



GA 060-422-2200-2  
 Sheriff-Coroner  
 1045 Fuller Street, Santa Ana, CA

## LEASE

THIS IS A LEASE AGREEMENT (hereinafter referred to as “**Lease**”) made \_\_\_\_\_, 2019, (“**Effective Date**”), by and between HK 1045 FULLER, LLC, a California Limited Liability Company (hereinafter referred to as “**Lessor**”) and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as “**County**”) without regard to number and gender. The Lessor and County may individually be referred to herein as a “**Party**,” or collectively as the “**Parties**.”

### 1. DEFINITIONS (1.0 SA)

The following words in this Lease shall have the significance attached to them in this Clause 1 (DEFINITIONS), unless otherwise apparent from context:

“**Board of Supervisors**” means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

“**Building**” means the building commonly known as 1045 Fuller Street, Santa Ana, California, constituting a portion of the Premises.

“**CEO/Office of Risk Management**” means the Risk Manager, County Executive Office, Risk Management, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“**Chief Real Estate Officer**” means the Chief Real Estate Officer, County Executive Office, County of Orange, or upon written notice to Lessor, such other entity as shall be designated by the County Executive Officer.

“**County Executive Officer**” means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the Board of Supervisors.

“**Sheriff-Coroner**” means the Sheriff-Coroner, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“**Sheriff-Coroner Real Estate Manager**” means the Sheriff-Coroner Real Estate Manager, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

“**Sheriff Research & Development Director**” means the Director of Sheriff’s Research & Development, County of Orange, or designee, or upon written notice to Lessor, such other person or entity as shall be designated by the Director of Research & Development.

## 2. PREMISES (1.1 N)

Lessor leases to County that certain property described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by this reference made a part hereof, exclusive use of approximately 10,305 rentable square feet (“**RSF**”) in the building, along with parking lot, located at 1045 Fuller Street, Santa Ana, California (the “**Premises**”).

## 3. USE (1.2 SA)

County shall use the Premises for warehouse and office purposes or any other lawful purpose. County shall not use the Premises or any portion thereof for any illegal or unlawful purpose and will not cause or permit a nuisance to be created or maintained therein.

## 4. PARKING (1.3 SA)

Throughout the Term of the Lease and including any Extension Term pursuant to Clause 7 (OPTION TO EXTEND TERM), County shall have the exclusive right, without additional charge, to use all the parking spaces on the Premises as shown on Exhibit B.

If any modifications or alterations to the parking lot are required during the Term of this Lease in order to comply with parking for disabled persons (“**ADA Spaces**”) in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements, then County, at County’s sole cost and expense, shall provide for those modifications or alterations.

## 5. TERMINATION OF PRIOR AGREEMENTS (1.4 SA)

It is mutually agreed that this Lease shall terminate and supersede any prior agreement between the Parties hereto covering all or any portion of the Premises including that certain lease dated March 14, 2006 and the First Amendment to Lease dated May 6, 2014.

## 6. TERM (1.5 SA)

The Term of this Lease shall be ten (10) years (“**Term**”), commencing on April 1, 2019 (“**Commencement Date**”).

Parties agree that the Commencement Date of this Lease will be confirmed in writing by either Party upon demand by the other.

## 7. OPTION TO EXTEND TERM (1.6 N)

Provided there is no current County Default under this Lease (as further defined in Clause 28 DEFAULTS AND REMEDIES), either at the time of the exercise of the Option or upon commencement of the Extension Term, County shall have the option to extend the term (the “**Option(s)**”) of this Lease for two (2) five (5) year periods (each an “**Extension Term**”) exercised by the Sheriff-Coroner and memorialized in an amendment. The Fair Market Rental Value shall be consistent with the Rent in Clause 11 (RENT ADJUSTMENT) below. County may exercise such Option(s) by written notice given to Lessor at least six (6) months, but not more than nine (9) months, prior to the Lease termination date. Time is of the essence in the exercise of the

Option(s). If proper notification of the exercise of an Option is not given and/or received, in writing, such Option shall automatically expire. Option(s) may only be exercised consecutively. The Option(s) shall be personal to County and shall not be exercised by any assignee or sublessee of County. "Term" as used in this Lease shall mean the initial Term and the Extension Term(s) if the Option(s) are duly exercised. If the County exercises the Options(s) to extend, during each of the Extension Term(s) County shall continue to have the option to terminate the Lease pursuant to Clause 8 (OPTION TO TERMINATE).

## **8. OPTION TO TERMINATE LEASE (1.7 SA)**

The Parties shall have the option to terminate this Lease at any time after the second year of the Lease Term, upon giving the other Party written notice at least one hundred eighty (180) days prior to said termination date.

In the event County exercises the right to terminate during the first five-years of the initial Term, then the County shall pay the Lessor a termination fee ("Termination Fee") equivalent to the unamortized amount of commission paid to County pursuant to Clause 57 (COMMISSION) from the effective termination date to the remaining expiration date of the Lease.

Excluding Lessor's modifications, alterations, or upgrades to the Premises, in the event Lessor exercises the right to terminate, then Lessor shall reimburse County the equivalent of the unamortized amount of expenses paid by County for County's modifications, alterations, or upgrades made to the Premises and paid for by the County made pursuant to Clauses 19 (REPAIR, MAINTENANCE, AND JANITORIAL SERVICES), 24 (BUILDING AND SAFETY REQUIREMENTS), 29 (LABOR CODE COMPLIANCE), and 48 (INSPECTION OF PREMISES BY A CERTIFIED ACCESS SPECIALIST). The unamortized amount will be based on a pro rata amount on the Term that would have been remaining but for the Lessor's termination.

## **9. RENT (1.8 SA)**

County agrees to pay Lessor as rent for the Premises the sum of Ten Thousand Eight Hundred Twenty Dollars and Twenty Five Cents (\$10,820.25) ("**Base Rent**") per month plus County to pay Lessor for estimated monthly Lessor-Provided Operating Expenses ("**Additional Rent**") in accordance with Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES). Base Rent and Additional Rent combined, comprise the monthly "**Rent**" which shall commence on April 1, 2019 ("**Rent Commencement Date**"). Rent shall be adjusted annually pursuant to Clause 11 (RENT ADJUSTMENT) below. Furthermore, Base Rent shall be free for the months of May and June 2019, and in the event the County exercises the Option(s) to Extend the Term, then Base Rent shall be free for the months of April 2029 and April 2034.

