

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # \*B-13

Urgent

Routine

AGENDA DATE May 19, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval of Memoranda of Understanding Between the Administrative Office of the Courts, the Superior Court of California, and the County of Stanislaus for the Use of Courthouse Construction Funds

STAFF RECOMMENDATIONS:

1. Approve the attached First Amendment to Memorandum of Understanding (MOU) between the Judicial Council of California, Administrative Office of the Courts, and the Superior Court of California, County of Stanislaus for Costs of Court Facility Space for the 4<sup>th</sup> Floor at 801 Tenth Street.
2. Approve the attached Memorandum of Understanding between the Judicial Council of California, Administrative Office of the Courts, the County of Stanislaus, and the Superior Court of California, County of Stanislaus for Costs of Court Facility Space for the 6<sup>th</sup> Floor at 801 Tenth Street.

FISCAL IMPACT:

The total impact to Courthouse Construction Funds is \$5,302,260 through Fiscal Year 2018-2019. The cost for the 2008-2009 Fiscal Year is \$996,674, for which the CEO - Courthouse Construction Fund budget will need to be adjusted as reflected in the attached budget journal. The cost will be funded through fund balance. The breakdown of costs by floor is shown on the next page.

(Continued on page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-332

On motion of Supervisor Grover, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

**STAFF RECOMMENDATIONS (Continued):**

3. Authorize the Chairman of the Board to sign the attached First Amendment to MOU between the Judicial Council of California, Administrative Office of the Courts, and the Superior Court of California, County of Stanislaus for Costs of Court Facility Space for the 4<sup>th</sup> Floor at 801 Tenth Street and the Memorandum of Understanding Between the Judicial Council of California, Administrative Office of the Courts, the County of Stanislaus, and the Superior Court of California, County of Stanislaus for Costs of Court Facility Space for the 6<sup>th</sup> Floor at 801 Tenth Street.
4. Approve an increase in appropriations in the CEO – Courthouse Construction fund of \$996,674 for the 2008-2009 Fiscal Year.

**FISCAL IMPACT (Continued):**

The First Amendment to Memorandum of Understanding (MOU) relating to the 4<sup>th</sup> Floor lease includes a funding plan for the disbursement of \$882,396 in Courthouse Construction Funds (CCF) to the Court through Fiscal Year 2017-2018 as follows: \$24,443 in FY 2014–2015, \$316,166 in FY 2015–2016, \$331,236 in FY 2016–2017, and \$210,551 in FY 2017–2018.

The Memorandum of Understanding relating to the 6<sup>th</sup> Floor lease and tenant improvement costs includes a funding plan for the disbursement of \$4,419,864 in Courthouse Construction Funds (CCF) through Fiscal Year 2018-2019 as follows: \$996,674 in FY 2008-2009; \$310,625 in FY 2009-2010; \$319,943 in FY 2010-2011; \$329,542 in FY 2011-2012; \$339,428 in FY 2012-2013; \$349,611 in FY 2013-2014; \$360,099 in FY 2014-2015; \$370,902 in FY 2015-2016; \$382,029 in FY 2016-2017; \$393,490 in FY 2017-2018, and \$267,521 in FY 2018-2019.

**DISCUSSION:**

**Background and Purpose of Memorandum of Understanding between the Judicial Council of California, Administrative Office of the Courts (AOC), the Superior Court of California, County of Stanislaus (the Court), and the County of Stanislaus (the County) for 4<sup>th</sup> Floor lease costs**

On February 27, 2007 the County and the Court submitted to the AOC the County Courthouse Construction Fund Request for Approval of Expenditure or Encumbrance (the CCF Request) to pay for the 10-year lease of two new

Approval Of Memoranda Of Understanding Between The Administrative Office Of The Courts, The Superior Court Of California, And The County Of Stanislaus For The Use Of Courthouse Construction Funds

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civil courtrooms in the City of Modesto based on the “new judgeships low-cost option” for FY 2006-2007.

The AOC approved the County-Court CCF Request for an expenditure from and future encumbrances of the local Courthouse Construction Fund (CCF) on April 9, 2007, in the amount of \$1,870,599 for the new judgeships lease and tenant improvements with stipulation that an MOU must be developed between the AOC and the County regarding a definition of project funding and administration.

On August 14, 2007, the AOC and the Court entered into a Memorandum of Understanding (MOU) regarding the AOC and Court responsibilities to the lease of these courtrooms, but didn't include the County responsibilities at that time. The MOU detailed other funding that was available for the project, including \$682,000 of County Judicial Public Facilities Fees for tenant improvements, \$2 million in New Judgeship funding, and \$2.1 million in CCF Settlement funding to be used toward payment of the 10-year lease. The Court moved into 14,376 square feet of space at 801 Tenth Street in Modesto on April 1, 2008.

This First Amendment to the MOU sets forth the procedure for the County to follow in disbursing \$882,398 in Courthouse Construction Funds to the Court, and establishes the amount and period of local CCF disbursements from the County to the Court. The first payment to the Court will be in the amount of \$24,443 in FY 2014-2015. The unused portion of the original request was deemed available for use for the 6<sup>th</sup> Floor lease. The revised funding plan is incorporated into the MOU as Exhibit “C”.

**Background and Purpose of Memorandum of Understanding between the Judicial Council of California, Administrative Office of the Courts (AOC), the Superior Court of California, County of Stanislaus (the Court), and the County of Stanislaus (the County) for the 6<sup>th</sup> Floor lease and tenant improvement costs**

On April 4, 2007, the County and the Court submitted to the AOC the County Courthouse Construction Fund Request for Approval of Expenditures or Encumbrance in the amount of \$2,024,682 to pay for the renovations for the Court at the Hall of Records. This request was approved by the AOC on August 6, 2007.

On January 31, 2008, the County and the Court submitted to the AOC a CCF request for Approval of Expenditure or Encumbrance in the amount of \$1,999,528 for a 10-year lease at 801 Tenth Street, 6<sup>th</sup> Floor, Modesto. On June 26, 2008, the Court requested that the AOC approve the redirection of

Approval Of Memoranda Of Understanding Between The Administrative Office Of  
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funds previously approved for the renovations at the Hall of Records to the one-time expenses (e.g. tenant improvements) for the 6<sup>th</sup> Floor lease.

On August 7, 2008, the AOC and the Court entered into a Memorandum of Understanding (MOU) regarding the AOC and Court's agreement to a funding plan for the 6<sup>th</sup> Floor lease, but didn't include the County responsibilities at that time.

On August 15, 2008, the AOC entered into the 6<sup>th</sup> Floor lease for approximately 10,906 rentable square feet for ten years. Subsequent to executing the 6<sup>th</sup> Floor lease, the landlord completed the tenant improvements and invoiced the AOC for the actual costs of the tenant improvements, which totaled \$894,158. The total cost of the lease and tenant improvements for the 6<sup>th</sup> Floor is \$4,419,864, of which \$395,654 was approved in the 4<sup>th</sup> Floor request. The revised funding plan is incorporated into the MOU as Exhibit "C".

**POLICY ISSUES:**

The Board of Supervisors should decide if staff's recommendation is consistent with its Board Priority of *Efficient delivery of public services*.

**STAFFING IMPACTS:**

Staff from the Chief Executive Office and the Auditor's Office will monitor the CEO – Courthouse Construction Fund budget and ensure that payments to the court are made in a timely manner.



4th flr

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING**  
**08/50-G1/ Lease 4th Floor**  
**BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,**  
**ADMINISTRATIVE OFFICE OF THE COURTS, AND THE SUPERIOR COURT**  
**OF CALIFORNIA, COUNTY OF STANISLAUS**

**FOR COSTS OF COURT FACILITY SPACE**

This **FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING** (“**MOU**”) is entered into as of June 5, 2009 (“Effective Date”), by and between the **Judicial Council of California, Administrative Office of the Courts** (the “**AOC**”), the Superior Court of California, County of Stanislaus (the “**Court**”) and the County of Stanislaus (the “**County**”). For purposes of this MOU, the AOC and the County are each a “Party” and are sometimes together referred to as the “Parties.”

**BACKGROUND TO AND PURPOSE OF MOU**

A. On February 27, 2007 the County and the Court submitted to the AOC the County Courthouse Construction Fund Request for Approval of Expenditure or Encumbrance (the “CCF Request”) to pay for the 10-year lease of two new civil courtrooms in the City of Modesto based on the “new judgeships low-cost option” for FY 06-07.

B. The AOC approved the County-Court CCF Request for an expenditure from and future encumbrances of the local Courthouse Construction Fund (CCF) on April 9, 2007 (CCF Approval Letter), in the amount of \$1,870,599 for the new judgeships lease and tenant improvements with stipulation that an MOU must be developed between the AOC and the County regarding a definition of project funding and administration.

C. On August 10, 2007, the AOC entered into a lease agreement with City Tower Group, LLC, a California limited liability company, Lessor) for approximately 14,376 rentable square feet in the building located at 801 Tenth Street, Modesto, California (the “Premises”), for a period of ten years commencing on April 1, 2008, subject to early termination or any options to extend as set forth in the Lease.

D. On August 14, 2007, the AOC and the Court entered into a Memorandum of Understanding (AOC-Court MOU) setting forth the agreement pertaining to the AOC and Court responsibilities to the lease, the monthly reduction by AOC of the Court’s distribution from its annual allocation from the Trial Court Trust Fund the amount AOC pays for the monthly rent obligation, as well as the one-time and extraordinary expense the AOC paid to Lessor for tenant improvements, the Court’s responsibilities for paying certain services allowable under California Rules of Court Rule 10.810, and the Court’s

use of the \$682,000 County Judicial Public Facilities Fees Fund for the purchase of office furniture, communications and security equipment. The AOC-Court MOU is attached herein as Exhibit "A" and incorporated herein.

E. The AOC has paid Lessor \$371,619.60 as rent payment for the period April 1, 2008 through February, 2009. The AOC has also paid Lessor the amount of \$984,177.34 in payment of architectural and engineering fees, renovation costs and change orders as reimbursement to Lessor for tenant improvement costs in excess of Lessor's tenant improvement allowance of \$431,280.

F. Of the excess tenant improvement costs that the AOC paid to Lessor stated in section E above, \$306,404 was deducted from the Trial Court Trust Fund FY 2007-08 distribution, and assumed to be charged against the \$2,166,998 that the County paid to the Court (the "CF Settlement") The Court has also fully expended in FY 2007-08 the \$682,000 Public Facility Fund the breakdown of which is provided in the Funding Plan attached herein and incorporated hereto as Exhibit "B". .

G. As provided in the CCF Approval Letter dated April 9, 2007, the order of funding the lease obligation will be (i) CCF settlement used first; (ii) state funding for FY06-07 New Judgeship BCP (low-cost option) next, and (iii) future CCF used last.

H. This First Amendment to MOU sets forth the procedure for the County to follow in disbursing CCF to the Court, establishes the amount and period of local CCF disbursements from the County to the Court in order that the AOC and the Court may meet its respective obligations to the Lease, amends the Memorandum of Understanding between the AOC and the Court dated August 7, 2007 by specifying the order of funding as stipulated in paragraph G above, and replaces the Funding Plan attached to the said Memorandum of Understanding between the AOC and the Court with a Revised Funding Plan attached hereto as Exhibit "C" and incorporated herein.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, AOC, the Court and County hereby agree as follows:

## **AGREEMENT**

### **1. AOC RESPONSIBILITIES**

1.1 AOC will make all lease payments to the Lessor in accordance with Section 1.4 of the Lease.

1.2 AOC Finance Division, Office of Budget Management will comply with the procedure for monthly reductions from the Fund monthly lease payment to Lessor in

accordance with the schedule of annual rent set forth in Section 1.4 of the Lease, and will notify Court of the monthly distribution deductions. AOC will reduce the Court's distribution from its annual allocation from the Fund for the applicable period set forth in Funding Plan of the CCF Request.

1.3 AOC Office of Court Construction and Management will monitor expenditures from the Fund in accordance with Section 1.2 and make available copies of supporting detail upon request of Court and County.

1.4 With respect to one-time and extraordinary expenses relating to the Lease such as excess tenant improvement costs in the amount of \$984,177.34, those costs have been paid by the AOC to the Lessor on June 4, 2008 and AOC has deducted the amount of \$306,404 from the Trial Court Trust Fund allocation distribution.

## **2. COURT RESPONSIBILITIES**

2.1 Court will comply with all Lease terms that relate to the use of the Premises.

2.2 Court will give AOC timely notice of (1) any event at or upon the Premises which could give rise to a claim or liability to either Court or AOC; (2) any act or omission of Court that results in, or could result in, a breach of the Lease by either the AOC or Lessor; (3) any act or omission that requires action by AOC in accordance with the Lease; or (4) any notice relating to the Lease received by Court from Lessor.

2.3 Court will reflect the monthly reduction from the Fund gross distribution, consistent with Section 1.2, as non-cash revenue and as expenditure in the Court's financial records.

2.4. Court will remain responsible for obtaining and paying for any services relating to the Premises which are allowable Court costs under California Rules of Court Rule 10.810 (e.g. perimeter security) and which are not provided by the Lessor pursuant to the terms of the Lease.

2.5 With respect to one-time and excess tenant improvement expenses, the Court will deduct from the CCF Settlement of \$2,116,998 already deposited in Court's account the amount of \$306,404 which represents a portion of the excess tenant improvement costs, including architectural and engineering fees, that the AOC has paid to Lessor and deducted from the Trial Court Trust Fund distribution as provided in Section 1.4 above. This is in addition to the \$8,529 the court expended for moving costs from its operating budget.



2.6 With respect to rent payments, the Court will deduct from the CCF Settlement at the end of each month an amount equal to 1/12 of the annual encumbrances to the CCF Settlement as indicated in the revenue section of the Revised Funding Plan.

2.7 Court acknowledges that local Courthouse Construction Funds (“CCF”) are one of the sources of revenue with respect to the Lease as set forth in the Funding Plan. It is the responsibility of the Court to take whatever action is necessary to ensure that the County of Stanislaus timely transfers any necessary funds from the CCF to the Court so that the Court will have sufficient funds when the AOC reduces the Court’s distribution from the Fund in accordance with section 3 of this MOU. The Court accepts all risks with respect to the County’s failure to transfer funds from the CCF to the Court.

2.8 Court acknowledges that it has fully expended in FY 2007-08 the Public Facility Fund in the amount of \$682,000 in payment of Court furniture, fixture, and equipment, data communications and security, and public address system installed in the Premises.

### **3. COUNTY RESPONSIBILITIES**

3.1 County acknowledges that local CCF is one of the sources of revenue with respect to the Lease as set forth in the CCF Approval Letter.

3.2 The County shall encumber \$882,398 for this lease, assuming payments will be due to the Court as follows: \$24,443 in FY 2014–2015, \$316,166 in FY 2015–2016, \$331,236 in FY 2016–2017, and \$210,551 in FY 2017–2018, as reimbursement to the Court for the reductions that AOC will be making from the Trial Court Trust Fund Distributions of the Court.

3.3 On or by July 31 of each fiscal year stated in Section 3.2, the County will disburse to the Court CCF funds in an amount equal to the share of the annual rent from the local CCF as provided in Section 3.2 above.

### **4. EFFECTIVE DATE AND TERMINATION**

This MOU will become effective on the Effective Date, and will remain in effect until the Lease is terminated or expires.

### **5. EFFECT OF TERMINATION**


Notwithstanding any expiration or termination of this MOU, all payment obligations under this MOU incurred prior to expiration or termination of this MOU will survive.

**6. COUNTERPARTS**

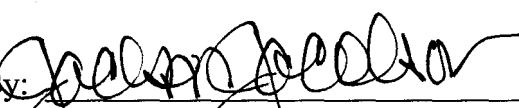
This MOU may be executed in one or more counterparts, all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties hereto have executed this MOU as of the Effective Date.

**JUDICIAL COUNCIL OF CALIFORNIA,  
ADMINISTRATIVE OFFICE OF THE  
COURTS**

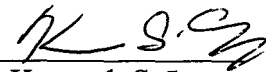
By:   
Name: Grant Walker  
Title: Senior Manager, Business Services

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF STANISLAUS**

By:   
Name: Hon. Jack M. Jacobson  
Title: Presiding Judge

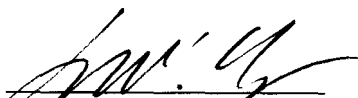
**APPROVED AS TO FORM:**

Administrative Office of the Courts,  
Office of General Counsel

By:   
Name: Kenneth S. Levy  
Title: Attorney

Date: 6/4/09

**APPROVED AS TO FORM  
County of Stanislaus**

By:   
Name: Jack Doering  
Title: County Counsel

Date: 5/14/09

**COUNTY OF STANISLAUS, a political  
subdivision of the State of California**

By:   
Name: Jim DeMartini  
Title: Chairman, Board of Supervisors

Date: MAY 19 2009

**Exhibit A**

**AOC Court MOU**

**MEMORANDUM OF UNDERSTANDING**  
**NO. 07/50-G1/Lease**  
**BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,**  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
**AND THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS**  
  
**FOR COSTS OF COURT FACILITY SPACE**

This **MEMORANDUM OF UNDERSTANDING** ("MOU") is entered into as of August  7 , 2007 ("Effective Date"), by and between the **Judicial Council of California, Administrative Office of the Courts** (the "AOC") and the **Superior Court of California, County of Stanislaus** (the "Court"). For purposes of this MOU, the AOC and the Court are each a "Party" and are sometimes together referred to as the "Parties."

**BACKGROUND TO AND PURPOSE OF MOU**

A. Court desires to have the AOC lease 12,892 usable square feet of Court space at 801 Tenth Street, Modesto, California ("**Premises**") from City Tower Group, LLC ("**Lessor**") as described in the lease ("**Lease**") attached as Exhibit "A" to this MOU and incorporated herein.

B. AOC enters this MOU based on the understanding from the Court that the purpose and need for the Premises is to accommodate judicial and court support positions created after July 1, 1996 (Government Code §70311), and that these are positions for which the County of Stanislaus is not responsible to provide space.

C. The AOC and the Court have jointly agreed to a Funding Plan for the Lease which is attached hereto as Exhibit "B" to this MOU and incorporated herein. The Funding Plan sets forth the portion of Lease costs which are to be paid through reductions from the Trial Court Trust Fund ("**Fund**"), and those Lease costs which are to be paid by the AOC.

D. This MOU sets forth the respective responsibilities of the AOC and Court in complying with the terms of the Lease and establishes the payment procedure for the Parties to follow.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, AOC and Court hereby agree as follows:

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## **AGREEMENT**

### **1. AOC RESPONSIBILITIES**

1.1. AOC will make all payments and conduct maintenance as may be required under the Lease.

1.2. AOC will give timely notice to Court of any change in status of the Lease such as termination, extension, or future amendments.

1.3. AOC Finance Division, Office of Budget Management will comply with the procedure for monthly reductions from the Fund in accordance with Section 3 herein, and will notify Court of the monthly distribution deductions.

1.4. AOC Office of Court Construction and Management will monitor expenditures from the Fund in accordance with Section 1.1 and make available copies of supporting detail upon request of court.

### **2. COURT RESPONSIBILITIES**

2.1. Court will comply with all Lease terms that relate to the use of the Premises.

2.2. Court will give AOC timely notice of (1) any event at or upon the Premises which could give rise to a claim or liability to either Court or AOC; (2) any act or omission of Court that results in, or could result in, a breach of the Lease by either the AOC or Lessor; (3) any act or omission that requires action by AOC in accordance with the Lease; or (4) any notice relating to the Lease received by Court from Lessor.

2.3. Court will reflect the monthly reduction from the Fund gross distribution, consistent with Section 3 herein, as non-cash revenue and as an expenditure in the Court's financial records.

2.4. Court will remain responsible for obtaining and paying for any services relating to the Premises which are allowable Court costs under California Rules of Court Rule 10.810 (e.g. perimeter security) and which are not provided by the Lessor pursuant to the terms of the Lease. Specifically, the Court will utilize up to \$682,000 from the County Judicial Public Facilities Fees Fund to purchase and install office furniture, furnishings, and equipment including data cabling, communications equipment, and security equipment (collectively "FFE"). To this end, the Court will enter into an agreement with the County of Stanislaus regarding reimbursing the Court from the County Judicial Public Facilities Fees Fund for any expenditures by the Court for the FFE ("County Agreement").

2.5. Court acknowledges that local Courthouse Construction Funds ("CCF") are one of the sources of revenue with respect to the Lease as set forth in the Funding Plan, and that it is the responsibility of the Court to take whatever action is necessary to ensure that the County of Stanislaus timely transfers any necessary funds from the CCF to the Court so that the Court will have sufficient funds when the AOC reduces the Court's distribution from the Fund in accordance with section 3 of this MOU. The Court accepts all risks with respect to the County's failure to transfer funds from the CCF to the Court.

2.6. Court will coordinate with the Lessor regarding compliance with background check and clearance requirements which may be required by the policies, procedures, practices (collectively "Policies") of the California Department of Justice ("DOJ") and the California Department of Motor Vehicles ("DMV") with respect to any employee of Lessor or Lessor's vendors who may have physical access to any area in the Premises which is either connected to, or contains records from, the DOJ criminal computer database (now known as the California Law Enforcement Telecommunications System) or the DMV computer database (collectively the "Databases"). If required by the Policies, Court will conduct any necessary background checks and notify Lessor if the employee is approved to have access to areas in the Premises which are either connected to, or contain records from, the Databases. Court will be responsible for ensuring compliance with the Policies, including, without limitation, maintaining any suitable documentation evidencing compliance with the Policies with respect to employees of Lessor and Lessor's vendors.

### **3. MONTHLY REDUCTION FROM TRIAL COURT TRUST FUND DISTRIBUTION**

With respect to those items in the Funding Plan which identify the Fund as one of the sources of revenue, AOC will reduce the Court's distribution from its annual allocation from the Fund for the applicable period set forth in the Funding Plan. With respect to one-time and extraordinary expenses relating to the Lease such as tenant improvement expenses for which the Fund is identified as one of the sources of revenue for such expenses, those costs will be paid and deducted from the Court's distribution from the Fund after AOC's Office of Court Construction and Management's consultation with Court, and the written approval of the Court through its Presiding Judge or the Presiding Judge's designee.

### **4. EFFECTIVE DATE AND TERMINATION**

This MOU will become effective on the Effective Date, and will remain in effect until the Lease is terminated or expires.

**5. EFFECT OF TERMINATION**

Notwithstanding any expiration or termination of this MOU, all payment obligations under this MOU incurred prior to expiration or termination of this MOU will survive.


**6. COUNTERPARTS**

This MOU may be executed in one or more counterparts, all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties hereto have executed this MOU as of the Effective Date.

APPROVED AS TO FORM:

Administrative Office of the Courts,  
Office of the General Counsel

By:   
Name: Kenneth S. Levy  
Title: Attorney

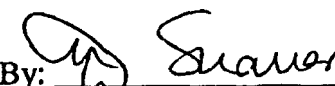
Date: 8/7/07

**JUDICIAL COUNCIL OF CALIFORNIA,  
ADMINISTRATIVE OFFICE OF THE  
COURTS**

By:   
Name: Grant Walker  
Title: Business Services Manager

Date: 8/14/07

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF STANISLAUS**

By:   
Name: Hon. Donald E. Shaver  
Title: Presiding Judge

Date: 8/6/07

# Exhibit A





**Judicial Council of California  
Administrative Office of the Courts  
Office of Court Construction and Management  
455 Golden Gate Avenue, San Francisco, CA 94102-3688**

For the benefit of: Superior Court of California, County of Stanislaus

Location of Premises: 801 Tenth Street, Suite 400, City Tower, Modesto, CA

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**LEASE AGREEMENT**

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**1. Basic Provisions**

1.1 **Parties.** This Lease (“Lease”) dated \_\_\_\_\_, 2007, which date is for reference purposes is made by and between the Judicial Council of California, Administrative Office of the Courts, for the benefit of the Superior Court of California, Stanislaus County, hereinafter referred to as “Lessee” and City Tower Group, LLC, a California limited liability company hereinafter referred to as “Lessor,” Lessee and Lessor hereinafter collectively referred to as the “Parties” or individually as a “Party.”

1.2 **Premises.** The premises include approximately 14,376 rentable square feet/12,892 usable square feet of space in the building located at 801 Tenth Street, Modesto, CA (“Building”) as shown on the floor plan attached hereto as Exhibit “A-1” and incorporated herein, including, all improvements therein or to be provided by Lessor to Lessee under the terms of this Lease (“Premises”). The actual square footage of the Premises will be determined by Lessor using Building Owners and Managers Association International Standard Method for Measuring Floor Area in Office Building, ANSI Z65.1-1996 (“BOMA Standard”) after the Premises are Substantially Completed. If Lessor determines, and Lessee agrees, that the number of square feet of the Premises is different from the amount set forth above, the Parties will execute an Addendum within ten (10) days following the Commencement Date that adjusts the actual square footage of the Premises and percentages referred to in this Lease to conform to the corrected measurements.

In addition to Lessee’s rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Area, as defined in section 2.5, and as specified in section 2.6. The Premises, the Building, the Common Areas, and the land upon which they are located, are herein collectively referred to as the “Project.”

Lessee shall also have the right to the following parking: (a) 27 reserved parking spaces (including 2 secured parking spaces for use by the Judges of the Court) at the locations shown on the site plan attached hereto as Exhibit "A-2" and incorporated herein; and (b) an additional 26 unreserved parking spaces, to be provided at Lessor's sole expense, in the City of Modesto Parking Lot which location is identified on the map attached hereto as Exhibit "A-3" and incorporated herein.

**1.3 Original Term.** This Lease shall be effective upon the date of its execution, but its term shall be for a period of ten (10) years ("**Original Term**") commencing January 15, 2008 ("**Commencement Date**") and ending on January 14, 2018 ("**Expiration Date**") subject to early termination, early occupancy or any options to extend, if any, as set forth in section 3 of this Lease.

**1.4 Rent.**

**1.4.1 Rent.** Lessee will pay to Lessor in arrears on the last day of each month, beginning on the last day of the first full month following the Commencement Date the following amounts as in accordance with the terms of this Lease.

<b>Lease Month</b>	<b>Monthly Installment of Rent</b>
1 thru gh 12	\$33,783.60
13 thru gh 24	\$34,797.11
25 thru gh 36	\$35,841.02
37 thru gh 48	\$36,916.25
49 thru gh 60	\$38,023.74
61 thru gh 72	\$39,164.45
73 thru gh 84	\$40,339.39
85 thru gh 96	\$41,549.57
97 thro ugh 108	\$42,796.05
109 through 120	\$44,079.94

Rent for any partial month shall be prorated based on the actual number of days of the month. The base rent shall not be subject to adjustment for increases in operating expenses, insurance and real estate taxes during the Term or the Extended Term.

**1.4.2 Brokers.** William E. Bacon of CB Richard Ellis is the Lessee's Broker for the purposes of this Lease. Lee & Associates is the Lessor's Broker for the purposes of this Lease. Lessor, at its sole costs and expense, shall pay to CB Richard Ellis and Lee & Associates brokerage fees on a 50-50 basis per the Listing Agreement.

**1.4.3 Manner of Payment.** All rent shall be payable by State of California warrants or any other warrant from any account utilized by Lessee. A failure to pay any amount that constitutes Rent shall not be considered an event of default under the Lease unless Lessee fails to pay such Rent within ten (10) business days after written

notice that the same is due, owing, and payable under the Lease. An event of default shall not occur if Lessee is unable to pay any Rent because of the State of California's failure to timely approve and adopt a State budget. If Lessee fails to pay Rent as a result of the State of California's failure to timely approve and adopt a State budget, Lessee shall promptly pay any previously due and unpaid Rent upon approval and adoption of the State budget.

1.5 **Use.** The Premises are for the purpose of use as general office and civil court room use by the Superior Court of California, County of Stanislaus ("**Court**") and for no other purpose without Lessor's prior written consent, which may not be unreasonably withheld, conditioned or delayed. However, the Premises may not be used for the handling, conducting or hearing of any criminal proceedings, and Lessor's disapproval of such uses shall be deemed reasonable.

1.6 **Notices.**

1.6.1 **Lessee's Notification Address.**

Notwithstanding any provision to the contrary contained in the Lease, all notices required or permitted to be given to Lessee under the Lease shall be addressed to Lessee as follows:

Administrative Office of the Courts  
Office of Court Construction and Management  
Attn: Portfolio Administration Analyst  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660  
Telephone: 415-865-4040  
Fax: 415-865-8885

with a copy to: Administrative Office of the Courts  
Office of the General Counsel  
Attn: Managing Attorney, Real Estate Unit  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660  
Telephone: 415-865-4057  
Fax: 415-865-8885

In addition, all notices relating to termination of the Lease or an alleged breach or default by Lessee must also be sent to:

Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Attention: Business Services Manager

Telephone: 415-865-7978

Fax: 415-865-4326

All notices and correspondence to Lessee must reference the address of the Premises and the name of the entity occupying the Premises.

**1.6.2 Lessor's Notification Address.**

City Tower Group, LLC  
Allen Beebe  
801 Tenth Street, Suite 500  
Modesto, CA  
95354

**1.7 Lease Provisions Control.** In the event of any conflict between a provision in this "Basic Provisions" and any other provision in this Lease, the latter shall control.

**2. Premises Condition.**

**2.1 Condition.** On the Commencement Date, Lessor shall deliver the Premises to Lessee in a broom clean and safe condition, free of hazards and debris with all "**Improvements**" "**Substantially Complete**" as those terms are defined in Exhibit "D" (collectively "**Delivery Condition**"), and Lessor warrants that all systems and equipment, including, but not limited to, electrical, plumbing, fire sprinkler, fire suppression system, fire/life/safety system, elevators, security, systems, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, if any, that serve the Premises and the Building and all other such elements in the Building (herein collectively defined as the "**Base Building Systems**"), other than those installed or constructed by Lessee, shall be in safe, hazard free, good operating condition, and, the structural elements of the roof, bearing walls and foundation of the Building shall be free of material defect. The Project in its entirety shall be in similar condition when the Premises are so delivered.

**2.2 Compliance.** Lessor warrants and represents that the Premises, the Improvements in the Premises and the Project comply with all applicable State and Federal laws, covenants or restrictions of record, building codes, regulations and ordinances ("**Applicable Requirements**") in effect on the Commencement Date of this Lease, regardless of the use to which Lessee will put the Premises. If the Premises and the Project do not comply with said warranty, Lessor shall, promptly after receipt of written notice from Lessee or any governmental agency having jurisdiction over such matters setting forth the nature and extent of such non-compliance, rectify the same at Lessor's expense. If the Applicable Requirements are hereinafter changed so as to require during the term of this Lease, unless same is the result of the use to which Lessee puts the Premises, the construction of an addition to or an alteration of the Premises and the Project, the remediation of any Hazardous Substance as hereinafter defined, or the

reinforcement or other physical modification of the Premises and the Project, Lessor shall, promptly after receipt of written notice from Lessee or any governmental agency having jurisdiction over such matters setting forth the nature and extent of such non-compliance, rectify the same at Lessor's expense.

