (2) Second Amendment to Lease dated September 25, 2007 (collectively, the "Lease"), for the premises consisting of approximately 69,402 rentable square feet known as Suite 110 on the ground floor, Suites 240 and 250 on the 2nd floor, Suites 401 and 418 on the 4th floor, Suite 500 on the 5th floor, Suite 600 on the 6th floor, Suite 700 on the 7th floor, and Suites 1008 and 1010 on the 10th floor (collectively, the "Premises"), all in a building known as Fox Plaza, 1390 Market Street, San Francisco, CA (the "Building").
- B. Landlord is the successor-in-interest to Original Landlord and Subsequent Landlord and is the current owner of the Building.
- C. The term of the Lease expires December 31, 2012 (the "Current Term").
- D. Landlord and Tenant now wish to amend the Lease to extend the Current Term, grant to City two (2) further options to extend the Current Term and make certain other modifications to the Lease more particularly set forth below.

AMENDMENT

NOW THEREFORE, in consideration of the mutual agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **LEASE EXTENSION.** Landlord and City hereby agree to extend the Current Term for an additional term (the "Second Extended Term") of five (5) years starting on the expiration of the Current Term. On the Effective Date (as defined in Section 6 below), all references in the Lease to the Term shall mean the Term as extended by the Second Extended Term, and the Term will expire on December 31, 2017.

2. AMENDMENTS.

(a) The following language is added to the end of Lease Paragraph 4(C)(a):

"City's lease of the Premises during the Second Extended Term shall be on all of the terms and conditions set forth in the Lease, except that (i) at the start of the Second Extended Term, the Base Monthly Rent shall be adjusted to One Hundred Seventy-Three Thousand Five Hundred and Five Dollars (\$173,505, or approximately \$30.00 psf), and shall remain fixed at this amount for the remainder of the Term; (ii) the Base Year and the Base Tax Year, for purposes of determining City's Additional Rent from and after the start of the Second Extended Term, shall be calendar 2013, and there shall be no Additional Rent during calendar year 2013; and (iii) City shall not be responsible for any increase in Direct Taxes or other costs or expenses resulting from any sale, transfer or subdivision of any interest in or title to the Building or the land on which the Building is located during calendar years 2013, 2014, or 2015."

3. FREE RENT. Base Rent for January 2013, February 2013, and March 2013 shall be abated.

4. BASE BUILDING IMPROVEMENTS. Landlord, at Landlord's sole cost, shall install security monitoring cameras, reasonably acceptable to City, in the elevator lobbies on the Suite 110, 4th, 5th, 6th, 7, and 10th floors and in the corridor entrance to Suite 110. Such cameras shall be connected and monitored by the Security Desk located in the Building lobby and recordings shall be kept for two (2) weeks. Such work shall be done after hours or on weekends and Landlord shall use commercially reasonable efforts to complete such work on or before March 31, 2013, subject to force majeure delays. Landlord's installation of such security cameras shall not increase Landlord's liability for damage or injury to City, its employees, invitees or others. City shall take reasonable actions to keep the Premises reasonably secure, keeping all exterior doors in and to the Premises locked or monitored during business hours.

5. OPTIONS TO EXTEND. City shall have the right to extend the Term of the Lease (the "Third Extension Options") for two (2) additional terms of five (5) years each (the "Third Extension Terms"). The Third Extension Options shall be on all of the terms and conditions contained in this Lease, except that the Base Rent shall be adjusted as provided below. City may exercise each of the Third Extension Options, if at all, by giving written notice to Landlord no later than three hundred sixty five (365) days before the expiration of the Term to be extended; provided, however, if City is in material default under this Lease on the date of giving such notice and fails to cure such default as provided in this Lease, Landlord may reject such exercise by delivering written notice thereof to City promptly after such failure to cure. Landlord acknowledges and agrees that City's notice of its intent to exercise a Third Extension Option shall be subject to enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute discretion, approving and authorizing the same, within ninety (90) days after the date the Base Rent for the applicable Third Extended Term is determined. If such resolution is not enacted within such ninety (90) day period, the City's Third Extension Option shall terminate and City shall have no further option to extend the Term

of the Lease. The City shall notify Landlord of the enactment or rejection of the proposed resolution.