To obtain rent payments and payment of any amounts hereunder, Lessor (or Lessor's designee), shall submit to Sheriff-Coroner Real Estate Manager, in a form acceptable to said Sheriff-Coroner Real Estate Manager, a written claim for said rent payments.

Payment shall be due and payable within twenty (20) days after the later of the following:

- A. The first day of the month following the month earned; or
- B. Lessor can use the County's Electronic Funds Transfer form to expedite rent payments; or
- C. Receipt of Lessor's written claim by the Sheriff-Coroner Real Estate Manager.

Should County occupy the Premises before the Commencement Date or should the Lease terminate on a day other than the last day of the month, Lessor shall be entitled to pro rata rent for the period of occupancy and the amount of space occupied prior to the beginning of the Lease Term based upon the monthly installment above. Said Rent shall be included in the rent claim submitted by Lessor for the first full month of the Lease Term and shall be paid by County at the time of payment for said month. For rent owed by County to be paid to Lessor during the holdover period of the previous Lease starting April 1, 2019 to the date of full execution of this Lease by both Parties, County shall pay the Lessor the difference of the increased rent of the new Lease compared to the previous Lease with County paying the Lessor with a one-time lump-sum payment within thirty (30) days following full execution of this Lease by both Parties; and the equivalent of two months' free rent for May and June 2019 shall also be deducted from the amount owed by County to Lessor for said one-time lump-sum payment.

#### **10. LESSOR-PROVIDED OPERATING EXPENSES (N)**

Lessor agrees to pay certain Operating Expenses for the Premises and County will reimburse Lessor for said costs, subject to the terms of this section. The “**Operating Expenses**” for the Premises shall refer to all costs relating to the ownership and operation of the Building and Premises, including, but not limited to, the following: Insurance (Lessor's Commercial Liability and Fire insurance, as County shall cover damages under Section 21), Property Taxes, Management Fees, and the cost of Repairs & Maintenance and Replacement. County will pay monthly an estimate of these Operating Costs as Additional Rent which shall be calculated based on approximately thirty-five cents (\$.35) per RSF of the Premises, which is Three Thousand Six Hundred Six Dollars and Seventy-Five Cents (\$3,606.75). Said Additional Rent shall be added to the Base Rent to comprise the monthly Rent owed by County.

On the anniversary of the Rent Commencement Date each year during the Term, Lessor shall submit to County an “**Annual Reconciliation**” for the completed year's actual expenses paid by Lessor compared to the Additional Rent paid by County to Lessor throughout the completed year. Said Annual Reconciliation shall be submitted to County within ninety (90) days after the anniversary of the Rent Commencement Date. Within fifteen (15) days of receipt of the Annual Reconciliation, County may request additional documentation from Lessor supporting said Annual Reconciliation. Lessor shall then provide County with sufficient documentation of paid invoices supporting the Annual Reconciliation amount. Once the Parties have agreed upon any amount(s) owed to either Party, said Annual Reconciliation payment shall be made by the owing Party within thirty (30) days, thereafter.

#### **11. RENT ADJUSTMENT (N)**

The Rent owed by County to Lessor for the Premises shall be automatically adjusted in accordance with the following schedule:

Years	Monthly Base Rent			Monthly		Combined		Square Footage	=	Rnd to Dollar Combined Monthly Rent	
				Lessor-Provided Operating Expenses	=	Monthly Rent PSF	x				
1	\$1.05	psf	+	\$0.35	=	\$1.400	x	10,305	=	\$14,427	( Free Rent May & June 2019)
2	\$1.08	psf	+	\$0.361	=	\$1.442	x	10,305	=	\$14,860	
3	\$1.11	psf	+	\$0.371	=	\$1.485	x	10,305	=	\$15,306	
4	\$1.15	psf	+	\$0.382	=	\$1.530	x	10,305	=	\$15,765	
5	\$1.18	psf	+	\$0.394	=	\$1.576	x	10,305	=	\$16,238	
6	\$1.22	psf	+	\$0.406	=	\$1.623	x	10,305	=	\$16,725	
7	\$1.25	psf	+	\$0.418	=	\$1.672	x	10,305	=	\$17,227	
8	\$1.29	psf	+	\$0.430	=	\$1.722	x	10,305	=	\$17,743	
9	\$1.33	psf	+	\$0.443	=	\$1.773	x	10,305	=	\$18,276	
10	\$1.37	psf	+	\$0.457	=	\$1.827	x	10,305	=	\$18,824	
11	\$1.42	psf	+	\$0.47	=	\$1.891	x	10,305	=	\$19,483	(Free Rent April 2029)
12	\$1.47	psf	+	\$0.49	=	\$1.957	x	10,305	=	\$20,165	
13	\$1.52	psf	+	\$0.51	=	\$2.025	x	10,305	=	\$20,870	
14	\$1.57	psf	+	\$0.52	=	\$2.096	x	10,305	=	\$21,601	
15	\$1.63	psf	+	\$0.54	=	\$2.170	x	10,305	=	\$22,357	
16	\$1.68	psf	+	\$0.56	=	\$2.245	x	10,305	=	\$23,139	(Free Rent April 2034)
17	\$1.74	psf	+	\$0.58	=	\$2.324	x	10,305	=	\$23,949	
18	\$1.80	psf	+	\$0.60	=	\$2.405	x	10,305	=	\$24,788	
19	\$1.87	psf	+	\$0.62	=	\$2.490	x	10,305	=	\$25,655	
20	\$1.93	psf	+	\$0.64	=	\$2.577	x	10,305	=	\$26,553	

The monthly Rent, above, is the amount to be paid by County. The “Per Square Foot” rate, above, is an estimate for statistical purposes only and for no other purpose.

**12. RIGHT OF FIRST OFFER (2.1 SA) – intentionally omitted**

**13. CONSTRUCTION (2.2 SA) – intentionally omitted**

**14. PAINTING BY LESSOR (2.3 SA) – intentionally omitted**

**15. CARPETING BY LESSOR (2.4 SA) – intentionally omitted**

**16. ALTERATIONS (2.5 SA)**

County, subject to Lessor’s prior written approval, which approval shall not be unreasonably withheld, may make improvements and changes in the Premises, including, but not limited to, the installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or appropriate by the County in its discretion. It is agreed that any such fixtures, partitions, counters, shelving, or equipment attached to or placed upon the Premises by County shall be considered as personal property of County, as defined below in Clause 32 (COUNTY PROPERTY), who shall have the obligation, to remove same upon vacating the Premises. County agrees that the Premises shall be left in as good condition as when received, reasonable wear and tear exempted.