2.2.1 Hazardous Substance shall be defined as any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials, is either (a) potentially injurious to the public health, safety or welfare, the environment or the Project; (b) regulated or monitored by any governmental authority; or (c) a basis for potential liability of Lessee to any governmental agency or third party under any applicable statute or common law theory.

2.2.2 Lessor warrants and represents the Premises and the Project shall be readily accessible to and usable by individuals with disabilities in compliance with Disability Accessibility Laws (defined below) in effect on the Commencement Date. Any cost incurred to cause the Premises or the Project to comply with the Disability Accessibility Laws in effect on the Commencement Date shall be borne by Lessor; and any cost incurred to cause the Premises to comply with changes to the Disability Accessibility Laws after the Commencement Date shall be borne by Lessee. Any costs incurred to cause the Building and/or the Common Areas to comply with the Disability Accessibility Laws in effect on the Commencement Date and as amended from time to time thereafter shall be borne by the Lessor.

2.3 "Disability Accessibility Laws" shall include, but not be limited to, Title II of the Americans with Disabilities Act, 42 U.S.C. sections 12131 et seq., the Americans with Disabilities Act Architectural Guidelines, 28 C.F.R. pt. 36, app. A, those provisions of the California Government Code relating to Access to Public Buildings by Physically Handicapped Persons, including California Government Code sections 4450-4461 et. seq., the accessibility provisions of then-applicable editions of the California Building Code, currently codified at California Code Regs., Title 24, sections 1101B.1 et seq., the Unruh Civil Rights Act, California Civil Code section 51 et seq., and the Disabled Persons Act, California Civil Code section 54 et seq...

2.4 **Sick Building Syndrome.** Lessor warrants and represents the Premises and the Project shall be constructed, operated and maintained to avoid elevated levels of certain hazards, including, but not limited to: carbon dioxide, spores, fungus, molds, bacteria, chemicals or fumes or other causes of any hazardous micro-environments, also known as "Sick Building Syndrome," emanating from or within the Premise or the Project that may cause bodily injury, sickness or death. Any cost incurred to cause the Premises or the Project to eliminate or control such hazard shall be borne by Lessor.

2.5 **Asbestos.** Lessor warrants and represents the Premises and the Project has been, and will continue to be, constructed, operated and maintained free of hazard from asbestos, as more fully set forth in Exhibit "B" attached hereto and incorporated herein.

**2.6 Common Areas.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Building that are for the general non-exclusive use of Lessor, Lessee, and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors, and invitees, including parking areas, loading and unloading zones, trash areas, roadways, walkways, driveways, and landscaped areas.

**2.7 Lessee's Rights-Common Areas.** Lessor grants to Lessee, for the benefit of Lessee and the Court along with their employees, suppliers, shippers, customers, contractors, and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as same may from time to time exist; provided, however, Lessee shall not have any right to use any portion of the 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> floors, or the exterior walls of the Building and these areas of the Building shall not be considered Common Areas under the terms of this Lease. Lessor shall have the right to promulgate reasonable rules and regulations for the management, safety, care, and cleanliness of the Common Areas. Any change to the Common Areas, which may adversely affect Lessee, as said Common Areas exist upon the Commencement Date shall be subject to the approval of Lessee.

**2.8 First Refusal Right for Additional Space in Building.** Lessor grants to Lessee a right of first refusal ("First Refusal Right") with respect to all or any portion of space in the Building ("First Refusal Space") during the Original Term or any Extended Term. Prior to leasing any vacant space in the Building to any tenant, Lessor shall provide Lessee with written notice ("First Refusal Notice") which sets forth the size, location and layout of the First Refusal Space. If Lessee provides written notice within sixty (60) days after receipt of the First Refusal Notice that Lessee will lease the First Refusal Space, Lessor and Lessee shall execute amendment to this Lease within thirty (30) days for the First Refusal Space containing the terms and conditions of this Lease except as follows: (a) The initial rent for First Refusal Space Rent Rate shall be at the per square foot amount for the Premises in effect in this Lease at the time of occupancy of the First Refusal Space and future rents shall be based upon the rent schedule set forth in section 1.4.1. of this Lease; (b) a tenant improvement allowance equivalent to the proportionate amount of the original Improvement Allowance based on the remaining lease term (For instance, if the original Tenant Improvement allowance is \$75.00 per square foot and the particular additional space is occupied during the thirty-seventh (37<sup>th</sup>) month of the initial Lease Term, the Expansion Space Tenant Improvement allowance shall be equivalent to 84/120 times \$75 per square foot or \$52.00 per square foot); and (c) the term of the First Refusal Space shall be coterminous with the term for the Premise under this Lease, including any extensions thereof.

**2.9 Access.** Lessee shall have access to the Premises, the Common Area, including all building elevators, and the parking facilities 24 hours a day, 365 days per year.

### 3. Term

3.1 **Early Occupancy.** Lessor agrees that if the Premises are ready for occupancy prior to the Commencement Date set forth in section 1.3 of this Lease, Lessee may elect to occupy the Premises on the earliest date practical after its receipt of written notice from Lessor that the Improvements are Substantially Completed. The Rent payable for any such early occupancy ("Early Occupancy Period") by Lessee shall be at the initial rate and prorated on a daily basis for any partial month and payable in arrears. In the event that Lessee occupies the Premises prior to the Commencement Date set forth in section 1.3 of this Lease, the Original Term of the Lease shall be extended by the length of the Early Occupancy Period.

3.2 **Delay In Delivery of Premises.** Lessee shall not, except as otherwise provided herein, be obligated to pay rent or perform any other obligation of Lessee under the terms of this Lease until Lessor delivers possession of the Premises to Lessee in Delivery Condition. If possession of the Premises is not delivered to Lessee in Delivery Condition within thirty (30) days after the Commencement Date, Lessee may, at its option, by notice in writing to Lessor within ten (10) days after the end of said thirty (30) day period, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder, provided further, however, that if such written notice of Lessee is not received by Lessor within said ten (10) day period, Lessee's right to cancel this Lease hereunder shall terminate and be of no further force or effect. If possession of the Premises is not delivered to Lessee in Delivery Condition by the Commencement Date, and Lessee does not terminate this Lease, as aforesaid, the Original Term of the Lease shall commence upon the date Lessor deliver possession in Delivery Condition and continue for a period equal to the period during which the Lessee would have otherwise enjoyed under the terms hereof, but minus any days of delay caused by the acts, changes or omissions of Lessee.

3.3 **Lessee's Right to Early Termination.** The Lessee may terminate the Lease any time after the end of the sixtieth (60<sup>th</sup>) month of the Term upon one hundred twenty (120) days prior written notice to Lessor. In the event that Lessee elects to terminate the Lease according to this section 3.3, Lessee will not be obligated to pay any type of termination penalty.

3.4 **Option to Extend Term.** Lessor grants to Lessee two (2) options to extend the Lease term ("**Extension Option**"). The Extension Option(s) shall be for a period of five (5) years each ("**Extended Term**"), subject to the conditions described in this section 3.4.

3.4.1 **Exercise.** The Extension Option(s) may be exercised by Lessee delivering to Lessor notice thereof no later than 9 months prior to the expiration of the Original Term or any extension thereof.

3.4.2 **Rent for Extended Term.** The Rent for the Extended Term shall be adjusted on the date of the commencement of the Extended Term and on each successive

anniversary thereafter (“**Adjustment Date**”), by the lesser of (i) the amount calculated by multiplying the current Rent by the percentage difference which the CPI (defined below) increased or decreased utilizing the most recent CPI of the Adjustment Date year and the CPI from the same month of the prior year; or (ii) the amount calculated by multiplying the current Rent by five percent (5 %). The Lessor will calculate the rental adjustment and provide Lessee written notice of the adjusted Rent at least forty-five (45) days prior to when the adjusted Rent is due, and Lessee shall not be obligated to pay the adjusted Rent until Lessee receives at least (20) days written notice from Lessor of the adjusted Rent.

The CPI utilized hereunder shall be the Consumer Price Index (Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose Metropolitan Area (1982-1984 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics, or the successor of such index (“CPI”). If the CPI or the successor index is changed so that the base year differs from that in effect on the Commencement Date, the CPI or successor index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. In the event that compilation and/or publication of the CPI shall be transferred to any other governmental department or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to for purposes of adjusting the Rent.

3.4.3 All terms and conditions of this Lease with exception of Lease Term shall remain in full force and effect during the Extended Term, subject to modification upon mutual consent of the parties.

3.5 **Right of First Refusal to Extend Lease Term.** If the term of this Lease is extended by the Parties for each of the two options to extend provided in section 3.4, Lessee shall have a right of first refusal to lease the Premises at the end of the second Extended Term. This right of first refusal shall expire on the sixtieth (60<sup>th</sup>) day preceding the last day of the second Extended Term. In the event Lessor receives, prior to the expiration of Lessee’s right of first refusal, a bona fide offer from a third party to lease the Premises at the end of the second Extended Term, which offer is acceptable to Lessor, Lessor shall promptly notify Lessee in writing of the offer, including: a) the amount of the rent; b) the square footage and area of the proposed premises if different square footage than this Lease; and (c) the proposed term. Lessee shall have thirty (30) business days within which to notify Lessor in writing whether Lessee agrees to extend the Lease of the Premises at the offered rent, square footage, and the proposed term as the third party offer. In the event Lessee elects to extend the Lease of the Premises, the parties shall amend this Lease to include the offered rent, the square footage and the proposed term as the third party offer. In the event Lessee fails to give written notice of its election to extend the Lease of the Premises, Lessor shall be free to accept the bona fide offer and lease the Premises to the third party. If the third party fails to lease the Premises and the Premises remains available, Lessee shall have the same right of first refusal granted herein with respect to a bona fide offer to lease the Premises by a subsequent third party offer until its right of first refusal expires.



**3.6 Holding Over.** Any holding over by Lessee after the expiration of said term or any extension thereof shall be deemed a month to month tenancy at one hundred ten percent (110%) of the rental amount then being paid by Lessee for the first six (6) months after said expiration, After six (6) months, the holdover rent will be at one hundred twenty-five percent (125%) of the monthly Rent at the time of the lease expiration.

#### **4. Custodial and Building Services.**

**4.1 Custodial Services.** Lessor shall provide, or cause to be provided, and pay for all custodial services to the Premises in accordance with Exhibit "C," attached hereto and by this reference made a part of this Lease. In the event that Lessor does not utilize its own employees to provide the custodial services required herein, Lessor shall ensure that the provider of custodial services post a janitorial services fidelity bond in the sum of \$100,000.00 and provide evidence of the bond to Lessee prior to that provider providing custodial services to the Premises. In addition to bonding as required herein, Lessor shall also receive proof of statutory workers' compensation insurance, commercial general liability and Vehicle Liability Insurance from the provider of any custodial services performed in amounts and coverage reasonably acceptable to Lessee.

**4.2 Lessee's Right to Provide Custodial Services and Deduct Cost.** If Lessee provides written notice to Lessor of an event or circumstance that requires the action of Lessor with respect to the custodial services as set forth in section 4.1 and Lessor fails to provide such action as required by the terms of this Lease within three (3) days of Lessee's notice, Lessee may take the required action if (1) Lessee delivers to Lessor an additional written notice advising Lessor that Lessee intends to take the required action if Lessor does not begin the required action within forty-eight (48) hours after the written notice; and (2) Lessor fails to begin the required work within this forty- eight (48) hour period. Upon written demand by Lessee, Lessor shall promptly reimburse Lessee the actual cost and expenses thereof, provided said costs and expenses are reasonable. Should Lessor fail to promptly pay the cost and expenses, Lessee may deduct and offset that amount from Rent payable under this Lease. For purposes of this section, notice given by fax or e-mail shall be deemed sufficient

#### **4.3 Building Services.**

**4.3.1 Basic Services.** Lessor, at Lessor's sole cost and expense, agrees to furnish to the Premises and Building, the following services, utilities, and supplies: (i) air conditioning and heat all in such reasonable quantities as reasonably necessary for the comfortable occupancy of the Premises, from 7:30 a.m. to 5:30 p.m. Mondays through Fridays and upon request and not to exceed twelve (12) times during each twelve (12) month period commencing upon Lessee's occupancy of the Premises, 9:00 a.m. to 1:00 p.m. on Saturdays excepting local and national holidays; (ii) adequate electric current for normal lighting and normal office machines, elevator service, and (iii) hot and cold water on the same floor as the Premises for lavatory and drinking purposes as reasonably

necessary for Lessee's use under this Lease and in compliance with Applicable Requirements.

**4.3.2 Additional Electrical Service.** If Lessee requires electric current in excess of that which Lessor is obligated to furnish under section 4.3.1 above, Lessee must first obtain the written consent of Lessor, which Lessor may only refuse to give for a commercially viable reason. Additionally, Lessor may cause an electric current meter or submeter to be installed in or about the Premises to measure the amount of any such excess electric current consumed by Lessee in the Premises. The cost of any such meter and of installation, maintenance and repair thereof shall be paid for by Lessee and Lessee agrees to pay to Lessor, no later than thirty (30) days after Lessee's receipt of an invoice or copy of the utility bill from Lessor, for all excess electric current consumed by any such use as shown by said meter at the rates charged for such service by the local governmental agency or public utility, as applicable.

**4.3.3 After-Hour HVAC Service.** If Lessee requires heating, ventilation, and/or air conditioning for human occupancy purposes during times other than the times provided in section 4.3.1 above, Lessee shall give Lessor advance notice as Lessor shall reasonably require and shall pay Lessor a fee for such after-hours use equal to five dollars (\$5.00) per hour December through March and six dollars (\$6.00) per hour April through November. In addition to the foregoing, Lessor acknowledges that Lessee will be using and maintaining computer and electronic equipment in certain offices within the Premises which must remain on at all times and may require twenty-four (24) hour cooling and ventilation, and Lessor agrees to reasonably cooperate with Lessee to provide sufficient after-hours air conditioning to such office suites to ensure the continued operation of such equipment subject to Lessee's reimbursement to Lessor of Lessor's actual costs.

**4.3.4 Telecommunications.** Upon request from Lessee from time to time, Lessor will provide Lessee with a listing of telecommunications and media service providers serving the Project and Lessee (including the Court) shall have the right to contract directly with the providers of its choice. If Lessee (including the Court) wishes to contract with or obtain service from any provider which does not currently serve the Project, or wishes to obtain services from an existing carrier which will require the installation of additional equipment, Lessor agrees to allow Lessee (including the Court) and/or the provider to install necessary telecommunications cabling or equipment at the Project at Lessee's cost, as long as the proposed service will not unreasonably interfere with or interrupt services of other tenants in the Building. All such installations shall be subject to Lessor's prior written approval, which shall not be unreasonably withheld or delayed, and shall be performed in accordance with the terms of section 7 of this Lease or Exhibit "D," if such installations are Improvements.

**4.3.5 Abatement.** Notwithstanding anything to the contrary contained in this Lease, if Lessee is prevented from using, and does not use, the Premises or any portion thereof, or if Lessee's ability to conduct its operations from the Premises is materially impaired for more than one (1) day as a result of (i) any repair, alteration or maintenance work performed by Lessor for which Lessor failed to timely perform and

which was required to be performed by Lessor under this Lease, or (ii) any failure to provide services to the Premises, and such failure was not caused directly or indirectly by the negligence of Lessee, its employees, agents or visitors, guests, invitees or licensees (collectively, an "Abatement Event"), then Lessee shall give written notice of such Abatement Event to Lessor. If an Abatement Event occurs, then all Rent shall be abated or reduced for such time that Lessee continues to be so prevented from using, and does not use, the Premises or a portion thereof or parking areas (to the extent the inability to use said parking areas prevents Lessee from being able to use the Premises), in the proportion that the rentable area of the portion of the Premises that Lessee is prevented from using, and does not use, bears to the total rentable area of the Premises, provided that Rent shall be abated completely if the portion of the Premises or the parking areas that Lessee is prevented from using, and does not use, is so significant as to make it impractical for Lessee to conduct its business in the Premises and Lessee does not, in fact, for that reason, conduct its business in the Premises.

## **5. Utilities**

5.1 Lessor warrants and represents to Lessee that during the term of this Lease and any extension thereof that sufficient utility services to provide water, telecommunications, electric power, natural gas and sewers necessary to meet Lessee requirements exists or are available for use by Lessee within the Premises.

5.2 Lessee shall pay for all telephone services used in connection with the Premises. Lessor shall provide, or cause to be provided, and pay for all other utility services, including, but not limited to, water, natural gas, electrical, refuse collection and sewer services, as may be required in the maintenance, operation and use of the Premises.

## **6. Repairs and Maintenance**

6.1 **Lessor's Repair and Maintenance Obligations.** Lessor shall, at Lessor's sole expense and in accordance with the terms of this Lease, repair and maintain in good order and condition (reasonable wear and tear excepted): (a) the structural portions of the Building; (b) the nonstructural portions of the Building, including but not limited to, all improvements, alterations, fixtures, but excluding furnishings; (c) all systems and equipment, including but not limited to, Base Building Systems as heretofore described that serve the Premises and the Building; and (d) the exterior portions of the Project, including, but not limited to, landscaping, driveways, sidewalks, lighting and parking facilities servicing the Premises and the Project if applicable.

6.2 **Lessor's Default.** Repairs shall be made promptly when appropriate to keep the applicable portion of the Premises, the Project and other items in the condition described in this section 6. Lessor shall not be in default of its repair and maintenance obligations under this section 6, if Lessor performs the repairs and maintenance within thirty (30) days after written notice by Lessee to Lessor of the need for such repairs and maintenance. If, due to the nature of the particular repair or maintenance obligation, more

than thirty (30) days are reasonably required to complete it, Lessor shall not be in default under this section 6 if Lessor begins work within this thirty (30) day period and diligently prosecutes this work to completion.

**6.3 Lessee's Right to Make Repairs and Deduct Cost.** If Lessee provides written notice to Lessor of an event or circumstance that requires the action of Lessor with respect to the repairs or maintenance to the Premises or Base Building Systems serving the Premises as set forth in section 6.1 and Lessor fails to provide such action as required by the terms of this Lease within the period specified in section 6.2, Lessee may take the required action if: (1) Lessee delivers to Lessor an additional written notice advising Lessor that Lessee intends to take the required action if Lessor does not begin the required repair or maintenance within ten (10) days after the written notice or commence diligent pursuit of the repair, and (2) Lessor fails to begin the required work within this ten (10) day period.

6.3.1 Lessor grants to Lessee a license, effective during the Lease Term, to enter upon those portions of the Premises and the Project which is reasonably necessary for Lessee to take such action under section 6.3.

6.3.2 If such action was required under the terms of this Lease to be taken by Lessor, Lessee shall be entitled to prompt reimbursement by Lessor of Lessee's reasonable costs and expenses in taking such action. Lessor's obligation to reimburse Lessee shall survive expiration or earlier termination of this Lease.

6.3.3 If, within thirty (30) days after receipt of Lessee written demand for payment of Lessee's costs incurred in taking such action on Lessee's behalf, Lessor has not paid the invoice or delivered to Lessee a detailed written objection to it, Lessee may deduct from Rent payable by Lessee under this Lease the amount set forth in the invoice.

#### **6.4 Emergency Repairs**

6.4.1 An "Emergency Repair Situation" is defined as the existence of any condition that requires prompt repair, replacement or service to minimize the impact of an event or situation which affects, Lessee's ability to conduct business in a neat, clean, safe and functional environment.

6.4.2 If Lessee notifies Lessor of an Emergency Repair Situation which occurs in or about the Project which is the responsibility of the Lessor to repair or maintain, then Lessor shall commence appropriate repairs or maintenance immediately after notice of the condition is given by Lessee, which notice may be via telephone, facsimile, personal contact or any other means, and Lessor shall thereafter diligently pursue to completion said repairs or maintenance.

6.4.3 If Lessor fails to commence diligent pursuit to complete said repairs within twenty-four (24) hours of the aforementioned notice, or if the Lessee is unable to contact Lessor or any designated agent within a reasonable time based upon the

seriousness of the event or situation, Lessee may, but shall not be so obligated to, cause said repairs to be made or such maintenance to be performed. Upon demand by Lessee, Lessor shall promptly reimburse Lessee, the action cost and expenses thereof, provided said costs and expenses are reasonable. Should Lessor fail to reimburse the cost and expenses within thirty (30) days from receipt of Lessee's written demand for reimbursement, Lessee may deduct and offset that amount from Rent payable under this Lease.

## **7. Alterations and Additions**

### **7.1 Lessor.**

7.1.1 Lessor shall complete the Improvements in accordance with Exhibit "D," subject to the provisions of the Improvement Allowance.

7.1.2 Lessor recognizes and understands that any improvements requested by Lessee, during the term of the Lease, may be subject to the provisions contained in the California Labor Code (commencing with section 1720) relating to general prevailing wage rates and other pertinent provisions therein.

7.1.3 Lessor shall comply and stay current with all applicable building codes and laws as amended from time to time, including but not limited to, the Americans with Disabilities Act.

### **7.2 Alterations:**

7.2.1 Any alterations, improvements or installation of fixtures to be undertaken by Lessee shall have the prior written consent of Lessor after the Lessee has submitted plans for any such proposed alterations, improvements or fixtures to Lessor in writing. Such consent shall not be unreasonably withheld, conditioned or delayed by Lessor.

7.2.2 All alterations and improvements made, and fixtures installed, by or on behalf of the Lessee shall remain Lessee's property and may be removed by or prior to the expiration of this Lease; provided, however, that such removal does not cause injury or damage to the Premises. Lessee shall not be required to remove any alterations at the expiration of the Lease unless Lessor has notified Lessee in writing at the time installation of such alterations that those alteration must be removed at the expiration of the Lease. If Lessee desires not to remove any such alterations, improvements or fixtures at the expiration of this Lease and Lessor approves Lessee's desire, in writing, which approval Lessor may deny in its sole discretion, such alterations, improvements and/or fixtures will become the property of Lessor.

## **8. Exculpation, Indemnification, and Insurance.**

8.1 **Exculpation.** To the fullest extent permitted by law, Lessor, on its behalf and on behalf of Lessor Parties as hereinafter defined, knowingly and voluntarily, waives

all claims (in law, equity, or otherwise) against Lessee Parties, as hereinafter defined arising out of any of the following: (1) injury to or death of any person; or (2) loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses, and consequential or resulting damage of any kind caused by Lessor Parties' acts, errors, omissions or negligence, and Lessor, on behalf of Lessor Parties, agrees that Lessee Parties shall not be liable to Lessor Parties for any of the above-referenced claims.

**8.1.1 Definition of "Lessee Parties" and "Lessor Parties."** Lessee Parties shall mean and refer to the Judicial Council of California, The Administrative Office of the Courts, and the Superior Court of California, County of Stanislaus and their respective officers, agents and employees. The term "Lessor Parties" refers singularly and collectively to Lessor and the partners, venturers, trustees, and ancillary trustees of Lessor and the respective officers, directors, shareholders, members, parents, subsidiaries, and any other affiliated entities, personal representatives, executors, heirs, assigns, licensees, beneficiaries, agents, servants, employees, and independent contractors of these persons or entities.

**8.1.2 Survival of Exculpation.** Section 8 shall survive the expiration or earlier termination of this Lease until all claims within the scope of this section 8 are either concluded by Lessor, or are fully, finally, and absolutely barred by the applicable statutes of limitations.

**8.1.3 Lessor's Acknowledgement of Fairness.** Lessor acknowledges that this section 8 was negotiated with Lessee, that the consideration for it is fair and adequate, and that Lessor had a fair opportunity to negotiate, accept, reject, modify, or alter it.

**8.2 Lessor's Indemnification of Lessee.** To the fullest extent permitted by law, Lessor shall, at Lessor's sole expense and with legal counsel reasonably acceptable to Lessee, indemnify, defend, and hold harmless Lessee from and against all claims, as defined in section 8.2.1 caused by Lessor's act, error, omission or negligence or by its guests or licensees of Lessor, including without limitation any claim arising from Lessor's failure to comply with the Applicable Requirements or from any breach or inaccuracy of Lessor's representations or warranties contained in sections 2.2, 2.2.1, 2.2.2, 2.3 and 2.4.

**8.2.1 Definition of Claims.** For purposes of this Lease, "claims" means any and all claims, losses, costs, damage, expenses, liabilities, liens, actions, causes of action, alleged violations of any Disability Accessibility Laws (whether in tort or contract, law or equity, or otherwise), charges, assessments, fines, and penalties of any kind (including consultant and expert expenses, court costs, and attorney fees actually incurred).

**8.2.2 Type of Injury or Loss.** This indemnification extends to and includes claims for: (1) injury to any persons (including death at any time resulting from that

injury); (2) loss of, injury or damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage, or destruction); or (3) all economic losses and consequential or resulting damage of any kind.

**8.2.3 Active or Passive Negligence; Strict Liability.** The indemnification in section 8.2 shall apply regardless of the active or passive negligence of Lessor and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on Lessor. The indemnification in section 8.2 shall not apply to the extent that a final judgment of a court of competent jurisdiction establishes that a claim against Lessee was proximately caused by the willful misconduct, fraud, gross negligence, willful injury to person or property caused by a Lessee Party. In that event, however, this indemnification shall remain valid for all other Lessee Parties.

**8.2.4 Indemnification Independent of Insurance Obligations.** The indemnification provided in this section 8.2 may not be construed or interpreted as in any way restricting, limiting, or modifying Lessor's insurance or other obligations under this Lease and is independent of Lessor's insurance and other obligations. Lessor's compliance with the insurance requirements and other obligations under this Lease shall not in any way restrict, limit, or modify Lessor's indemnification obligations under this Lease.

**8.2.5 Attorney Fees.** The prevailing party shall be entitled to recover its actual attorney fees and court costs incurred in enforcing the indemnification clauses set forth in this section 8.

**8.2.6 Survival of Indemnification.** Section 8 shall survive the expiration or earlier termination of this Lease until all claims against Lessee involving any of the indemnified matters are either concluded by Lessor or fully, finally, and absolutely barred by the applicable statutes of limitations.

**8.2.7 Duty to Defend.** Lessor's duty to defend Lessee Parties is separate and independent of Lessor's duty to indemnify and to hold harmless Lessee Parties. The duty to defend includes claims for which Lessee Parties may be liable without fault or strictly liable. The duty to defend applies regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of Lessee Parties have been determined. The duty to defend applies immediately, regardless of whether Lessee Parties have paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any claims. It is the express intention of the Parties that Lessee Parties be entitled to obtain summary adjudication or summary judgment regarding Lessor's duty to defend Lessee Parties at any stage of any claim or suit within the scope of this section 8. Notwithstanding the above, the duty to defend applies to claims whose proximate cause is the Project, including the maintenance for any and all of them; however, for all other claims, the duty to defend applies to claims caused by Lessor's acts, errors, omissions or negligence.

**8.3 Insurance.** Without limiting or diminishing any indemnification contained within this Lease, Lessor and/or their authorized representatives, including a property management company, if any, shall procure and maintain or cause to be maintained, at its sole cost and expense, the insurance coverage required in sections 8.3.1, 8.3.2, 8.3.3, and 8.3.4, during the term of this Agreement. With respect to the insurance coverage required pursuant to sections 8.3.2 and 8.3.3 of the Lease, such policies shall name the Judicial Council of California; Administrative Office of the Courts; and the Superior Court of California, County of Stanislaus and their respective officers, agents, and employees as Additional Insureds.

**8.3.1 Workers' Compensation.** Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident.

**8.3.2 Commercial General Liability.** Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury for covering bodily injury, property damage, and personal injury arising out of or relating, directly or indirectly, to the design, construction, maintenance, repair, alteration and ownership of the Project and all areas appurtenant thereto including claims which may arise from or out of Lessor's operations, use, and management of the Project, or the performance of its obligations hereunder. Policy shall name the Lessee, its directors, officers, employees, agents, independent contractors or representatives as Additional Insureds. Policy limits of liability shall not be less than \$2,000,000 per occurrence. If such insurance contains a general aggregate limit of liability, it shall apply separately to this Lease or be no less than two (2) times the per occurrence limit of liability. The insurance policy shall also provide for \$5,000 Medical Payments limit of liability and Damage to Premises Rented limit of liability of not less than \$100,000.

**8.3.3 Vehicle Liability.** If Lessor's vehicles or licensed mobile equipment are used on the Project, or used in any manner on or in the parking areas, or near or on the landscaped areas of the Project, then Lessor shall maintain auto liability insurance for all owned, non-owned or hired automobiles in an amount not less than \$1,000,000 per occurrence combined single limit.

**8.3.4 Property (Physical Damage).** All-Risk insurance coverage, including equipment breakdown insurance, for the full replacement cost value of the Project. The equipment breakdown insurance shall provide coverage for at least, but not limited to, all high voltage electrical and rotating mechanical equipment on a full replacement cost value basis. The insurance shall provide Business Interruption, Extra Expense, and Expediting Expense coverage as well as coverage to cover and minimize any covered loss resulting from interruption of off-premises electrical power. The Policy shall name the Judicial Council of California; Administrative Office of the Courts; and the Superior Court of California, County of Stanislaus as insureds and where appropriate, joint loss payees.



### **8.3.5 General Insurance Provisions - All lines.**

(a) Any insurance company providing Lessor's insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A-: VIII (A-: 8) unless such requirements are waived, in writing, by the Lessee's Risk Manager. If the Lessee's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and then only for the current policy term.

(b) The Lessor or Lessor's insurance company (ies) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$100,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the Lessee's Risk Manager before the commencement of the Lease term. Upon notification of deductibles or self insured retentions which are deemed unacceptable to the Lessee, at the election of the Lessee's Risk Manager, Lessor's insurance companies shall either; 1) reduce or eliminate such deductibles or self-insured retentions as respects this Lease with the Lessee, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The Lessor shall cause their insurance company (ies) to furnish the Lessee with 1) a properly executed original Certificate(s) of Insurance and certified original copies of endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the Lessee's Risk Manager, provide certified copies of policies including all endorsements and all exhibits thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant that the insurance company (ies) shall provide no less than thirty (30) days written notice be given to the Lessee prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Lease may be terminated by Lessee, unless the Lessee receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and exhibits thereto evidencing coverage and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance company to do so on its behalf, shall sign the original endorsements for each policy and the Certificate of Insurance.

(d) It is understood and agreed by the parties hereto and the Lessor's insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the Lessee's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory insurance.