The Base Rent during each Third Extension Term shall be adjusted at the start of each Third Extension Term to ninety five percent (95%) of the then-prevailing Fair Market Rent and then shall remain constant for the remainder of that Third Extension Term. At the start of each Third Extension Term, the Base Year shall also be adjusted to the calendar year of the first year of the applicable Third Extension Term. City and Landlord hereby agree that Fair Market Rent shall be determined as follows:

(a) "Fair Market Rent" shall be the prevailing market rate for space of comparable size and location to the Premises having recently been leased to tenants in the Building or other Civic Center buildings similar in age, seismic condition, location and quality to the Property. As used herein, the term "prevailing market rate" shall mean the rental for such comparable space, taking into account all factors that make such spaces comparable to the Premises, including but not limited to (i) any expense adjustments such as separately metered electricity, taxes, operating expenses, and maintenance paid, (ii) the condition of the premises, (iii) the physical amenities and services provided, (iv) the location and size of the premises of such comparable leases, (v) the credit worthiness of the tenant, (vi) the duration of the renewal term and the term of such comparable space, (v) any free rent and any other tenant concessions offered under such comparable space, and (vi) any tenant improvements allowances and other allowances offered by such comparable space. Fair Market Rent shall be determined on a per square foot basis, and may include different rates for office, ground floor and basement space.

(b) Within thirty (30) days of Landlord's receipt of City's notice of its intent to exercise a Third Extension Option, Landlord shall provide written notice to City of Landlord's good faith determination of the prevailing market rate along with reasonable substantiation for such rate, including, but not limited to, at least three (3) recent comparable lease transactions. If City disputes Landlord's determination of the prevailing market rate, City shall so notify Landlord of the City's determination of prevailing market rate and reasonable substantiation for such rate within fourteen (14) days following Landlord's notice to City. If City and Landlord still disagree, then the dispute shall be resolved as follows:

(i) Within thirty (30) days following City's notice of the prevailing market rate (the "Consultation Period"), Landlord and City shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve the disagreement. Landlord and Tenant may agree in writing to extend the Consultation Period for a reasonable period to resolve their disagreement.

(ii) If within this Consultation Period, Landlord and City cannot reach agreement as to the prevailing market rate, they shall each select one appraiser to determine the prevailing market rate. Each such appraiser shall be an "MAI" designated appraiser with at least five (5) years experience appraising commercial office properties in San Francisco. Each appraiser shall arrive at a determination of the prevailing market

rate and submit his or her conclusions to Landlord and City within thirty (30) days of the expiration of the Consultation Period.

(iii) If only one appraisal is submitted within the requisite time period, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then the two appraisers shall immediately select a third appraiser, with the qualifications specified above, who will within twenty (20) days of his or her selection choose either Landlord's or City's appraisers' determination of the prevailing market rate and provide the reasoning for such selection. All appraisals and determinations hereunder shall be in conformity with the Uniform Standards of Professional Appraisal Practice, Code of Professional Ethics and the Standards of Professional Appraisal Practice of the MAI. Landlord and City shall pay the cost of the appraiser selected by such party and one-half of the cost of the third appraiser.

6. LANDLORD'S OBLIGATION TO CONSTRUCT IMPROVEMENTS DURING EXTENSION PERIOD(S). At the start of each Third Extension Term, Landlord, through its general contractor shall construct additional Leasehold Improvements, as requested in writing by City, up to a Leasehold Improvement Allowance calculated as follows:

The Index which is published for the October 2012 (the "Base Index for Extension Term") shall be compared with the Index published for the October most immediately preceding the commencement date of the applicable Third Extended Term (the "Adjustment Index for Extension Term"). As used herein the term "Index" shall mean the Consumer Price Index for All Urban Consumers (San Francisco/Oakland/San Jose Area; all items; 1982-84 equals 100) which is published by the United States Department of Labor, Bureau of Statistics.

If the Adjustment Index for the applicable Third Extension Term has increased over the Base Index for that Third Extension Term, then the amount of \$347,010.00 shall be increased by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Base Index.

Accordingly, if City exercises one or more of the Third Extension Options, the amount of the allowance for each applicable Third Extended Term shall be calculated as follows:

<u>Extension Period</u>	<u>Base Index for Extended Term</u>	<u>Adjustment Index for Extended Term</u>
1 st Third Extension Term	October 2012	October 2017
2 nd Third	October 2012	October 2022

Extension Term

If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Base Index, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

The Leasehold Improvement Allowance for each of the Third Extension Terms shall be the \$347,010.00, as adjusted above.