**17. COUNTY-REQUESTED ALTERATIONS (2.6 SA) – intentionally omitted****18. ORANGE COUNTY TELECOMMUNICATIONS NETWORK (2.7 SA)**

Lessor agrees that County, subject to Lessor's prior written approval, which approval shall not be unreasonably withheld, may install, at County's sole cost and expense, telecommunication devices in, on, or around the Premises and Building in accordance with the relevant and applicable County telecommunications network plans and specifications, provided that the provisions of Clause 16 (ALTERATIONS), shall be applicable to such work. It shall be County's responsibility to obtain all governmental permits and/or approvals required for such installation; however, Lessor shall reasonably cooperate with County as necessary or appropriate, to obtain said permits and/or approvals. Additionally, County or County's subcontractor has the right to enter the Premises and/or Building to maintain, repair or replace the County telecommunications network consistent with said contract between County and service provider. County may, in its discretion, remove any cabling, conveyance systems or cabling conduit installed by County. When the Lease is terminated, County shall remove any such telecommunication improvements from the Premises and/or Building, unless otherwise agreed to in writing by County and Lessor prior to installation.

**19. REPAIR, MAINTENANCE, AND JANITORIAL SERVICES (2.8 N)**

- A. **Lessor and County Services.** Excluding any modifications, alterations, or upgrades to the Premises that are for Lessor's sole benefit to improve their Premises, Lessor shall provide, subject to reimbursement by County pursuant to Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES), any and all necessary alterations, repair, maintenance and replacement for the Premises and Building (and systems therein) to keep them in good order, condition and repair and in compliance with all applicable laws, including, but not limited to, the replacement, repair and maintenance of the non-structural portions of the Building, the roof of the Building, the parking facilities and all Building systems including the Heating, Ventilation, Air Conditioning ("HVAC") system, the plumbing, electrical and mechanical systems, fire/life safety system, elevators, roof, paving, fire extinguishers, pest control, and whether capital or non-capital (the "**Services**"), but shall exclude all janitorial supplies and labor which shall be provided by County. Upon request, Lessor shall provide County with a complete copy of any contracts for Services of an ongoing nature. Any repairs or replacements performed by Lessor must be at least equal in quality and workmanship to the original work and be in accordance with all applicable laws and local permit regulations. The Services shall be made promptly to keep the Premises and the Building in the condition described in this Clause 19. Should Lessor default in its obligations under this clause, the County may exercise those remedies set forth in Clause 19(B) below.
- B. **County Remedies.** If Lessor fails to provide the Services within fifteen (15) days after Sheriff-Coroner provides written notice thereof to Lessor specifying any such default and affording Lessor such fifteen (15) day period to complete the cure of such default, provided, however, that if the cure cannot reasonably be completed within such time period, Lessor shall be afforded an additional reasonable amount of time to complete the cure, as long as Lessor commences the cure within such time period and diligently pursues same to completion, without limiting any available remedy to County (including, but not limited to, County Remedies as defined in Clause 28 (DEFAULTS AND REMEDIES)), County may (upon written notice to Lessor and Lessor's lender, to the extent contact information for such lender has been provided in writing to County), and, at its sole discretion, perform or arrange for the performance of such Services, and deduct the cost thereof plus an administrative charge of ten percent (10%) of the cost from any Rent payable without further notice.

### C. Warranties.

In order for the County to comply with the California Code of Regulations, Title 8, Section 5142 (“**Regulation 5142**”), and as it may be subsequently amended, Lessor shall, subject to reimbursement by County pursuant to Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES), regularly inspect and maintain the HVAC system as required by Regulation 5142 and provide repair and maintenance accordingly. Inspections and maintenance of the HVAC system shall be documented in writing and Lessor shall retain such records for at least five (5) years. Lessor shall make all HVAC records required by this section available to County for examination and copying, within five (5) business days of a written request.

### 20. UTILITIES (2.9 N)

County shall be responsible for and pay, prior to the delinquency date, all charges for utilities supplied to the Premises, including, but not limited to, electricity, water, sewer, trash, and telephone.

### 21. INSURANCE (3.0 SA)

**Commercial Property Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial property insurance written on ISO form CP 00 10 10 12, or a substitute form providing coverage at least as broad, with all risk or special form coverage, covering the loss or damage to the Premises to the full insurable value of the improvements located on the Premises (including the full value of all improvements and fixtures owned by Lessor) at least in the amount of the full replacement cost thereof, and in no event less than the total amount required by any lender holding a security interest.

Lessor agrees to and shall include in the policy or policies of commercial property insurance a standard waiver of the right of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees by the insurance company issuing said policy or policies. Lessor shall provide the County of Orange with a Certificate of Insurance as evidence of compliance with these requirements.

**Commercial General Liability Insurance:** Lessor shall obtain and keep in force during the Term of this Lease a policy or policies of commercial general liability insurance covering all injuries occurring within the building and the Premises. The policy or policies evidencing such insurance shall provide the following:

- A. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the *County of Orange, its elected and appointed officials, officers, agents and employees* as an additional insured, or provide blanket coverage which will state, ***AS REQUIRED BY WRITTEN AGREEMENT***;
- B. A primary and non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Lessor’s insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing;
- C. Lessor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Lease, upon which the County may suspend or terminate this Lease.

- D. Shall provide a limit of One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollars (\$2,000,000) aggregate; and
- E. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings. Prior to the Commencement Date of this Lease and upon renewal of such policies, Lessor shall submit to County a Certificate of Insurance and required endorsements as evidence that the foregoing policy or policies are in effect.

If Lessor fails to procure and maintain the insurance required to be procured by Lessor under this Lease, County may, but shall not be required to, order such insurance and deduct the cost thereof plus any County administrative charges from the rent thereafter payable.