(e) Lessor agrees to require its insurer issuing the insurance described in this section 8.3 to waive any rights of recovery that such insurer may have against Lessee.

8.4 **Lessee Insurance.** Notwithstanding anything in this Lease which may state or imply anything to the contrary, Lessor acknowledges and accepts that Lessee does not maintain commercial insurance coverage for motor vehicle and/or general liability claims.

## 9. **Damage and Destruction**

9.1 **Repair of Damage.** Lessee agrees to notify Lessor in writing promptly of any damage to the Project resulting from fire, earthquake, or any other identifiable event of a sudden, unexpected, or unusual nature ("**Casualty**"). If the Project is damaged by a Casualty, or the Casualty results in the Project not being provided with Base Building Systems or parking facilities (if applicable) and if neither Lessor nor Lessee has elected to terminate this Lease under this section 9, Lessor shall promptly and diligently restore the Project to the same condition as existed before the Casualty, subject to modifications required by building codes and other laws. If Lessee requests that Lessor make any modifications to the Project in connection with the rebuilding, Lessor may condition its consent to those modifications on: (a) confirmation by Lessor's contractor that the modifications shall not increase the time needed to complete the Project; or (b) an agreement by Lessee that the additional construction period shall not extend the rent abatement period, or (c) the costs of an additional construction shall be paid by Lessee.

9.2 **Repair Period Notice.** Lessor shall within thirty (30) days after the date of the Casualty, provide written notice to Lessee indicating the anticipated period for repairing the Casualty ("**Repair Period Notice**"). The Repair Period Notice shall be accompanied by a certified statement executed by the contractor retained by Lessor to complete the repairs or, if Lessor has not retained a contractor, a licensed contractor not affiliated with Lessor, certifying the contractor's opinion about the anticipated period for repairing the Casualty. The Repair Period Notice shall also state, if applicable, Lessor's election either to repair or to terminate the Lease under section 9.3.

9.3 **Lessor's Option to Terminate or Repair.** Lessor may elect either to terminate this Lease or to effectuate repairs if: (a) the Repair Period Notice estimates that the period for repairing the Casualty exceeds one hundred twenty (120) days from the date of the Casualty; or (b) the estimated repair cost of the Project, even though covered by insurance, exceeds fifty percent (50%) of the full replacement cost.

9.4 **Lessee's Option to Terminate.** If the Repair Period Notice provided by Lessor indicates that the anticipated period for repairing the Casualty exceeds one hundred twenty (120) days, Lessee may elect to terminate this Lease by providing written notice ("**Lessee's Termination Notice**") to Lessor within thirty (30) days after receiving the Repair Period Notice. If Lessee does not elect to terminate within this thirty (30) day period; Lessee shall be considered to have waived the option to terminate.

9.5 **Rent Abatement Due to Casualty.** Lessor and Lessee agree that the Lessee's Rent shall be fully abated during the period beginning on the later of: (a) the date of the Casualty; or (b) the date on which Lessee ceases to occupy the Premises and

ending on the date of substantial completion of Lessor's restoration obligations as provided in this section 9 ("Abatement Period"). If, however, Lessee is able to occupy and does occupy a portion of the Premises, Rent shall be abated during the Abatement Period only for the portion of the Premises not occupied by Lessee.

**9.6 Damage Near End of Term.** Despite any other provisions of this section 9, if the Premises are destroyed or damaged by a Casualty during the last eighteen (18) months of the original Lease Term, Lessor and Lessee shall each have the option to terminate this Lease by giving written notice to the other of the exercise of that option within thirty (30) days after that damage or destruction, provided, however, Lessee may negate Lessor's election to terminate under this section 9.6 by electing, within ten (10) days after receipt of Lessor's termination notice, to exercise any unexercised option to extend this Lease. If Lessee negates Lessor's election, this Lease shall continue in effect unless Lessor has the right to, and elects to, terminate this Lease under section 9.3.

**9.7 Effective Date of Termination; Rent Apportionment.** If Lessor or Lessee elects to terminate this Lease under this section 9 in connection with a Casualty, this termination shall be effective thirty (30) days after delivery of notice of such election. Lessee shall pay Rent, properly apportioned up to the date of the Casualty. After the effective date of the termination, Lessor and Lessee shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms survive the expiration or earlier termination of the Lease.

**9.8 Waiver of Statutory Provisions.** The provisions of this Lease, including those in this section 9 constitute an express agreement between Lessor and Lessee that applies in the event of any Casualty to the Project. Lessor and Lessee, therefore, fully waive the provisions of any statute or regulation, for any rights or obligations concerning a Casualty including California Civil Code sections 1932(2) and 1933(4).

## **10. Estoppel Certificates**

**10.1 Obligation to Provide Estoppel Certificates.** Lessee shall upon not less than fifteen (15) business days prior written notice from Lessor, execute, acknowledge, and deliver to Lessor a statement in writing certifying the following information: (i) that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as modified, is in full force and effect); (ii) the dates to which the rental and other charges are paid in advance, if any; (iii) the amount of Lessee's security deposit, if any; and (iv) acknowledging that there are not, to Lessee's knowledge, any uncured defaults on the part of the Lessor hereunder, and no events or conditions then in existence which, with the passage of time or notice or both, would constitute a default on the part of Lessor hereunder, or specifying such defaults, events or conditions, if any are claimed. It is expressly understood and agreed that any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Project.

**10.2 Additional Requested Documents or Instruments.** Lessee shall not be required to provide any other documents, instruments, or other estoppel forms whether required by an existing or prospective lender, mortgagee, or purchaser of the Project.

## **11. Subordination, Non-Disturbance, and Attornment**

This Lease is subject and subordinate to all existing ground or underlying leases, mortgages, and deeds of trust which affect the Project, including all renewals, modifications, consolidations, replacements and extensions thereof; provided, however, if the holder or holders of any such mortgage or deed of trust shall advise Lessor that they desire or require this Lease to be prior and superior thereto, upon written request of Lessor to Lessee, Lessee agrees to promptly execute, acknowledge and deliver any and all documents or instruments which Lessor or such Lessor, holder or such holders deem necessary or desirable for purposes thereof. Lessor shall have the right to cause this Lease to be and become and remain subject and subordinate to any mortgages or deeds of trust which may hereafter be executed covering the Premises, the Project or any renewals, modifications, replacements or extensions thereof, for the full amount of all advances made or to be made thereunder and without regard to the time or character of such advances, together with interest thereon and subject to all the terms and provisions thereof, however, Lessor must obtain from the lender or other party in question a written undertaking in favor of Lessee to the effect that such lender or other party will not disturb Lessee's right of possession under this Lease if Lessee is not then or thereafter in breach of any covenant or provision of this Lease. Lessee agrees, within twenty (20) business days after Lessor's written request therefore, to execute, acknowledge and deliver upon request any and all documents or instruments reasonably requested by Lessor or reasonably necessary or proper to assure the subordination of this Lease to any such mortgages, deed of trust, or leasehold estates. Lessee agrees that in the event any proceedings are brought for the foreclosure of the mortgage or deed of trust, or any deed in lieu thereof, to attorn to the purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof as so requested to do so by such purchaser and to reorganize such purchaser as the lessor under this Lease; Lessee shall, within twenty (20) business days after request execute such further instruments or assurances as such purchaser may reasonably deem necessary to evidence or confirm such attornment.

## **12. Breach by Lessor**

**12.1 Lessor's Default.** Except as provided to the contrary in this Lease, Lessor's failure to perform any of its obligations under this Lease shall constitute a default by Lessor under the Lease if the failure continues for thirty (30) days after written notice of the failure from Lessee to Lessor. If the required performance cannot be completed within thirty (30) days, Lessor's failure to perform shall constitute a default under the Lease unless Lessor undertakes to cure the failure within thirty (30) days and diligently and continuously attempts to complete this cure as soon as reasonably possible.

**12.2 Lessee's Right to Cure Lessor's Default and Deduct Cost.** Except as provided to the contrary in this Lease, if Lessee provides written notice to Lessor of

Lessor's failure to perform any of its obligations under this Lease and Lessor fails to provide such action as required by the terms of this Lease within the period specified, Lessee may take the required action if: (a) Lessee delivers to Lessor an additional written notice advising Lessor that Lessee intends to take the required action if Lessor does not begin the required action within ten (10) days after the written notice; and (b) Lessor fails to begin the required action within this ten (10) day period.

**12.3 Rent Setoff.** If, within thirty (30) days after receipt of Lessee's written demand for payment of Lessee's costs incurred in taking such action on Lessor's behalf, Lessor has not paid the invoice or delivered to Lessee a detailed written objection to it, Lessee may deduct from Rent payable by Lessee under this Lease the amount set forth in the invoice.

### **13. Miscellaneous**

**13.1 Quiet Enjoyment.** Lessor covenants that Lessee shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the use of the Premises so long as Lessee shall fully and faithfully perform the terms and conditions that it is required to do under this Lease.

**13.2 Non Waiver.** No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver by a party of any provision of this Lease must be in writing. Such written waiver shall affect only the provision specified and only for the time and in the manner stated in the writing.

**13.3 Binding on Successors.** The terms and conditions herein contained shall apply to and bind the heirs, successors in interest, executors, administrators, representatives and assigns of all the Parties hereto.

**13.4 Severability.** The invalidity of any provision in this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

**13.5 Attorney's Fees.** In the event of any litigation or arbitration between Lessor and Lessee to enforce any of the provisions of this Lease or any right of either party hereto, the unsuccessful party to such litigation or arbitration agrees to pay to the successful party all costs and expenses, including reasonable attorneys' fees, incurred therein by the successful party, all of which shall be included in and as a part of the judgment rendered in such litigation or arbitration.

**13.6 Lessee's Representative.** Lessee hereby appoints its Portfolio Administrative Analyst as its authorized representative to administer this Lease.

**13.7 Agent for Service of Process.** It is expressly understood and agreed that in the event Lessor is not a resident of the State of California or it is an association or partnership without a member or partner resident of the State of California, or it is a

foreign corporation, then in any such event, Lessor shall file with Lessee's Representative upon its execution hereof, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Lease, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon Lessor. It is further expressly understood and agreed that if for any reason service of such process upon such agent is not feasible, then in such event, Lessor may be personally served with such process and that such service shall constitute valid service upon Lessor. It is further expressly understood and agreed that Lessor is amenable to the process so served, submits to the jurisdiction of the court so obtained and waives any and all objections and protests thereto.

**13.8 Entire Lease.** This Lease is intended by the Parties as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous leases, agreements and understandings, oral or written, in connection therewith. This Lease may be changed or modified only upon the written consent of the Parties hereto.

**13.9 Interpretation.** The Parties have negotiated this lease at arms length and have been advised by their respective attorneys, or if not represented by an attorney, represent that they had an opportunity to be so represented and no provision contained herein shall be construed against Lessee solely because it prepared this Lease in its executed form.

**13.10 Recording.** Either Lessor or Lessee shall, upon request of the other, execute, acknowledge, and deliver to the other a short form memorandum of this Lease for recording purposes. The Party requesting recordation shall be responsible for payment of any fees applicable thereto.

**13.11 Consent.** Whenever Lessor's or Lessee's consent is required under any provision of this Lease, it shall not be unreasonably withheld, conditioned or delayed.

**13.12 Title.** Lessor covenants that Lessor is well seized of and has good title to the Project, and the Lessor does warrant and will defend the title thereto, and will indemnify Lessee against any damage and expense which Lessee may suffer by reason of any lien, encumbrance, restriction, or defect in title or description herein of the Project. If, at any time Lessor's title or right to receive Rent and any other sums due hereunder is disputed, Lessee may withhold such sums thereafter accruing until Lessee is furnished satisfactory evidence as to the Party entitled thereto.

**13.13 Surrender.** Lessee shall, after the last day of the term of any extension thereof or upon any earlier termination of such term, surrender and yield up to Lessor the Premises in good order, condition and state of repair, reasonable wear and tear excepted. Subject to section 7.2.2, Lessee may: (a) patch or paint any walls/surfaces; (b) remove any leasehold improvements constructed or installed prior to or during the term of this

Lease or any extension thereof; or (c) remove any fixtures of equipment installed prior to or during the term of this Lease or any extension thereof, (d) implement repairs to the Premises caused by removal of same.

**13.14 Notice.** Except as expressly provided elsewhere in this Lease, all notices and other communication required under this Lease shall be in writing and delivered by: (a) Certified Mail, postage prepaid, return receipt requested, in the United States mail; or (b) to the Party hereto to whom the same is directed at the addresses set forth in section 1.6 herein. A Party hereto may from time to time change its mailing address by written notice to the other Party.

**13.15 Authority.** If Lessor is a corporation, general or limited partnership or individual owner, each individual executing this Lease on behalf of said corporation, partnership or individual represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with bylaws of said corporation, or as a partner or individual is authorized to execute this Lease and that this Lease is binding upon said corporation and/or partnership or individual.

**13.16 Approval of Lessee.** Anything to the contrary notwithstanding, this Lease shall not be binding or effective until its approval by the Lessee.

**13.17 Confidential Records:** Lessor acknowledges that Lessee will maintain and store confidential records within the Premises. Lessor will take all reasonable and practical measures to ensure that such records are kept confidential including without limitation, requiring all Lessor vendors who have access to the Premises to post a fidelity bond in the sum of \$100,000.00 and to provide evidence of that bond to Lessee prior to occupancy of Premises by Lessee.

**13.18 DOJ and DMV Requirements.** Notwithstanding anything in this Lease to the contrary, Lessor must comply with background check and clearance requirements set forth in the policies, procedures, practices, as revised, of the California Department of Justice ("DOJ") and the California Department of Motor Vehicles ("DMV") with respect to any employee or representative of Lessor or Lessor's vendors who may have physical access to any area in the Premises which is either connected to, or contains records from, the any DOJ criminal computer database, including, without limitation, the California Law Enforcement Telecommunications System (CLETS) and the Criminal Offender Record Information (CORI), or the DMV computer database (collectively the "Databases"). Lessor will coordinate with the Court regarding any necessary background checks and clearances which may be required by the DOJ or the DMV, and if necessary, the Court will conduct the background checks and notify Lessor if the employee is approved to have access to areas in the Premises which are either connected to, or contain records from, the Databases, or with the Court's written consent, Lessor may conduct any necessary background checks in lieu of the Court, and provide to the Court, if requested by the Court, suitable documentation evidencing Lessor's completion of any necessary background checks.

**13.19 Security Services.** Lessor will provide security services for the Building and the Project in accordance with the specifications attached to this Lease as Exhibit "E." Subject to the terms and conditions of section 7 of this Lease and with Lessor's prior written approval, Lessee shall have the right to install or upgrade any security system within the Premises including, without limitation, an alarm system or key card system. Any system(s) installed or upgraded must be compatible with and not interfere with the operation of the Building's security system and the Lessor's rights of access to the Premises provided in the Lease.

**13.20 Disabled Veterans.** To the extent required by law, Lessor shall comply with all Disabled Veteran Business Enterprise (DVBE) requirements including any participation goals or good faith efforts, as the case may be, as required by Military and Veterans Code section 999 et seq. with respect to any services, materials or supplies provided under this Lease. If required by law, efforts to include DVBEs as part of the services, materials or supplies under this Lease shall continue throughout the Lease term and any extensions or renewals thereof. Lessor agrees to provide Lessee or its designees with any requested relevant supporting documents and to maintain such documents for a period of three (3) years after final payment under this Lease. DVBE resources can be found at: <http://www.pd.dgs.ca.gov/dvbe/default.htm>, or by calling the Office of Small Business and DVBE Services at (916) 375-4940.

**13.21 Signage.**

**13.21.1 Identification Signs.** If not already present, Lessee may, at Lessee's sole expense, install identification signs (including its logo) anywhere in the Common Areas of the Project, including the elevator lobby of the Building, subject to the following requirements:

(a) Lessee must obtain Lessor's prior written approval for such signs, which Lessor may not unreasonably withhold, condition or delay; and

(b) All signs must be in keeping with the quality, design, and style of the Building.

**13.21.2 Lobby Directory.** Lessor shall, at Lessor's sole expense, provide and maintain through the Lease term a directory in the lobby of the Building exclusively for the names and suite numbers of tenants in the Building. At Lessee's sole discretion, Lessee may opt out of the directory by giving Lessor written notice of its election to opt out.

**13.22 No Acceleration of Rent.** Lessor shall not under any circumstance have the right to accelerate any Rent that falls due in future rental periods or otherwise declare any Rent not then in default to be immediately due and payable.



**14. Execution**

**14.1 Execution.** The Parties hereto have executed this Lease at the place and/or the dates specified below their respective signature.

**APPROVED AS TO FORM:**

Administrative Office Of The Courts,  
Office Of The General Counsel

**JUDICIAL COUNCIL OF CALIFORNIA,  
ADMINISTRATIVE OFFICE OF THE  
COURTS**

By: \_\_\_\_\_  
Name: Kenneth S. Levy  
Title: Attorney

By: \_\_\_\_\_  
Name: Grant Walker  
Title: Business Services Manager

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

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

**CITY TOWER GROUP, LLC**

By: \_\_\_\_\_  
Name: Allen Beebe  
Title: \_\_\_\_\_

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

# Exhibit B

Building Plan		Building ID: 50-G1		801 Tenth Street, Modesto, CA		Exhibit B		7/31/2007					
Expenses		2007-08	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	TOTAL- All Fiscal Years
Rent including janitorial:		\$184,175	\$411,027	\$422,201	\$436,058	\$449,140	\$462,614	\$476,492	\$490,787	\$505,511	\$520,676	\$284,387	\$4,643,068
Excess TI Costs		\$983,849											\$983,849
Moving Expenses		\$296,950											\$296,950
<b>TOTAL</b>		<b>\$1,464,974</b>	<b>\$411,027</b>	<b>\$422,201</b>	<b>\$436,058</b>	<b>\$449,140</b>	<b>\$462,614</b>	<b>\$476,492</b>	<b>\$490,787</b>	<b>\$505,511</b>	<b>\$520,676</b>	<b>\$284,387</b>	<b>\$5,923,867</b>
Revenues		Sources											
FY 06-07 New Judgeships (ongoing)			\$186,168	\$186,168	\$186,168	\$186,168	\$186,168	\$186,168	\$186,168	\$186,168	\$186,168	\$186,168	\$1,861,680
FY 06-07 New Judgeships (one-time)													\$592,956
CCF Settlement			\$872,018	\$38,327	\$49,518	\$63,391	\$76,490	\$89,579	\$103,877	\$118,190	\$132,933	\$148,118	\$1,692,844
Courthouse Construction Fund (County to transfer to Court)			\$186,532	\$186,515	\$186,499	\$186,482	\$186,464	\$186,447	\$186,429	\$186,410	\$186,390	\$98,219	\$1,776,387
<b>TOTAL</b>		<b>\$1,464,974</b>	<b>\$411,027</b>	<b>\$422,201</b>	<b>\$436,058</b>	<b>\$449,140</b>	<b>\$462,614</b>	<b>\$476,492</b>	<b>\$490,787</b>	<b>\$505,511</b>	<b>\$520,676</b>	<b>\$284,387</b>	<b>\$5,923,867</b>
TCTF= Trial Court Trust Fund													
AOC/CFARF=AOC/ Court Facilities Architectural Revolving Fund													

**Exhibit B**

**Public Facility Fee Breakdown**

## Public Facility Fees

<b>Funding Granted (06/07)</b>	682,000.00
<b>Expenditures allowed:</b>	
Furniture, Fixtures and Equip	474,088.00
Data Communications & Security	177,912.00
PA System	30,000.00
<b>Total Expenditures</b>	682,000.00
<b>Net</b>	0.00

Prepared by: Rfleming  
Date: 08.20.07

Security refers to Siemens rather than entrance screening. (per LRS 08.21.07)

**Exhibit C**

**Revised Funding Plan, February 2009**

**Stanislaus - New Judgeship Facility (SB 56, 2006)**  
**801 10th Street, 4th Floor, Modesto, California**  
**Revised Funding Plan as of February 2009**

Leased Facility, 14,826 rsf, 10 yr term  
 Lease Term: April 1, 2008 through March 31, 2018

FISCAL YEAR	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-2018	TOTAL ALL FYs
<b>List of Expenditures:</b>													
Rent (full-service)		101,351	408,444	420,697	433,318	446,317	459,707	473,498	487,703	502,334	517,404	396,719	4,647,494
Excess Tenant Improvements (\$45/rsf)		892,686											892,686
A&E Fees		20,000											20,000
FF&E (paid by PFF)		474,088											474,088
Data Communications & Security (paid by PFF)		177,912											177,912
PA System		30,000											30,000
Change Orders		71,491											71,491
Moving Expenses		8,529											8,529
<b>Total Expenditures:</b>	<b>0</b>	<b>1,776,057</b>	<b>408,444</b>	<b>420,697</b>	<b>433,318</b>	<b>446,317</b>	<b>459,707</b>	<b>473,498</b>	<b>487,703</b>	<b>502,334</b>	<b>517,404</b>	<b>396,719</b>	<b>6,322,199</b>
<b>Revenue Source:</b>													
Public Facility Fee Funds		682,000											682,000
FY 06-07 New Judgeship BCP (low-cost option)		101,351	186,168	186,168	186,168	186,168	186,168	186,168	186,168	186,168	186,168	186,168	1,963,031
FY 06-07 New Judgeship BCP (low-cost option)-1x		677,773											677,773
CCF Settlement \$2.117 M (Court Bank Acct.)		306,404	222,276	234,529	247,150	260,149	273,539	287,330	285,621	0	0	0	2,116,998
Trial Court Trust Fund (Court Operations)		8,529											8,529
Courthouse Construction Funds			0	0	0	0	0	0	15,914	316,166	331,236	210,551	873,867
<b>Total Revenue Sources:</b>	<b>0</b>	<b>1,776,057</b>	<b>408,444</b>	<b>420,697</b>	<b>433,318</b>	<b>446,317</b>	<b>459,707</b>	<b>473,498</b>	<b>487,703</b>	<b>502,334</b>	<b>517,404</b>	<b>396,719</b>	<b>6,322,200</b>
Total Expenditures Less Available Revenue:	0	0	0	0	0	0	0	0	0	0	0	0	0

**Tenant Improvement breakdown:**

Demolition contract:	contract:	\$147,182
Construction Contract:		\$1,196,784
Change Orders		\$71,491.34
<b>Total:</b>		<b>\$1,415,457.34</b>
Less Landlord contribution:		\$431,280
<b>Excess Tenant Improvement Cost</b>		<b>\$984,177.34</b>

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BY \_\_\_\_\_

Cook file

JUN -9 PM 2:06

**MEMORANDUM OF UNDERSTANDING**  
**08/50-G1/ Lease 6th Floor**  
**BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,**  
**ADMINISTRATIVE OFFICE OF THE COURTS, THE COUNTY OF**  
**STANISLAUS**  
**AND THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS**  
  
**FOR USE OF COURTHOUSE CONSTRUCTION FUNDS**

This **MEMORANDUM OF UNDERSTANDING** (“MOU”) is entered into as of June 12, 2009 (“Effective Date”), by and between the **Judicial Council of California, Administrative Office of the Courts** (the “AOC”), the **Superior Court of California, County of Stanislaus** (the “Court”) and the **County of Stanislaus** (the “County”). For purposes of this MOU, the AOC and the County are each a “Party” and are sometimes together referred to as the “Parties.”

**BACKGROUND TO AND PURPOSE OF MOU**

A. On April 4, 2007, the County and the Court submitted to the AOC the County Courthouse Construction Fund Request for Approval of Expenditure or Encumbrance (the “CCF Request”) in the amount of \$2,024,682 (“HOR CCF”) to pay for the renovations for the Court at the Hall of Records (“HOR”).

B. On August 6, 2007, the AOC approved the County-Court CCF Request for the above stated expenditure from and future encumbrances of the local Courthouse Construction Funds for renovations in the HOR.

C. On January 31, 2008, the County and the Court submitted to the AOC a CCF Request for Approval of Expenditure or Encumbrance the amount of \$1,999,528 (the “801 6th Floor CCF”) for a 10 year lease at 801 Tenth Street, 6th Floor, Modesto (“6th Floor Lease”).

D. On June 26, 2008, the Court requested that the AOC approve the redirection of HOR CCF towards one-time expenses (e.g. tenant improvements) for the 6th Floor Lease since the HOR project was no longer economically feasible due to unforeseen Title 24 requirements which would have to accompany the proposed HOR project.

E. On July 8, 2008, in a letter to the Court, the AOC approved the Court’s request to redirect the HOR CCF to the one-time expenses for the 6th Floor Lease, and the application of any residual balance of HOR CCF funds towards minor projects in the HOR; and the replenishment of HOR CCF funds when the new judgeships funding



denied in FY 2008-2009 are made available in the FY 2009-2010 (“**CCF Approval Letter**”). The letter, a copy of which is attached as Exhibit “A” also stated that the Court will fund from court operating funds other expenses ineligible for CCF expenditures, such as non-fixed furniture, telecommunications cabling, security and moving expenses. The Court was to submit a court-funded request application to the AOC indicating the composition of all one-time expenses and the sources of these funds.

F. On August 7, 2008, the AOC and the Court entered into a Memorandum of Understanding (“**AOC-Court MOU**”) which set forth the AOC and Court’s agreement to a funding plan for the 6th Floor Lease along with the amounts that the AOC would monthly withhold from the Court’s allocation from the Trial Court Trust Fund pursuant to the funding plan attached to the AOC-Court MOU. A copy of the AOC-Court MOU with all the accompanying exhibits are attached hereto as Exhibit “B.” The Funding Plan attached to the AOC - Court MOU estimated the tenant improvement costs, after the tenant improvement allowance, at \$1,007,215.

G. On August 15, 2008, the AOC and the City Tower Group, LLC, a California limited liability company, as the landlord, entered into the 6th Floor Lease in which the AOC agreed to lease, on behalf of the Court, approximately 10,906 rentable square feet on the 6th floor in the building located at 801 Tenth Street, Modesto, California for a period of ten years.

H. Subsequent to executing the 6th Floor Lease, the landlord completed the tenant improvements and invoiced the AOC for the actual costs of the tenant improvements which equaled \$894,158 after the tenant improvement allowance. A copy of the Revised Funding Plan, dated February 2009, with the actual costs of the tenant improvements is attached hereto as Exhibit “C.”

**NOW, THEREFORE, AOC, the Court and County hereby agree as follows:**

## **AGREEMENT**

### **1. PURPOSE**

This MOU is entered into to memorialize the procedure for the County to follow in disbursing HOR CCF and 801 6th Floor CCF to the Court; and to establish the amount and period of the CCF disbursements from the County to the Court in order that the AOC and the Court may meet its respective obligations under the 6th Floor Lease.

## **2. TERMS**

2.1 The AOC and Court confirm that the County shall redirect the HOR CCF funds towards one-time expenses (e.g. tenant improvements) for the 6th Floor Lease since the HOR project is no longer economically feasible due to unforeseen Title 24 requirements for the proposed HOR project.

2.2 The County acknowledges that the HOR CCF and the 801 6th Floor CCF are two of the sources of revenue with respect to the 6th Floor Lease as set forth in the CCF Approval Letter, and that the AOC and the Court are relying upon those funds to make payments which are due under the 6th Floor Lease.

2.3 The County shall encumber \$4,419,864 for the 6th Floor Lease as follows: \$996,674 in FY 2008-2009; \$310,625 in FY 2009-2010; \$319,943 in FY 2010-2011; \$329,542 in FY 2011-2012; \$339,428 in FY 2012-2013; \$349,611 in FY 2013-2014; \$360,099 in FY 2014-2015; \$370,902 in FY 2015-2016; \$382,029 in FY 2016-2017; \$393,490 in FY 2017-2018, and \$267,521 in FY 2018-2019; and pursuant to the AOC-Court MOU, the AOC will reduce the Court's distribution from the Trial Court Trust Fund in the above-referenced amounts in addition to those other funds (e.g. Court Reserves, etc) for which the AOC will also reduce Court's distribution from the Trial Court Trust Fund pursuant to the AOC-Court MOU.

2.4 On or by July 31 of each fiscal year stated in Section 2.3 of this MOU, the County will disburse in cash or the form of a check to the Court the corresponding CCF fund amounts as referenced in section 2.3 of this MOU for that particular fiscal year.

## **3. EFFECTIVE DATE AND TERMINATION**

This MOU will become effective on the Effective Date, and will remain in effect until the Lease is terminated or expires.

## **4. EFFECT OF TERMINATION**

Notwithstanding any expiration or termination of this MOU, all payment obligations under this MOU incurred prior to expiration or termination of this MOU will survive.

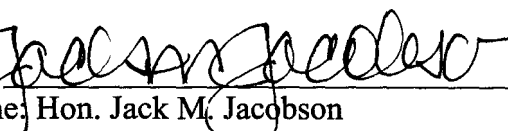
## **5. NO AMENDMENT OR MODIFICATION TO AOC-COURT MOU**

This MOU does not amend or modify the AOC-Court MOU, and all the provisions in the AOC-Court MOU shall remain in full force and effect.

**6. COUNTERPARTS**

This MOU may be executed in one or more counterparts, all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties hereto have executed this MOU as of the Effective Date.

<p>APPROVED AS TO FORM: Administrative Office of the Courts, Office of the General Counsel</p> <p>By:  Name: Melvin Kennedy Title: Managing Attorney, REU Unit Date: 06-09-09</p>	<p><b>JUDICIAL COUNCIL OF CALIFORNIA, ADMINISTRATIVE OFFICE OF THE COURTS</b></p> <p>By:  Name: William C. Vickery Title: Administrative Director of the Courts Date: 6-12-09</p>
<p>APPROVED AS TO FORM County of Stanislaus</p> <p>By:  Name: Jack Doering Title: County Counsel Date: 5/14/09</p>	<p><b>COUNTY OF STANISLAUS, a political subdivision of the State of California</b></p> <p>By:  Name: Jim DeMartini Chairman, Board of Supervisors Date: MAY 19 2009</p>
	<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS</b></p> <p>By:  Name: Hon. Jack M. Jacobson Presiding Judge</p>

**Exhibit "A"**

**CCF Approval Letter**



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BY \_\_\_\_\_

**Judicial Council of California** JUN 10 AM 11:05  
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688  
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

RONALD M. GEORGE  
*Chief Justice of California*  
*Chair of the Judicial Council*

WILLIAM C. VICKREY  
*Administrative Director of the Courts*

RONALD G. OVERHOLT  
*Chief Deputy Director*

July 8, 2008

Hon. Donald E. Shaver  
Presiding Judge of the Superior Court of California,  
County of Stanislaus  
800 11th Street, Room 100  
Modesto, California 95353

Re: Stanislaus County Request for Approval of Courthouse Construction Fund  
Expenditure and Encumbrances (50-CCF007)

Dear Presiding Judge Shaver:

Thank you very much for your letter of June 26, 2008. I am pleased to hear that negotiations for additional lease space at the City Tower facility are progressing so that you may advance your goal of consolidating all civil judges in the county under one roof.