Upon receipt of City's written desired improvements to be constructed from the Leasehold Improvement Allowance, Landlord shall diligently pursue the construction of City's desired improvements, provided that Landlord's obligation to pay for such improvements shall not to exceed the Leasehold Improvement Allowance (unless City agrees in writing to pay the amounts above the Leasehold Improvement Allowance as provided below. Landlord, prior to commencing such improvements, shall submit to City a written good faith estimate setting forth the anticipated cost of the desired improvements including but not limited to labor and materials, contractor's fees and permit fees. Within five (5) business days thereafter, City shall either notify Landlord in writing of its approval of the cost estimate and improvements, or specify any objections or desired changes to the proposed improvements. If City notifies Landlord of such objections and desired changes, City shall work with Landlord to reach a mutually acceptable alternative cost estimate. Following approval of the cost estimate and the proposed improvements, Landlord shall enter into a contract for the work with a guaranteed maximum price including all applicable sales or use taxes that does not exceed the maximum cost approved by the City. If the Landlord is not able to enter into such contract, the parties shall meet and confer to reduce the scope of work so that the guaranteed maximum price does not exceed the cost amount approved by the City. If guaranteed maximum price approved by the City exceeds the Leasehold Improvement Allowance (such amounts exceeding the Leasehold Improvement Allowance being herein referred to as the "Excess Costs"), then City shall pay to Landlord such Excess Costs, within thirty (30) days following Landlord's written demand and completion of the work, whichever occurs later. Landlord's payment of costs to contractors in accordance with the guaranteed maximum price contract shall be conclusive for purposes of determining the actual cost of the work. The amounts payable by City hereunder constitute Additional Rent payable pursuant to the Lease.

At City's option, and upon prior written notice to Landlord delivered no later than the first anniversary of the commencement date for the applicable Third Extended Term (the "Outside Request Date"), City may use all or a part of the then unused Leasehold Improvement Allowance to abate rent. Landlord, thirty (30) days prior to the Outside Request Date, shall send City a written notice detailing the amount of the unused Leasehold Improvement Allowance remaining, if any. If City does not thereafter submit a request for application of the entire Leasehold Improvement Allowance to Landlord for

desired improvements or abatement of rent by the applicable Outside Request Date, then any unused amount shall accrue to the sole benefit of Landlord and City shall not thereafter be entitled to any credit, abatement or other concession based on the unused Leasehold Improvement Amount.

7. LANDLORD'S ADDRESS. Landlord's address set forth in the Lease for notices and payment of rent and other amounts due under the Lease is hereby deleted in its entirety and replaced by the following:

Landlord's notice address:
BRCP 1390 Market, LLC
c/o Broadreach Capital Partners
248 Homer Avenue
Palo Alto, California 94301
Attention: Asset Manager

With copy to
Transwestern
1390 Market Street, Suite 316
San Francisco, California 94102

Landlord's address for rent and other payments:
BRCP 1390 Market, LLC
c/o Transwestern
P.O. Box 51864
Los Angeles, California 90051-6191

8. ADDITIONAL PROVISIONS. The Lease is amended and updated to include the provisions in Exhibit B, which replace the corresponding language, if any, in the Lease. Paragraph 40 (Right of First Offer to Lease) of the Original Lease is hereby deleted in its entirety and of no further force and effect.

9. NO BROKERS. Tenant represents and warrants that it has not dealt with any real estate broker in connection with this Third Amendment, and no compensation is due to Tenant's broker in connection with this Third Amendment. Tenant agrees to indemnify and hold Landlord harmless for any loss, cost, liability or expense incurred by Landlord as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Tenant in breach of the foregoing warranty. Landlord represents and warrants that it has not dealt with any real estate broker in connection with this Third Amendment, and no compensation is due to Landlord's broker in connection with this Third Amendment. Landlord agrees to indemnify and hold Tenant harmless for any loss, cost, liability or expense incurred by Tenant as a result of a claim for brokerage commissions or finder's fee from any broker based on the act or omission of Landlord in breach of the foregoing warranty.

10. DEFINED TERMS. All capitalized terms used but not defined in this Third Amendment will have the meanings set forth for such terms in the Lease. All terms that are defined in this Third Amendment and used in any provisions that are added to the Lease pursuant to this Third Amendment will have the meanings in the Lease set forth for such terms in this Third Amendment.

11. WHOLE AGREEMENT. This Third Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. Except as amended herein, there shall be no other changes or modifications to the Lease between the parties and the Lease and the terms and provision contained therein shall remain in full force and effect.

12. MISCELLANEOUS. This Third Amendment shall be binding upon the parties hereto, their heirs, successors and assigns. Except as modified hereby, there shall be no other changes or modifications to the Lease unless in writing and executed by the parties. No reference to this Third Amendment is necessary in any instrument or document at any time referring to the Lease. From and after the Effective Date, any reference to the Lease shall be deemed a reference to such document as amended hereby. This Third Amendment shall be governed by, construed and enforced in accordance with, the laws of the State of California.

13. CONFIRMATION OF LEASE. As amended by this Third Amendment, Landlord and Tenant confirm and ratify in all respects the terms and conditions of the Lease, and further confirm that, [except as provided in Section 1 of the First Amendment and Section 2 of this Third Amendment,?] there are no outstanding tenant improvement obligations of Landlord regarding the Premises. The execution of this Third Amendment shall not constitute a waiver of relinquishment of any rights which Landlord or Tenant may have relating to the Lease.

14. NO JOINT VENTURE. This Third Amendment or any activity by Tenant hereunder does not create a partnership or joint venture between Tenant and Landlord relating to the Lease or otherwise. This Third Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord.

15. COUNTERPARTS. This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original, including transmittals by facsimile, all of which together shall constitute one and the same instrument.

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

17. EFFECTIVE DATE. This Third Amendment shall become effective on the date (the "Effective Date") that (i) the City's Board of Supervisors enacts such resolution

authorizing this Third Amendment and (ii) the Third Amendment is fully executed and delivered by both parties.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS THIRD AMENDMENT, LANDLORD 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 A RESOLUTION APPROVING THIS THIRD AMENDMENT 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 THIRD AMENDMENT SHALL BE NULL AND VOID UNLESS CITY'S MAYOR AND BOARD OF SUPERVISORS APPROVE THIS THIRD AMENDMENT, IN THEIR RESPECTIVE SOLE AND ABSOLUTE DISCRETION, AND IN ACCORDANCE WITH ALL APPLICABLE LAWS. APPROVAL OF THIS THIRD AMENDMENT 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.

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IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Third Amendment as of the day and year first above written.

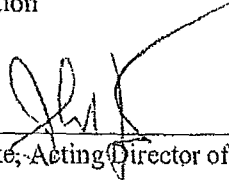
LANDLORD

TENANT

BRCP 1390 Market, LLC, a Delaware limited liability company

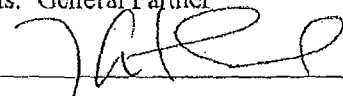
City and County of San Francisco, a municipal corporation

By: BRCP Realty II, L.P.,
a Delaware limited partnership
Its: Sole Member

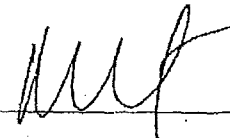
By: 
Name: John Updike, Acting Director of Real Estate

By: BRCP Gen-Par II, LLC,
a Delaware limited liability company
Its: General Partner

RECOMMENDED:

By: 
Name: **John A. Osmond**
Senior Director
Its: _____

DENNIS J. HERRERA, City Attorney

By: 

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

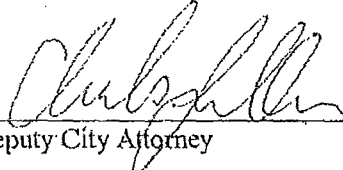
By: 
Deputy City Attorney

EXHIBIT A

Premises

<u>SUITE</u>	<u>SQ. FT.</u>
1008-1010	3,601
7 TH Floor	18,488
6 TH Floor	18,168
5 TH Floor	18,127
401, 408, 418	9,281
Ground Floor Suite 110	1,737
Total Rentable Sq. Ft.	69,402
% Share of Operating Expenses	31.75%

1008-1010
7TH Floor

EXHIBIT B

City Provisions

1.1 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 after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of 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.

1.2 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.

1.3 MacBride Principles - Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

1.4 Prevailing Wages for Construction Work

Landlord agrees that any person performing labor in the construction of the Leasehold Improvements or other improvements to the Premises, which Landlord provides under this Lease, shall be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Landlord shall include, in any contract for construction of such Leasehold Improvements or other improvements to the Premises, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Landlord shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing labor in the construction of any Leasehold Improvements or other improvements to the Premises.

1.5 Non Discrimination in City Contracts and Benefits Ordinance

(a) Covenant Not to Discriminate

In the performance of this Lease, Landlord covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee or, any City employee working with, or applicant for employment with, Landlord in any of Landlord's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Landlord.

(b) Subcontracts

Landlord shall include in all subcontracts relating to the Premises a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Landlord shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Landlord's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Non-Discrimination in Benefits

Landlord does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits specified above within the United States, between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the condition set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) HRC Form

As a condition to this Lease, Landlord shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "HRC"). Landlord hereby represents that prior to execution of the Lease: (a) Landlord executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (b) the HRC approved such form.

(e) Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of property to City are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Landlord shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Landlord understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in

violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

1.6 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 Landlord nor any of its contractors shall provide any items to City in the construction of the Leasehold Improvements 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 Landlord fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Landlord shall be liable for liquidated damages for each violation in an amount equal to Landlord's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Landlord 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.

1.7 Bicycle Storage Facilities

Article 1.5, Section 155.1, of the San Francisco Planning Code (the "Planning Code") requires the provision of bicycle storage at City-leased buildings at no cost to Landlord and if funds are available. Landlord agrees to continue at no cost to the City, the existing bicycle facilities located in the garage. In the event public and/or private donations, grants or other funds for additional facilities become available, at any time during the Term of this Lease including any extension thereof, City may, by giving a 60-day advanced written notice to Landlord, install additional compliant bicycle storage in the Building garage provided the garage owner approves the same. Landlord agrees to use best efforts to obtain such approval. If parking spaces are lost, City shall pay the monthly rent value for any such parking spaces used for such bicycle parking, and Landlord also agrees that City may install bicycle racks in other location(s) in front of the Building, which are required to meet the Class 1 and/or Class 2 requirements of the Planning Code. Landlord, at no cost to Landlord, shall reasonably cooperate with City regarding the location of such spaces in furtherance of the implementation of such requirements of the Planning Code. The above notwithstanding, City acknowledges that Landlord does not own the entire building and only has limited rights to the parking garage and the common areas.

1.8 Resource-Efficient City Buildings and Pilot Projects

Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 707 relating to resource-efficient City buildings and resource-efficient pilot projects. Landlord hereby agrees that it shall comply with all applicable provisions of such code sections.

1.9 Certification by Landlord

By executing this Lease, Landlord certifies that neither Landlord 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 Landlord 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. Landlord acknowledges that this certification is a material term of this Lease.

1.10 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.

1.11 Conflicts of Interest

Through its execution of this Lease, Landlord 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, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Landlord becomes aware of any such fact during the Term of this Lease, Landlord shall immediately notify City.

1.12 Notification of Limitations on Contributions

Through its execution of this Lease, Landlord 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 or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Landlord 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 \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Landlord's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Landlord further agrees to provide to City the names of each person, entity or committee described above."

1.13 Preservative-Treated Wood Containing Arsenic

As of July 1, 2003, Landlord 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. Landlord 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 Landlord 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.

1.14 Graffiti Removal

(a) Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

(b) Landlord shall use good faith and best efforts to remove all graffiti from the Building and from any real property owned or leased by Landlord in the City and County of San Francisco within forty eight (48) hours of the earlier of Landlord's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Landlord to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

(c) Any failure of Landlord to comply with this section of this Lease shall constitute a breach of this Lease.