## **22. INDEMNIFICATION (3.1 SA)**

Lessor hereby agrees to indemnify, hold harmless, and defend County, its elected and appointed officials, officers, agents, employees, and those special districts and agencies which the Board of Supervisors acts as the governing board, with counsel approved by County, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the ownership, maintenance, or use of the Premises, except for liability arising out of the negligence of County, its elected and appointed officials, officers, agents, or employees, including the cost of defense of any lawsuit arising therefrom. In the event County is named as co-defendant, Lessor shall notify County of such fact and shall represent County, with counsel approved by County, in such legal action unless County undertakes to represent itself as co-defendant in such legal action, in which event Lessor shall pay County's litigation costs, expenses and attorneys' fees. In the event judgment is entered against County and Lessor because of the concurrent negligence of County and Lessor, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither Party shall request a jury apportionment.

County hereby agrees to indemnify, hold harmless, and defend Lessor, its officers, agents, and employees, against any and all claims, loss, demands, damages, cost, expenses or liability arising out of the use of the Premises, except for liability arising out of the negligence of Lessor, its officers, agents, or employees, including the cost of defense of any lawsuit arising therefrom.

## **23. TOXIC MATERIALS (3.2 SA)**

County hereby warrants and represents that County will comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively "**Toxic Materials**"). County shall be responsible for and shall indemnify and hold Lessor, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys' fees and costs arising out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by County. If the storage, use, and disposal of Toxic Materials on the Premises by County results in contamination or deterioration of water or soil resulting in a level of contamination greater than



maximum allowable levels established by any governmental agency having jurisdiction over such contamination, County shall promptly take any and all action necessary to clean up such contamination.

Likewise, Lessor hereby warrants and represents that Lessor has in the past and will hereafter comply with all laws and regulations relating to the storage, use and disposal of Toxic Materials. If the previous, current and future storage, use, and disposal of Toxic Materials on the Premises by Lessor results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination (and such violation does not arise out of any acts or omissions of County, its agents, employees or contractors), Lessor shall promptly take any and all action necessary to clean up such contamination.

#### **24. BUILDING AND SAFETY REQUIREMENTS (3.3 SA)**

During the Term and Extension Term(s) of this Lease, Lessor, subject to reimbursement by County pursuant to Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES), agrees to maintain the Premises in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they are applicable on the date of this Lease, and as they may be subsequently amended, including but not limited to the California Building Code, Title 24, Seismic Code, Fire and Life Safety requirements and, if applicable, California Green Building Standard Code.

Included in this provision is compliance with the Americans with Disabilities Act (“ADA”) and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended and all regulations issued by the U. S. Attorney General or other agencies under the authorization of the ADA. However, Lessor shall not be responsible for any ADA violations resulting from alterations made by County or the placement of County’s furniture, fixtures or equipment by County.

Lessor, subject to reimbursement by County pursuant to Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES), shall use commercially reasonable efforts to repair and maintain the Premises as a “safe place of employment,” as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended. County agrees to notify Lessor of any repair or maintenance necessary within the Premises or Building to comply with such Act and Lessor, subject to reimbursement by County pursuant to Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES), agrees to diligently act to repair or maintain appropriately so long as such repair or maintenance of the Premises is a Lessor service as defined in Clause 19(A) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES) above. In the event that such repair or maintenance is necessary and is the result of County negligence, County agrees to perform such repair or maintenance at County’s sole cost and expense.

In the event Lessor neglects, fails, or refuses to maintain said Premises as aforesaid, following thirty (30) days after written notice from County to Lessor providing notice of such neglect or failure or refusal County may, notwithstanding any other termination provisions contained herein:

A. Thirty (30) days following a second written notice of such neglect or failure or refusal, County may terminate this Lease with written notice to the Lessor; or

B. At County's sole option, cure any such default by performance of any act, including payment of money, and subtract the cost thereof plus reasonable administrative costs (ten percent (10%)) from the Rent.

Lessor agrees to reimburse and indemnify, and defend County for any expenses incurred because of the failure of the Premises to conform with any and all applicable laws, rules, regulations, building codes, statutes, and orders, including the costs of making any alterations, renovations, or accommodations required by the ADA, or any governmental enforcement agency, or any court, any and all fines, civil penalties, and damages awarded against County resulting from a violation or violations of the above-cited laws, rules, regulations, building codes, statutes, and orders and regulations, and all reasonable legal expenses incurred in defending claims made under the above-referenced laws, rules, regulations, building codes, statutes, and orders, including reasonable attorneys' fees. Should Lessor fail to comply with the provisions of this Clause, the County may also exercise those remedies set forth in Clause 19(B) (REPAIR MAINTENANCE, AND JANITORIAL SERVICES).

## 25. ASSIGNMENT AND SUBLETTING (3.4 SA)

- A. **General.** County shall not assign this Lease or sublet the Premises in whole or in part without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall respond in writing to County's request to assign this Lease or sublet all or any portion of the Premises within fifteen (15) days of County's request. In the event Lessor withholds consent to any such request by County, Lessor shall provide reasonable details of its reason for such withholding of consent.
- B. **Justifications for Withholding Consent.** By way of example and not limitation, Lessor shall be deemed to have reasonably withheld consent to a proposed assignment or sublease if in Lessor's reasonable opinion (i) the Premises are or may be in any way materially adversely affected thereby; (ii) the business reputation of the proposed assignee or subtenant is unacceptable; or (iii) the financial worth of the proposed assignee or subtenant is insufficient to meet the obligations of the subject sublease or assignment. Notwithstanding anything to the contrary contained herein, in no event shall it be reasonable for Lessor to withhold its consent on the basis that there is vacancy in the Building or based on the fact that the proposed assignee or sublessee currently leases space in the Building or has been or is currently in negotiations with Lessor to lease space at the Building.
- C. **Excess Profit.** If County shall make any assignment or sublease, with Lessor's consent, for a rental in excess of the rent payable under this Lease, Lessor shall be entitled to Fifty Percent (50%) of any such excess, which shall be paid to Lessor by County as received.

## 26. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE (3.5 SA)

This Lease and all rights of the County hereunder are subject and subordinate to any mortgage or deed of trust which does now or may hereafter cover the Premises or any interest of Lessor therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage or deed of trust except, insofar as County is meeting its obligations under this Lease, any foreclosure of any mortgage or deed of trust shall not result in the termination of this Lease or the displacement of County.