I understand from your letter that the previously approved expenditure of \$2,024,682 in local Courthouse Construction Funds (CCFs) to renovate the Hall of Records facility is no longer sufficient because of unforeseen title 24 requirements for the project. I appreciate the resourcefulness of the court in requesting that the county redirect those CCFs toward one-time expenses for the City Tower lease project and that any residual balance of funds be applied toward minor projects in the Hall of Records.

Also, we remain hopeful that new judgeship funding denied in fiscal year 2008–2009 will be made available in the FY 2009–2010 and that if and when this should be approved, CCF expenditures for this project may be replenished.

I am pleased to let you know that staff has verified that adequate CCFs are and will be in place to fund tenant improvement, fixed furniture and equipment costs, and ongoing rent for the City

Hon. Donald E. Shaver  
July 8, 2008  
Page 2

Tower project. Other expenses, such as non-fixed furniture, telecommunications cabling, security and moving expenses are ineligible for CCF expenditure. These costs have been preliminarily estimated to be as high as \$500,000 (to be further clarified with the court); court operating funds would be required to pay for these (a court-funded request would need to be approved by the AOC). Staff has correctly expressed concern that other encumbrances on these court operating funds may be required, such as budget reductions and administrative infrastructure funding assessments. While I approve the CCF redirection, the AOC cannot guarantee sufficient project funds are available.

I understand that you are preparing a court-funded request application to submit to the AOC delineating the composition of all one-time expenses, including furniture (i.e., fixed, which is covered by CCFs, and non-fixed, which is not), telecommunications-related costs, security and moving expenses, and how the Court will be able to support these needs.

Thank you again for your leadership and cooperation with the AOC's Regional Office and Office of Court Construction and Management in planning ahead for this important project. We look forward to continue working with the court on this and other projects for the benefit of the court and in service to the residents of Stanislaus County through improved court facilities.

Sincerely,



William C. Vickrey  
Administrative Director of the Courts

WCV/bh

cc: Hon. Jack M. Jacobson, Assistant Presiding Judge, Superior Court of Stanislaus County  
Mr. Michael A. Tozzi, Executive Officer, Superior Court of Stanislaus County  
Ms. Linda Romero-Soles, Chief Deputy Executive Officer, Superior Court of Stanislaus County  
Mr. Ronald G. Overholt, AOC Chief Deputy Director  
Ms. Jody Patel, Regional Administrative Director, AOC Northern/Central Regional Office  
Mr. Stephen Nash, Director, AOC Finance Division  
Ms. Kim Davis, Director, AOC Office of Court Construction and Management  
Mr. Melvin Kennedy, Managing Attorney, AOC Office of the General Counsel  
Mr. John Judnick, Manager, AOC Finance Division  
Ms. Eunice Calvert-Banks, Manager, AOC Office of Court Construction and Management  
Ms. Gisele Corrie, Manager, AOC Office of Court Construction and Management

Hon. Donald E. Shaver  
July 8, 2008  
Page 3

Ms. Rona Rothenberg, Manager, AOC Office of Court Construction and  
Management

Ms. Lin Velarde, Senior Real Estate Analyst, AOC Office of Court Construction and  
Management

Ms. Lisa Hinton, Project Manager, AOC Office of Court Construction and  
Management

Ms. Felicia Cheatham, Administrative Coordinator, AOC Office of Court Construction  
and Management

**Exhibit "B"**

**AOC - Court MOU**



**MEMORANDUM OF UNDERSTANDING**  
**08/50-G1/011L 6th Floor**  
**BETWEEN THE JUDICIAL COUNCIL OF CALIFORNIA,**  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
**AND THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS**  
  
**FOR COSTS OF COURT FACILITY SPACE**

This **MEMORANDUM OF UNDERSTANDING** (“MOU”) is entered into as of August 7, 2008 (“Effective Date”), by and between the **Judicial Council of California, Administrative Office of the Courts** (the “AOC”) and the **Superior Court of California, County of Stanislaus** (the “Court”). For purposes of this MOU, the AOC and the Court are each a “Party” and are sometimes together referred to as the “Parties.”

**BACKGROUND TO AND PURPOSE OF MOU**

A. Court desires to have the AOC lease 10,906 rentable square feet of Court space at 801 Tenth Street, Modesto, California (“Premises”) from City Tower Group, LLC (“Lessor”) as described in the lease (“Lease”) attached as Exhibit “A” to this MOU and incorporated herein.

B. AOC enters this MOU based on the understanding from the Court that the purpose and need for the Premises is to accommodate judicial and court support positions created after July 1, 1996 (Government Code §70311), and that these are positions for which the County of Stanislaus is not responsible to provide space.

C. The AOC and the Court have jointly agreed to a Funding Plan for the Lease which is attached hereto as Exhibit “B” to this MOU and incorporated herein. The Funding Plan sets forth the Lease costs which are to be paid through reductions from the Trial Court Trust Fund (“Fund”).

D. This MOU sets forth the respective responsibilities of the AOC and Court in complying with the terms of the Lease and establishes the payment procedure for the Parties to follow.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, AOC and Court hereby agree as follows:

## **AGREEMENT**

### **1. AOC RESPONSIBILITIES**

1.1 AOC will make all payments and conduct maintenance as may be required under the Lease.

1.2 AOC will give timely notice to Court of any change in status of the Lease such as termination, extension, or future amendments.

1.3 AOC Finance Division, Office of Budget Management will comply with the procedure for monthly reductions from the Fund in accordance with Section 3 herein, and will notify Court of the monthly distribution deductions.

1.4 AOC Office of Court Construction and Management will monitor expenditures from the Fund in accordance with Section 1.1 and make available copies of supporting detail upon request of court.

### **2. COURT RESPONSIBILITIES**

2.1 Court will comply with all Lease terms that relate to the use of the Premises.

2.2 Court will give AOC timely notice of (1) any event at or upon the Premises which could give rise to a claim or liability to either Court or AOC; (2) any act or omission of Court that results in, or could result in, a breach of the Lease by either the AOC or Lessor; (3) any act or omission that requires action by AOC in accordance with the Lease; or (4) any notice relating to the Lease received by Court from Lessor.

2.3 Court will reflect the monthly reduction from the Fund gross distribution, consistent with Section 3 herein, as non-cash revenue and as expenditure in the Court's financial records.

2.4 Court will remain responsible for obtaining and paying for any services relating to the Premises which are allowable Court costs under California Rules of Court Rule 10.810 (e.g. perimeter security) and which are not provided by the Lessor pursuant to the terms of the Lease. Specifically, the Court will utilize Courthouse Construction Funds (CCF) up to \$112,000 to purchase and install office furniture, furnishings, and PA System (collectively "FFE") as shown in Exhibit "C" attached herein. To this end, the Court will enter into an agreement with the County of Stanislaus regarding reimbursing the Court from the CCF for any expenditure by the Court for the FFE ("County Agreement").

2.5 Court acknowledges that local Courthouse Construction Funds ("CCF") are one of the sources of revenue with respect to the Lease as set forth in the Funding Plan, and that it is the responsibility of the Court to take whatever action is necessary to ensure that the County of Stanislaus timely transfers any necessary funds from the CCF to the Court so that the Court will have sufficient funds when the AOC reduces the Court's distribution from the Fund in accordance with section 3 of this MOU. The Court accepts all risks with respect to the County's failure to transfer funds from the CCF to the Court.

2.6 Court will coordinate with the Lessor regarding compliance with background check and clearance requirements which may be required by the policies, procedures, practices (collectively "Policies") of the California Department of Justice ("DOJ") and the California Department of Motor Vehicles ("DMV") with respect to any employee of Lessor or Lessor's vendors who may have physical access to any area in the Premises which is either connected to, or contains records from, the DOJ criminal computer database (now known as the California Law Enforcement Telecommunications System) or the DMV computer database (collectively the "Databases"). If required by the Policies, Court will conduct any necessary background checks and notify Lessor if the employee is approved to have access to areas in the Premises which are either connected to, or contain records from, the Databases. Court will be responsible for ensuring compliance with the Policies, including, without limitation, maintaining any suitable documentation evidencing compliance with the Policies with respect to employees of Lessor and Lessor's vendors.

### **3. MONTHLY REDUCTION FROM TRIAL COURT TRUST FUND DISTRIBUTION**

With respect to those items in the Funding Plan, AOC will reduce the Court's distribution from its annual allocation from the Fund for the applicable period set forth in the Funding Plan. With respect to one-time and extraordinary expenses relating to the Lease such as tenant improvement expenses, furniture and equipment, those costs will be paid and deducted from the Court's distribution from the Fund after AOC's Office of Court Construction and Management's consultation with Court, and the written approval of the Court through its Presiding Judge or the Presiding Judge's designee.

### **4. EFFECTIVE DATE AND TERMINATION**

This MOU will become effective on the Effective Date, and will remain in effect until the Lease is terminated or expires.

### **5. EFFECT OF TERMINATION**

Notwithstanding any expiration or termination of this MOU, all payment obligations under this MOU incurred prior to expiration or termination of this MOU will survive.


**6. COUNTERPARTS**


This MOU may be executed in one or more counterparts, all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties hereto have executed this MOU as of the Effective Date.

**JUDICIAL COUNCIL OF CALIFORNIA,  
ADMINISTRATIVE OFFICE OF THE  
COURTS**


**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF STANISLAUS**

By:   
Grant Walker  
Senior Manager, Business Services

By:   
Name: Hon. Donald E. Shaver  
Presiding Judge

**APPROVED AS TO FORM:**

Administrative Office of the Courts,  
Office of General Counsel

By:   
Name: Kenneth S. Levy  
Title: Attorney

Date: 8/19/08

**Exhibit A**

**Copy of Lease**  
(see attached)

Exhibit B: Funding Plan		Building ID: 50-G1		8/12/2008										
Expenditures		2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	TOTAL- All Fiscal Years	
Rent (including janitorial, with 3% annual increase):														
July - February			\$205,033	\$211,184	\$217,519	\$224,045	\$230,766	\$237,689	\$244,820	\$252,164	\$259,729	\$267,521		
March - June		\$102,516	\$105,592	\$108,760	\$112,022	\$115,383	\$118,845	\$122,410	\$126,082	\$129,865	\$133,761	\$0		
Subtotal:		\$102,516	\$310,625	\$319,943	\$329,542	\$339,428	\$349,611	\$360,099	\$370,902	\$382,029	\$393,490	\$267,521	\$3,525,707	
TI Costs (after TI allowance)		\$1,007,215											\$1,007,215	
Other - One-time (see list below)		\$356,100											\$356,100	
<b>TOTAL</b>		<b>\$1,465,831</b>	<b>\$310,625</b>	<b>\$319,943</b>	<b>\$329,542</b>	<b>\$339,428</b>	<b>\$349,611</b>	<b>\$360,099</b>	<b>\$370,902</b>	<b>\$382,029</b>	<b>\$393,490</b>	<b>\$267,521</b>	<b>\$4,889,022</b>	
Revenues		Sources												
CCF (County to Transfer to Court)		TCTF	\$1,109,731	\$310,625	\$319,943	\$329,542	\$339,428	\$349,611	\$360,099	\$370,902	\$382,029	\$393,490	\$267,521	\$4,532,922
Court Reserves		TCTF	\$356,100											\$356,100
<b>TOTAL</b>			<b>\$1,465,831</b>	<b>\$310,625</b>	<b>\$319,943</b>	<b>\$329,542</b>	<b>\$339,428</b>	<b>\$349,611</b>	<b>\$360,099</b>	<b>\$370,902</b>	<b>\$382,029</b>	<b>\$393,490</b>	<b>\$267,521</b>	<b>\$4,889,022</b>
TCTF = Trial Court Trust Fund														
CCF = Court Construction Fund														

Funding Plan

Exhibit B

OTHER - One-time	
Tables/Chairs Breakroom	\$1,500
Jury Room chairs - task chairs (12)	\$2,400
Attorney seats	\$4,500
Counsel Tables (1 ctm)	\$3,000
Break room appliances	\$700
Fax machines (2)	\$400
Small copiers (2)	\$2,500
Interview room furniture/jury tables	\$9,000
Audio visual	\$80,000
IT expenses (2 Ctms)	\$180,100
Seimens (Security)	\$35,000
Screening Stations (Security)	\$37,000
<b>Total</b>	<b>\$356,100</b>

**Exhibit C**

<b>6<sup>th</sup> Floor – City Towers</b>	
<b>CCF Detail – FF&amp;E</b>	
	<b>CCF Expense</b>
<b>4 cubicles</b>	<b>20,000</b>
<b>File Shelving</b>	<b>8,000</b>
<b>Lobby seating</b>	<b>7,000</b>
<b>Courtroom theater seating/Jury chairs</b>	<b>47,000</b>
<b>PA System</b>	<b>30,000</b>
<b>TOTAL</b>	<b>112,000</b>



**Judicial Council of California  
Administrative Office of the Courts  
Office of Court Construction and Management  
455 Golden Gate Avenue, San Francisco, CA 94102-3688**

For the benefit of: Superior Court of California, County of Stanislaus

Location of Premises: 801 Tenth Street, Suite 600, City Tower, Modesto, CA

---

**LEASE AGREEMENT**

---

**1. Basic Provisions**

1.1. **Parties.** This Lease ("Lease") dated August 4, 2008, which date is for reference purposes is made by and between the Judicial Council of California, Administrative Office of the Courts, for the benefit of the Superior Court of California, Stanislaus County, hereinafter referred to as "Lessee" and City Tower Group, LLC, a California limited liability company hereinafter referred to as "Lessor," Lessee and Lessor hereinafter collectively referred to as the "Parties" or individually as a "Party."

1.2. **Premises.** The premises include approximately 10,906 rentable square feet/8,896 usable square feet of space in the building located at 801 Tenth Street, Modesto, CA ("**Building**") as shown on the floor plan attached hereto as Exhibit "A-1" and incorporated herein, including, all improvements therein or to be provided by Lessor to Lessee under the terms of this Lease ("**Premises**"). The actual square footage of the Premises will be determined by Lessor using Building Owners and Managers Association International Standard Method for Measuring Floor Area in Office Building, ANSI Z65.1-1996 ("BOMA Standard") after the Premises are Substantially Completed. If Lessor or Lessee determines pursuant to BOMA Standard, that the number of square feet of the Premises is different from the amount set forth above, the Parties will execute an Addendum within ten (10) days following the Commencement Date that adjusts the actual square footage of the Premises, all amounts and percentages referred to in this Lease to conform to the corrected measurements.

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Area, as defined in section 2.5, and as specified in section 2.6. The Premises, the Building, the Common Areas, and the land upon which they are located, are herein collectively referred to as the "**Project**".



Lessee shall also have the right to the following parking: (a) 11 reserved parking spaces (including 2 secured parking spaces for use by the Judges of the Court) at the locations shown on the parking plan attached hereto as Exhibit "A-2" and incorporated herein; and (b) an additional 6 unreserved parking spaces, to be provided at Lessor's sole expense, in the City of Modesto Parking Lot which location is identified on the map attached hereto as Exhibit "A-3" and incorporated herein.

1.3. **Original Term.** This Lease shall be effective upon the date of its execution, but its term shall be for a period of ten (10) years ("**Original Term**") commencing March 1, 2009 ("**Commencement Date**") and ending on April 30, 2019 ("**Expiration Date**") subject to early termination, early occupancy or any options to extend, if any, as set forth in section 3 of this Lease.

1.4. **Rent.**

1.4.1. **Rent.** Lessee will pay to Lessor in arrears on the last day of each month, beginning on the last day of the first full month following the Commencement Date the following amounts as in accordance with the terms of this Lease.

Lease Month	Monthly Installment of Rent
1 through 12	\$25,629.10
13 through 24	\$26,397.97
25 through 36	\$27,189.91
37 through 48	\$28,005.61
49 through 60	\$28,845.78
61 through 72	\$29,711.15
73 through 84	\$30,602.49
85 through 96	\$31,520.56
97 through 108	\$32,466.18
109 through 120	\$33,440.16

Rent for any partial month shall be prorated based on the actual number of days of the month. The base rent shall not be subject to adjustment for increases in Operating Expenses, insurance and real estate taxes during the Term or the Extended Term. Operating expenses means all costs and expenses incurred by Lessor in connection with the maintenance, operation, replacement, ownership and repair of the Building, including, without limitation, salaries, wages, payroll taxes, fringe benefits, employment taxes, personal property taxes on tools and equipment used to maintain the Building, workers' compensation, uniforms for all persons who perform duties connected with the operation, maintenance, and repair of the Building, its equipment, cabling and wiring, adjacent walks and landscaped areas, including janitorial, ground maintenance,

security, parking, heating, ventilating, air conditioning, liability and all other insurance carried by Lessor, the cost of all building and cleaning supplies and materials, the costs of all charges for cleaning, maintenance and service contracts with independent contractors, administration fees, parking fees, property management fees, and any license, permits and inspection fees.

**1.4.2. Brokers.** William E. Bacon of CB Richard Ellis is the Lessee's Broker for the purposes of this Lease. Lee & Associates is the Lessor's Broker for the purposes of this Lease. Lessor, at its sole costs and expense, shall pay to CB Richard Ellis and Lee & Associates brokerage fees on a 50-50 basis per the Listing Agreement.

**1.4.3. Manner of Payment.** All rent shall be payable by State of California warrants or any other warrant from any account utilized by Lessee. A failure to pay any amount that constitutes Rent shall not be considered an event of default under the Lease unless Lessee fails to pay such Rent within ten (10) business days after written notice that the same is due, owing, and payable under the Lease. An event of default shall not occur if Lessee is unable to pay any Rent because of the State of California's failure to timely approve and adopt a State budget. If Lessee fails to pay Rent as a result of the State of California's failure to timely approve and adopt a State budget, Lessee shall promptly pay any previously due and unpaid Rent upon approval and adoption of the State budget.

**1.5. Use.** The Premises are for the purpose of use as general office and civil court room use by the Superior Court of California, County of Stanislaus ("Court") and for no other purpose without Lessor's prior written consent, which may not be unreasonably withheld, conditioned or delayed. However, the Premises may not be used for the handling, conducting or hearing of any criminal proceedings, and Lessor's disapproval of such uses shall be deemed reasonable.

**1.6. Notices.**

**1.6.1. Lessee's Notification Address.**

Notwithstanding any provision to the contrary contained in the Lease, all notices required or permitted to be given to Lessee under the Lease shall be addressed to Lessee as follows:

Administrative Office of the Courts  
Office of Court Construction and Management  
Attn: Portfolio Administration Analyst  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Telephone: 415-865-4040  
Fax: 415-865-8885

with a copy to: Administrative Office of the Courts  
Office of Court Construction and Management  
Attn: Manager, Real Estate Unit  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Telephone: 415-865-4048  
Fax: 415-865-8885

In addition, all notices relating to termination of the Lease or an alleged breach or default by Lessee must also be sent to:

Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Attention: Senior Manager, Business Services  
Telephone: 415-865-7978  
Fax: 415-865-4326

All notices and correspondence to Lessee must reference the address of the Premises and the name of the entity occupying the Premises.

**1.6.2. Lessor's Notification Address.**

City Tower Group, LLC  
Allen Beebe  
801 Tenth Street, Suite 500  
Modesto, CA 95354

**1.7. Lease Provisions Control.** In the event of any conflict between a provision in this "Basic Provisions" and any other provision in this Lease, the latter shall control.

**2. Premises Condition**

**2.1. Condition.** On the Commencement Date, Lessor shall deliver the Premises to Lessee in a broom clean and safe condition, free of hazards and debris with all "**Improvements**" "**Substantially Complete**" as those terms are defined in Exhibit "D" (collectively "**Delivery Condition**"), and Lessor warrants that all systems and equipment, including, but not limited to, electrical, plumbing, fire sprinkler, fire suppression system, fire/life/safety system, elevators, security, systems, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, if any, that serve the Premises and the Building and all other such elements in the Building (herein collectively defined as the "**Base Building Systems**"), other than those installed or constructed by

Lessee, shall be in safe, hazard free, good operating condition, and, the structural elements of the roof, bearing walls and foundation of the Building shall be free of material defect. The Project in its entirety shall be in similar condition when the Premises are so delivered.

2.2. **Compliance.** Lessor warrants and represents that the Premises, the Improvements in the Premises and the Project comply with all applicable State and Federal laws, covenants or restrictions of record, building codes, regulations and ordinances ("**Applicable Requirements**") in effect on the Commencement Date of this Lease, regardless of the use to which Lessee will put the Premises. If the Premises and the Project do not comply with said warranty, Lessor shall, promptly after receipt of written notice from Lessee or any governmental agency having jurisdiction over such matters setting forth the nature and extent of such non-compliance, rectify the same at Lessor's expense. If the Applicable Requirements are hereinafter changed so as to require during the term of this Lease, unless same is the result of the use to which Lessee puts the Premises, the construction of an addition to or an alteration of the Premises and the Project, the remediation of any Hazardous Substance as hereinafter defined, or the reinforcement or other physical modification of the Premises and the Project, Lessor shall, promptly after receipt of written notice from Lessee or any governmental agency having jurisdiction over such matters setting forth the nature and extent of such non-compliance, rectify the same at Lessor's expense.

2.2.1. Hazardous Substance shall be defined as any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials, is either (a) potentially injurious to the public health, safety or welfare, the environment or the Project; (b) regulated or monitored by any governmental authority; or (c) a basis for potential liability of Lessee to any governmental agency or third party under any applicable statute or common law theory.

2.2.2. Lessor warrants and represents the Premises and the Project shall be readily accessible to and usable by individuals with disabilities in compliance with Disability Accessibility Laws (defined below) in effect on the Commencement Date. Any cost incurred to cause the Premises or the Project to comply with the Disability Accessibility Laws in effect on the Commencement Date shall be borne by Lessor; and any cost incurred to cause the Premises to comply with changes to the Disability Accessibility Laws after the Commencement Date shall be borne by Lessee. Any costs incurred to cause the Building and/or the Common Areas to comply with the Disability Accessibility Laws in effect on the Commencement Date and as amended from time to time thereafter shall be borne by the Lessor.

2.3. "**Disability Accessibility Laws**" shall include, but not be limited to, Title II of the Americans with Disabilities Act, 42 U.S.C. sections 12131 et seq., the Americans with Disabilities Act Architectural Guidelines, 28 C.F.R. pt. 36, app. A, those provisions

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of the California Government Code relating to Access to Public Buildings by Physically Handicapped Persons, including California Government Code sections 4450-4461 et. seq., the accessibility provisions of then-applicable editions of the California Building Code, currently codified at California Code Regs., Title 24, sections 1101B.1 *et seq.*, the Unruh Civil Rights Act, California Civil Code section 51 et seq., and the Disabled Persons Act, California Civil Code section 54 et seq.

**2.4. Sick Building Syndrome.** Lessor warrants and represents the Premises and the Project shall be constructed, operated and maintained to avoid elevated levels of certain hazards, including, but not limited to: carbon dioxide, spores, fungus, molds, bacteria, chemicals or fumes or other causes of any hazardous micro-environments, also known as "Sick Building Syndrome," emanating from or within the Premise or the Project that may cause bodily injury, sickness or death. Any cost incurred to cause the Premises or the Project to eliminate or control such hazard shall be borne by Lessor.

**2.5. Asbestos.** Lessor warrants and represents the Premises and the Project has been, and will continue to be, constructed, operated and maintained free of hazard from asbestos, as more fully set forth in Exhibit "B" attached hereto and incorporated herein.

**2.6. Common Areas.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Building that are for the general non-exclusive use of Lessor, Lessee, and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors, and invitees, including parking areas, loading and unloading zones, trash areas, roadways, walkways, driveways, and landscaped areas.

**2.7. Lessee's Rights-Common Areas.** Lessor grants to Lessee, for the benefit of Lessee and the Court along with their employees, suppliers, shippers, customers, contractors, and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as same may from time to time exist; provided, however, Lessee shall not have any right to use any portion of the 5<sup>th</sup> and 7<sup>th</sup> floors, or the exterior walls of the Building and these areas of the Building shall not be considered Common Areas under the terms of this Lease. Lessor shall have the right to promulgate reasonable rules and regulations for the management, safety, care, and cleanliness of the Common Areas. Any change to the Common Areas, which may adversely affect Lessee, as said Common Areas exist upon the Commencement Date shall be subject to the approval of Lessee.

**2.8. First Refusal Right for Additional Space in Building.** Lessor grants to Lessee a right of first refusal ("First Refusal Right") with respect to all or any portion of space in the Building ("First Refusal Space") during the Original Term or any Extended Term. Prior to leasing any vacant space in the Building to any tenant, Lessor shall

provide Lessee with written notice ("First Refusal Notice") which sets forth the size, location and layout of the First Refusal Space. If Lessee provides written notice within sixty (60) days after receipt of the First Refusal Notice that Lessee will lease the First Refusal Space, Lessor and Lessee shall execute amendment to this Lease within thirty (30) days for the First Refusal Space containing the terms and conditions of this Lease except as follows: (a) The initial rent for First Refusal Space Rent Rate shall be at the per square foot amount for the Premises in effect in this Lease at the time of occupancy of the First Refusal Space and future rents shall be based upon the rent schedule set forth in section 1.4.1. of this Lease; (b) a tenant improvement allowance equivalent to the proportionate amount of the original Improvement Allowance based on the remaining lease term (For instance, if the original Tenant Improvement allowance is \$75.00 per square foot and the particular additional space is occupied during the thirty-seventh (37<sup>th</sup>) month of the initial Lease Term, the Expansion Space Tenant Improvement allowance shall be equivalent to 84/120 times \$75 per square foot or \$52.00 per square foot); and (c) the term of the First Refusal Space shall be coterminous with the term for the Premise under this Lease, including any extensions thereof.

2.9. **Access.** Lessee shall have access to the Premises, the Common Area, including all building elevators, and the parking facilities 24 hours a day, 365 days per year.

### 3. Term

3.1. **Early Occupancy.** Lessor agrees that if the Premises are ready for occupancy prior to the Commencement Date set forth in section 1.3 of this Lease, Lessee may elect to occupy the Premises on the earliest date practical after its receipt of written notice from Lessor that the Improvements are Substantially Completed. The Rent payable for any such early occupancy ("Early Occupancy Period") by Lessee shall be at the initial rate and prorated on a daily basis for any partial month and payable in arrears. In the event that Lessee occupies the Premises prior to the Commencement Date set forth in section 1.3 of this Lease, the Original Term of the Lease shall be extended by the length of the Early Occupancy Period.

3.2. **Delay In Delivery of Premises.** Lessee shall not, except as otherwise provided herein, be obligated to pay rent or perform any other obligation of Lessee under the terms of this Lease until Lessor delivers possession of the Premises to Lessee in Delivery Condition. If possession of the Premises is not delivered to Lessee in Delivery Condition within thirty (30) days after the Commencement Date, Lessee may, at its option, by notice in writing to Lessor within ten (10) days after the end of said thirty (30) day period, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder, provided further, however, that if such written notice of Lessee is not received by Lessor within said ten (10) day period, Lessee's right to cancel this Lease hereunder shall terminate and be of no further force or effect. If possession of the

Premises is not delivered to Lessee in Delivery Condition by the Commencement Date, and Lessee does not terminate this Lease, as aforesaid, the Original Term of the Lease shall commence upon the date Lessor deliver possession in Delivery Condition and continue for a period equal to the period during which the Lessee would have otherwise enjoyed under the terms hereof, but minus any days of delay caused by the acts, changes or omissions of Lessee

**3.3. Lessee's Right to Early Termination.** The Lessee may terminate the Lease any time after the end of the sixtieth (60<sup>th</sup>) month of the Term upon one hundred twenty (120) days prior written notice to Lessor. In the event that Lessee elects to terminate the Lease according to this section 3.3, Lessee will not be obligated to pay any type of termination penalty.

**3.4. Option to Extend Term.** Lessor grants to Lessee two (2) options to extend the Lease term ("**Extension Option**"). The Extension Option(s) shall be for a period of five (5) years each ("**Extended Term**"), subject to the conditions described in this section 3.4.

**3.4.1. Exercise.** The Extension Option(s) may be exercised by Lessee delivering to Lessor notice thereof no later than 9 months prior to the expiration of the Original Term or any extension thereof.

**3.4.2. Rent for Extended Term.** The Rent for the Extended Term shall be adjusted on the date of the commencement of the Extended Term and on each successive anniversary thereafter ("**Adjustment Date**"), by the lesser of (i) the amount calculated by multiplying the current Rent by the percentage difference which the CPI (defined below) increased or decreased utilizing the most recent CPI of the Adjustment Date year and the CPI from the same month of the prior year; or (ii) the amount calculated by multiplying the current Rent by five percent (5 %). The Lessor will calculate the rental adjustment and provide Lessee written notice of the adjusted Rent at least forty-five (45) days prior to when the adjusted Rent is due, and Lessee shall not be obligated to pay the adjusted Rent until Lessee receives at least (20) days written notice from Lessor of the adjusted Rent.

The CPI utilized hereunder shall be the Consumer Price Index (Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose Metropolitan Area (1982-1984 = 100) as published by the United States Department of Labor, Bureau of Labor Statistics, or the successor of such index ("**CPI**"). If the CPI or the successor index is changed so that the base year differs from that in effect on the Commencement Date, the CPI or successor index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. In the event that compilation and/or publication of the CPI shall be transferred to any other governmental department or agency or shall be discontinued,

then the index most nearly the same as the CPI shall be used to for purposes of adjusting the Rent.

3.4.3. All terms and conditions of this Lease with exception of Lease Term shall remain in full force and effect during the Extended Term, subject to modification upon mutual consent of the parties.

**3.5. Right of First Refusal to Extend Lease Term.** If the term of this Lease is extended by the Parties for each of the two options to extend provided in section 3.4, Lessee shall have a right of first refusal to lease the Premises at the end of the second Extended Term. This right of first refusal shall expire on the sixtieth (60<sup>th</sup>) day preceding the last day of the second Extended Term. In the event Lessor receives, prior to the expiration of Lessee's right of first refusal, a bona fide offer from a third party to lease the Premises at the end of the second Extended Term, which offer is acceptable to Lessor, Lessor shall promptly notify Lessee in writing of the offer, including: a) the amount of the rent; b) the square footage and area of the proposed premises if different square footage than this Lease; and (c) the proposed term. Lessee shall have thirty (30) business days within which to notify Lessor in writing whether Lessee agrees to extend the Lease of the Premises at the offered rent, square footage, and the proposed term as the third party offer. In the event Lessee elects to extend the Lease of the Premises, the parties shall amend this Lease to include the offered rent, the square footage and the proposed term as the third party offer. In the event Lessee fails to give written notice of its election to extend the Lease of the Premises, Lessor shall be free to accept the bona fide offer and lease the Premises to the third party. If the third party fails to lease the Premises and the Premises remains available, Lessee shall have the same right of first refusal granted herein with respect to a bona fide offer to lease the Premises by a subsequent third party offer until its right of first refusal expires.

**3.6. Holding Over.** Any holding over by Lessee after the expiration of said term or any extension thereof shall be deemed a month to month tenancy at one hundred ten percent (110%) of the rental amount then being paid by Lessee for the first six (6) months after said expiration, After six (6) months, the holdover rent will be at one hundred twenty-five percent (125%) of the monthly Rent at the time of the lease expiration.

#### **4. Custodial and Building Services**

**4.1. Custodial Services.** Lessor shall provide, or cause to be provided, and pay for all custodial services to the Premises in accordance with Exhibit "C", attached hereto and by this reference made a part of this Lease. In the event that Lessor does not utilize its own employees to provide the custodial services required herein, Lessor shall ensure that the provider of custodial services post a janitorial services fidelity bond in the sum of \$100,000.00 and provide evidence of the bond to Lessee prior to that provider providing custodial services to the Premises. In addition to bonding as required herein, Lessor shall



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also receive proof of statutory workers' compensation insurance, commercial general liability and Vehicle Liability Insurance from the provider of any custodial services performed in amounts and coverage reasonably acceptable to Lessee.

**4.2. Lessee's Right to Provide Custodial Services and Deduct Cost.** If Lessee provides written notice to Lessor of an event or circumstance that requires the action of Lessor with respect to the custodial services as set forth in section 4.1 and Lessor fails to provide such action as required by the terms of this Lease within three (3) days of Lessee's notice, Lessee may take the required action if (1) Lessee delivers to Lessor an additional written notice advising Lessor that Lessee intends to take the required action if Lessor does not begin the required action within forty-eight (48) hours after the written notice; and (2) Lessor fails to begin the required work within this forty-eight (48) hour period. Upon written demand by Lessee, Lessor shall promptly reimburse Lessee the actual cost and expenses thereof, provided said costs and expenses are reasonable. Should Lessor fail to promptly pay the cost and expenses, Lessee may deduct and offset that amount from Rent payable under this Lease. For purposes of this section, notice given by fax or e-mail shall be deemed sufficient.

**4.3. Building Services.**

**4.3.1. Basic Services.** Lessor, at Lessor's sole cost and expense, agrees to furnish to the Premises and Building, the following services, utilities, and supplies: (i) air conditioning and heat all in such reasonable quantities as reasonably necessary for the comfortable occupancy of the Premises, from 7:30 a.m. to 5:30 p.m. Mondays through Fridays and upon request and not to exceed twelve (12) times during each twelve (12) month period commencing upon Lessee's occupancy of the Premises, 9:00 a.m. to 1:00 p.m. on Saturdays excepting local and national holidays; (ii) adequate electric current for normal lighting and normal office machines, elevator service, and (iii) hot and cold water on the same floor as the Premises for lavatory and drinking purposes as reasonably necessary for Lessee's use under this Lease and in compliance with Applicable Requirements.

**4.3.2. Additional Electrical Service.** If Lessee requires electric current in excess of that which Lessor is obligated to furnish under section 4.3.1 above, Lessee must first obtain the written consent of Lessor, which Lessor may only refuse to give for a commercially viable reason. Additionally, Lessor may cause an electric current meter or submeter to be installed in or about the Premises to measure the amount of any such excess electric current consumed by Lessee in the Premises. The cost of any such meter and of installation, maintenance and repair thereof shall be paid for by Lessee and Lessee agrees to pay to Lessor, no later than thirty (30) days after Lessee's receipt of an invoice or copy of the utility bill from Lessor, for all excess electric current consumed by any such use as shown by said meter at the rates charged for such service by the local governmental agency or public utility, as applicable.

**4.3.3. After-Hour HVAC Service.** If Lessee requires heating, ventilation, and/or air conditioning for human occupancy purposes during times other than the times provided in section 4.3.1 above, Lessee shall give Lessor advance notice as Lessor shall reasonably require and shall pay Lessor a fee for such after-hours use equal to five dollars (\$5.00) per hour December through March and six dollars (\$6.00) per hour April through November. In addition to the foregoing, Lessor acknowledges that Lessee will be using and maintaining computer and electronic equipment in certain offices within the Premises which must remain on at all times and may require twenty-four (24) hour cooling and ventilation, and Lessor agrees to reasonably cooperate with Lessee to provide sufficient after-hours air conditioning to such office suites to ensure the continued operation of such equipment subject to Lessee's reimbursement to Lessor of Lessor's actual costs.

**4.3.4. Telecommunications.** Upon request from Lessee from time to time, Lessor will provide Lessee with a listing of telecommunications and media service providers serving the Project and Lessee (including the Court) shall have the right to contract directly with the providers of its choice. If Lessee (including the Court) wishes to contract with or obtain service from any provider which does not currently serve the Project, or wishes to obtain services from an existing carrier which will require the installation of additional equipment, Lessor agrees to allow Lessee (including the Court) and/or the provider to install necessary telecommunications cabling or equipment at the Project at Lessee's cost, as long as the proposed service will not unreasonably interfere with or interrupt services of other tenants in the Building. All such installations shall be subject to Lessor's prior written approval, which shall not be unreasonably withheld or delayed, and shall be performed in accordance with the terms of section 7 of this Lease or **Exhibit "D"**, if such installations are Improvements.

**4.3.5. Abatement.** Notwithstanding anything to the contrary contained in this Lease, if Lessee is prevented from using, and does not use, the Premises or any portion thereof, or if Lessee's ability to conduct its operations from the Premises is materially impaired for more than one (1) day as a result of (i) any repair, alteration or maintenance work performed by Lessor for which Lessor failed to timely perform and which was required to be performed by Lessor under this Lease, or (ii) any failure to provide services to the Premises, and such failure was not caused directly or indirectly by the negligence of Lessee, its employees, agents or visitors, guests, invitees or licensees (collectively, an "**Abatement Event**"), then Lessee shall give written notice of such Abatement Event to Lessor. If an Abatement Event occurs, then all Rent shall be abated or reduced for such time that Lessee continues to be so prevented from using, and does not use, the Premises or a portion thereof or parking areas (to the extent the inability to use said parking areas prevents Lessee from being able to use the Premises), in the proportion that the rentable area of the portion of the Premises that Lessee is prevented from using, and does not use, bears to the total rentable area of the Premises, provided that Rent shall be abated completely if the portion of the Premises or the parking areas that Lessee is prevented from using, and does not use, is so significant as to make it

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impractical for Lessee to conduct its business in the Premises and Lessee does not, in fact, for that reason, conduct its business in the Premises.

## **5. Utilities**

5.1. Lessor warrants and represents to Lessee that during the term of this Lease and any extension thereof that sufficient utility services to provide water, telecommunications, electric power, natural gas and sewers necessary to meet Lessee requirements exists or are available for use by Lessee within the Premises.

5.2. Lessee shall pay for all telephone services used in connection with the Premises. Lessor shall provide, or cause to be provided, and pay for all other utility services, including, but not limited to, water, natural gas, electrical, refuse collection and sewer services, as may be required in the maintenance, operation and use of the Premises.

## **6. Repairs and Maintenance**

6.1. **Lessor's Repair and Maintenance Obligations.** Lessor shall, at Lessor's sole expense and in accordance with the terms of this Lease, repair and maintain in good order and condition (reasonable wear and tear excepted): (a) the structural portions of the Building; (b) the nonstructural portions of the Building, including but not limited to, all improvements, alterations, fixtures, but excluding furnishings; (c) all systems and equipment, including but not limited to, Base Building Systems as heretofore described that serve the Premises and the Building; and (d) the exterior portions of the Project, including, but not limited to, landscaping, driveways, sidewalks, lighting and parking facilities servicing the Premises and the Project if applicable.

6.2. **Lessor's Default.** Repairs shall be made promptly when appropriate to keep the applicable portion of the Premises, the Project and other items in the condition described in this section 6. Lessor shall not be in default of its repair and maintenance obligations under this section 6, if Lessor performs the repairs and maintenance within thirty (30) days after written notice by Lessee to Lessor of the need for such repairs and maintenance. If, due to the nature of the particular repair or maintenance obligation, more than thirty (30) days are reasonably required to complete it, Lessor shall not be in default under this section 6 if Lessor begins work within this thirty (30) day period and diligently prosecutes this work to completion.

6.3. **Lessee's Right to Make Repairs and Deduct Cost.** If Lessee provides written notice to Lessor of an event or circumstance that requires the action of Lessor with respect to the repairs or maintenance to the Premises or Base Building Systems serving the Premises as set forth in section 6.1 and Lessor fails to provide such action as required by the terms of this Lease within the period specified in section 6.2, Lessee may take the required action if: (1) Lessee delivers to Lessor an additional written notice

advising Lessor that Lessee intends to take the required action if Lessor does not begin the required repair or maintenance within ten (10) days after the written notice or commence diligent pursuit of the repair, and (2) Lessor fails to begin the required work within this ten (10) day period.

6.3.1. Lessor grants to Lessee a license, effective during the Lease Term, to enter upon those portions of the Premises and the Project which is reasonably necessary for Lessee to take such action under section 6.3.

6.3.2. If such action was required under the terms of this Lease to be taken by Lessor, Lessee shall be entitled to prompt reimbursement by Lessor of Lessee's reasonable costs and expenses in taking such action. Lessor's obligation to reimburse Lessee shall survive expiration or earlier termination of this Lease.

6.3.3. If, within thirty (30) days after receipt of Lessee written demand for payment of Lessee's costs incurred in taking such action on Lessee's behalf, Lessor has not paid the invoice or delivered to Lessee a detailed written objection to it, Lessee may deduct from Rent payable by Lessee under this Lease the amount set forth in the invoice.

#### **6.4. Emergency Repairs.**

6.4.1. An "Emergency Repair Situation" is defined as the existence of any condition that requires prompt repair, replacement or service to minimize the impact of an event or situation which affects, Lessee's ability to conduct business in a neat, clean, safe and functional environment.

6.4.2. If Lessee notifies Lessor of an Emergency Repair Situation which occurs in or about the Project which is the responsibility of the Lessor to repair or maintain, then Lessor shall commence appropriate repairs or maintenance immediately after notice of the condition is given by Lessee, which notice may be via telephone, facsimile, personal contact or any other means, and Lessor shall thereafter diligently pursue to completion said repairs or maintenance.

6.4.3. If Lessor fails to commence diligent pursuit to complete said repairs within twenty-four (24) hours of the aforementioned notice, or if the Lessee is unable to contact Lessor or any designated agent within a reasonable time based upon the seriousness of the event or situation, Lessee may, but shall not be so obligated to, cause said repairs to be made or such maintenance to be performed. Upon demand by Lessee, Lessor shall promptly reimburse Lessee, the action cost and expenses thereof, provided said costs and expenses are reasonable. Should Lessor fail to reimburse the cost and expenses within thirty (30) days from receipt of Lessee's written demand for reimbursement, Lessee may deduct and offset that amount from Rent payable under this Lease.

## **7. Alterations and Additions**

### **7.1. Lessor.**

7.1.1. Lessor shall complete the Improvements in accordance with Exhibit "D", subject to the provisions of the Improvement Allowance.

7.1.2. Lessor recognizes and understands that any improvements requested by Lessee, during the term of the Lease, may be subject to the provisions contained in the California Labor Code (commencing with section 1720) relating to general prevailing wage rates and other pertinent provisions therein.

7.1.3. Lessor shall comply and stay current with all applicable building codes and laws as amended from time to time, including but not limited to, the Americans with Disabilities Act.

### **7.2. Alterations.**

7.2.1. Any alterations, improvements or installation of fixtures to be undertaken by Lessee shall have the prior written consent of Lessor after the Lessee has submitted plans for any such proposed alterations, improvements or fixtures to Lessor in writing. Such consent shall not be unreasonably withheld, conditioned or delayed by Lessor.

7.2.2. All alterations and improvements made, and fixtures installed, by or on behalf of the Lessee shall remain Lessee's property and may be removed by or prior to the expiration of this Lease; provided, however, that such removal does not cause injury or damage to the Premises. Lessee shall not be required to remove any alterations at the expiration of the Lease unless Lessor has notified Lessee in writing at the time installation of such alterations that those alteration must be removed at the expiration of the Lease. If Lessee desires not to remove any such alterations, improvements or fixtures at the expiration of this Lease and Lessor approves Lessee's desire, in writing, which approval Lessor may deny in its sole discretion, such alterations, improvements and/or fixtures will become the property of Lessor.

## **8. Exculpation, Indemnification, and Insurance.**

8.1. **Exculpation.** To the fullest extent permitted by law, Lessor, on its behalf and on behalf of Lessor Parties as hereinafter defined, knowingly and voluntarily, waives all claims (in law, equity, or otherwise) against Lessee Parties, as hereinafter defined arising out of any of the following: (1) injury to or death of any person; or (2) loss of, injury or damage to, or destruction of any tangible or intangible property, including the resulting loss of use, economic losses, and consequential or resulting damage of any kind caused by Lessor Parties' acts, errors, omissions or negligence, and Lessor, on behalf of

Lessor Parties, agrees that Lessee Parties shall not be liable to Lessor Parties for any of the above-referenced claims.

**8.1.1. Definition of "Lessee Parties" and "Lessor Parties".** Lessee Parties shall mean and refer to the Judicial Council of California, The Administrative Office of the Courts, and the Superior Court of California, County of Stanislaus and their respective officers, agents and employees. The term "Lessor Parties" refers singularly and collectively to Lessor and the partners, venturers, trustees, and ancillary trustees of Lessor and the respective officers, directors, shareholders, members, parents, subsidiaries, and any other affiliated entities, personal representatives, executors, heirs, assigns, licensees, beneficiaries, agents, servants, employees, and independent contractors of these persons or entities.

**8.1.2. Survival of Exculpation.** Section 8 shall survive the expiration or earlier termination of this Lease until all claims within the scope of this section 8 are either concluded by Lessor, or are fully, finally, and absolutely barred by the applicable statutes of limitations.

**8.1.3. Lessor's Acknowledgement of Fairness.** Lessor acknowledges that this section 8 was negotiated with Lessee, that the consideration for it is fair and adequate, and that Lessor had a fair opportunity to negotiate, accept, reject, modify, or alter it.

**8.2. Lessor's Indemnification of Lessee.** To the fullest extent permitted by law, Lessor shall, at Lessor's sole expense and with legal counsel reasonably acceptable to Lessee, indemnify, defend, and hold harmless Lessee from and against all claims, as defined in section 8.2.1 caused by Lessor's act, error, omission or negligence or by its guests or licensees of Lessor, including without limitation any claim arising from Lessor's failure to comply with the Applicable Requirements or from any breach or inaccuracy of Lessor's representations or warranties contained in sections 2.2, 2.2.1, 2.2.2, 2.3 and 2.4.

**8.2.1. Definition of Claims.** For purposes of this Lease, "claims" means any and all claims, losses, costs, damage, expenses, liabilities, liens, actions, causes of action, alleged violations of any Disability Accessibility Laws (whether in tort or contract, law or equity, or otherwise), charges, assessments, fines, and penalties of any kind (including consultant and expert expenses, court costs, and attorney fees actually incurred).

**8.2.2. Type of Injury or Loss.** This indemnification extends to and includes claims for: (1) injury to any persons (including death at any time resulting from that injury); (2) loss of, injury or damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage, or destruction); or (3) all economic losses and consequential or resulting damage of any kind.

**8.2.3. Active or Passive Negligence; Strict Liability.** The indemnification in section 8.2 shall apply regardless of the active or passive negligence of Lessor and regardless of whether liability without fault or strict liability is imposed or sought to be imposed on Lessor. The indemnification in section 8.2 shall not apply to the extent that a final judgment of a court of competent jurisdiction establishes that a claim against Lessee was proximately caused by the willful misconduct, fraud, gross negligence, willful injury to person or property caused by a Lessee Party. In that event, however, this indemnification shall remain valid for all other Lessee Parties.

**8.2.4. Indemnification Independent of Insurance Obligations.** The indemnification provided in this section 8.2 may not be construed or interpreted as in any way restricting, limiting, or modifying Lessor's insurance or other obligations under this Lease and is independent of Lessor's insurance and other obligations. Lessor's compliance with the insurance requirements and other obligations under this Lease shall not in any way restrict, limit, or modify Lessor's indemnification obligations under this Lease.

**8.2.5. Attorney Fees.** The prevailing party shall be entitled to recover its actual attorney fees and court costs incurred in enforcing the indemnification clauses set forth in this section 8.

**8.2.6. Survival of Indemnification.** Section 8 shall survive the expiration or earlier termination of this Lease until all claims against Lessee involving any of the indemnified matters are either concluded by Lessor or fully, finally, and absolutely barred by the applicable statutes of limitations.

**8.2.7. Duty to Defend.** Lessor's duty to defend Lessee Parties is separate and independent of Lessor's duty to indemnify and to hold harmless Lessee Parties. The duty to defend includes claims for which Lessee Parties may be liable without fault or strictly liable. The duty to defend applies regardless of whether the issues of negligence, liability, fault, default or other obligation on the part of Lessee Parties have been determined. The duty to defend applies immediately, regardless of whether Lessee Parties have paid any sums or incurred any detriment arising out of or relating (directly or indirectly) to any claims. It is the express intention of the Parties that Lessee Parties be entitled to obtain summary adjudication or summary judgment regarding Lessor's duty to defend Lessee Parties at any stage of any claim or suit within the scope of this section 8. Notwithstanding the above, the duty to defend applies to claims whose proximate cause is the Project, including the maintenance for any and all of them; however, for all other claims, the duty to defend applies to claims caused by Lessor's acts, errors, omissions or negligence.

**8.3. Insurance.** Without limiting or diminishing any indemnification contained within this Lease, Lessor and/or their authorized representatives, including a property management company, if any, shall procure and maintain or cause to be maintained, at its

sole cost and expense; the insurance coverage required in sections 8.3.1, 8.3.2, 8.3.3, and 8.3.4, during the term of this Agreement. With respect to the insurance coverage required pursuant to sections 8.3.2 and 8.3.3 of the Lease, such policies shall name the Judicial Council of California; Administrative Office of the Courts; and the Superior Court of California, County of Stanislaus and their respective officers, agents, and employees as Additional Insureds.

**8.3.1. Workers' Compensation.** Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident.

**8.3.2. Commercial General Liability.** Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury for covering bodily injury, property damage, and personal injury arising out of or relating, directly or indirectly, to the design, construction, maintenance, repair, alteration and ownership of the Project and all areas appurtenant thereto including claims which may arise from or out of Lessor's operations, use, and management of the Project, or the performance of its obligations hereunder. Policy shall name the Lessee, its directors, officers, employees, agents, independent contractors or representatives as Additional Insureds. Policy limits of liability shall not be less than \$2,000,000 per occurrence. If such insurance contains a general aggregate limit of liability, it shall apply separately to this Lease or be no less than two (2) times the per occurrence limit of liability. The insurance policy shall also provide for \$5,000 Medical Payments limit of liability and Damage to Premises Rented limit of liability of not less than \$100,000.

**8.3.3. Vehicle Liability.** If Lessor's vehicles or licensed mobile equipment are used on the Project, or used in any manner on or in the parking areas, or near or on the landscaped areas of the Project, then Lessor shall maintain auto liability insurance for all owned, non-owned or hired automobiles in an amount not less than \$1,000,000 per occurrence combined single limit.

**8.3.4. Property (Physical Damage).** All-Risk insurance coverage, including equipment breakdown insurance, for the full replacement cost value of the Project. The equipment breakdown insurance shall provide coverage for at least, but not limited to, all high voltage electrical and rotating mechanical equipment on a full replacement cost value basis. The insurance shall provide Business Interruption, Extra Expense, and Expediting Expense coverage as well as coverage to cover and minimize any covered loss resulting from interruption of off-premises electrical power. The Policy shall name the Judicial Council of California; Administrative Office of the Courts; and the Superior Court of California, County of Stanislaus as insureds and where appropriate, joint loss payees.



### 8.3.5. General Insurance Provisions - All lines.

(a) Any insurance company providing Lessor's insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A-: VIII (A-: 8) unless such requirements are waived, in writing, by the Lessee's Risk Manager. If the Lessee's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and then only for the current policy term.

(b) The Lessor or Lessor's insurance company(ies) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$100,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the Lessee's Risk Manager before the commencement of the Lease term. Upon notification of deductibles or self insured retentions which are deemed unacceptable to the Lessee, at the election of the Lessee's Risk Manager, Lessor's insurance companies shall either: 1) reduce or eliminate such deductibles or self-insured retentions as respects this Lease with the Lessee, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The Lessor shall cause their insurance company (ies) to furnish the Lessee with 1) a properly executed original Certificate(s) of Insurance and certified original copies of endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the Lessee's Risk Manager, provide certified copies of policies including all endorsements and all exhibits thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant that the insurance company(ies) shall provide no less than thirty (30) days written notice be given to the Lessee prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Lease may be terminated by Lessee, unless the Lessee receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and exhibits thereto evidencing coverage and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance company to do so on its behalf, shall sign the original endorsements for each policy and the Certificate of Insurance.

(d) It is understood and agreed by the parties hereto and the Lessor's insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the Lessee's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory insurance.

(e) Lessor agrees to require its insurer issuing the insurance described in this section 8.3 to waive any rights of recovery that such insurer may have against Lessee.

8.4. **Lessee Insurance.** Notwithstanding anything in this Lease which may state or imply anything to the contrary, Lessor acknowledges and accepts that Lessee does not maintain commercial insurance coverage for motor vehicle and/or general liability claims.

## 9. **Damage and Destruction**

9.1. **Repair of Damage.** Lessee agrees to notify Lessor in writing promptly of any damage to the Project resulting from fire, earthquake, or any other identifiable event of a sudden, unexpected, or unusual nature ("**Casualty**"). If the Project is damaged by a Casualty, or the Casualty results in the Project not being provided with Base Building Systems or parking facilities (if applicable) and if neither Lessor nor Lessee has elected to terminate this Lease under this section 9, Lessor shall promptly and diligently restore the Project to the same condition as existed before the Casualty, subject to modifications required by building codes and other laws. If Lessee requests that Lessor make any modifications to the Project in connection with the rebuilding, Lessor may condition its consent to those modifications on: (a) confirmation by Lessor's contractor that the modifications shall not increase the time needed to complete the Project; or (b) an agreement by Lessee that the additional construction period shall not extend the rent abatement period, or (c) the costs of an additional construction shall be paid by Lessee.

9.2. **Repair Period Notice.** Lessor shall within thirty (30) days after the date of the Casualty, provide written notice to Lessee indicating the anticipated period for repairing the Casualty ("**Repair Period Notice**"). The Repair Period Notice shall be accompanied by a certified statement executed by the contractor retained by Lessor to complete the repairs or, if Lessor has not retained a contractor, a licensed contractor not affiliated with Lessor, certifying the contractor's opinion about the anticipated period for repairing the Casualty. The Repair Period Notice shall also state, if applicable, Lessor's election either to repair or to terminate the Lease under section 9.3.

9.3. **Lessor's Option to Terminate or Repair.** Lessor may elect either to terminate this Lease or to effectuate repairs if: (a) the Repair Period Notice estimates that the period for repairing the Casualty exceeds one hundred twenty (120) days from the date of the Casualty; or (b) the estimated repair cost of the Project, even though covered by insurance, exceeds fifty percent (50%) of the full replacement cost.

9.4. **Lessee's Option to Terminate.** If the Repair Period Notice provided by Lessor indicates that the anticipated period for repairing the Casualty exceeds one hundred twenty (120) days, Lessee may elect to terminate this Lease by providing written notice ("**Lessee's Termination Notice**") to Lessor within thirty (30) days after receiving

the Repair Period Notice. If Lessee does not elect to terminate within this thirty (30) day period, Lessee shall be considered to have waived the option to terminate.

**9.5. Rent Abatement Due to Casualty.** Lessor and Lessee agree that the Lessee's Rent shall be fully abated during the period beginning on the later of: (a) the date of the Casualty; or (b) the date on which Lessee ceases to occupy the Premises and ending on the date of substantial completion of Lessor's restoration obligations as provided in this section 9 ("Abatement Period"). If, however, Lessee is able to occupy and does occupy a portion of the Premises, Rent shall be abated during the Abatement Period only for the portion of the Premises not occupied by Lessee.

**9.6. Damage Near End of Term.** Despite any other provisions of this section 9, if the Premises are destroyed or damaged by a Casualty during the last eighteen (18) months of the original Lease Term, Lessor and Lessee shall each have the option to terminate this Lease by giving written notice to the other of the exercise of that option within thirty (30) days after that damage or destruction, provided, however, Lessee may negate Lessor's election to terminate under this section 9.6 by electing, within ten (10) days after receipt of Lessor's termination notice, to exercise any unexercised option to extend this Lease. If Lessee negates Lessor's election, this Lease shall continue in effect unless Lessor has the right to, and elects to, terminate this Lease under section 9.3.

**9.7. Effective Date of Termination; Rent Apportionment.** If Lessor or Lessee elects to terminate this Lease under this section 9 in connection with a Casualty, this termination shall be effective thirty (30) days after delivery of notice of such election. Lessee shall pay Rent, properly apportioned up to the date of the Casualty. After the effective date of the termination, Lessor and Lessee shall be discharged of all future obligations under this Lease, except for those provisions that, by their terms survive the expiration or earlier termination of the Lease.

**9.8. Waiver of Statutory Provisions.** The provisions of this Lease, including those in this section 9 constitute an express agreement between Lessor and Lessee that applies in the event of any Casualty to the Project. Lessor and Lessee, therefore, fully waive the provisions of any statute or regulation, for any rights or obligations concerning a Casualty including California Civil Code sections 1932(2) and 1933(4).

## **10. Estoppel Certificates**

**10.1. Obligation to Provide Estoppel Certificates.** Lessee shall upon not less than fifteen (15) business days prior written notice from Lessor, execute, acknowledge, and deliver to Lessee a statement in writing certifying the following information: (i) that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as modified, is in full force and effect); (ii) the dates to which the rental and other charges are paid in advance, if any; (iii) the amount of Lessee's security deposit, if any; and (iv) acknowledging that there are not, to

Lessee's knowledge, any uncured defaults on the part of the Lessor hereunder, and no events or conditions then inexistence which, with the passage of time or notice or both, would constitute a default on the part of Lessor hereunder, or specifying such defaults, events or conditions, if any are claimed. It is expressly understood and agreed that any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Project.

**10.2. Additional Requested Documents or Instruments.** Lessee shall not be required to provide any other documents, instruments, or other estoppel forms whether required by an existing or prospective lender, mortgagee, or purchaser of the Project.

#### **11. Subordination, Non-Disturbance, and Attornment**

This Lease is subject and subordinate to all existing ground or underlying leases, mortgages, and deeds of trust which affect the Project, including all renewals, modifications, consolidations, replacements and extensions thereof; provided, however, if the holder or holders of any such mortgage or deed of trust shall advise Lessor that they desire or require this Lease to be prior and superior thereto, upon written request of Lessor to Lessee, Lessee agrees to promptly execute, acknowledge and deliver any and all documents or instruments which Lessor or such Lessor, holder or such holders deem necessary or desirable for purposes thereof. Lessor shall have the right to cause this Lease to be and become and remain subject and subordinate to any mortgages or deeds of trust which may hereafter be executed covering the Premises, the Project or any renewals, modifications, replacements or extensions thereof, for the full amount of all advances made or to be made thereunder and without regard to the time or character of such advances, together with interest thereon and subject to all the terms and provisions thereof, however, Lessor must obtain from the lender or other party in question a written undertaking in favor of Lessee to the effect that such lender or other party will not disturb Lessee's right of possession under this Lease if Lessee is not then or thereafter in breach of any covenant or provision of this Lease. Lessee agrees, within twenty (20) business days after Lessor's written request therefore, to execute, acknowledge and deliver upon request any and all documents or instruments reasonably requested by Lessor or reasonably necessary or proper to assure the subordination of this Lease to any such mortgages, deed of trust, or leasehold estates. Lessee agrees that in the event any proceedings are brought for the foreclosure of the mortgage or deed of trust, or any deed in lieu thereof, to attorn to the purchaser or any successors thereto upon any such foreclosure sale or deed in lieu thereof as so requested to do so by such purchaser and to reorganize such purchaser as the lessor under this Lease; Lessee shall, within twenty (20) business days after request execute such further instruments or assurances as such purchaser may reasonably deem necessary to evidence or confirm such attornment.

## **12. Breach by Lessor**

**12.1. Lessor's Default.** Except as provided to the contrary in this Lease, Lessor's failure to perform any of its obligations under this Lease shall constitute a default by Lessor under the Lease if the failure continues for thirty (30) days after written notice of the failure from Lessee to Lessor. If the required performance cannot be completed within thirty (30) days, Lessor's failure to perform shall constitute a default under the Lease unless Lessor undertakes to cure the failure within thirty (30) days and diligently and continuously attempts to complete this cure as soon as reasonably possible.

**12.2. Lessee's Right to Cure Lessor's Default and Deduct Cost.** Except as provided to the contrary in this Lease, if Lessee provides written notice to Lessor of Lessor's failure to perform any of its obligations under this Lease and Lessor fails to provide such action as required by the terms of this Lease within the period specified, Lessee may take the required action if: (a) Lessee delivers to Lessor an additional written notice advising Lessor that Lessee intends to take the required action if Lessor does not begin the required action within ten (10) days after the written notice; and (b) Lessor fails to begin the required action within this ten (10) day period.

**12.3. Rent Setoff.** If, within thirty (30) days after receipt of Lessee's written demand for payment of Lessee's costs incurred in taking such action on Lessor's behalf, Lessor has not paid the invoice or delivered to Lessee a detailed written objection to it, Lessee may deduct from Rent payable by Lessee under this Lease the amount set forth in the invoice.

## **13. Miscellaneous**

**13.1. Quiet Enjoyment.** Lessor covenants that Lessee shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the use of the Premises so long as Lessee shall fully and faithfully perform the terms and conditions that it is required to do under this Lease.

**13.2. Non Waiver.** No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver by a party of any provision of this Lease must be in writing. Such written waiver shall affect only the provision specified and only for the time and in the manner stated in the writing.

**13.3. Binding on Successors.** The terms and conditions herein contained shall apply to and bind the heirs, successors in interest, executors, administrators, representatives and assigns of all the Parties hereto.

**13.4. Severability.** The invalidity of any provision in this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

**13.5. Attorney's Fees.** In the event of any litigation or arbitration between Lessor and Lessee to enforce any of the provisions of this Lease or any right of either party hereto, the unsuccessful party to such litigation or arbitration agrees to pay to the successful party all costs and expenses, including reasonable attorneys' fees, incurred therein by the successful party, all of which shall be included in and as a part of the judgment rendered in such litigation or arbitration.

**13.6. Lessee's Representative.** Lessee hereby appoints its Portfolio Administrative Analyst as its authorized representative to administer this Lease.

**13.7. Agent for Service of Process.** It is expressly understood and agreed that in the event Lessor is not a resident of the State of California or it is an association or partnership without a member or partner resident of the State of California, or it is a foreign corporation, then in any such event, Lessor shall file with Lessee's Representative upon its execution hereof, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Lease, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon Lessor. It is further expressly understood and agreed that if for any reason service of such process upon such agent is not feasible, then in such event, Lessor may be personally served with such process and that such service shall constitute valid service upon Lessor. It is further expressly understood and agreed that Lessor is amenable to the process so served, submits to the jurisdiction of the court so obtained and waives any and all objections and protests thereto.

**13.8. Entire Lease.** This Lease is intended by the Parties as a final expression of their understanding with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous leases, agreements and understandings, oral or written, in connection therewith. This Lease may be changed or modified only upon the written consent of the Parties hereto.

**13.9. Interpretation.** The Parties have negotiated this lease at arms length and have been advised by their respective attorneys, or if not represented by an attorney, represent that they had an opportunity to be so represented and no provision contained herein shall be construed against Lessee solely because it prepared this Lease in its executed form.

**13.10. Recording.** Either Lessor or Lessee shall, upon request of the other, execute, acknowledge, and deliver to the other a short form memorandum of this Lease

for recording purposes. The Party requesting recordation shall be responsible for payment of any fees applicable thereto.

**13.11. Consent.** Whenever Lessor's or Lessee's consent is required under any provision of this Lease, it shall not be unreasonably withheld, conditioned or delayed.

**13.12. Title.** Lessor covenants that Lessor is well seized of and has good title to the Project, and the Lessor does warrant and will defend the title thereto, and will indemnify Lessee against any damage and expense which Lessee may suffer by reason of any lien, encumbrance, restriction, or defect in title or description herein of the Project. If, at any time Lessor's title or right to receive Rent and any other sums due hereunder is disputed, Lessee may withhold such sums thereafter accruing until Lessee is furnished satisfactory evidence as to the Party entitled thereto.

**13.13. Surrender.** Lessee shall, after the last day of the term of any extension thereof or upon any earlier termination of such term, surrender and yield up to Lessor the Premises in good order, condition and state of repair, reasonable wear and tear excepted. Subject to section 7.2.2, Lessee may: (a) patch or paint any walls/surfaces; (b) remove any leasehold improvements constructed or installed prior to or during the term of this Lease or any extension thereof; or (c) remove any fixtures of equipment installed prior to or during the term of this Lease or any extension thereof, (d) implement repairs to the Premises caused by removal of same.

**13.14. Notice.** Except as expressly provided elsewhere in this Lease, all notices and other communication required under this Lease shall be in writing and delivered by: (a) Certified Mail, postage prepaid, return receipt requested, in the United States mail; or (b) to the Party hereto to whom the same is directed at the addresses set forth in section 1.6 herein. A Party hereto may from time to time change its mailing address by written notice to the other Party.

**13.15. Authority.** If Lessor is a corporation, general or limited partnership or individual owner, each individual executing this Lease on behalf of said corporation, partnership or individual represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with bylaws of said corporation, or as a partner or individual is authorized to execute this Lease and that this Lease is binding upon said corporation and/or partnership or individual.

**13.16. Approval of Lessee.** Anything to the contrary notwithstanding, this Lease shall not be binding or effective until its approval by the Lessee.

**13.17. Confidential Records.** Lessor acknowledges that Lessee will maintain and store confidential records within the Premises. Lessor will take all reasonable and practical measures to ensure that such records are kept confidential including without limitation, requiring all Lessor vendors who have access to the Premises to post a fidelity

bond in the sum of \$100,000.00 and to provide evidence of that bond to Lessee prior to occupancy of Premises by Lessee.

**13.18. DOJ and DMV Requirements.** Notwithstanding anything in this Lease to the contrary, Lessor must comply with background check and clearance requirements set forth in the policies, procedures, practices, as revised, of the California Department of Justice ("DOJ") and the California Department of Motor Vehicles ("DMV") with respect to any employee or representative of Lessor or Lessor's vendors who may have physical access to any area in the Premises which is either connected to, or contains records from, the any DOJ criminal computer database, including, without limitation, the California Law Enforcement Telecommunications System (CLETS) and the Criminal Offender Record Information (CORI), or the DMV computer database (collectively the "Databases"). Lessor will coordinate with the Court regarding any necessary background checks and clearances which may be required by the DOJ or the DMV, and if necessary, the Court will conduct the background checks and notify Lessor if the employee is approved to have access to areas in the Premises which are either connected to, or contain records from, the Databases, or with the Court's written consent, Lessor may conduct any necessary background checks in lieu of the Court, and provide to the Court, if requested by the Court, suitable documentation evidencing Lessor's completion of any necessary background checks.

**13.19. Security Services.** Lessor will provide security services for the Building and the Project in accordance with the specifications attached to this Lease as Exhibit "E". Subject to the terms and conditions of section 7 of this Lease and with Lessor's prior written approval, Lessee shall have the right to install or upgrade any security system within the Premises including, without limitation, an alarm system or key card system. Any system(s) installed or upgraded must be compatible with and not interfere with the operation of the Building's security system and the Lessor's rights of access to the Premises provided in the Lease.

**13.20. Disabled Veterans.** To the extent required by law, Lessor shall comply with all Disabled Veteran Business Enterprise (DVBE) requirements including any participation goals or good faith efforts, as the case may be, as required by Military and Veterans Code section 999 et seq. with respect to any services, materials or supplies provided under this Lease. If required by law, efforts to include DVBEs as part of the services, materials or supplies under this Lease shall continue throughout the Lease term and any extensions or renewals thereof. Lessor agrees to provide Lessee or its designees with any requested relevant supporting documents and to maintain such documents for a period of three (3) years after final payment under this Lease. DVBE resources can be found at: <http://www.pd.dgs.ca.gov/dvbe/default.htm>, or by calling the Office of Small Business and DVBE Services at (916) 375-4940.



**13.21. Signage.**

13.21.1. **Identification Signs.** If not already present, Lessee may, at Lessee's sole expense, install identification signs (including its logo) anywhere in the Common Areas of the Project, including the elevator lobby of the Building, subject to the following requirements:

(a) Lessee must obtain Lessor's prior written approval for such signs, which Lessor may not unreasonably withhold, condition or delay; and

(b) All signs must be in keeping with the quality, design, and style of the Building.

13.21.2. **Lobby Directory.** Lessor shall, at Lessor's sole expense, provide and maintain through the Lease term a directory in the lobby of the Building exclusively for the names and suite numbers of tenants in the Building. At Lessee's sole discretion, Lessee may opt out of the directory by giving Lessor written notice of its election to opt out.

13.22. **No Acceleration of Rent.** Lessor shall not under any circumstance have the right to accelerate any Rent that falls due in future rental periods or otherwise declare any Rent not then in default to be immediately due and payable.


**14. Execution**

14.1. **Execution.** The Parties hereto have executed this Lease at the place and/or the dates specified below their respective signature.

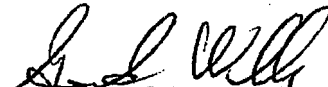
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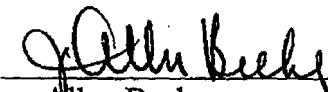
Administrative Office of the Courts,  
Office of the General Counsel

By:   
Name: Kenneth S. Levy  
Title: Attorney  
Date: 8/13/08

JUDICIAL COUNCIL OF CALIFORNIA,  
ADMINISTRATIVE OFFICE OF THE  
COURTS

By:   
Name: Grant Walker  
Title: Senior Manager, Business Services  
Date: 8/15/08

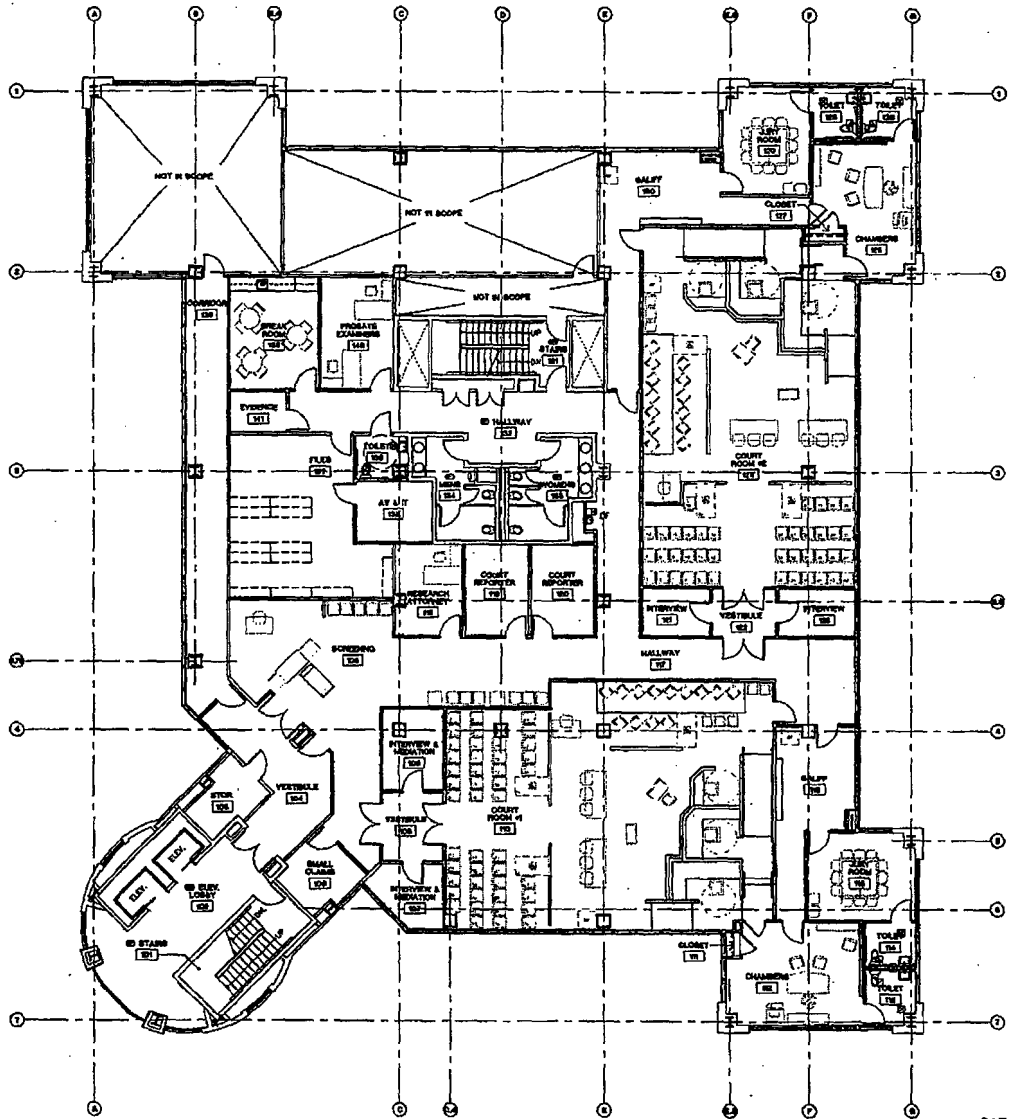
CITY TOWER GROUP, LLC

By:   
Name: Allen Beebe  
Title: Member Manager  
Date: 8/19/08

**EXHIBIT "A-1"**

**FLOOR PLAN**

**(See Attached)**



# 6th Floor Preliminary Floor Plan

DATA:

TOTAL FLOOR:	13,161 SF.
COURT AREA:	8,846 SF.
HALL & COMMON TOILETS:	1,369 SF.
ELEVATOR LOBBY & STAIRS:	1,117 SF.
NOT IN SCOPE:	1,829 SF.



**Huff Architects**  
1411 Street  
Modesto, California 95204  
209.525.4740  
www.huffarchitect.com

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF STANISLAUS**

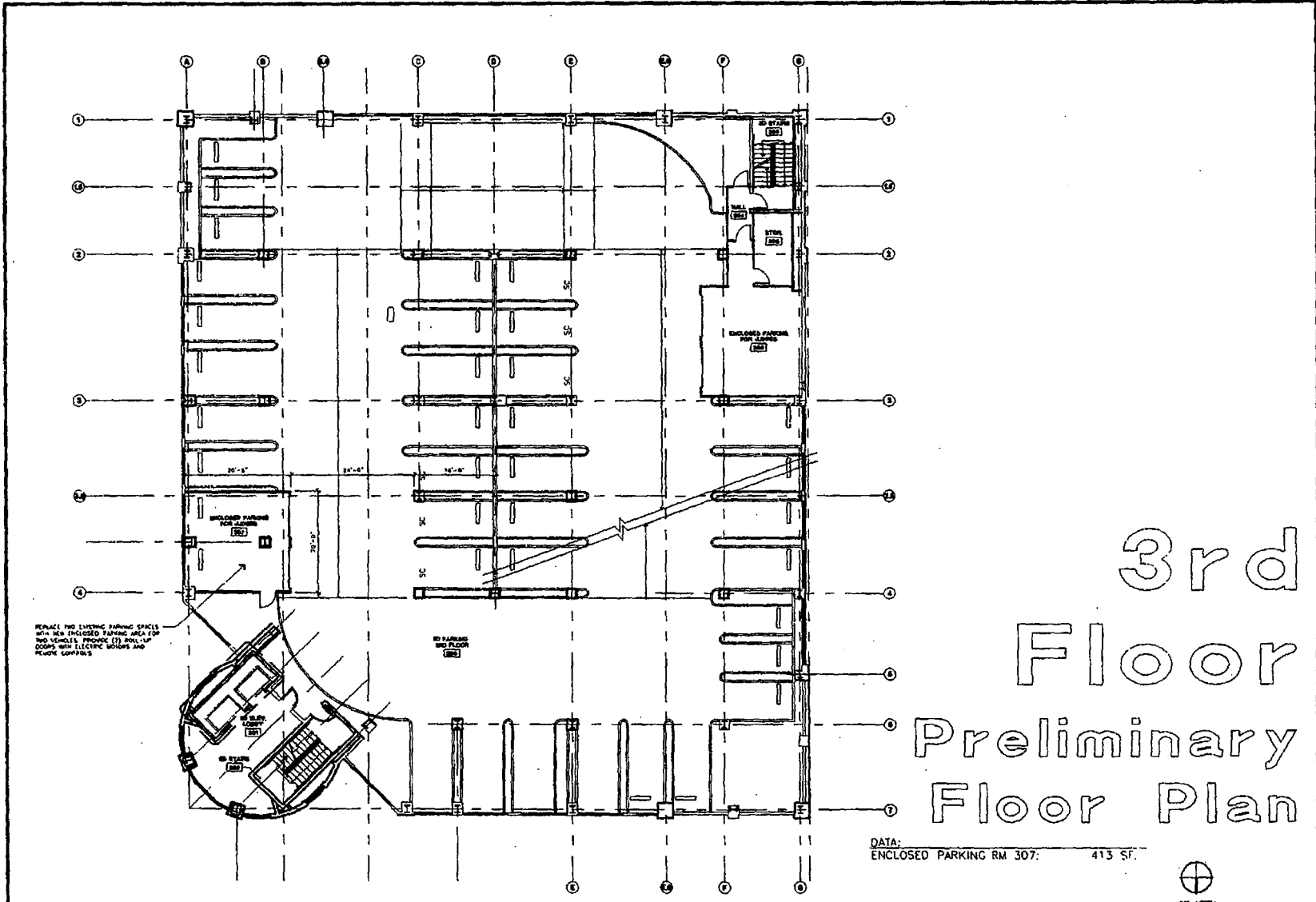
DATE: 12/15/09  
DRAWN: T. DUBOIS  
FILE: 09-02  
DATE: 09/2/09

DATE: 09/2/09  
DRAWN: T. DUBOIS  
FILE: 09-02  
DATE: 09/2/09

**EXHIBIT "A-2"**

**PARKING PLAN**

**(See Attached)**



# 3rd Floor Preliminary Floor Plan

DATA:  
ENCLOSED PARKING RM 307: 413 SF.



17 PRELIMINARY FLOOR PLAN - THIRD FLOOR

**L Street Architects**  
 1111 L Street, Suite 100  
 San Francisco, CA 94102  
 www.lstreetarchitects.com

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF STANISLAUS**

DATE: 7/2/2010  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 P.L.S.: [Signature]  
 JOB NO.: 10-001

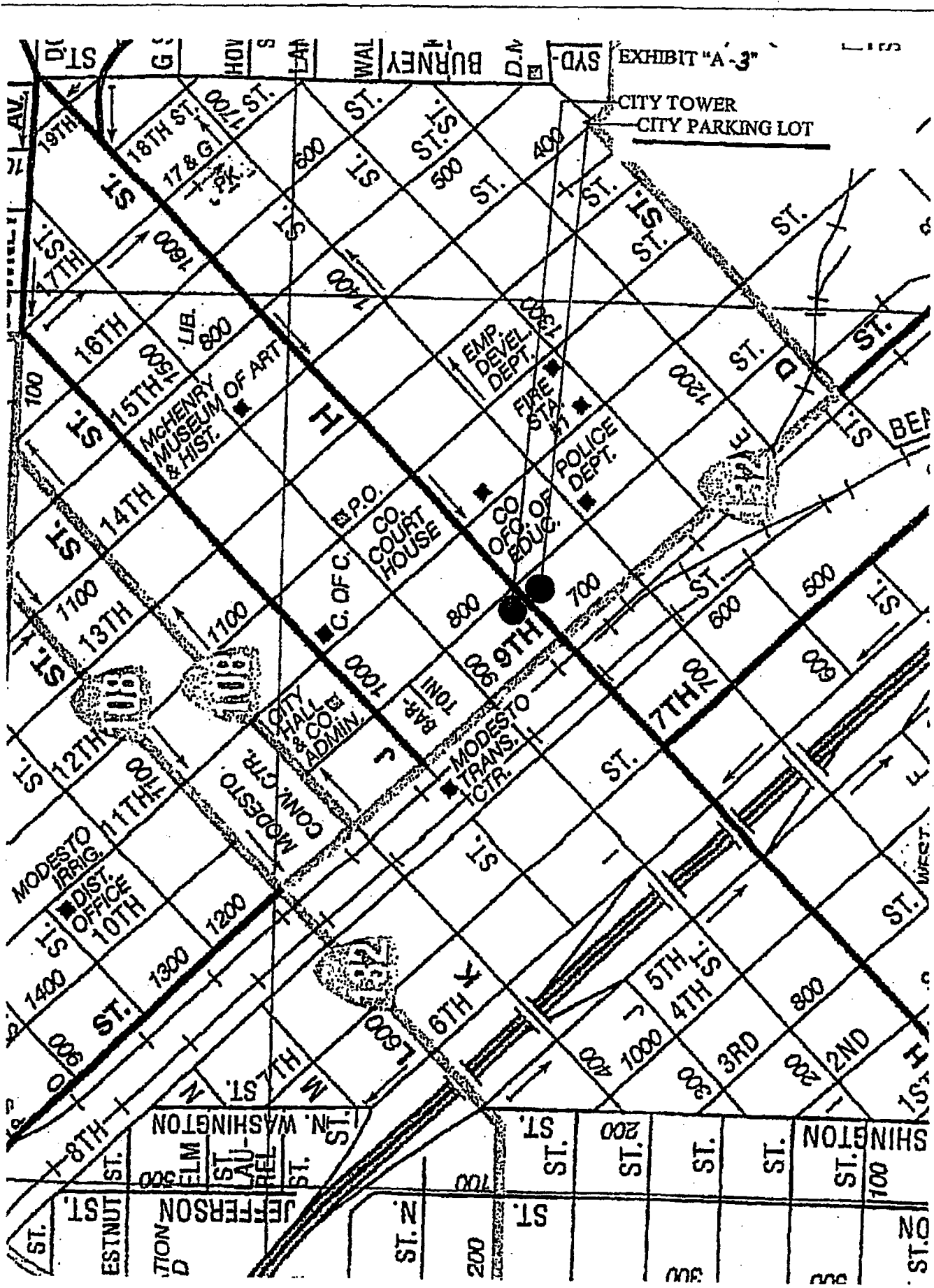
3RD FLOOR PRELIMINARY FLOOR PLAN

A11

**EXHIBIT "A-3"**

**MAP- MODESTO CITY PARKING LOT**

**(See Attached)**





## EXHIBIT "B"

### ASBESTOS

A. Lessor shall operate and maintain the below described spaces free of hazard from asbestos containing construction materials (ACCM's) as defined in Title 15, sections 1601 and 2607 of the United States Code. An asbestos hazard will be recognized if any average concentration exceeds 0.01 fibers longer than five microns per cubic centimeter of air measured over an eight hour period as determined of the Transmission Electron Microscopy (TEM) method. TEM testing will be mandatory if samples tested by the Phase Contrast Microscopy (PCM) method indicate .1 or more fibers per cc of air.

- (1) Space leased to Lessee and plenums in the same HVAC zone.
- (2) Common Areas which Lessee Parties and their employees or invitees would normally/reasonably use.
- (3) Building maintenance areas, utility spaces, and elevator shafts within or serving areas described in items 1 and 2 above.

B. In the event construction of the building wherein leased Premises are located was completed prior to 1979, the Lessor shall provide Lessee with certification that the areas referred to above are free of asbestos hazard from ACCM's prior to the execution of this lease. If said Premises were constructed after 1979, Lessor shall provide Lessee with a written statement to that effect.

C. Certification shall be in the form of an ACCM's Survey and Evaluation Reports prepared by a qualified Industrial Hygienist who shall be certified by the American Board of Industrial Hygiene (ABIH) or an Environmental Protection Agency (EPA) - Asbestos Hazard Emergency Response Act (AHERA) certified inspector. Said survey shall include those areas listed in paragraph (A). Survey requirements are: visual walk-through inspection and testing of suspected ACCM's. Bulk samples of suspected ACCM's shall be analyzed by a laboratory Quality Assurance Program using the polarized light microscopy (PLM) method. If friable asbestos is found or the physical condition of suspected ACCM's, indicate possible fiber release, air sampling must be performed. If asbestos fiber concentrations of 0.1 fibers per cc of air or greater are found, further testing by the Transmission Electron Microscopy (TEM) method is mandatory. Said survey and evaluation necessary, and the report shall also specify guidelines for the implementation of any operation and maintenance plan inclusive of any required monitoring and testing intervals. The report is subject to review and approval by the Lessee and the Lessor shall agree to all conditions contained herein.

**D.** If at any time during the term of this Lease, or during any extension or renewal hereof, previously unidentified ACCM's hazard is discovered, or airborne asbestos fibers above the maximum allowable limits are found to be entering the leased space from any other area within the Building or buildings in which the leased space is located, the Lessor shall immediately, at Lessor's sole cost and expense, control such release and perform abatement of all hazardous ACCM's that are determined to be affecting the leased space.

**E.** Lessor shall perform asbestos notification as required by Chapter 10.4 of the Health and Safety Code and shall guarantee that all abatement work as required under the conditions of this Lease is performed by a licensed contractor certified by the Contractors State License Board and registered with the Division of Occupational Safety and Health. Lessee reserves the right to establish consultant oversight of any asbestos related work program at its expense.

**F.** Additionally, Lessor shall be responsible for any and all direct or indirect costs associated with the abatement of the above described ACCM's which include, but is not limited to the actual costs to the Lessor for ACCM's abatement and for all required monitoring reports before, during, and after abatement. In effect, all costs shall be borne by the Lessor that are in any way associated with the abatement of ACCM's from the Lessor's building including clean up of contaminated Lessee-owned equipment, furnishings, and materials. Copies of the air monitoring reports shall be furnished to the Lessee together with certification by an Industrial Hygienist Consultant registered with Cal/OSHA that the area is free of hazard from ACCM's.

**G.** If it is determined that for safety reasons its employees should be relocated at any time prior to or during the abatement of ACCM's, the Lessor shall provided comparable accommodating space (at no cost to Lessee) throughout the abatement process. Said determination shall be made by a qualified representative of Cal/OSHA. The Lessor specifically agrees to pay for all costs associated with this move or reimburse Lessee, if Lessee paid for this cost, including all reasonable administrative costs and cost of moving or renting furniture, data processing, and telephone equipment.

**H.** In the event, after written notice is provided by Lessee, the Lessor fails, refuses, or neglects to diligently pursue abatement of above described asbestos hazard from ACCM's, Lessee may effect such abatement; and, in addition to any other remedies it may have, deduct all reasonable costs of such abatement and all costs associated in any way with the abatement of the above described ACCM's from the rent that may then be or thereafter become due throughout the term of this Lease. For this purpose and as a condition of this Lease Agreement, the Lessor shall obtain an EPA generator number and grant license to Lessee for its use.

**I.** In addition to any other remedies it may have, in the event the Lessor fails to diligently pursue abatement of asbestos hazard from ACCM's, as required under the provisions of this Lease, Lessee may, by notice in writing, terminate this Lease. Lessor

shall be liable to Lessee for all expenses, losses and damages reasonably incurred by Lessee as a result of such termination; including, but not limited to additional rental necessary to pay for an available similar replacement facility over the period of what would have been the remaining balance of the lease term plus any option periods, costs of any necessary alterations to the replacement facility, administrative costs, and costs of moving furniture, data processing and telephone equipment.

**J.** The Lessor shall indemnify, defend, and hold Lessee Parties (as defined in the Lease) and their officers and employees harmless from and against any and all losses, damages, judgments, expense (including court costs and reasonable attorney fees), or claims whatsoever, arising out of or in any way connected with or related to, directly or indirectly, the presence of asbestos hazard from ACCM's within the Premises or the Building in which the Premises are located.

## EXHIBIT "C"

### CUSTODIAL SERVICES REQUIREMENTS FOR LEASED FACILITIES

1. Provide all required services and supplies.
2. Perform services five days a week during the hours of 5:00 p.m. to 1:00 a.m. only.
3. Provide and replace all fluorescent light tubes and incandescent light bulbs using only those types of tubes and bulbs that are energy efficient as indicated by manufacturer.
4. **SPECIFIC SERVICES - Frequency and Coverage:**

#### 4.1. DAILY

##### 4.1.1. Rest Rooms.

Empty all trash container, refill dispensers, damp mop floors, clean, sanitize and polish plumbing fixtures, chrome fittings, flush rings, drain and overflow outlets, clean and polish mirrors, clean wall adjacent to hand basins/urinals, dust metal partitions, remove finger prints from walls, switches, etc.

##### 4.1.2. Lobby Area - Main Corridors - Stairways.

Remove trash, vacuum, vacuum/damp mop tile, clean lobby and entrance doors, clean and sanitize drinking fountains.

##### 4.1.3. Employee Break Rooms/Kitchens.

Remove trash, vacuum rugs, mop tile floors, spot clean interior partition glass, clean counter tops and blackboards, dust desks, conference tables, credenza/file cabinets and bookcases.

##### 4.1.4. General and Private Office Areas.

##### 4.1.5. Building Security.

- (a) Turn off all lights (except security and night lights).
- (b) Close windows.
- (c) Reset alarms and lock all doors.

#### 4.2. WEEKLY - All Areas

Polish buff hard resilient floors in traffic areas, spot clean carpeted areas.

Dust all high and low horizontal surfaces, including sills, ledges, moldings, shelves, locker tops, frames and file cabinets, damp wipe plastic and leather furniture.

Remove fingerprints from doors, frames and light switches in office areas, clean and polish bright metal to 70" height, clean and sanitize waste containers in rest rooms and break rooms.

4.3. **MONTHLY - All Areas**

Clean Interior glass partitions/doors, dry dust wood paneling, removed dust/cobwebs from ceiling areas.

Spray buss resilient/hard surface floor areas, detail vacuum carpet edges, under desk/office furniture.

4.4. **QUARTERLY - All Areas**

Spray buff resilient and hard surface floors and apply floor finish.

Clean interior/exterior windows, clean/polish office furniture, damp clean diffuser outlets in ceiling/wall, wash waste containers, clean/dust blinds, wash and sanitize.

4.5. **SEMI-ANNUALLY - All Areas**

4.5.1. **All Areas.**

- (a) Clean and polish all baseboards.
- (b) Damp clean lobby and reception chairs.
- (c) Clean carpeted surfaces-use a water extraction method.

4.6. **ANNUALLY - All Areas**

4.6.1. **All resilient and hard surface floors.**

Move furniture, strip, seal, and apply floor finish to all resilient and hard surface floors.

4.7. **AS NEEDED or AS REQUIRED - All Areas**

4.7.1. **Pest Control-As needed.**

4.7.2. **Fire Extinguisher inspections-As required by local regulations.**

**EXHIBIT "D"**  
**IMPROVEMENTS**

Capitalized terms used, but not otherwise defined, in this Exhibit shall have meaning ascribed to those terms in the Lease. In the event of conflict between this Exhibit and the Lease, this Exhibit shall prevail.

**ARTICLE I**  
**DEFINITIONS**

1.1. **Definitions.** Wherever used in this Exhibit, the following terms are defined as follows:

1.2. **Applicable Laws and Restrictions** means all laws (including, without limitation, the Americans with Disabilities Act and the Prevailing Wage Law (Labor Code § 1720 et seq), building codes, ordinances, regulations, title covenants, conditions, and restriction, and casualty underwriters requirements applicable to the Project and the Improvements. Lessor acknowledges that the State Fire Marshal has legal authority to review and approve plans and specifications with respect to the Improvements for compliance with applicable fire and panic safety regulations ("SFM Approval"), and that the Division of State Architect has legal authority to review and approve plans and specifications relating to the Improvements for compliance with issues relating to access to public buildings by physically handicapped persons ("DSA Approval").

1.3. **Architect** means the architect selected by Lessor and approved by Lessee, which approval shall not be unreasonably withheld.

1.4. **Base Building** shall consist of those portions of Building which are the responsibility of Lessor and either were in existence prior to the Improvements, or will be completed by Lessor concurrent with the construction of the Improvements. The Base Building shall, at a minimum, include the following items:

1.4.1. Service Core.

1.4.1.1. Building stairways for exiting.

1.4.1.2. Electrical, telephone, janitorial and mechanical rooms (with fan unit) to the extent located on each floor.

1.4.1.3. All sheetrock on core walls, perimeter walls, elevator lobbies, perimeter columns and interior columns all clad with dry wall taped, spackled, sanded and ready for painting.

1.4.1.4. Men's and women's washrooms on each multi-Lessee floor in compliance with all Applicable Laws and Restrictions and finished in accordance with the Building standard washrooms.

1.4.1.5. Access at the core to domestic water, drainage and vent systems.

1.4.1.6. Elevator lobbies installed and complete on multi-Lessee floors which are partially occupied by Lessee and inclusive of the elevator lobby smoke doors and elevator pockets for the elevator lobby smoke doors as required by Applicable Laws and Restrictions.

1.4.2. Core doors. Building standard doors installed for stairwells, electrical, mechanical, janitor and telephone rooms and washrooms, finished and completed with frame, trim, hardware, locking devices where applicable and closers.

1.4.3. Exterior walls.

1.4.3.1. Curtain wall installed and sealed.

1.4.3.2. Exterior windows installed and sealed.

1.4.3.3. Drywall on all perimeter walls and core walls.

1.4.3.4. Columns and exposed service core walls to be clad with drywall.

1.4.3.5. Building standard blinds.

1.4.3.6. Exterior window coverings.

1.4.4. Floors. Smooth and level (in accordance with industry standards) concrete floors with troweled finish and ready to receive carpeting.

1.4.5. Heating, Ventilation and Air-Conditioning ("HVAC").

1.4.5.1. HVAC fan unit connected to chilled water risers and complete and fully installed to service the core area on all floors.

1.4.5.2. Main air distribution system with main cold air loop from the mechanical equipment room around the Building core.

1.4.6. Lighting. Installed and operating in the Premises and all stairwells, elevators, lobbies, mechanical rooms, utility rooms, janitorial rooms, washrooms, and all other areas where lighting is normally provided in the Project.

1.4.7. Electrical/Power.

1.4.7.1. Electrical closets with power terminated in two electrical panels per floor, one for power and one for lighting, each of 200 amps with capacity for 40 circuit breakers.

1.4.7.2. Electrical service, at an acceptable wattage for Lessee's intended use, per Applicable Laws and Regulations, stubbed to the Premises.

1.4.8. Life Safety.

1.4.8.1. Lessor shall install, or has installed, life safety systems to the extent required by the Applicable Laws and Restrictions for shell and core construction. All required panels, relays, etc. shall be in place ready for Lessee's hook-up.

1.4.8.2. The Base Building portion of the cost of installing a fire suppression sprinkler system in accordance with the Applicable Laws and Restrictions shall be that portion of the cost that would have been incurred had Lessor installed a fire suppression sprinkler system for the Building and Premises sufficient for minimum coverage for unimproved space in accordance with the Applicable Laws and Restrictions, including main loop connected to core with temporary construction heads installed per the Applicable Laws and Restrictions.

1.4.8.3. Firehose and fire extinguisher cabinets installed at each stairwell or as required by the Applicable Laws and Restrictions for shell and core construction.

1.4.8.4. Exit signs at all stairwells.

1.4.8.5. Smoke detectors in all elevator lobbies on all multi-Lessee floors which are partially occupied by Lessee.

1.4.8.6. Fire extinguishers as required by the Applicable Laws and Restrictions for shell and core construction.

1.4.8.7. Fire horns, exit signs and communication systems installed as required by the Applicable Laws and Restrictions for shell and core construction.

1.4.8.8. Electric hold-opens installed for all smoke doors at elevator lobbies.

1.4.8.9. Communication System. Sleeves in core telephone rooms for Lessee's telephone access.

1.4.8.10. Any improvements to the Building required by the Applicable Laws and Restrictions (including fire, life and safety improvements) as a prerequisite or condition to obtaining approval for the Improvements.

1.5. **Construction Costs** means all costs incurred to complete the Improvements, including, the following, to the extent that they relate to the Improvements:

a. Payments to Contractors for labor, material, equipment, and fixtures supplied pursuant to any construction contract entered into in accordance with this Exhibit;

b. Fees paid to Designers for services required by this Exhibit;

c. Taxes, fees, charges, and levies by governmental and quasi-governmental agencies for Permits or for inspections of the work;



d. Utilities incurred in the course of the construction of the Lessee Improvements; and

e. Premiums for builder's risk insurance and other insurance required by this Exhibit.

In no event, however, shall Construction Costs include:

(i) The cost of work which was performed prior to the execution of the Lease or which is not authorized by the Contract Documents;

(ii) The cost of constructing Lessor's Work including any costs for the Base Building;

(iii) The cost of bringing the existing improvements into compliance with Applicable Laws and Restrictions, including, without limitation, the Americans with Disabilities Act and applicable environmental laws;

(iv) Costs resulting from any default by Lessor or its obligations under this Exhibit;

(v) Costs resulting from any default by any Architect or Contractor;

(vi) Costs that are recovered or are reasonably recoverable from a third party (e.g., insurers, warrantors, or tortfeasors);

(vii) Any costs incurred for the construction of Lessor's Work; and

(viii) Any costs or fees for the management and/or administration of the construction work.

1.6. **Construction Documents** means:

- a. The Final Plans;
- b. Bid Packages;
- c. Construction contract;
- d. Material supply agreement;
- e. Architect's agreement.

1.7. **Construction Schedule** means the schedule for commencement, prosecution, and Substantial Completion of all Improvements, which is attached to this Exhibit as **Exhibit "D-2"** and incorporated into this Exhibit by this reference.

1.8. **Contractor** means the General Contractor and all other general contractors, design-build contractors, subcontractors, and material suppliers who provide labor and materials for construction of the Improvements. To the extent required by Applicable Laws and Restrictions, each Contractor (including the General Contractor) shall be appropriately licensed by the State of California for the applicable work being performed by that Contractor/General Contractor and in good professional standing.

1.9. **Cost Estimate** means the estimated total Construction Costs of the Improvements prepared by the Lessor based on the Contractors' bid(s) for the construction of the Improvements, and which is approved by Lessee in accordance with this Exhibit. Cost Estimate shall exclude any costs associated with Lessor's Work.

1.10. **Design Schedule** means the schedule for preparation, approval, disapproval modification, and completion of the Final Plans and other Construction Documents and for obtaining Permits required for the Improvements, which is attached to this Exhibit as Exhibit "D-1" and incorporated into this Exhibit by this reference.

1.11. **Designers** means the Architect and all other Architects, structural engineers, mechanical engineers, and the other design professionals that are needed to design the Improvements, each of whom shall be duly licensed by the State of California and in good professional standing.

1.12. **Final Plans** are those working drawings, plans, specifications, elevations, lighting design, and interior finish design prepared by the Designers for the Improvements and approved by the parties in accordance with this Exhibit.

1.13. **General Contractor** means the general contractor selected by Lessor in accordance with section 4.1 of this Exhibit and approved by Lessee, which approval shall not be unreasonably withheld.

1.14. **Improvement Allowance** means the amount Lessor is required to pay toward Construction Costs of the Lessee Improvements, which amount is \$327,180 (\$30.00 times 10,906 rentable square feet). Lessor shall provide the space planner as part of Improvement allowance. Further, Lessor shall provide a separate allowance equivalent to \$2,454.20 to pay for Lessee's preliminary space planning costs.

1.15. **Improvements** mean Lessor's Work and Lessee Improvements.

1.16. **Lessee** means Lessee, as defined in the Lease.

1.17. **Lessee Delay** means any actual delay in the Substantial Completion of the Improvements as a consequence of:

a. Lessee's failure to fulfill its obligation as set forth in the Design Schedule, the Construction Schedule, or this Exhibit which is not cured within ten (10) days following written notice to Lessee of the default.

b. Change Orders requested by Lessee: provided the delay will not exceed the amount of delay specified in the Change Order.

c. A willful or negligent act or omission of Lessee or Lessee's Representative, Lessee's Contractors, and/or Lessee's agents, or employees that interferes with the progress of the work and which is not remedied within seventy-two (72) hours after delivery of notice from Lessor's Representative to Lessee's Representative of the interference.

1.18. **Lessee Improvements** mean: (a) the improvements, modifications, and alteration of the Premises (other than Lessor's Work) in accordance with this Exhibit; and (b) the construction of two secured parking spaces in accordance with Exhibit "D-4", all of which is to be completed in accordance with this Exhibit.

1.19. **Lessee's Design Requirements** means those design specifications set forth in Exhibit "D-3".

1.20. **Lessee's Representative** means Lisa Hinton, or such other person as Lessee shall designate in writing to Lessor as its authorized representative for the purposes of administering this Exhibit.

1.21. **Lessee's Work** means the installment of certain equipment, including, but not limited to, modular systems furniture, and telecommunications cabling and equipment prior to the Substantial Completion of the Improvements to the extent that these items are not included in the Lessee Improvements.

1.22. **Lessor** means Lessor, as defined in the Lease.

1.23. **Lessor's Representative** means Brad Ardis, President, Huff Construction Company, Inc. or such other person as Lessor shall designate in writing to Lessee as its authorized representative for the purposes of administering this Exhibit. Lessor's Representative shall have no right to modify any term or condition of this Exhibit or the Lease.

1.24. **Lessor's Work** includes any portion of the Base Building which was not completed prior to construction of the Lessee Improvements which must be completed by the Delivery Date.

1.25. **Owner** means Lessor, as defined in the Lease.

1.26. **Permits** mean the permits, approvals, and consents of governmental authorities and third parties that have jurisdiction over the Improvements, which are required for commencement and completion of the Improvements, including, without limitation, the following:

- a. CEQA review;
- b. architectural review board approval;
- c. zoning administrator approval;
- d. planning commission approval;
- e. city or county approval;
- f. grading permit;
- g. shell permit;
- h. interior improvement permit;
- i. CC&R architectural review approval;

- j. SFM Approval; and
- k. DSA Approval.

1.27. **Punchlist** is defined in section 5.2 of this Exhibit.

1.28. **Scheduled Completion Date** means the scheduled date for Substantial Completion of the Improvements as specified in the Construction Schedule, as the same may be modified pursuant to section 3.8 of this Exhibit.

1.29. **Substantial Completion** or **Substantially Completed** is defined in section 5.1 of this Exhibit. The Substantial Completion Date is the date the Improvements are substantially completed.

## **ARTICLE II DESIGNATION OF REPRESENTATIVES**

Lessor and Lessee respectively appoint Lessor's Representative and Lessee's Representative as their sole representatives for the purposes of administering the work in this Exhibit. Until replaced upon written notice, Lessor's Representative and Lessee's Representative will have the full authority and responsibility to act on behalf of Lessor and Lessee, respectively, as required in this Exhibit, but shall have no right to modify this Exhibit or the Lease, or to waive any material right of his or her principal under this Exhibit.

## **ARTICLE III CONTRACT DOCUMENTS AND PERMITS**

3.1. **Retention of Architect.** Lessor shall retain the Architect to prepare the plans and specifications for the Improvements.

3.2. **Preparation and Approval of Final Plans.** Lessor shall direct the Architect to seek design input from Lessee with respect to the proposed Improvements. Lessor shall cause the Architect to prepare proposed Final Plans, which conform to Lessee's Design Requirements and Lessee's design input, a preliminary Cost Estimate, and any adjustments to the Construction Schedule occasioned by the Final Plans, on or before the last date specified in the Design Schedule for completion of such items. Notwithstanding that the Cost Estimate excludes any costs associated with Lessor's Work, if any portion of the Improvements includes Lessor's Work, the Cost Estimate shall include, as an Exhibit for informational purposes only, an itemization of the costs associated with Lessor's Work.

Lessor and Lessee shall review the Final Plans, the Cost Estimate, and any revision to the Construction Schedule, and deliver to the other party and to the Architect, said party's written approval or disapproval of the same within the time limits stated in the Design Schedule. If either party disapproved in any respect the Final Plans, the Cost

Estimate and any modifications to the Construction Schedule, the parties shall confer and negotiate in good faith to reach written agreement on such item(s), using all reasonable efforts to achieve final agreement on such item(s) by the last date for agreement specified in the Design Schedule. Both parties shall initial each page of the approved Final Plans, the Cost Estimate, and the Construction Schedule. Lessee's approval of the Final Plans shall not be interpreted or construed as a warranty of the Final Plans for any purpose including without limitation the constructability of the Improvements.

**3.3. Standards for Consent:**

a. **By Lessor.** Lessor shall not unreasonably withhold its approval to any element of the Final Plans, unless it adversely affects the building structure, roof, or is visible from the exterior portions of the Project.

b. **By Lessee.** Lessee shall not unreasonably withhold its approval to any element of the Final Plans, unless the element 1) does not conform to the approved Lessee's Design Requirements; 2) increases the Cost Estimate to an amount in excess of the Improvement Allowance; 3) delays the Scheduled Completion Date pursuant to the Construction Schedule, or makes the Lessee Improvements unsuitable for the conduct of Lessee's business.

**3.4. Application for Approvals.** When Lessor and Lessee approve the Final Plans, Lessor shall submit them to all appropriate governmental agencies and third parties for issuance of the Permits required for the construction of the Improvements and occupancy by Lessee of the Improvements for its intended use. Lessor shall use all reasonable efforts to obtain the Permits within the time permitted by the Design Schedule. Lessor shall not be responsible for any delay or denial of a Permit that is beyond its reasonable control.

**3.5. Changes to Construction Documents.** After agreed upon by the parties in accordance with the foregoing, the Final Plans, Cost Estimate, Construction Schedule, and any other Construction Documents relating to the same may be modified only by a written "Change Order" executed by Lessor and Lessee, which clearly describes (a) the change, (b) the party required to perform the change, and (c) any modifications of the Final Plans, Cost Estimate, Construction Schedule, and other Construction Documents necessitated by the Change Order. Neither Lessor or Lessee shall unreasonably withhold or delay its approval of any change (whether requested by a party or required by an Applicable Law or Restriction), provided however that either party may withhold its approval of any change that could have been disapproved in the party's sole discretion pursuant to section 3.3 of this Exhibit.

**ARTICLE IV  
PERFORMANCE OF THE WORK**

**4.1. Selection of General Contractor.** When the parties have approved the Final Plans and Lessor has obtained the Permits required for construction of the

Improvements, Lessor shall select the General Contractor subject to Lessee's approval of the General Contractor and the fixed amounts that said General Contractor shall charge for Contractor's Fee and Profit and Overhead and for General Conditions, and the General Contractor shall circulate an appropriate bid package for bidding by at least three (3) prospective subcontractors for each trade. When the itemized bids are received and approved by Lessor and Lessee, the General Contractor shall either (1) enter into a construction contract with one of the prospective subcontractors who submits one of the two lowest bids for the construction of the Lessee Improvements with the consent of Lessee which consent Lessee shall not unreasonably withhold; or (2) Lessor may do the work itself or with one of Lessor's subsidiaries (as long as the party performing the work is properly licensed by the State of California to perform the construction work necessary to complete the Lessee Improvements) if (a) Lessor matches the lowest bid submitted by the prospective subcontractors and (b) Lessee consents to Lessor or its subsidiary to performing the construction of the Lessee Improvements which consent Lessee shall not unreasonably withhold.

**4.2. Commencement and Completion of Improvements.** When all Permits for construction of the Improvements have been obtained and Lessor and General Contractor have entered into a construction contract in accordance with section 4.1 of this Exhibit, Lessor shall cause the General Contractor to commence and to thereafter diligently prosecute the construction of the Improvements in accordance with the Permits and the Construction Documents, so that the Improvements will be Substantially Completed on or before the Scheduled Completion Date.

**4.3. Lessee's Entry.** Lessor shall notify Lessee when the work has proceeded to the point where it is possible for Lessee to install Lessee's Work, whereupon Lessor shall permit Lessee's contractors to enter into the Premises for the purpose of conducting Lessee's Work. Lessee and Lessor shall cooperate in good faith to schedule, coordinate, and perform their respective construction activities in an orderly manner and Lessee shall comply, and shall cause its contractors to comply, with all reasonable rules and regulations promulgated by Lessor for the performance of Lessee's Work in the Premises. In addition to its other rights and remedies, Lessor shall have the right to suspend any Lessee's Work that interferes with or delays other construction, or detracts from harmonious labor relations if Lessee fails to correct such interference within seventy-two (72) hours following written notice to Lessee, provided that Lessor had made all reasonable accommodations in the conduct of its work to eliminate such interference.

**4.4. Standards for Performance of the Work.** Lessor shall cause the Improvements to be constructed by well-trained, adequately supervised workers, in a good and workmanlike manner, free from design, material and workmanship defects in accordance with all the Construction Documents and all Applicable Laws and Restrictions. Notwithstanding anything to the contrary in the Lease or this Exhibit, Lessee's acceptance of the Final Plans and/or acceptance of possession of the

Improvements shall not waive this warranty, and Lessor shall promptly remedy all violations of the warranty and its sole cost and expense.

## **ARTICLE V COMPLETION OF THE WORK**

**5.1. Substantial Completion.** The Improvements shall be deemed "Substantially Complete" when (a) construction of the Improvements has been substantially completed in accordance with the Final Plans, the Permits, and the Applicable Laws and Restrictions; (b) the Architect has certified that the Improvements have been constructed in accordance with the Final Plans; (c) there is no incomplete or defective work that unreasonably interferes with Lessee's use of the Premises; (d) all necessary government approvals for legal occupancy of the Improvements have been obtained (including, if applicable, a Certificate of Occupancy); (e) all utilities are hooked up and available for use by Lessee in the Premises and (f) Lessee has acknowledged that the Improvements are Substantially Completed. The "Substantial Completion Date" shall not occur until the Improvements are Substantially Completed. Lessee Improvements shall not be considered Substantially Completed unless Lessor's Work is also Substantially Completed.

**5.2. Inspection and Punchlist.** Lessee's Representative and Designers shall have the right to enter the Premises and the Project at all reasonable times for the purpose of inspecting all progress of construction of the Improvements. Lessor shall notify Lessee's Representative when the Improvements are Substantially Completed. On receipt of such notice, Lessee's Representative, Lessor's Representative, and the Architect shall immediately inspect the Improvements and prepare a written list of any items that are defective, incomplete, or do not conform to the Final Plans or the Permits and Applicable Laws and Restrictions ("Punchlist"). Lessee may augment the Punchlist at any time on or before thirty (30) days following the Substantial Completion Date. Lessee's failure to specify any item on the Punchlist, however, shall not waive Lessor's obligation to construct the Improvements in accordance with this Exhibit. Lessor shall cause all Punchlist items to be remedied within thirty (30) days after the Substantial Completion Date.

**5.3. Delay in Substantial Completion.** If the Substantial Completion of the Improvements is delayed as a consequence of a Lessee Delay, then the Substantial Completion Date and the date for commencement of Rent under the Lease shall be advanced in time by the number of days that the Substantial Completion of the Improvements is actually delayed as a consequence of the Lessee Delay. Lessor shall have no liability for any delay of Substantial Completion Date beyond the Scheduled Completion Date caused by a Force Majeure Delay, except as follows:

a. Rent shall not begin to accrue under the Lease until the Substantial Completion Date.

b. Lessor acknowledges that any delay in the Substantial Completion Date (as adjusted for Lessee Delay) beyond the Scheduled Completion Date, shall cause Lessee to incur costs not compensated by the mere abatement of Rent for the delay period, and that the exact amount of such costs will be extremely difficult to ascertain. Accordingly, subject to section 5.3(e) of this Exhibit, if the Substantial Completion Date (as adjusted for Lessee Delay) is delayed beyond the Scheduled Completion Date, then, in addition to the Rent abatement during the delay as provided above, as liquidated damage Lessee shall receive a credit against the Rent otherwise payable under the Lease in an amount equal to \$854.30 for each day of the delay. The parties agree that such amount represents a fair and reasonable estimate of the damage Lessee will incur by reason of the late completion of the Improvements.

c. If the Improvements are not Substantially Completed within thirty (30) days after delivery of a written notice to Lessor of Lessee's intent to invoke this section, Lessee may take over and complete the Improvements and, upon demand, Lessor shall reimburse Lessee for all costs and expenses (in excess of any share of Construction Costs of the Improvements that Lessee is otherwise obligated to pay under the provisions of this Exhibit) that Lessee incurs in so completing the Improvements, together with interest thereon at the rate of seven percent (7%) per annum. Any such sums not reimbursed to Lessee within thirty (30) days after delivery to Lessor of a written demand for payment may be offset against the Rent payable under the Lease.

d. Notwithstanding anything to the contrary, Lessee reserves the right to terminate the Lease in accordance with Article VIII of this Exhibit.

e. If either party is delayed or prevented from the performance of any act required under this Exhibit by reason of acts of God, strikes, lockouts, fires or explosions, failure of a governmental entity to timely issue permits as long as Lessor's submittals to that governmental entity for such permits are complete and accurate, or restrictive governmental laws or regulations which is without fault and beyond the control of the party obligated, any period of time in which the party is obligated to perform this act shall be extended for a reasonable period equivalent to the period of delay ("Force Majeure Delay"). Notwithstanding anything to the contrary, any Force Majeure Delay shall not act to terminate any Rent abatement during such delay and Lessee shall be entitled to abate Rent during any Force Majeure Delay.

f. Lessee acknowledges that any delay beyond the Scheduled Completion Date due to Lessee Delay, shall cause Lessor to incur costs since rent does not commence until the Substantial Completion Date, and that the exact amount of such costs will be extremely difficult to ascertain; accordingly, subject to section 5.3(e) of this Exhibit, if the Substantial Completion Date is delayed beyond the Scheduled Completion Date due to Lessee Delay, then, as liquidated damage, Lessee will pay Lessor an amount equal to \$854.30 for each day of Lessee Delay. Lessee further acknowledges that any



delay beyond the Scheduled Completion Date due to a delay in obtaining SFM Approval or DSA Approval, shall cause Lessor to incur costs since rent does not commence until the Substantial Completion Date, and that the exact amount of such costs will be extremely difficult to ascertain; accordingly, subject to section 5.3(e) of this Exhibit, if the Substantial Completion Date is delayed beyond the Scheduled Completion Date due to a delay in obtaining SFM Approval or DSA Approval, then, as liquidated damage, Lessee will pay Lessor an amount equal to \$427.15 for each day of delay due in obtaining SFM Approval or DSA Approval. Notwithstanding anything to the contrary, Lessee shall have no obligation to pay any liquidated damages under this section if either: (a) Lessor was responsible in any manner for either (i) the delay in obtaining SFM Approval or DSA Approval, or (ii) Lessee Delay, or (b) Lessor did not notify or provide adequate written notice to Lessee of the delay which would have enabled Lessee to avoid or mitigate the delay. The parties agree that the amounts in this section represent a fair and reasonable estimate of the damage Lessor will incur by reason of the late completion of the Improvements.

**5.4. Notice of Completion; Copy of Record Set of Plans.** Within ten (10) business days after completion of construction of the Improvements, Lessor shall cause a statutory Notice of Completion to be recorded in the office of the County Recorder for the county in which the Project is located in accordance with section 3093 of the Civil Code of the State of California or any successor statute, and shall furnish a copy thereof to Lessee upon such recordation. If Lessor fails to do so, after having received ten (10) business days' prior notice from Lessee, Lessee may execute and fill the same on behalf of Lessor as Lessor's agent for such purpose, at Lessee's sole reasonable cost and expense. At the conclusion of construction, (i) Lessor shall cause the Architect (A) to update the Final Plans as necessary to reflect all changes made to the Final Plans during the course of construction, (B) to certify to the best of the Architect's knowledge that the "record-set" of as-built drawings are true and correct, which certification shall survive the expiration or termination of this Lease, and (C) to deliver to Lessee two (2) sets of copies of such record set of drawings within ninety (90) days following issuance of a certificate of occupancy for the Premises.

## **ARTICLE VI PAYMENT OF CONSTRUCTION COSTS**

**6.1. Duty to Pay Construction Costs.** The cost for completion of the Improvements shall be paid by Lessor and Lessee as follows: (a) Lessor shall pay that portion of the Construction Costs of the Lessee Improvements equal to, but not exceeding, the Improvement Allowance; (b) Lessee shall pay the Construction Costs of the Lessee Improvements in excess of the Improvement Allowance; (c) Lessor shall pay all other costs incurred by Lessor in performing its obligations under this Exhibit,

including, without limitation, all costs associated with completing Lessor's Work; (d) Lessee shall pay all costs of completing the Lessee's Work.

**6.2. Lessee's Contribution Limited by Cost Estimate.** Notwithstanding anything to the contrary set forth above, the costs reimbursable by Lessee to Lessor for completion of the Lessee Improvements shall not exceed (a) the lesser of the Construction Costs of the Lessee Improvements and the Cost Estimate for the Lessee Improvements approved by Lessor or Lessee in accordance with this Exhibit, less (b) any Improvement Allowance to be contributed by Lessor toward such Construction Costs. Any costs beyond the amount calculated pursuant to this section shall be the responsibility of Lessor.

**6.3. Method for Reimbursement of Construction Costs.** The Construction Costs reimbursable by Lessee to Lessor pursuant to the foregoing shall be paid to Lessor, at Lessee's sole discretions, by either of the following methods:

a. Lessee shall pay its share of the Construction Costs forty-five (45) days following recordation of the Notice of Completion for the Lessee Improvements; or

b. Lessee shall reimburse Lessor for its share of the Construction Costs by amortizing the cost over the first sixty (60) months of the Original Term of the Lease at the annual interest rate of nine percent (9%) per annum, and the Rent shall be increased by this amount.

**6.4. Adjustment for Unused Improvement Allowance.** If the Construction Costs of the Lessee Improvements are less than the Improvement Allowance, the Rent payable by Lessee for the Premises shall be reduced by an amount equal to each unused dollar of the Improvement Allowance.

**6.5. Notice of Non-Responsibility.** Lessor shall provide Lessee with at least ten (10) days' prior written notice of the date for commencement of construction of the Improvements, in order to permit Lessee to post, file, and record such Notices of Non-Responsibility and other instruments as may be necessary to protect Lessee and its property from claims by Contractors for Construction Costs that are to be paid by Lessor pursuant to this Exhibit.

## **ARTICLE VII RISK OF LOSS**

If the Project or any portion of the Improvements are damaged or destroyed prior to the Substantial Completion Date, the parties shall have the following rights to terminate:

a. Lessee may terminate the portion of the Lease applicable to the Premises, if the Building cannot be restored and the Improvements Substantially Completed prior to thirty (30) days after the Scheduled Completion Date.

b. If the Project or the Improvements are damaged or destroyed prior to the Substantial Completion Date and the portion of the Lease applicable to the Premises is not terminated pursuant to this section, Lessor shall promptly and diligently cause the General Contractor to restore the Project and complete the construction of the Improvements.

## **ARTICLE VIII LESSEE'S RIGHT TO TERMINATE**

**8.1. Delay in Design Schedule -- Inability to Obtain Permits and Construction Costs in Excess of Improvement Allowance.** Lessee may terminate the Lease by delivery of a written termination notice to Lessor if:

a. The Final Plans or the Cost Estimates have not been completed by the scheduled dates preliminarily set forth in the Design Schedule;

b. The parties have not approved the Final Plans or Cost Estimate by the scheduled dates set forth in the Design Schedule; or

c. All of the Permits required for construction of the Improvements have not been issued on or before the last day of insurance of Permits specified in the Design Schedule.

**8.2. Failure To Commence or Complete Improvements.** In addition to its other rights and remedies on account of Lessor's default, Lessee may also terminate the Lease by delivery of a written termination notice to Lessor, if

a. Lessor fails to execute a construction contract with the General Contractor within ten (10) days after the Scheduled Date in the Construction Schedule;

b. General Contractor fails to commence construction of the Improvements within ten (10) days after the Scheduled Date in the Construction Schedule; or

c. The Substantial Completion Date does not occur on or before the Scheduled Completion Date (as the same may be adjusted for Lessee Delay in accordance with this Exhibit), and Lessor fails to Substantially Complete the Improvements on or before thirty (30) days after written notice by Lessee to Lessor of its intent to terminate pursuant to this section.

## **ARTICLE IX PREVAILING WAGES**

For those projects which are "public works" pursuant to Labor Code § 1720.2, the following applies:

a. Lessor/Contractor shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with § 1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.

b. The Lessor/Contractor shall furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates at which Lessor will post at the job site. All prevailing wages shall be obtained by the Lessor/Contractor from:

Department of Industrial Relations  
Division of Labor Statistics and Research  
455 Golden Gate Avenue, 8th Floor  
San Francisco, CA 94102

c. Lessor/Contractor shall comply with the payroll record keeping and availability requirement of § 1776 of the Labor Code.

d. Lessor/Contractor shall make travel and subsistence payments to workers needed for performance of work in accordance with § 1773.8 of the Labor Code.

e. Prior to commencement of work, Lessor/Contractor shall contact the Division of Apprenticeship Standards and comply with § 1777.5, § 1777.6, and § 1777.7 of the Labor Code and applicable regulations.

#### **ARTICLE X INSURANCE**

Lessor shall require that the General Contractor obtain general liability insurance in the same amount and for the same coverage as Lessor is required to obtain pursuant to section 8 of the Lease, as amended. In addition, Lessor shall require the General Contractor to obtain automobile insurance in the amount of one million dollars (\$1,000,000.00). Prior to commencement of the Improvements, Lessor shall obtain certificates of insurance from the General Contractor for the required insurance which shall name Lessee and Lessor as additional insureds subject to the same cancellation policies set forth in section 8 of the Lease, as amended, for Lessor's insurance.

**EXHIBIT "D-1"**  
**DESIGN SCHEDULE**

	<b>SCHEDULED DUE DATE</b>
1. The Final Plans and preliminary Cost Estimate are completed	July, 2008
2. Approval of the Final Plans and Cost Estimate, by both parties	August, 2008
3. Necessary Permits obtained for construction of the Improvements	November, 2008

**EXHIBIT "D-2"**

**CONSTRUCTION SCHEDULE**

	<b>SCHEDULED DUE DATE</b>
1. Commencement of Demolition Work	October, 2008
2. Execution of Construction Contract with General Contractor for Lessee Improvements	September 2008
3. Commencement of Construction Work for Lessee Improvements	December 2008
4. Substantial Completion	March 1, 2009

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**EXHIBIT "D-3"**  
**DESIGN SPECIFICATIONS**

**(See Attached)**

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**Exhibit "D-3"**  
**DESIGN GUIDELINES &  
SPECIFICATIONS**

**S i x t h F l o o r**

**ADMINISTRATIVE OFFICE OF THE COURTS**

**May 29, 2008**

**City Towers  
10<sup>th</sup> and H streets  
Modesto, California**

**General:**

The California Trial Court Facilities Standards 2006 Edition shall be included as a reference and guide to the construction and detailing of the tenant improvements for this project. The final construction documents shall govern the work and scope of work by the general contractor subject to approvals by the City of Modesto and access approval by the Department of the State Architect.

Administrative Office of the Courts (also referred to as "The Court") shall supply complete list of fixtures, furniture and equipment to be supplied by Administrative Office of the Courts and installed by the general contractor or supplied by Administrative Office of the Courts and installed by Administrative Office of the Courts.

Floor plans by L Street Architects for both the **sixth floor** improvements and third secure parking shall be exhibits for the specifications and scope of work.

Administrative Office of the Courts (also referred to as "The Court") and building owner shall have access to the construction for the purposed of assuring compliance with the final construction documents and all court requirements including but not limited to ADA access and California Trial Court Facilities Standards.



## **Specific Standards:**

### **CEILING:**

#### **Acoustic Ceiling**

- Ceiling height: 10'-0"
- Armstrong Prelude XL 15/16" Exposed "T" grid system #7301 and wall mold, color: White, with Armstrong Cortega #769 Minatone Square Lay-in. 2'x4' x 5/8" ceiling tile. Color: white
- Partition attachment clips.
- Non-combustible compression struts fastened to the main runner shall be extended and fastened to the structural members supporting the roof or floor above.
- Splay wires for seismic bracing.

#### **Drywall Ceiling:**

- Ceiling height: 9'-0" or 10'-0" as noted on final construction documents.
- Non-rated ceilings to be constructed of 6" 20 gauge metal studs at 24" on center or as dictated by the office of the architect, with (1) layer 5/8" type "x" Gypsum Board, taped smooth to receive paint.
- *When required by building codes or building departments;* 1-Hr rated corridors/ceilings to be constructed with 8", 20 gauge metal at 16" on center or as dictated by the Office of the architect, with (1) layer 5/8" Type "X" gypsum board top and bottom, fire taped smooth to receive paint. All penetrations through 1-hr envelope to be fire caulked with 3M fire caulk or equal.

## **DOORS, FRAMES, HARDWARE, AND GLAZING**

**All Door hardware to meet Court standards, and maintain compliance with the 2007 California Building Code and City of Modesto requirements, i.e. Panic Hardware, etc.**

#### **Keying:**

Keying of all doors shall be in compliance with court and building owner requirements and shall be mutually agreed upon. At doors with electronic card readers, the Administrative Office of the Courts shall approve all locations and at certain locations, to be determined, retain control of issuance of cards for security reasons.

### **Single 1-Hr Rated Corridor Door**

- Door: 3'-0" x 7'-0" x 1-3/4" non-combustible solid core pre-finished Legacy Door, 4" top and bottom rail hardwood edges. 20-minute fire rated with rating label attached to hinge side of door. Color: Cherry Wood.
- Frame: 3'-0" x 7'-0" x 4-7/8" hollow metal door frame, 18 gauge cold rolled steel. 20-minute fire rated with rating label attached to hinge side of frame. Prime for paint.
- Lockset: Mortise lockset by Schlage L Series #9453P with keyway to match building standard chrome finish. Subcontractor to provide cylinders for keying.
- Hinges: 4-1/2" x 4-1/2" McKinney TA714 Chrome plated finish, or equal. Butt hinges, ball bearing, two pair per door NRP hinges.
- Doorstop: Trimco floor mounted dome stop #1210. Raiser as required. Chrome finish.
- Closer: Norton #P8501 x AL parallel arm closer Chrome finish.

### **Pair 1-Hr Rated Corridor Doors**

- Door: (2) 3'-0" x 7'-0" x 1-3/4" non-combustible solid core pre-finished Legacy Doors, 4" top and bottom rail hardwood edges. 20-minute fire rated with rating label attached to hinge side of door. Color: Cherry Wood
- Frame: 6'-0" x 7'-0" x 4-7/8" hollow metal door frame, 18 gauge cold rolled steel, 20-minute fire rated with rating label attached to hinge side of frame. Prime for paint.
- Lockset: Mortise lockset by Schlage L Series #9453P with keyway to match building standard chrome finish. Subcontractor to provide cylinders for keying.
- Hinges: 4-1/2" x 4-1/2" McKenney TA714 Chrome plated finish, two pair per door.
- Doorstop: Trimco floor mounted dome stop #1210. Raiser as required. Chrome finish.
- Coordinator: DCI #672 with Chrome finish
- Closer: Norton #P8501 x AL parallel arm closer with Chrome finish

### **Non-Rated Interior Door**

- Door: 3'-0" x 7'-0" x 1-3/4" non-combustible solid core pre-finished Legacy Doors, 4" top and bottom rail hardwood edges. Color: Cherry Wood.
- Frame: 3'-0" x 7'-0" x 4-7/8" Timely aluminum knock-down frame, or equal. Factory finished Black.

- Latch set: Schlage D Series D10 x RHO x 626 Chrome finish, Passage, privacy, or office lockset determined by Administrative Office of the Courts.
- Hinges: 4-1/2" x 4-1/2" McKinney T714 Chrome plated finish, or equal, two pair per door.
- Doorstop: Trimco floor mounted dome stop #1210. Raiser as required. Chrome finish.

#### **Non-Rated Pair Interior Doors**

- Door: (2) 3'-0" x 7'-0" x 1-3/4" non-combustible solid core pre-finished Legacy Doors, 4" top and bottom rail hardwood edges. Color: Cherry Wood.
- Frame: 6'-0" x 7'-0" x 4-7/8" Timely aluminum knock down frame, or equal. Factory finished Black.
- Lockset Series latch set by Schlage D Series #D10 x RHO x 626 Satin Chrome finish, passage, privacy, office lockset determined by Administrative Office of the Courts.
- Hinges: 4-1/2" X 4-1/2" McKinney T714 Chrome plated finish, two pair per door.
- Doorstop: Trimco floor mounted dome stop #1210. Raiser as required. Satin Chrome finish
- Coordinator: DCI #672 with Chrome finish
- Closer: Norton #P8501 x AL parallel arm closer with Chrome finish
- Astragal: Pemko #357C x AL with 626 Chrome finish

#### **Glazing**

- Provide 10" x 24" view glazing in doors at secure parking at corridors leading from parking. Final number to be determined.
- At the chambers and Judges toilets existing glazing shall be replaced with ballistic glazing per Administrative Office of the Courts standards.

#### **WALLS and DRYWALL**

**Any inconsistency of wall construction in shell construction must meet Class "A" Office Building Standards. Provide greenboard at all plumbing locations, per code.**

#### **Backing:**

Backing for all shelving and/or bookcases shall be as located on final construction documents and the locations shall be as approved by the Administrative Office of the Courts. General contractor to install metal backing at heights provided by Administrative Office of the Courts.

**Sound Walls:**

Required sound wall shall meet the minimum standards for California Trial Court Facilities Standards 2006 Edition and shall be located as shown on the final approved construction documents.

- 3-5/8", 25 gauge metal studs 24" on center with seismic bracing, U.N.O.
- Provide (1) layer acoustical sound board on interior side of courtroom to deck above.
- 5/8" type "X" gypsum wallboard (2) layers each side of studs
- Height from floor slab to underside of ceiling grid as noted in ceiling specs
- Provide R-11 batt sound insulation in wall cavity
- Partition taped smooth to receive eggshell quality paint
- "L" metal at termination of partition at ceiling
- Sound sealed gasket closure at mullion termination

A minimum of one wall in each courtroom shall be finished with sound absorptive materials. The type and finish shall be per final construction documents and per direction of tenant.

**Demising Partition:**

- 3-5/8", 20 Ga Metal stud 16" O.C. with seismic bracing U.N.O.
- Provide (1) layer acoustical sound board on interior side of courtroom to deck above.
- 5/8" Type "X" Gypsum Wallboard, (1) layer each side of studs
- Provide R-11 batt insulation tacked in wall cavity
- Sound Boots at HVAC penetrations at demising walls
- Height from floor slab to structure above (13'-6")
- Partition to be taped smooth and sanded to receive paint or wall covering.
- "L" metal at termination of partition at ceiling
- Straight-line termination at building columns, sound sealed gasket closure at mullion termination
- Stagger and caulk around electrical outlets and other boxes. Caulk around conduit and other through-the-wall penetrations. Caulk entire perimeter of wall at floor, exterior wall and ceiling and between "L" metal finished drywall and intersected surface

**Interior Partitions:**

- 3-5/8", 25 gauge metal studs 24" on center with seismic bracing, U.N.O.
- 5/8" type "X" gypsum wallboard (1) layer each side of studs
- Height from floor slab to underside of ceiling grid as noted in ceiling specs
- Provide R-11 batt insulation in wall cavity
- Partition taped smooth to receive eggshell quality paint
- "L" metal at termination of partition at ceiling
- Sound sealed gasket closure at mullion termination

**One Hour Corridor Envelope:**

- 6", 20 gauge metal studs at 24" on-center. Provide 6" 20 gauge double stud support columns as required at ceiling support locations. Refer to ceiling section for specifications
- One-hour corridor envelope with 5/8" type "X" gypsum wallboard on both sides of vertical and horizontal studs to form envelope corridor construction
- Partition fire taped and finished smooth to receive paint and ceramic tile base on corridor side only. Provide fire caulk at all penetrations, 3M or equal. Provide fire pads for all electrical boxes.
- All exterior corners to be finished with corner beads and all exposed edges finished with metal corner guards.
- Two continuous caulking beads at bottom track

**Interior Column Furring:**

- 3-5/8", 25 gauge metal studs, with one layer 5/8" gypsum wallboard and corner beads at specific columns
- Extend to 6" above suspended ceiling
- Tape smooth and sand to receive paint

**Perimeter Wall Furring:**

- 3-5/8", 25 gauge metal studs, 24" on-center with one layer 5/8" gypsum wallboard. Provide R-13 batt insulation in wall cavity.
- Tape smooth and sand to receive paint.
- Extend to 6" above suspended ceiling.

**Low Walls:**

- 3-5/8", 25 gauge metal studs at 16" on center
- 2" square x 1/8" steel tube @ 30" High placed 4'-0" on-center, with minimum weld to 5/16" T-plate secured to slab with (2) 1/2" x 3" long embedment wedge anchors.
- One layer 5/8" Type "x" gypsum board each side, taped and finished smooth to receive paint, unless noted otherwise
- Provide cap per final details at construction documents.
- Height of wall varies. General contractor to refer to final construction documents. Locations per final construction documents.

**HEATING VENTING AND AIR CONDITIONING**

- HVAC system and engineered distribution to meet all local and state Codes
- Owner to provide required tonnage of HVAC per Administrative Office of the Court's layout, and perceived occupant loads. All HVAC Roof Top Units are existing and to remain. Final layout of ducting and VAV boxes as designed by the Design Build HVAC Contractor
- General Contractor to provide all supply and return flex duct work from existing building duct systems and VAV boxes to engineered locations
- Provide dedicated HVAC system for IT Room; pending final design from Design Build HVAC Contractor.
- 2'x2' supply air registers, perforated face diffuser, Color: White
- 2'x2' return air grilles, perforated face diffuser, Color: White
- Thermostats are 24/7 programmable with digital display. All thermostats are located per zone requirements. 42" A.F.F. to centerline.
- Provide locking plastic covers over all Thermostat locations
- Testing and air balance report due at completion of construction by testing and air balance contractor.
- Mechanical and acoustical compliance shall be outlined by California Trial Court Facilities Standards 2006 Edition, chapters 13 and 18 specifically.

**ELECTRICAL****Lighting:**

- Total lighting package to meet requirements of Title 24 energy management

- Final design should include consideration for both direct and indirect lighting.
- 2'x4' slot grid 208V ceiling fixture with parabolic lens, Contractor to re-use specified fixtures from owner's stock. Replace all existing ballasts with electronic type, and replace all lamps to provide like-new appearance; as shown on final construction documents.
- Lighting in courtrooms to be in-direct as outlined by California Trial Court Facilities Standards 2006 Edition, chapters 13 and 18 specifically.
- 6" fluorescent down can, 208V, 26 watt, with specular clear reflector as shown on final construction documents.
- 1' x 4' fluorescent strip fixture with acrylic lens, 208V, as shown on final construction documents.
- Ceiling and Wall sensors to be engineered by Design Build Electrical Contractor. Provide Hubbell Building Automation Dual Tech Passive Infrared and ultrasonic technology
- All single and dual pole switches to be Decors Style, Color: White
- Provide multi-lighting level capabilities in both Courtrooms.

#### **Electrical Outlets:**

- Leviton Decora self grounding or equal, duplex or fourplex receptacle, 120V, 20 amps non dedicated. Mount vertically to 18" AFF to center of outlet unless noted otherwise

#### **Telephone/Data Wall Outlet:**

- Single gang wall box mounted vertically in wall at 18" AFF to centerline of box
- 1" conduit stubbed from top of box to 6" above suspended ceiling line with P-ring and pull string
- The communications network Infrastructure includes all fixed elements and elements that are specifically designed or fabricated for the building, including but not limited to the provision, installation and testing of cabling, raceways, equipment racks, wire terminations; back-boxes and outlets. Electrified Door hardware to accept control by the Tenant's access control system is considered infrastructure.
- Active Electronics includes the provision, installation and testing of all vendor specific moveable equipment and related parts which operate over the communications network to achieve the intended business objectives, including but not limited to routers, servers, computers, uninterruptible powers supplies, telephone equipment, amplifiers, mixers, recorders, televisions, and video

monitors; security cameras, security enunciators, access control system, voice reinforcement speakers and microphones are considered infrastructure.

- Infrastructure is provided by the Landlord; Active Electronics are provided by the Administrative Office of the Courts or the Superior Court

**Power:**

- Provide all required circuitry, wire, breakers, panels, distribution boards as required to meet the outlined electrical and lighting loads, as designed by the Design Build Electrical Contractor

**FIRE SPRINKLER/LIFE SAFETY**

**Sprinkler Heads and Risers**

- Drop heads from existing distribution, adjustable
- Semi-recessed heads mode "H" 2" Orifice with White Enamel Trim
- Heads to be located in center of ceiling tile (except as Code required near soffits)
- Sheet rock ceilings requires fully recessed white sprinkler heads and risers
- Provide High Temperature Sprinkler Heads as noted as designed by the Design Build Electrical Contractor

**Building Life Safety System**

- Fire/Life Safety
  1. Install fire management speaker per Code requirements
  2. Siemens MSI-10B manual fire alarm pull station, finish: red. Mount at 5" below finished ceiling to centerline of box, per Code requirements
  3. Siemens U-MMT-MCS strobe/horn connected by Electrical Contractor to building fire alarm system, finish: red. Mount at 5" below finished ceiling to centerline of box, per Code requirements
  4. Siemens FP-11/DB11-DB-X11RS Fire Print Smoke Detector connected by Electrical Contractor to building fire alarm system, finish: White. Mount: per Code requirements
  5. Connect to existing core fire/life safety system



- Fire Extinguishers:
  1. Wall mounted as shown on final construction documents and approved by fire department.
  2. Fire extinguisher to be Cosmis 5 lb 5E 2A10BC or equal, Multi-purpose dry extinguisher

## **PLUMBING**

**Fixtures – All installation and specifications must meet the requirements set forth in the 2007 California Plumbing Code**

- Kitchen Sink – ADA compliant Self-rimming kitchen sink, KOHLER, Lyric or equal (K-3310) 19 gauge stainless steel, double compartment with Delta, water fall series faucet, 8" gooseneck faucet with ADA compliant lever type hardware. Provide ¾" HP Insinkerator garbage disposal, with required switch adjacent sink. Provide Administrative Office of the Courts approved water filtration system at sink.

## **MILLWORK**

### **Court Rooms;**

- Provide 12" rise platform at both court rooms. Platform to be constructed as designed by a office of the architect. Provide 6'-0" L x 4'-0" W ramp at 8.33% slope from top of 12" platform to 6" platform below. Refer to attached exhibit plan for locations.
- Provide 6" rise platform at both court rooms for witness, jury seating and clerks. Platform to be constructed as designed by a office of the architect. Provide 6'-0" x 4'-0" W ramp at 8.33% slope from top to 6" platform to finished floor. Refer to attached exhibit plan for locations.
- Provide judge's bench, coat closet, toilet storage, clerk's desks, filing cabinets, and appropriate work area and storage components as well as witness stand for both court rooms as shown on final construction documents. Design and finishes to be in conformance with the California Trial Court Facilities Standards 2006 Edition.
- Provide wall or rail between spectator seating and litigation well.

### **Cabinetry;**

- All millwork in to meet all requirements for Handicap accessibility set forth in the 2007 California Building Code.

- Break room to receive 24" deep plastic laminate base cabinet. Provide 6" drawer, and door storage, 4" backsplash, with (1) 1" adjustable shelf. Interior of cabinet to be black Melamine. Provide Blum hinges and wire pulls. Provide 12" deep upper cabinetry with required reinforcement in wall. Cabinet to be plastic laminate with Black Melamine interior. Provide (2) 1" adjustable shelves with Blum hinges and wire pulls. Cabinet to be (1) open box plastic laminates all sides sized for (1) microwave. Provide cabinet door storage above to match above noted specifications.
- Provide transaction counters at file review rooms; transaction counter at clerks area with tempered glass screen as shown on final construction documents.

**Miscellaneous;**

- 7'-0" wall to be added to building exterior wall at both court rooms adjacent to window walls for security and energy efficiency. The final design shall be per notes above and shall be approved for security by the Administrative Office of the Courts. Wall shall be securely attached or braced in a manner that can be maintained for the duration of the lease.

**FINISHES:**

Refer to chapter 11 of California Trial Court Facilities Standards 2006 Edition for design standards for all finishes.

**General Notes**

- Where Paint colors change, corners are to be cut-in free of overlapping
- All finishes are to be applied in strict accordance to Manufacturer's specifications
- Classes of materials based upon their characteristics shall be set forth in Table 8-B of the 2007 California Building Code
- The maximum flame spread classification of finish materials used on the interior walls and ceiling shall not exceed the requirements of Table 8-B of the 2007 CBC.
- Smoke density of materials shall be no greater than 450 when used in accordance with the Uniform Building Code, Standard No. 42-1 in the manor for intended use.
- Application of controlled finishes shall be in accordance with Section 803 of the CBC
- All paint finish of metal parts of doors, handrails, shall be semi-gloss unless noted otherwise
- All paint shall be installed per the Manufacturer's specification for the particular surface

- All Vinyl composition tile to be installed with a full tile from vinyl threshold transition strip and full tile from wall adjacent to door swing, unless noted otherwise
- Contractor to verify finished condition and level of floor to receive new finishes to be without bowing at floor or wall base. Contractor is responsible for all floor preparation.
- Contractor to include floor preparation as part of base bid
- Where floor mounted outlets or junction boxes are shown in carpeted areas, cut the carpet in an "X" over the hole and carpet over. This will allow the carpet patching where outlets are later capped. Do not trim carpet
- Provide and install specified base in all areas receiving flooring
- Coordinate installation of base with millwork. Delete base at wall where built-in cabinets are indicated
- Submit seaming plans of carpet to Architect for approval prior to installation
- All carpet shall be installed with the glue direct method unless noted otherwise
- Contractor to provide pre-formed rubber base corners. Do not bend straight base to make corners
- Provide Schluter RENO-T 9/16" brushed stainless at all ceramic tile to carpet transitions
- Provide Bruke Mercer Rubber Reducer strip, color to match Bruke Mercer Base at all Vinyl Composition Tile to Carpet Transitions

#### **Flooring**

- **Carpet (C-1)** Final finished being determined during the course of design based on costs and materials submitted by General Contractor during the design phase.
- **Ceramic Tile (CT-1)** Final finished being determined during the course of design based on costs and materials submitted by General Contractor during the design phase.
- **VCT (VCT)** Final finished being determined during the course of design based on costs and materials submitted by General Contractor during the design phase.
- **Base (B-1) Burke Mercer 4" Top set base with self covered bottom edge.** Installed per Manufacturer's requirements. Color TBD
- **Ceramic Tile Base (CT-2)** Final finished being determined during the course of design based on costs and materials submitted by General Contractor during the design phase

### **Wall Finishes**

- **Paint (P-1)** (1) coat primer, (2) eggshell finish coats, ICI paint or approved equal. Color: TBD
- **Paint (P-2)** (1) coat primer, (2) Semi-gloss finish coats, ICI paint or approved equal. Color TBD (Chair Rail, Welded Steel door frames and Breakroom walls)
- **Paint (P-3)** (1) coat primer, (2) Flat finish coats, ICI paint or approved equal. Color TBD (gypsum ceiling)
- Acoustical wall treatment in courtrooms.

### **SIGNAGE**

- General Contractor to provide all signage the Administrative Office of the Courts for directional and operational as specified by the Administrative Office of the Courts; as required by the California Building Code and American with Disabilities Act, including, but not limited to, Restroom signage door and wall, Tactile exit signage, Stairwell signage, and all other signage requirements deemed necessary by the City of Modesto for final inspection and approval.
- All other signage is excluded from contract

### **ACCESSORIES AND MISCELLANEOUS IMPROVEMENTS**

#### **Handrails**

- 1 ¼" handrail at 34" with required handrail bracket attached to blocking. Bracket must resist 250 pounds of force in any direction. Provide 3 ½" support flange at 48" on center. Handrail once installed must remain a minimum of 1 ½" off of finished wall. Provide minimum of (2) 2 x 4 fire treated wood blocking as required. Attach with a minimum of (3) 3/8" x 3" long screws. Provide handrails at required ramps and steps in court rooms per code requirements.

#### **Corner Guards**

- Provide corner guards at all outside corners subject to public access, jury rooms and rooms leading to jury rooms, bailiff rooms and all other rooms as noted on final construction documents.

## **ADDITIONAL IMPROVEMENTS**

### **Secured Judge's Parking**

- Parking for the judges shall be based on final construction documents drawn by L Street Architects and all notes shown there on. The final construction may include, but not be limited to, the following items;
  1. Remote control of garage doors and rollup door/garage door mechanism.
  2. Doors shall have an electric strike. Doors will have to be on the court's card access system.
  3. Provide appropriate vehicle exhaust ventilation in the secure parking.
  4. Confirm lighting controls for space.

**ALL DESIGN, CONSTRUCTION AND INSTALLATION SHALL CONFORM TO THE REQUIREMENTS OF ALL APPLICABLE BUILDING, PLUMBING, MECHANICAL AND ELECTRICAL CODES AND THE REQUIREMENTS OF ANY GOVERNMENTAL AUTHORITY HAVING JURISDICTION OVER OR WITH RESPECT TO SUCH WORK.**

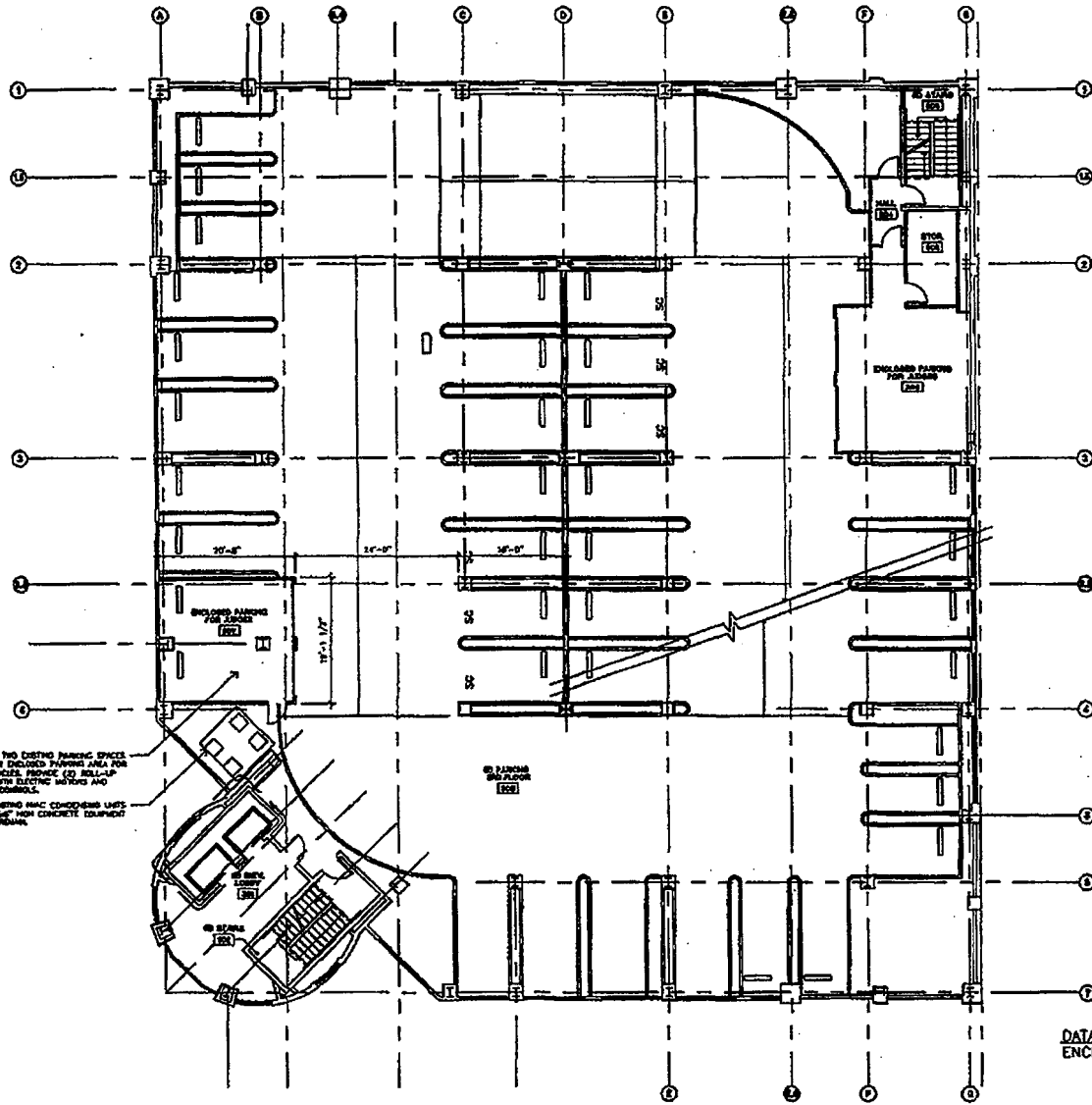
**END OF TENANT IMPROVEMENT STANDARDS**

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**EXHIBIT "D-4"**

**SECURED PARKING IMPROVEMENTS**

**(See Attached)**



REMOVE THE EXISTING FRAMING SPACE  
 NEW STEEL ENCLOSED PARKING AREA FOR  
 TWO VEHICLES. PROVIDE (2) ROLL-UP  
 DOORS WITH ELECTRIC MOTORS AND  
 REVERSE CONTROLS.

FOUR EXISTING HVAC CONDENSER UNITS  
 ON 3RD FLOOR. MOVE CONCRETE EQUIPMENT  
 TO 1B ROOM.

# 3rd Floor Preliminary Floor Plan

DATA:  
 ENCLOSED PARKING RM 307: 413 SF.



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 408.262.4242  
 www.lstreetarchitects.com

SEAL  
 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 COUNTY OF STANISLAUS

DATE	11/20/2018
DATE	08/14/18
FILE	000-11
JOB	00-000
PROJECT	
3RD FLOOR PRELIMINARY FLOOR PLAN	

## EXHIBIT "E"

### SECURITY SERVICES

1. Lessor's requirements to provide security services to the Building:
  - a. Building shall be secured by card key system which will lock the exterior entrances to the Building outside the normal business hours defined in section 4.3.1 of the Lease. Lessor shall provide; at no cost to Lessee, sufficient number of card keys to Lessee and Lessee's employees. Replacement keys for lost or misplaced keys shall be reimbursed by Lessee at Lessor's actual cost.
2. Specifications for Lessee's security system (if utilized by Lessee), including card access system:
  - a. Lessee's key card system shall utilize a conventional proximity card reader, compatible to Building's key card system.
  - b. Keycard shall be coded to allow dual purpose, (i) entry to the Building and (ii) entry to Premises.
  - c. All exterior doors to Premises and some interior doors within Premises shall be secured by key card system.
  - d. Lessee shall contact Lessor for additional key cards and necessary changes to coding system affecting Premises, at Lessee's cost.
  - e. Lessor shall not release and/or distribute key card system to any persons not authorized by Lessee to access Premises.



**Exhibit "C"**

**Revised Funding Plan, dated February 2009**

Exhibit C: Revised Funding Plan		Building ID: 50-G1/6th Floor				4/23/2009							
Expenditures		2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	TOTAL- All Fiscal Years
Rent (including janitorial, with 3% annual increase):													
July - February			\$205,033	\$211,184	\$217,519	\$224,045	\$230,766	\$237,689	\$244,820	\$252,164	\$259,729	\$267,521	
March - June		\$102,516	\$105,592	\$108,760	\$112,022	\$115,383	\$118,845	\$122,410	\$126,082	\$129,865	\$133,761	\$0	
Subtotal:		\$102,516	\$310,625	\$319,943	\$329,542	\$339,428	\$349,611	\$360,099	\$370,902	\$382,029	\$393,490	\$267,521	\$3,525,707
TI Costs (after TI allowance)		\$894,158											\$894,158
Other - One-time (see list below)		\$356,100											\$356,100
<b>TOTAL</b>		<b>\$1,352,774</b>	<b>\$310,625</b>	<b>\$319,943</b>	<b>\$329,542</b>	<b>\$339,428</b>	<b>\$349,611</b>	<b>\$360,099</b>	<b>\$370,902</b>	<b>\$382,029</b>	<b>\$393,490</b>	<b>\$267,521</b>	<b>\$4,775,965</b>
Revenues		Sources											
CCF (County to Transfer to Court)	TCTF	\$996,674	\$310,625	\$319,943	\$329,542	\$339,428	\$349,611	\$360,099	\$370,902	\$382,029	\$393,490	\$267,521	\$4,419,865
Court Reserves	TCTF	\$356,100											\$356,100
<b>TOTAL</b>		<b>\$1,352,774</b>	<b>\$310,625</b>	<b>\$319,943</b>	<b>\$329,542</b>	<b>\$339,428</b>	<b>\$349,611</b>	<b>\$360,099</b>	<b>\$370,902</b>	<b>\$382,029</b>	<b>\$393,490</b>	<b>\$267,521</b>	<b>\$4,775,965</b>
TCTF= Trial Court Trust Fund													
CCF = Court Construction Fund													

OTHER - One-time	
Tables/Chairs Breakroom	\$1,500
Jury Room chairs – task chairs (12)	\$2,400
Attorney seats	\$4,500
Counsel Tables (1 ctrm)	\$3,000
Break room appliances	\$700
Fax machines (2)	\$400
Small copiers (2)	\$2,500
Interview room furniture/jury tables	\$9,000
Audio visual	\$80,000
IT expenses (2 Ctrms)	\$180,100
Seimens (Security)	\$35,000
Screening Stations (Security)	\$37,000
<b>Total</b>	<b>\$356,100</b>