1 [Lease of Real Property Renewal - BRCP 1390 Market, LLC]
2

3 Resolution authorizing a lease amendment to extend the term of the City Attorney lease
4 with BRCP 1390 Market, LLC, for premises at 1390 Market Street (Fox Plaza), consisting
5 of approximately 69,402 square feet, by five years and granting to the City two
6 additional five year extension options.
7

8 WHEREAS, The City Attorney has occupied space at 1390 Market Street (Fox Plaza)
9 since the 1980s; and

10 WHEREAS, The current lease between the City and BRCP 1390 Market LLC,
11 consisting of 69,402 square feet (the "Premises"), for the space used by the City Attorney (the
12 "Lease") expires on December 31, 2012, and the City has no options to extend the term; and

13 WHEREAS, The Premises provide good proximity to the City Attorney's Office at City
14 Hall and to other City Departments; and

15 WHEREAS, A portion of the Premises (approximately 3601 square feet) is used by
16 Marin Day School for use as infant care facilities which provides valuable services to the City;
17 and

18 WHEREAS, The Director of Property has negotiated an amendment to the Lease to
19 extend the term for five (5) years, to December 31, 2017, and to provide to the City two
20 extension options, each for a term of five (5) years (potentially extending the term to
21 December 31, 2027) at ninety-five percent (95%) of the then fair market rent, with each
22 extension option subject to the prior approval of the Board of Supervisors (a copy of the
23 proposed Lease amendment is on file with the Clerk of the Board in File No. 120280; the
24 "Lease Amendment"); and
25

1 WHEREAS, The Director of Property has determined that the proposed rental rate for
2 the five (5) year extension as set forth in the Lease Amendment is equal to or less than fair
3 market rent for the Premises; now, therefore, be it

4 RESOLVED, That in accordance with the recommendation of the City Attorney and the
5 Director of Property, the Board approves the Lease Amendment in substantially the form in
6 the Board's File and authorizes the Director of Property to execute and deliver the Lease
7 Amendment, and authorizes City staff to take all actions; on behalf of the City, to perform its
8 obligations and exercise its rights under the Lease as amended by the Lease Amendment;
9 and, be it

10 FURTHER RESOLVED, As set forth in the Lease Amendment, (i) the Lease shall
11 terminate on December 31, 2017, subject to the City's extension rights, (ii) the monthly base
12 rent for the period from January 1, 2013 to December 31, 2017 shall be \$173,505
13 (approximately \$30.00 per square foot), and (iii) base rent shall be abated for the first three (3)
14 months of the extended term (from January through March 2013); and, be it

15 FURTHER RESOLVED, As set forth in the Lease Amendment, the City shall pay for its
16 prorata share of operating expenses over a 2013 base year, electricity costs on a 48,265
17 square feet of the Premises, and for other typical tenant expenses; and, be it

18 FURTHER RESOLVED, That the City shall continue to use a portion of the Premises
19 for provision of childcare services by Marin Day School, a California non-profit corporation (or
20 any successor day care provider) for \$1 per year, providing a service that lessens the burden
21 of government; and, be it

22 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
23 with respect to the Lease Amendment are hereby approved, confirmed and ratified; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
25 Property to enter into any amendments or modifications to the Lease (including without



City and County of San Francisco

Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 120280

Date Passed: May 08, 2012

Resolution authorizing a lease amendment to extend the term of the City Attorney lease with BRCP 1390 Market, LLC, for premises at 1390 Market Street (Fox Plaza), consisting of approximately 69,402 square feet, by five years and granting to the City two additional five year extension options.

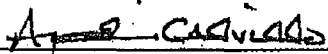
May 02, 2012 Budget and Finance Sub-Committee - RECOMMENDED

May 08, 2012 Board of Supervisors - ADOPTED

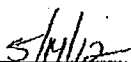
Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

File No. 120280

I hereby certify that the foregoing Resolution was ADOPTED on 5/8/2012 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Mayor


Date Approved

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: BRCP 1390 Market, LLC	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
<ol style="list-style-type: none"> BRCP 1390 Market, LLC is a member managed LLC; BRCP Realty II, L. P. (a Delaware Limited Partnership) which is sole member of "contractor" BRCP Gen-Par II, LLC (a Delaware Limited Liability Company) is General Partner of BRCP Realty II, L. P. with authority as Managing Director Managing Directors of BRCP Gen-Par II are John Foster, Craig Vought, and Philip Maritz. None None. 	
Contractor address: 248 Homer Avenue, Palo Alto, CA 94301	
Date that contract was approved:	Amount of contract: \$22,225,094.41 over 5 years
Describe the nature of the contract that was approved: Renewal of an existing Lease at 1390 Market St for the City Attorney	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form (Mayor, Edwin Lee)

a board on which the City elective officer(s) serves San Francisco Board of Supervisors

Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