In the event of transfer of title of the Premises, including any proceedings brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other transfer of title

covering the Premises, County shall attorn to and recognize any subsequent title holder as the Lessor under all terms, covenants and conditions of this Lease. County's possession of the Premises shall not be disturbed by the Lessor, or its successors in interest, and this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative immediately upon succession of the current title holder, or its successors in interest, to the interest of Lessor under this Lease.

Notwithstanding the above, Lessor shall obtain and deliver to County a *Subordination, Attornment and Non-Disturbance Agreement* from Lessor's Lender (consistent with the form attached hereto in Exhibit C), within thirty (30) days of the date of full execution of this Lease. The inability or failure of Lessor to obtain such *Subordination, Attornment and Non-Disturbance Agreement* shall not constitute a default by Lessor hereunder but shall entitle County to cancel this Lease. Lessor shall require all future lenders on the Premises, upon initiation of their interest in the Premises or within a reasonable time thereafter, to enter into a *Subordination, Attornment and Non-Disturbance Agreement* with County, thereby insuring County of its leasehold interests in the Premises. Said *Subordination, Attornment and Non-Disturbance Agreement* shall be in the form of County's standard form *Subordination, Attornment and Non-Disturbance Agreement* or in a form approved by the Sheriff-Coroner Real Estate Manager, the Chief Real Estate Officer and County Counsel. Accordingly, notwithstanding anything to the contrary herein, County's obligation to enter into an agreement to subordinate its interest under this Lease to a lien or ground lease not in existence as of the date of this Lease shall be conditioned upon the holder of such lien, or a ground Lessor, as applicable, confirming in writing and substantially in the form of County's standard form *Subordination, Attornment and Non-Disturbance Agreement* that County's leasehold interest hereunder shall not be disturbed so long as no County Default exists under this Lease.

Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be responsible for all liabilities of the Lessor under the terms of this Lease.

Upon default by Lessor of any note or deed of trust, County may, at its option, make all lease payments directly to Lender, and same shall be applied to the payment of any and all delinquent or future installments due under such note or deed of trust.

## **27. ESTOPPEL CERTIFICATE (3.6 SA)**

County agrees that Sheriff shall furnish from time to time upon receipt of a written request from Lessor or the holder of any deed of trust or mortgage covering the Premises or any interest of Lessor therein, County's standard form Estoppel Certificate (consistent with the form attached hereto in Exhibit C) containing information as to the current status of the Lease. The Estoppel Certificate shall be approved by Sheriff, CEO/Real Estate and County Counsel and shall be executed and delivered to Lessor or the holder of any deed of trust or mortgage covering the Premises or any interest of Lessor therein ("**Lessor Representative**") within ten (10) days from the date of Lessor's request.

## **28. DEFAULTS AND REMEDIES (3.7 SA)**

### **County Default:**

County shall be deemed in default of this Lease if: a) in the event of any monetary breach of this Lease by County, Lessor shall notify County in writing of such breach, and County shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, County fails within fifteen (15) days after receipt by County of written notice specifying wherein such

obligation of County has not been performed; provided however, that if the nature of County's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then County shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a “**County Default**”).

**Lessor Default:**

Lessor shall be deemed in breach of this Lease if: a) in the event of any monetary breach of this Lease by Lessor, County shall notify Lessor in writing of such breach, and Lessor shall have ten (10) days from such notice in which to cure said breach or b) in the event of any non-monetary breach of this Lease, Lessor fails within fifteen (15) days after receipt by Lessor of written notice specifying wherein such obligation of Lessor has not been performed; provided however, that if the nature of Lessor's obligation is such that more than fifteen (15) days after such notice are reasonably required for its performance, then Lessor shall not be in breach of this Lease if performance is commenced as soon as reasonably possible within such fifteen (15) day period and thereafter diligently pursued to completion (each, a “**Lessor Default**”).

**County Remedies:**

If the Lessor Default is a result of a monetary breach by Lessor in the payment of any amounts due hereunder, County may withhold such amount from the next scheduled Rent payment. County’s remedies as the result of Lessor Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, and/or any other rights at law or in equity.

**Lessor Remedies:**

If the County Default is a result of a monetary breach by County in the payment of the Rent, pursuant to Clause 9 (RENT), Lessor may declare all rent payments to the end of County’s current fiscal year to be due, including any delinquent rent from prior budget years. However, in no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the Term of this Lease. Lessor’s remedies as the result of County Default for monetary or non-monetary breach shall be the right to damages, injunctive relief, and/or any other rights at law or in equity.

**29. LABOR CODE COMPLIANCE (3.8 N)**

Lessor acknowledges and agrees that all improvements or modifications required to be performed as a condition precedent to the Commencement Date of the Term of this Lease or any such future improvements or modifications performed by Lessor at the request of County shall be subject to reimbursement by County pursuant to Clause 10 (LESSOR-PROVIDED OPERATING EXPENSES) and governed by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions may be applicable to improvements or modifications costing more than \$1,000, unless an exception applies, including but not limited to the exception to the definition of public works under § 1720.2.

For any work to be performed at the Premises, pursuant to the provisions of Section 1773 of the Labor Code of the State of California, Lessor shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft,

classification, or type of workman needed to execute the aforesaid improvements or modifications. The rates are available at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm> from the Director of the State Department of Industrial Relations. Lessor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements or modifications to be completed for County within the Premises. Lessor shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

As required by applicable law, Lessor shall maintain payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. Upon request, Lessor shall provide the Sheriff-Coroner Real Estate Manager updated, certified payroll records for all workers that shall include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

Except as expressly set forth in this Lease, nothing herein is intended to grant authority for Lessor to perform improvements or modifications on space currently leased by County or for which County has entered into a lease or lease amendment.

### **30. RIGHT TO WORK AND MINIMUM WAGE LAWS (3.9 SA)**

In accordance with the United States Immigration Reform and Control Act of 1986, Lessor shall require its employees that directly or indirectly service the Premises or this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. Lessor shall also require and verify that its contractors or any other persons servicing the Premises or terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, Lessor shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. Lessor shall require and verify that all its contractors or other persons servicing the Premises on behalf of the Lessor also pay their employees no less than the greater of the Federal or California Minimum Wage.

Lessor shall comply and verify that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, Lessor, where applicable, shall comply with the prevailing wage and related requirements, as provided for in Clause 29 (LABOR CODE COMPLIANCE) of this Lease.

### **31. DEBT LIMIT (4.0 SA)**

Lessor acknowledges and agrees that the obligation of the County to pay rent under this Lease is contingent upon the availability of County funds which are appropriated or allocated by the County's Board of Supervisors for the payment of rent hereunder. In this regard, in the event that this Lease is terminated due to an uncured default of the County hereunder, Lessor may declare all rent payments to the end of County's current fiscal year to be due, including any delinquent rent from prior budget years. In no event shall Lessor be entitled to a remedy of acceleration of the total rent payments due over the Term of the Lease. The Parties acknowledge and agree that the limitations set forth above are required by Article 16, section 18, of the California Constitution. Lessor acknowledges and agrees that said Article 16, section 18, of the California Constitution

supersedes any law, rule, regulation or statute, which conflicts with the provisions of this paragraph. Notwithstanding the foregoing, Lessor may have other rights or civil remedies to seek relief due to the County's Default under the Lease.

### **32. COUNTY PROPERTY (4.1 SA)**

All trade fixtures, merchandise, inventory, telecommunications equipment, supplemental air conditioning equipment and all personal property placed in or about the Premises by, at the direction of or with the consent (express or implied) of the County, its employees, agents, licensees or invitees, shall be at the sole risk of the County, and Lessor shall not be liable for any loss of or damage to said property resulting from any cause whatsoever unless such loss or damage is the result of Lessor's negligence or willful misconduct and not otherwise waived pursuant to Clause 33 (LESSOR'S RIGHT OF ENTRY) below. Lessor hereby waives any and all lien rights, whether statutory or common law or established pursuant to this Lease, that Lessor may have as "landlord" with respect to any and all goods, wares, equipment, fixtures, furniture, improvements and other personal property of County presently or which may hereafter be situated within the Premises.

### **33. LESSOR'S RIGHT OF ENTRY (4.2 N)**

Upon reasonable verbal notice (which shall not be less than twenty-four (24) hours) to County (except in an emergency [which shall mean immediate risk of injury to person or property] in which case no notice shall be required, provided that Lessor shall first call County) and in the presence of County, Lessor, its agents, employees and contractors and any mortgagee of the Premises shall have the right to enter the Premises during regular business hours (a) to inspect the Premises; (b) to exhibit the Premises to prospective tenants during the last twelve (12) months of Term or any Extension Term, as applicable, or any time County is in material default hereunder, or to prospective purchasers of the Premises at any time during the Term or any Extension Term; (c) for any purpose which Lessor shall deem necessary for the operation and maintenance of the Premises; and (d) to abate any condition which constitutes a violation of any covenant or condition of this Lease.

### **34. SIGNAGE (4.3 N)**

Lessor agrees to allow County, at County's sole cost, to install and maintain any sign or display upon or in front of the Premises and/or Building. Such signage shall comply with all applicable laws and zoning and site plan requirements. County, at County's sole cost, shall remove all signage upon vacating the Premises, and patch and paint the underside of such signage to match the immediately adjacent paint so that there are no visible traces of the signage.

### **35. AUTHORITY (4.4 SA)**

The persons executing the Lease below on behalf of County or Lessor warrant that they have the power and authority to bind County or Lessor to this Lease.

### **36. LEASE ORGANIZATION (4.5 SA)**

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.

### **37. SUCCESSORS IN INTEREST (4.6 SA)**

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to

and bind the heirs, successors, executors, administrators, and assigns of all the Parties hereto, all of whom shall be jointly and severally liable hereunder.

**38. AMENDMENT (4.7 SA)**

This Lease sets forth the entire agreement between Lessor and County and any modification must be in the form of a written amendment.

**39. PARTIAL INVALIDITY (4.8 SA)**

If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

**40. WAIVER OF RIGHTS (4.9 SA)**

The failure of Lessor or County to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that Lessor or County may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.

**41. HOLDING OVER (5.0 N)**

In the event County shall continue in possession of the Premises after the Term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease. However, Rent shall be equal to 110% of the Rent applicable during the last month of the Term or any Extension Term, as applicable.

**42. EARTHQUAKE SAFETY (5.1 N)**

Lessor hereby confirms that Lessor has no knowledge whether or not the Premises was in compliance with all applicable seismic safety regulations and building codes at the time of construction.

**43. QUIET ENJOYMENT (5.2 SA)**

Lessor agrees that, subject to the terms, covenants and conditions of this Lease, County may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

**44. ADMINISTRATIVE COSTS (5.3 SA) – *intentionally omitted***

**45. GOVERNING LAW AND VENUE (5.4 SA)**

This agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

**46. ATTORNEYS' FEES (5.5 SA)**

In the event of a dispute between Lessor and County concerning claims arising out of this Lease, or in any action or proceeding brought to enforce or interpret any provision of this Lease or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorneys' fees and costs.

**47. TIME (5.6 SA)**

Time is of the essence of this Lease.

**48. INSPECTION OF PREMISES BY A CERTIFIED ACCESS SPECIALIST (5.7 SA)**

In accordance with California Civil Code 1938(e), "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or Lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The Parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

Pursuant to California Civil Code 1938, Lessor hereby represents that the Premises has not undergone an inspection by a certified access specialist and no representations are made with respect to compliance with accessibility standards. However, if it is determined that a violation of handicapped access laws (including the Americans with Disabilities Act) existed at the Premises as of the Commencement Date, County shall correct such non-compliance at County's cost.

**49. FORCE MAJEURE (5.8 SA)**

For purposes of this Lease, the term "**Force Majeure**" means any of the following events which are beyond the control of either Party: act of God, unavailability of equipment or materials (but only if such equipment and materials were ordered in a timely fashion), enemy or terrorist act, act of war, riot or civil commotion, strike, lockout or other labor disturbance, fire, earthquake, explosion, governmental delays (including nonstandard delays in issuance of any permit or other necessary governmental approval or the scheduling of any inspections or tests) except County may not claim governmental delays as Force Majeure, nonstandard delays by third party utility providers, or any other matter of any kind or character beyond the reasonable control of the Party delayed or failing to perform under this Lease despite such Party's best efforts to fulfill the obligation. "**Best Efforts**" includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Force Majeure shall not include inability to obtain financing or other lack of funds. Lessor and County shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by Force Majeure.

**50. CONDEMNATION (5.9 N)**

If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively, "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If all or a material



portion of the rentable area of the Premises are taken by Condemnation, County may, at County's option, to be exercised in writing within ten (10) days after Lessor shall have given County written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. Lessor shall also have the right to terminate this Lease if there is a taking by Condemnation of any portion of the Building or property which would have a material adverse effect on Lessor's ability to profitably operate the remainder of the Building. If neither Party terminates this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation, any such reduction to be mutually agreed upon by Lessor and County in writing. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken or for severance damages.

#### **51. CONSENT OR APPROVAL (6.0 SA)**

Unless expressly stated otherwise, where the consent or approval of a Party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed.

#### **52. UNENFORCEABLE PROVISIONS (6.1 SA)**

If any paragraph or clause hereof shall be determined illegal, invalid or unenforceable, it is the express intention of the Parties hereto that the remainder of the Lease shall not be affected thereby, and it is also the express intentions of the Parties hereto that in lieu of each paragraph or clause of this Lease which may be determined to be illegal, invalid or unenforceable, there may be added as a part of this Lease a paragraph or clause as similar in terms to such illegal or invalid or unenforceable paragraph or clause as may be possible and may be legal, valid and enforceable.

#### **53. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (6.2 SA)**

If either Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of Force Majeure as defined above in Clause 49 (FORCE MAJEURE), performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Financial inability shall not be considered a circumstance excusing performance under this Lease.

#### **54. STATE AUDIT (6.3 SA)**

Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event that this Lease involves expenditures and/or potential expenditures of State funds aggregating in excess of ten thousand dollars (\$10,000), Lessor shall be subject to the examination and audit of the Auditor General of the State of California for a period of three years after final payment by County to Lessor under this Lease. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

#### **55. DESTRUCTION OF OR DAMAGE TO PREMISES (6.4 SA)**

“**Partial Destruction**” of the Premises shall mean damage or destruction to the Premises, for which the repair cost is less than twenty-five percent (25%) of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

“**Total Destruction**” of the Premises shall mean damage or destruction to the Premises, for which the repair cost is twenty-five percent (25%) or more of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

**A. Lessor-caused Partial Destruction**

In the event of any Lessor-caused (caused solely by Lessor’s negligence or intentional acts) Partial Destruction of the Premises, Lessor shall immediately pursue completion of all repairs necessary to restore the Premises to the condition which existed immediately prior to said Partial Destruction. Said restoration work (including any demolition required) shall be completed by Lessor, at Lessor’s sole cost, within sixty (60) days of the occurrence of said Partial Destruction or within an extended time frame as may be authorized, in writing, by County, which shall not be unreasonably withheld. The Partial Destruction of the Premises shall in no way render this Lease and/or any option, granted herein, null and void; however, rent payable by County under the Lease shall be abated in proportion to the extent County’s use and occupancy of the Premises is adversely affected by said Partial Destruction, demolition, or repair work required thereby. Should Lessor fail to complete necessary repairs, for any reason, within sixty (60) days, or other time frame as may be authorized by County, County may, at County’s sole option, terminate the Lease.

**B. County-caused Partial Destruction**

In the event of any County-caused (caused solely by County’s negligence or intentional acts) Partial Destruction of the Premises, County shall immediately pursue completion of all repairs necessary to restore the Premises to the condition which existed immediately prior to said Partial Destruction. Said restoration work (including any demolition required) shall be completed by County, at County’s sole cost, within sixty (60) days of the occurrence of said Partial Destruction or within an extended time frame as may be authorized, in writing, by Lessor, which shall not unreasonably be withheld. The Partial Destruction of the Premises shall in no way render this Lease and/or any option, granted herein, null and void.

**C. Third Party Partial Destruction**

In the event Partial or Total Destruction of the Premises is caused by a third party who is not subject to the control of either Party, then the terms of this section, part A shall apply.

**D. Joint Partial Destruction**

In the event Partial Destruction of the Premises is deemed to be County-caused and Lessor-caused, then the terms of this section, part A shall apply but the County shall be financially responsible for the repairs apportioned to the County-caused damage.

**E. Total Destruction**

In the event of Total Destruction of the Premises, this Lease shall terminate within thirty (30) days following such Total Destruction. If all or part of the Total Destruction was caused by the gross negligence or willful misconduct of County, Lessor shall have the right to recover Lessor's damages from County.

**56. SECURITY SERVICES (6.5 SA)**

During the Term (as the same may be extended), County may, at its sole cost and expense, engage its own security personnel to provide security to the Premises and to County’s employees, personnel, agents, licensees and/or invitees going to and from the Premises. Such security personnel shall be solely for the benefit of County and shall not be relied on by Lessor. County shall indemnify, defend and hold Lessor harmless from

any third-party claim (including reasonable legal defense costs) arising from or in connection with County's security personnel being present at the Premises or Building.

#### **57. COMMISSION (6.6 N)**

County's obligations and responsibilities under this Lease are contingent upon the Lessor paying to County a commission in the amount of two percent (2%) of the total Base Rent for the first five (5) years of the Term, excluding any free rent periods [Thirteen Thousand Three Hundred Fifty Four Dollars (\$13,354)] and one percent (1%) for years six (6) through ten (10) [Seven Thousand Nine Hundred Ninety Two Dollars (\$7,992)] as a result of this lease transaction; and one percent (1%) for years eleven (11) through fifteen (15), excluding any free rent periods [Nine Thousand Two Hundred Fifty Seven Dollars (\$9,257)], and years sixteen (16) through twenty (20), excluding any free rent periods [Ten Thousand Nine Hundred Ninety Four Dollars (\$10,994)], respectively, if the County exercises its Option(s) to Extend. Said commissions shall be paid to the County within thirty (30) business days after execution of this Lease and after each respective Extension Term starts.

#### **58. NOTICES (6.7 SA)**

All written notices pursuant to this Lease shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed received upon personal delivery, delivery by facsimile machine, electronic mail, or seventy-two (72) hours after deposit in the United States Mail.

**To: Lessor**

HK 1045 Fuller, LLC  
3 Pointe Drive, Suite 217  
Brea, CA 92821  
Attn: Henry Hong

**With a copy to:**

United Trust Realty Corporation  
3 Pointe Drive, Suite 217  
Brea, CA 92821  
Attn: Property Management

**To: County**

County of Orange  
OC Sheriff-Coroner  
320 North Flower Street  
Santa Ana, CA 92703  
Attn: Sheriff Real Estate Manager  
Phone: 714-834-2065  
Email: [jbordeaux@ocsd.org](mailto:jbordeaux@ocsd.org)

**With a copy to:**

County Executive Office  
601 North Ross Street, 2<sup>nd</sup> Floor  
Santa Ana, CA 92701  
Attention: Thomas A. Miller, Chief Real  
Estate Officer

#### **59. ATTACHMENTS (6.8 S)**

This Lease includes the following, which are attached hereto and made a part hereof:

**I. EXHIBITS**

Exhibit A - Description of Premises

Exhibit B - Premises Location Map

Exhibit C - Form of Subordination, Attornment and Non-Disturbance Agreement and Estoppel Certificate

//

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

**APPROVED AS TO FORM:**

OFFICE OF COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By: Mick P. Handley 9/23/19  
Deputy

**LESSOR**

HK 1045 FULLER, a California Limited Liability  
Company

By: UTR Diversified I, LLC, a Delaware limited liability  
company, its Managing Member

By: UTR Thrive, LLC, a California limited  
liability company, its Manager

By: Henry Hong  
Henry Hong, its Managing Member

**RECOMMENDED FOR APPROVAL:**

Sheriff-Coroner

By: \_\_\_\_\_  
Sheriff

Sheriff-Coroner Real Estate Manager

By: \_\_\_\_\_  
Real Estate Manager

SIGNED AND CERTIFIED THAT A  
COPY OF THIS DOCUMENT HAS BEEN  
DELIVERED TO THE CHAIR OF THE BOARD  
PER GC § 25103, RESO. 79-1535

Attest:

**COUNTY**

COUNTY OF ORANGE

\_\_\_\_\_  
ROBIN STIELER  
Clerk of the Board of Supervisors  
of Orange County, California

\_\_\_\_\_  
Chairwoman of the Board of Supervisors  
Orange County, California



**EXHIBIT A****DESCRIPTION OF PREMISES**

PROJECT NO: GA 060-422-2200-2  
PROJECT: Sheriff Storage

DATE: 5-14-19  
VERIFIED BY: JWB

The Premises shown delineated on a Location Map & Plot Plan marked "Exhibit B", attached hereto and made a part hereof, being that certain building located at 1045 Fuller Street, City of Santa Ana, County of Orange, State of California, and located on a portion of Lot "A-3" as shown on a map of the Records of Surveys in the Office of the County Recorder of Orange County, California, together with the exclusive-use of all the parking areas on said Premises.

**NOT TO BE RECORDED**



**EXHIBIT C**

**SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT**

THIS IS A SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT, made \_\_\_\_\_, 20\_\_\_, by and between the County of Orange (“County”) and \_\_\_\_\_ (“Lender”).

A. By lease dated \_\_\_\_\_, (“Lease”), \_\_\_\_\_ (“Lessor”) leased to County and County leased from Lessor those certain Premises described as \_\_\_\_\_, Santa Ana, California.

B. Lender is the holder or about to become the holder of a mortgage or Deed of Trust (“Note”) which constitutes or will constitute a lien against the Premises leased by County pursuant to the aforesaid Lease.

C. Lender has requested that County execute a Subordination, Attornment and Non-Disturbance Agreement in accordance with the terms of the Lease.

NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. Subject to the terms and conditions of the Lease, all rights of County thereunder are or shall become subordinate to the Note and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions thereof.

2. In the event that Lender succeeds to the interest of Lessor under the Lease, by reason of foreclosure of the Note, by other proceedings brought to enforce any rights of Lender under the Note, by deed in lieu of foreclosure, or by any other method, County shall promptly attorn to Lender under all of the terms, covenants, and conditions of the Lease for the balance of the then-current term (and any extension or renewals thereof which may be effective in accordance with any option therefor contained in the Lease), with the same force and effect as if Lender were the Lessor under the Lease. Lender or its successors in interest shall not disturb the interests of County under said Lease, but shall allow said interests to continue in full force and effect for the balance of the then-current term and any extension available to County which may be provided in accordance with the Lease. Said attornment shall be effective and self-operative immediately upon Lender’s succession to the interest of Lessor under the Lease.

3. This agreement may not be modified orally or in any manner other than by written agreement signed by the parties hereto or their respective successors or assigns. All of the terms, covenants, and conditions herein shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**COUNTY:**

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

\_\_\_\_\_  
Thomas A. Miller, Chief Real Estate Officer  
County Executive Office  
Per Resolution No. 98-75 and Minute Order 3/10/1998  
of the Board of Supervisors

APPROVAL AS TO  
FORM

OFFICE OF COUNTY COUNSEL

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

**LENDER:**

(Lender Name, same as above)

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

Name: \_\_\_\_\_  
(Print)

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

EXHIBIT C

Project/Parcel No.:
Project Name:

ESTOPPEL CERTIFICATE

TO:

As of the date of this Estoppel Certificate the undersigned, as a "tenant" under that lease dated
..., between ... ("Lessor") and the County of
Orange, a political subdivision of the State of California ("County"), does hereby acknowledge the following:

- 1. The aforesaid lease, subject to article 2 below, constitutes the entire agreement between Lessor and
County and is in full force and effect.
2. (Check One)
[ ] The aforesaid lease has not been modified, altered, or amended.
[ ] The aforesaid lease has been modified pursuant to that document(s) attached hereto.
3. The term of the lease is ... years. The lease commenced on ... and
will expire on ...
4. The term of the lease is subject to County's option to terminate/extend as follows:
...
5. The lease rental rate is \$... per month, no rent has been paid in advance except as set forth in
the lease, and County (in its capacity as "tenant," and not as a governmental agency) has received no
notice of a prior assignment, hypothecation, or pledge of the lease from Lessor.
6. County has accepted and is now in possession of the leased premises.
7. The addresses for notices to be sent to County are set forth in Clause ...
( ) of the lease.
8. County has no charge, lien, or claim of offset under this lease against rents or other charges due or to
become due and, to the actual knowledge of County, Lessor is not now in default under the lease.

APPROVED AS TO FORM
OFFICE OF COUNTY COUNSEL

COUNTY
COUNTY OF ORANGE

By Deputy

By: Thomas A. Miller, Chief Real Estate Officer
County Executive Office/Real Estate

Date:

Certificate Date:



