

OFFICE LEASE AMENDMENT

FIRST AMENDMENT TO OFFICE LEASE AGREEMENT

THIS FIRST AMENDMENT TO THE OFFICE LEASE AGREEMENT ("Amendment 1", or the "Amendment") is made this 17th day of October 2014, between DICON FIBEROPTICS, INC., a California Corporation ("Landlord") and the CITY OF RICHMOND, CALIFORNIA, a California municipal corporation and charter city ("Tenant").

BACKGROUND

- A. The Landlord and the Tenant entered into the lease (the "Lease") dated December 20, 2006 for the premises consisting of certain portions of the building located at 1689 Regatta Boulevard, Richmond, California (the "Building"), as shown on the attached Exhibit A.
- B. The Landlord and the Tenant desire to amend the Lease on the terms and conditions set forth in this first lease amending agreement ("Amendment 1").
- C. All capitalized terms used herein which are not defined shall have the meaning given such terms as defined in the Lease.

IN CONSIDERATION OF the Landlord and the Tenant agreeing to amend their existing Lease and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, both parties agree to keep, perform, and fulfill the promises, conditions and agreements below:

AMENDMENTS

1. LEASE TERM EXTENSION

- A. The Lease Term is extended for five (5) years (commencing on January 1st, 2015 and ending on December 31, 2019).
- B. Upon expiration of the extended Term ending December 31, 2019, there will be five (5) one (1) year renewal options to extend the Lease Term.

2. MODIFICATION TO BASE RENT ADJUSTMENTS

Commencing January 1, 2015, the fourth sentence of Article 3, Base Rent, shall be deleted in its entirety and replaced with the following:

"Base Rent for the extension periods shall be calculated as follows: during each year of any Lease Term extension period, as well as during each extension option period, effective as of the first day of each year of any such extension period, the Base Rent shall be increased (the "CPI Increase") to equal the sum of (i) the Base Rent for the Lease Year immediately preceding such extension option, plus (ii) the product obtained by multiplying such amount by the percentage increase in the Consumer Price Index measured from the measuring month which is two months preceding the commencement of the extension option to the measuring month fourteen months preceding the commencement of the extension option in question; provided, however, that in no event shall the annual CPI Increase be less than three percent (3%) nor more than five percent (5%) of Base Rent for the immediately preceding Lease Year.

The other sentences of Article 3, Base Rent, both preceding and following the fourth sentence, shall remain intact in their entirety.

3. MODIFICATION TO NOTICE PROVISIONS

Section 5 of the Summary is hereby deleted in its entirety and replaced in full with the following:

“5. Address of Tenant for Notices (Article 24):

450 Civic Center Plaza
Richmond, CA 94804
Attention: City Manager

With copies to:

450 Civic Center Plaza
Richmond, CA 94804
Attention: City Attorney

1701 Regatta Boulevard
Richmond, CA 94804
Attention: Chief of Police”

All other terms, conditions, riders and exhibits contained in the original Office Lease Agreement, dated December 20, 2006, shall be applicable to this amendment (Amendment 1) to the Lease. Additionally, unless specifically modified in Amendment 1, all terms and conditions of the original Office Lease Agreement remain unchanged and in full force and effect, and are hereby incorporated into Amendment 1.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

“Landlord”:

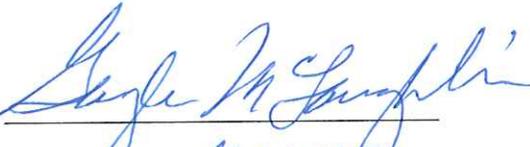
DICON FIBEROPTICS, INC.,
a California corporation

BY: 

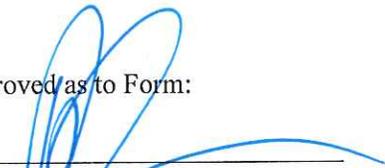
Its: ~~Ho-Shang Lee, Ph.D.~~
President & CEO

“Tenant”:

CITY OF RICHMOND, CALIFORNIA
a California municipal corporation

BY: 
Its: Mayor

Approved as to Form:

By: 

Its: City Attorney

Attest:

By: Pam Christina Deputy

Its: City Clerk

 ORIGINAL

OFFICE LEASE

BETWEEN

DICON FIBEROPTICS, INC.,

a California corporation,

as Landlord,

and

CITY OF RICHMOND, CALIFORNIA

a California municipal corporation,

as Tenant

SUMMARY OF BASIC LEASE INFORMATION

The undersigned hereby agree to the following terms of this Summary of Basic Lease Information (the "Summary"). This Summary is hereby incorporated into and made a part of the attached Office Lease (this Summary and the Office Lease to be known collectively as the "Lease") which pertains to the office building (the "Building") which is located at 1689 Regatta Boulevard, Richmond, California. Each reference in the Office Lease to any term of this Summary shall have the meaning as set forth in this Summary for such term. In the event of a conflict between the terms of this Summary and the Office Lease, the terms of the Office Lease shall prevail. Any capitalized terms used herein and not otherwise defined herein shall have the meaning as set forth in the Office Lease.

TERMS OF LEASE

(References are to
the Office Lease)

DESCRIPTION

1. Lease Commencement Date: One day after execution and delivery of this Lease.
2. Landlord: DICON FIBEROPTICS, INC., a California corporation
1689 Regatta Boulevard
3. Address of Landlord for Notices (Article 24): Richmond, CA 94804
Attention: Gina Liang

With a copy to:
1689 Regatta Boulevard
Richmond, CA 94804
Attention: Tony Miller
4. Tenant: CITY OF RICHMOND, CALIFORNIA, a California
municipal corporation
1401 Marina Way South
5. Address of Tenant for Notices (Article 24): Richmond, CA 94804
Attention: City Manager,

With copies to:

1401 Marina Way South
Richmond, CA 94804
Attention: City Attorney

1689 Regatta Boulevard
Richmond, CA 94804
Attention: Chief of Police
6. Premises (Article 1): The areas in the Building, as shown on Exhibit A
attached hereto, consisting of approximately 52,433
square feet.
7. Term (Article 2).
 - 7.1 Lease Term: Approximately three (3) years.
 - 7.2 Lease Commencement Date: One day after execution and delivery of this Lease.

7.3 Lease Expiration Date December 31, 2009.
7.4 Lease Renewal Options Five (5) one (1) year periods to extend the Lease Term

8. Base Rent (Article 3):

<u>Lease Year</u>	Monthly Installment of Base Rent
One	Eighty-One Thousand Thirty-Four Dollars (\$81,034)
Two	Eighty-Four Thousand Two Hundred Seventy-Six Dollars (\$84,276)
Three	Eighty Seven Thousand Six Hundred Forty-Seven Dollars (\$87,647)

The foregoing terms of this Summary are hereby agreed to by Landlord and Tenant.

"Landlord":

DICON FIBEROPTICS, INC.
a California corporation

By: [Signature]
Its: Ho-Shang Lee, Ph.D.
President & CEO

By: _____
Its: _____

"Tenant":

CITY OF RICHMOND, CALIFORNIA
a California municipal corporation

By: [Signature]
Its: Asst. City Mgr

By: _____
Its: _____

TABLE OF CONTENTS

ARTICLE 1	REAL PROPERTY, BUILDING AND PREMISES	1
ARTICLE 2	LEASE TERM	1
ARTICLE 3	BASE RENT	2
ARTICLE 4	ADDITIONAL RENT	2
ARTICLE 5	USE OF PREMISES	6
ARTICLE 6	SERVICES AND UTILITIES	7
ARTICLE 7	REPAIRS	7
ARTICLE 8	ADDITIONS AND ALTERATIONS	8
ARTICLE 9	REASONABLENESS AND GOOD FAITH	9
ARTICLE 10	INSURANCE	9
ARTICLE 11	DAMAGE AND DESTRUCTION	11
ARTICLE 12	NONWAIVER	12
ARTICLE 13	CONDEMNATION	12
ARTICLE 14	ASSIGNMENT AND SUBLETTING	12
ARTICLE 15	OWNERSHIP AND REMOVAL OF TRADE FIXTURES	12
ARTICLE 16	HOLDING OVER	12
ARTICLE 17	ESTOPPEL CERTIFICATES	13
ARTICLE 18	SUBORDINATION	13
ARTICLE 19	DEFAULTS; REMEDIES	13
ARTICLE 20	COVENANT OF QUIET ENJOYMENT	15
ARTICLE 21	SECURITY DEPOSIT	15
ARTICLE 22	HAZARDOUS MATERIALS	15
ARTICLE 23	SIGNS	16
ARTICLE 24	NOTICES	16
ARTICLE 25	LATE CHARGES	16
ARTICLE 26	ATTORNEYS FEES	17
ARTICLE 27	ENTRY BY LANDLORD	17
ARTICLE 28	PARKING	17

TABLE OF CONTENTS
(continued)

ARTICLE 29 MISCELLANEOUS PROVISIONS.....18

EXHIBITS

A OUTLINE OF PREMISES

B LEGAL DESCRIPTION OF REAL PROPERTY

C PARKING FACILITIES

C-1 EXCLUSIVE PARKING AREA

C-2 NON-EXCLUSIVE PARKING AREA

C-3 PULTE IMPROVEMENTS

C-4 PARKING ALTERATIONS

C-5 NO PARKING AREA

C-6 TENANT'S TEMPORARY PARKING

D RULES AND REGULATIONS

E FURNITURE

Additional Rent2

Allocable Operating Expenses3

Alterations8

Base Rent.....2

Building.....1

Common Areas1

Current Lenders.....13

Expense Year3

Force Majeure19

Future Lender.....13

Interest Rate.....19

Landlord.....1

Lease.....1

Lease Commencement Date.....1

Lease Expiration Date.....1

Lease Term.....1

Lenders.....13

Nondisturbance Agreement.....13

Notices.....16

Parking Facilities.....1

Permitted Use6

Premises1

Real Property.....1

Rent.....2

Requesting Party13

Summary.....1

Tax Expenses3

TABLE OF CONTENTS
(continued)

Tenant	1
Tenant's Property	12
Tenant's Share	4
Tenant's Signage	16
Transfer	12

OFFICE LEASE

This Office Lease, which incorporates the preceding Summary of Basic Lease Information (the "Summary"), dated as of the date set forth in Section 1 of the Summary, is made by and between DICON FIBEROPTICS, INC., a California corporation ("Landlord"), and the CITY OF RICHMOND, CALIFORNIA, a California municipal corporation ("Tenant"). The Office Lease and the Summary are sometimes collectively referred to as the "Lease".

ARTICLE 1

REAL PROPERTY, BUILDING AND PREMISES

Subject to the terms, covenants and conditions set forth in this Lease, Landlord leases to Tenant and Tenant leases from Landlord the premises (the "Premises"). The Premises consists of certain portions of the building located at 1689 Regatta Boulevard, Richmond, California (the "Building") that are shown on the attached Exhibit A, consisting of approximately Fifty-Two Thousand Four Hundred Thirty-Three (52,433) square feet, which square footage the parties hereby stipulate is true and correct for the purposes of this Lease. The Building is situated on that certain parcel of real property (the "Real Property") described on the attached Exhibit B. The parking areas serving the Building (the "Parking Facilities") are shown on the attached Exhibit C. Tenant shall accept the Premises in its "AS-IS" condition on the Lease Commencement Date (as defined in Section 2.1 of this Lease), and Landlord makes no representations or warranties with regard to the condition of the Premises or its suitability for the Permitted Use (as defined in Article 5 of this Lease). Tenant shall have the exclusive right of access to the Premises and the Exclusive Parking Area (as defined in Article 28 of this Lease) twenty-four (24) hours per day, seven (7) days per week during the Lease Term (defined in Section 2.1 of this Lease), subject to Landlord's right of entry, as set forth in Article 27 of this Lease. Tenant shall have a non-exclusive right to use the areas of the Building and the Parking Facilities which are from time to time designated by Landlord as common areas (the "Common Areas"), subject to Article 28 of this Lease. During such times as Landlord shall permit Tenant to use the Non-Exclusive Parking Area (as defined in Article 28 of this Lease), Tenant's right to use the Non-Exclusive Parking Area shall be on a twenty-four (24) hour, seven (7) day per week basis.

ARTICLE 2

LEASE TERM

2.1 Lease Term. The terms and provisions of this Lease shall be effective as of the date of this Lease. The term of this Lease (the "Lease Term") shall be as set forth in Section 7.1 of the Summary and shall commence on the date (the "Lease Commencement Date") set forth in Section 7.2 of the Summary, provided that the parties to this Lease have fully executed and delivered this Lease on or prior to the Lease Commencement Date, and shall expire on the date (the "Lease Expiration Date") set forth in Section 7.3 of the Summary, unless this Lease is sooner terminated or extended as hereinafter provided. For purposes of this Lease, the term "Lease Year" shall mean each consecutive twelve (12) month period during the Lease Term. If the parties to this Lease do not execute this Lease on or before the Commencement Date set forth in Section 7.2 of the Summary, then the Commencement Date shall be one day after the date the Lease is fully executed and delivered.

2.2 Lease Renewal Option. Landlord hereby grants to Tenant the option to extend the term of this Lease for five (5) additional one (1) year periods commencing when the prior term expires upon each and all of the following terms and conditions:

2.2.1 In order to exercise an option to extend, Tenant must give written notice of such election to Landlord and Landlord must receive the same at least one hundred eighty (180) days but not more than one (1) year prior to the date that the option period would commence, time being of the essence. If proper notification of the exercise of an option is not given and/or received, such option shall automatically expire. Options may only be exercised consecutively.

2.2.2 Base Rent for the extension option periods shall be subject to an annual CPI Increase (as defined and calculated in Article 3).

2.2.3 Except for the provisions of this Lease granting options to extend the term, all of the terms and conditions of this Lease, except where specifically modified by this Section 2.2 shall apply.

2.2.4 All lease renewal options granted pursuant to this Section 2.2 shall be personal to Tenant.

ARTICLE 3

BASE RENT

Tenant shall pay to Landlord base rent ("Base Rent") as set forth in Section 8 of the Summary, in advance on or before the first day of each and every month during the Lease Term, without notice or demand and without any setoff or deduction whatsoever, in currency or a check for currency which, at the time of payment, is legal tender for private or public debts in the United States of America. If any rental payment is for a period which is shorter than one month, then the rental for any such fractional month shall be pro-rated, based on the actual number of days in such month. All other payments or adjustments required to be made by Tenant under this Lease that require proration for fractional months shall be prorated on the same basis. Base Rent for the extension option periods shall be calculated as follows: during each extension option period, effective as of the first day of each such extension option, the Base Rent shall be increased (the "CPI Increase") to equal the sum of (i) the Base Rent for the Lease Year immediately preceding such extension option, plus (ii) the product obtained by multiplying such amount by the percentage increase in the Consumer Price Index measured from the measuring month which is two months preceding the commencement of such extension option to the measuring month fourteen months preceding the commencement of the extension option in question; provided, however, that in no event shall the annual CPI Increase be less than four percent (4%) nor more than six percent (6%) of Base Rent for the immediately preceding Lease Year. As used herein, the term "Consumer Price Index" ("Consumer Price Index") shall mean the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-San Jose, California (1982-84 equals 100), or the successor of such index. Tenant shall continue paying the current Base Rent until the increased Base Rent has been calculated. Upon such calculation, Landlord shall give notice to Tenant of the amount of the new Base Rent which shall be due and payable effective as of the commencement of the extension option and Tenant shall, upon the giving of such notice, pay Landlord any shortage in Base Rent accruing between the commencement of the extension option and the date of the notice.

ARTICLE 4

ADDITIONAL RENT

4.1 Additional Rent. In addition to paying Base Rent specified in Article 3 of this Lease, Tenant shall pay as additional rent Tenant's Share (as defined in Section 4.2.6) of the Allocable Operating Expenses (as defined in Section 4.2.1). The Allocable Operating Expenses, together with any and all other amounts, other than Base Rent, payable by Tenant to Landlord pursuant to the terms of this Lease, are sometimes collectively referred to in this Lease as "Additional Rent." Base Rent and Additional Rent are collectively referred to in this Lease as the "Rent." Without limitation on other obligations of Tenant which shall survive the expiration of the Lease Term, the obligations of Tenant to pay the Additional Rent provided for in this Article 4 and the obligations of Landlord to repay Tenant for any overpayments of Additional Rent provided for in this Article 4 shall survive the expiration or earlier termination of the Lease Term, subject to the provisions of Section 4.4 of this Lease. If Tenant disputes that an amount is due, Tenant shall nonetheless have the obligation to pay Additional Rent when due, but Tenant shall have the right to pay any such disputed amount under protest and thereafter to seek recovery of all or any part thereof from Landlord; provided, however that any protest shall be made by Tenant, if at all, within ninety (90) days of the date Tenant first receives notice from Landlord that such amounts are due. Unless Tenant gives notice to Landlord that Tenant protests the amount due within such ninety (90) day period, the amount due in Landlord's notice shall be deemed final and accepted by Tenant.

4.2 Definitions. As used in this Article 4, the following terms shall have the meanings hereinafter set forth:

4.2.1 For the purposes of this Lease, "Allocable Operating Expenses" shall mean those "Operating Expenses" and "Tax Expenses" that are to be allocated to Tenant under the terms of this Lease.

4.2.2 For the purposes of this Lease, "Operating Expenses" shall mean all expenses and costs of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with the ownership and operation of the Premises, the Building, the Parking Facilities or the Real Property, including, without limitation: (i) all license, permit and inspection fees; (ii) premiums for any insurance maintained by Landlord with respect to the Premises, the Building, the Parking Facilities and the Real Property; (iii) wages, salaries and related expenses and benefits of all on-site and off-site employees engaged in the operation, maintenance and security of the Building, the Common Areas and the Parking Facilities; (iv) all supplies, materials and equipment rental; (v) all Building, Parking Facilities and landscape maintenance, repair, replacement, janitorial, security and service costs; (vi) management fees or a management cost recovery equal to a market rate management fee; (vii) professional services fees; (viii) costs incurred (to the extent savings are achieved) which are intended to decrease other Operating Expenses; (ix) amortization over the useful life of the cost of capital improvements (together with interest thereon at the rate paid by Landlord or which would have been paid if Landlord had borrowed such funds), excluding, however, any capital improvements for the exclusive use of Landlord or any other tenant of the Building; (x) all charges for heat, water, gas, electricity and other services and utilities not separately metered and paid directly by Tenant and which are used or consumed in the Premises, the Building, the Parking Facilities or the Real Property; (xi) any common area expenses imposed under any covenants, conditions and restrictions, reciprocal easement agreement or other such agreements recorded against the Real Property; and (xii) all other operating, management and other expenses incurred by Landlord in connection with the ownership and operation of the Premises, the Building, the Parking Facilities or the Real Property. Landlord shall not collect in excess of one hundred percent (100%) of all of Landlord's Operating Expenses and Landlord shall not recover, through Operating Expenses, any item of cost more than once. Operating Expenses shall not include the cost of i) repairs or restoration occasioned by a casualty to the extent covered by insurance proceeds made available to Landlord; ii) taxes on Landlord's income from all sources; iii) expenses incurred in leasing to or procuring of tenants, leasing commissions and legal fees related to other tenants' leases, advertising expenses and expenses for the renovating of space for new tenants; iv) debt service payments by Landlord except as allowed above; v) any depreciation allowance or expense, any payments under a ground lease or master lease relating to the Real Property; vi) costs of services, utilities, or other benefits which are not offered to Tenant or for which Tenant is charged directly vii) costs arising from the presence or removal of Hazardous Materials (as defined in Article 22 of this Lease), located in the Building, the Real Property or the Parking Facilities that are not caused by Tenant, its employees, contractors, agents or invitees, including, without limitation, any costs incurred pursuant to the requirements of any governmental laws, ordinances, regulations or orders relating to health, safety or environmental conditions; viii) costs, penalties, fines, or awards and interest incurred as a result of Landlord's violations of law or inability or unwillingness to make payments and/or to file any income tax, other tax or informational returns when due; ix) costs concerning or relating to the auditorium within the Building; or x) any costs recovered by Landlord to the extent such cost recovery allows Landlord to recover more than 100% of Operating Expenses for any Expense Year from tenants of the Building, and in connection therewith, Landlord shall reduce the amount of Operating Expenses by any refund or discount received by Landlord in connection with any expenses previously included in Operating Expenses. Landlord may determine some items of Operating Expenses and Tax Expenses on a cash basis and other items on an accrual basis, so long as such determination is consistently applied to the same item during all accounting periods.

4.2.3 "Expense Year" shall mean each calendar year in which any portion of the Lease Term falls, through and including the calendar year in which the Lease Term expires.

4.2.4 "Tax Expenses" shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary that are incurred by Landlord in connection with the Building, its contents, the Parking Facilities and the Real Property. All assessments which may be paid in installments shall be paid by Landlord in the maximum number of installments permitted by law and not included in Tax Expenses except in the year in which

the assessment is actually paid. Notwithstanding anything to the contrary set forth in the Lease, Tax Expenses shall not include (i) any excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's net income from all sources, (ii) penalties incurred as a result of Landlord's negligence, inability or unwillingness to make payments of, and/or to file any tax or informational returns with respect to, any Tax Expenses, when due, (iii) any real estate taxes directly paid by Tenant or any payable by any other tenant in the Building under the applicable provisions in their respective leases, and (iv) any items included as Operating Expenses or specifically excluded as Operating Expenses. If Landlord sells or otherwise disposes of the Real Property and such sale or disposition triggers a reassessment for tax purposes, any increase in Tax Expenses resulting from such reassessment shall be abated during the initial Term of this Lease, but any such increase in Tax Expenses shall be allocable to Tenant as Tax Expenses during any extension option period. To the extent Tenant is eligible to apply for a "Real Property Tax Exemption" and/or secure refunds of certain taxes which are paid with regard to the Premises, Building and/or Parking Facilities as allowed under California law, Tenant shall be responsible to make such application directly and, upon receipt of any refund thereof, to refund any overpayment made by Landlord to the extent such overpayment exceeds any amount previously paid by Tenant to Landlord under this Lease. Landlord agrees to use commercially reasonable efforts to cooperate, at Tenant's sole cost and expense, with Tenant in such exemption/refund applications by Tenant. If any such overpayment is refunded directly to Landlord by the taxing authority, Landlord shall pay such refund to Tenant within thirty (30) days of Landlord's receipt from the taxing authority. If Tenant makes any Alterations to the Premises, the Building or the Real Property which cause an increase in Tax Expenses, any such increase shall be one hundred percent (100%) allocable to Tenant as Tax Expenses.

4.2.5 "Tenant's Direct Expenses" shall mean those goods or services for which Tenant is responsible for providing and paying directly in, at or upon the Premises. Tenant shall provide for separate metering of electrical service for its exclusive use on the Premises and Tenant shall pay for those utilities directly. Tenant shall provide for the maintenance and repair of the Premises, including janitorial services and supplies for those services and regular garbage collection. Tenant's Direct Expenses shall not include: the repair of latent defects in the Building or the Premises except to the extent such defect is attributable to Alterations constructed or installed by Tenant; or structural repairs, including but not limited to structural parts of the Building floors, roofs and curtain walls except to the extent such repairs are attributable to an affirmative act of Tenant.

4.2.6 "Tenant's Share" shall mean Landlord's reasonable determination of Tenant's responsibility to pay Allocable Operating Expenses, based on such factors as Landlord may reasonably determine, including but not limited to the size of the Premises in relation to the size of the Building, Tenant's relative use of the Parking Facilities, the nature of Tenant's Permitted Use (as defined in Article 5), occupancy rates, hours of operation, and fixture counts. Notwithstanding the foregoing, Tenant's Share shall not include costs incurred relating to the Non-Exclusive Parking Area to the extent (in terms of area and time period) Landlord is excluding Tenant from the Non-Exclusive Parking Area in accordance with Section 28.6 of this Lease. Landlord may apply different methods of calculation to different items of Allocable Operating Expenses as shall be appropriate, in Landlord's reasonable determination, to account for appropriate means of allocating such items; provided, however that Landlord's determinations of Tenant's Share are subject to Tenant's contest and audit rights, as provided in Section 4.4 of this Lease. Tenant's Share shall not include Tenant's Direct Expenses. Tenant's Share shall include one hundred percent (100%) of the amount by which the premiums for insurance maintained by Landlord in connection with the Premises, the Building, the Parking Facilities, the Real Property or this Lease exceed the premiums that would have been payable by Landlord but for Tenant's use and occupancy of the Premises.

4.3 Calculation and Payment of Additional Rent.

4.3.1 Calculation of Allocable Operating Expenses. Tenant shall pay to Landlord, in the manner set forth in Section 4.3.2, below, and as Additional Rent, Tenant's Share of Allocable Operating Expenses for each Expense Year.

4.3.2 Statement of Actual Allocable Operating Expenses and Payment by Tenant. Within ninety (90) days after the close of each calendar year, or as soon after such ninety (90) day period as practicable, Landlord shall provide to Tenant a statement (the "Statement"), which Statement shall be itemized

with reasonable particularity and shall state the actual Allocable Operating Expenses incurred or accrued for the preceding Expense Year, and which shall indicate the amount of Tenant's Share of Allocable Operating Expenses for such Expense Year. Upon receipt of the Statement for each Expense Year commencing or ending during the Lease Term, Tenant shall pay, upon the later to occur of its next installment of Base Rent due or within thirty (30) days after receipt of the Statement, the full amount of Tenant's Share of Allocable Operating Expenses for such Expense Year, based on the number of days that Tenant was required to pay Rent during the Expense Year, less the amounts of Allocable Operating Expenses paid by Tenant during the previous Expense Year. If Tenant paid more Estimated Allocable Operating Expenses than the actual Tenant's Share of Allocable Operating Expenses (an "Excess"), then Landlord shall pay the Excess to Tenant within thirty (30) days of the date of the Statement. The provisions of this Section 4.3.2 shall survive the expiration or earlier termination of this Lease

4.3.3 Statement and Payment of Estimated Allocable Operating Expenses. Tenant shall pay to Landlord each month at the same time and in the same manner as monthly Base Rent, one-twelfth (1/12th) of Landlord's most recent estimate of Tenant's Share of Allocable Operating Expenses. Landlord shall use reasonable efforts to deliver to Tenant a statement, itemized with reasonable particularity and setting forth Landlord's reasonable estimate of the total amount of Allocable Operating Expenses for the then-current Expense Year and Tenant's Share of Allocable Operating Expenses (the "Estimated Allocable Operating Expenses"), within ninety (90) days after the close of each calendar year, or as soon after such ninety (90) day period as practicable. If on the basis of such statement Tenant owes an amount of Estimated Allocable Operating Expenses that is less than the estimated payments for such calendar year previously made by Tenant, Landlord shall pay the excess to Tenant within fifteen (15) days of the date of the statement. If on the basis of such statement Tenant owes an amount that is more than the estimated payments for such calendar year previously made by Tenant, Tenant shall pay the deficiency to Landlord within fifteen (15) days after delivery of the statement. Notwithstanding anything to the contrary in this Lease, during the first Expense Year, Landlord shall have the right to adjust Estimated Allocable Operating Expenses by written notice to Tenant no more than two (2) times in the first Expense Year. If on the basis of such adjusted statement Tenant owes an amount of Estimated Allocable Operating Expenses that is less than the estimated payments for such calendar year previously made by Tenant, Landlord shall pay the excess to Tenant within fifteen (15) days of the date of the statement. If on the basis of such adjusted statement Tenant owes an amount that is more than the estimated payments for such calendar year previously made by Tenant, Tenant shall pay the deficiency to Landlord within fifteen (15) days after delivery of the statement.

4.4 Landlord Books and Records; Tenant Audit. Tenant shall have the right, during normal business hours at Landlord's offices, which offices shall be located in Contra Costa or Alameda County, within ninety (90) days following Landlord's delivery of the Statement, to inspect, review, audit and contest Landlord's records relating to such determination. No such audit shall be conducted by any subtenant of Tenant. Unless within such ninety (90) day period, Tenant gives notice to Landlord of its contest of the Statement, the Statement shall be deemed final and accepted by Tenant. Pending resolution of any dispute with Landlord, Tenant shall pay the amount set forth in the Statement. Landlord may defer the audit for up to thirty (30) days while Landlord is closing its books, is preparing financial statements or tax returns, or for other reasons is anticipating unusual demands on its accounting office and personnel. Any such audit shall cover only the calendar year most recently concluded prior to the date that Tenant gives notice of the audit. Within fifteen (15) business days after completion of the audit, Tenant shall forward to Landlord a copy of the audit report and any objections that Tenant may have with respect to the Statement. Any audit by Tenant shall be made upon and subject to the following terms and conditions: (1) the audit shall be done by an employee of Tenant or by an independent certified accountant experienced in auditing real property operating expense records (an "Auditor-Related Person"); (2) in no event shall any Auditor-Related Person solicit, directly or indirectly, any of the other tenants or occupants of the project in any manner which discloses that Tenant has a right to audit the records of Landlord or that the Auditor-Related Person is planning to or has audited Landlord's records; (3) Tenant and its auditor shall not be entitled to review Landlord's financial statements or tax returns or any leases, reciprocal easement agreements or other agreements with other tenants or occupants of the Project that are not otherwise a matter of public record; (4) Tenant and each Auditor-Related Person shall not disclose the outcome of any audit hereunder or the results thereof, except to its employees, accountants, lawyers, professional advisors and other parties (on a need to know basis) to the extent that disclosure is necessary in connection with the performance of the audit and financial reporting, and except as may be required by law after giving Landlord notice and an opportunity to evaluate the disclosure and challenge the same if desired; and (5) at Landlord's request, prior to commencement of the audit, Tenant and each Auditor-Related Person shall

sign and deliver to Landlord written assurances of compliance with the matters set forth in clauses (1) through (4) above, inclusive, subject to applicable laws, including laws relating to the disclosure of public records. If such audit shows that the amount paid by Tenant for Allocable Operating Expenses for any calendar year exceeds the amount due for such period, then unless Landlord contests the results of the audit within thirty (30) days of the giving of Tenant's challenge notice as provided below, Landlord shall refund the amount overpaid by Tenant. If (i) the claim is not timely and effectively contested by Landlord, Landlord shall pay to Tenant the amount of any overbilling, if any, within thirty (30) days after the date of determination thereof. If such audit shows that the amount paid by Tenant for Allocable Operating Expenses was less than that due, then within thirty (30) days following completion of Tenant's audit, Tenant shall pay such shortfall to Landlord.

ARTICLE 5

PERMITTED USE

Tenant shall be entitled to exclusive use the Premises and the Exclusive Parking Area and shall have the right of ingress and egress to the Exclusive Parking Area through the Non-Exclusive Parking Area twenty-four (24) hour per day on every day during the Lease Term for police headquarters and police operations purposes (including police administrative offices, police educational purposes, an armory, temporary holding cells, evidence processing areas, crime laboratory, property vault, locker rooms and showers) (collectively, the "Permitted Use"). During such times as Landlord shall permit Tenant to use the Non-Exclusive Parking Area (as defined in Article 28 of this Lease), Tenant's right to use the Non-Exclusive Parking Area shall be on a twenty-four (24) hour, seven (7) day per week basis. The Premises shall be used and occupied by Tenant for the Permitted Use and for no other purpose. Notwithstanding the foregoing, Tenant shall not use or occupy any portion of the Premises unless it has first obtained Landlord's written consent to such occupancy and has completed any Alterations required for Tenant's intended use of such portion of the Premises pursuant to Article 8 of this Lease. From and after the Commencement Date of this Lease and subject to the provisions of Article 8 of this Lease, Tenant shall be permitted to store documents and files at the Premises and Tenant's contractors shall be permitted to commence construction work in the Premises and the Parking Facilities. Completion shall be evidenced by a certificate of occupancy, issued by the City of Richmond, for such portion of the Premises and by the issuance by Tenant's architect of a certificate of substantial completion. Tenant shall faithfully observe and comply with the Rules and Regulations attached to this Lease as Exhibit D and, after notice thereof, all modifications thereof and additions thereto from time to time promulgated in writing by Landlord; provided such modifications or additions do not materially increase Tenant's obligations or decrease Tenant's rights under this Lease. Landlord shall not be responsible to Tenant for the nonperformance by any other tenant or occupant of the Real Property of any of said rules and regulations, but Landlord shall use good faith efforts to enforce the rules and regulations consistently. Tenant shall, at Tenant's expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders and requirements in effect during the term regulating the use by Tenant of the Premises. Tenant shall not use or permit the use of the Premises in any manner that will tend to create waste which disturbs other tenants or occupants of the Real Property, nor shall Tenant, its employees, agents or invitees damage the Premises, the Building or any portion of the Real Property, or use any corridors, sidewalks or other areas outside of the Premises for storage or any purpose other than access to the Premises, except as otherwise provided in this Lease. Tenant shall not bring any item into the Premises or onto the Real Property which is contaminated with mold or mycotoxins unless such item has first been decontaminated or sealed and stored in air-tight packaging and, in the event Tenant brings any such item into the Premises or onto the Real Property and such item causes an infestation of mold or mycotoxins, Tenant shall decontaminate the affected area at its sole cost and expense. Tenant shall not conduct any auction at the Premises. Notwithstanding any other provision of this Lease, Tenant shall not use, keep or permit to be used or kept on the Premises any foul or noxious gas or substance, nor shall Tenant do or permit to be done anything in and about the Premises, either in connection with activities under this Lease expressly permitted or otherwise, which would cause a cancellation of, any policy of insurance maintained by Landlord in connection with the Building, the Parking Facilities or the Real Property or which would violate the terms of any covenants, conditions or restrictions affecting the Building or the Real Property. In the event Tenant uses or permits the use of the Premises or the Real Property in any manner which causes an increase in premiums payable under any policy of insurance maintained by Landlord in connection with the Building or the Real Property, Tenant shall pay such increase to Landlord as Additional Rent

ARTICLE 6

SERVICES AND UTILITIES

6.1 Standard Tenant Services. Tenant, at its sole cost and expense, shall install a separate utility meter to provide electricity to the Premises for lighting and power suitable for the Permitted Use, including heating and air conditioning ("HVAC"). Landlord shall regularly service and maintain the HVAC system and components serving the Premises and Tenant shall, subject to the provisions of Article 27 of this Lease, provide Landlord with access to provide such service during regular business hours; provided, however that, at Tenant's sole cost and expense and subject to Landlord's reasonable approval, Tenant may provide separate HVAC controls. Tenant shall also provide, at its sole cost and expense, janitorial services and window washing services for the Premises and maintenance services for the automatic passenger and freight elevators installed by Tenant. Landlord shall provide the following services and utilities twenty-four (24) hours per day on every day during the Lease Term, unless otherwise stated below.

6.1.1 Landlord shall provide gas service and city water for use in connection with any plumbing fixtures now or hereafter installed in the Premises in accordance with this Lease

6.1.2 Landlord shall provide landscape maintenance in the Common Areas.

6.1.3 Effective immediately upon the execution of this Lease and provided that Landlord is able to accommodate Tenant's request therefor, upon reasonable prior notice by Tenant, Landlord shall provide Tenant access to and use of the auditorium within the Building for a fee of One Hundred Dollars (\$100.00) per hour, with the minimum charge being Four Hundred Dollars (\$400.00). Tenant's use of the auditorium is subject to the following conditions: i) no food or drink shall be allowed in the auditorium; ii) Tenant shall clean the auditorium after each use; and iii) Tenant shall repair any damage caused to the auditorium by Tenant, its employees, contractors, agents and invitees

6.2 Interruption of Use Landlord shall not be liable to Tenant or those claiming under it for damages, consequential or otherwise, nor shall there be any abatement of Base Rent or other amounts payable by Tenant under this Lease, arising out of any curtailment or interruption whatsoever in utility services, except to the extent such curtailment or interruption arises out of the intentional misconduct of Landlord.

ARTICLE 7

REPAIRS

7.1 Landlord Maintenance and Repair. Subject to the provisions of Article 7.2 below, and except for damages caused by Tenant, its employees, contractors, agents or invitees, Landlord shall keep in good condition and repair the foundations and exterior walls, exterior glass, base building electrical, mechanical and plumbing systems, life safety systems and roof of the Building and the Common Areas, subject to the provisions of Article 27 of this Lease. Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises, the Building or the Parking Facilities in good order, condition and repair

7.2 Tenant's Duty to Repair. Tenant shall, at Tenant's expense, maintain the Parking Facilities in accordance with Article 28 of this Lease and maintain the Premises including, but not limited to, all wall and floor coverings, all plumbing and electrical fixtures and outlets, all computer and telecommunications wiring and outlets and any interior glass in good condition and repair. If Tenant fails to do so, Landlord may, but shall not be required to, enter the Premises and/or the Parking Facilities and put them in good condition, subject to the provisions of Article 27 of this Lease. In addition, if Tenant, its employees, contractors, agents or invitees cause damage to the Building, the Common Areas or the Parking Facilities, after notice to Tenant to repair such damage, Landlord may, but shall not be required to, put them in good condition. In the event Landlord undertakes any such repairs, whether within the Premises, the Building, the Common Areas, the Parking Facilities or the Exclusive Parking Area, Landlord's costs thereof as set forth in Landlord's demand to Tenant shall automatically become due and payable as Additional Rent. Tenant shall reimburse Landlord within thirty (30) days following its written demand for all costs

incurred by Landlord, plus an administrative fee of fifteen percent (15%) of such costs, in making alterations to the structural, mechanical, electrical, plumbing or life safety systems of the Building and to the common areas of the Building which may be required under applicable law as a result of Tenant's particular use of the Premises or alterations made within the Premises by Tenant. At the expiration or earlier termination of this Lease, Tenant shall deliver up possession of the Premises in good condition and repair, only ordinary wear and tear excepted, and subject to the provisions of Article 8 and Article 15. Notwithstanding anything to the contrary in this Lease, Tenant shall not be required to demolish or remove any passenger or freight elevators installed at the Premises with Landlord's consent.

ARTICLE 8

ADDITIONS AND ALTERATIONS

8.1.1 Landlord's Consent to Alterations. Tenant shall not, without Landlord's prior written consent, make any alterations, improvements or additions in or about the Premises, the Building, the Parking Facilities, the Real Property or the public roadways (collectively, the "Alterations"). Before commencing any work relating to Alterations, Tenant shall notify Landlord of the expected date of commencement thereof and of the anticipated cost thereof. Tenant shall furnish complete drawings and specifications describing such work as well as such information as shall reasonably be requested by Landlord substantiating the cost of such work. Tenant shall not commence any such work until Landlord has reviewed and consented to the work as described in such drawings and specifications, which consent shall not unreasonably be withheld, conditioned or delayed. Tenant shall reimburse Landlord within thirty (30) days following its demand for any costs incurred by Landlord in having such drawings and specifications reviewed by its third party consultants. Tenant shall give Landlord at least five (5) business days' notice prior to commencing any of Tenant's Alterations and Landlord shall then have the right at any time and from time to time to post and maintain on the Premises and the Real Property such notices as Landlord reasonably deems necessary to protect Landlord's interest in the Premises, the Building and the Real Property from mechanics' liens or any other liens. In any event, Tenant shall pay when due all claims for labor or materials furnished to or for Tenant at or for use in or about the Premises and/or the Real Property. Tenant shall not permit any mechanics' liens to be levied against the Premises, the Building or the Real Property for any labor or materials furnished to Tenant or claimed to have been furnished to Tenant or to Tenant's agents or contractors in connection with work performed or claimed to have been performed in or about the Premises, the Building or the Real Property by or at the direction of Tenant. All Alterations performed by or on behalf of Tenant shall be constructed in a first-class, workmanlike manner which does not disturb or interfere with other tenants and is in compliance with all applicable laws, ordinances, regulations and orders of any governmental authority having jurisdiction thereover, as well as the requirements of insurers of the Premises, the Building and the Real Property. All Alterations shall be the property of Tenant until the expiration or earlier termination of this Lease. Prior to commencing any such work, if required by Landlord, Tenant shall maintain builder's risk insurance in an amount no less than the value of the completed work of alteration, addition or improvement on an all-risk basis, covering all perils then customarily covered by such insurance. In addition, prior to the commencement of any such work, if Landlord so requests, Tenant shall furnish to Landlord performance and payment bonds for the contractor(s) performing such work in forms and issued by a surety reasonably acceptable to Landlord in an amount equal to the total cost of such work of alteration, improvement or addition. Upon completion of work performed for Tenant, Tenant shall deliver to Landlord evidence of full payment therefor and full and unconditional waivers and releases of liens for all labor, services and/or materials used. Tenant shall present to Landlord and maintain on site at all times one (1) full set of Tenant's construction documents which have been accepted by Landlord and endorsed with the approval stamp and permit number of the Building Department, local Fire Marshal and all other governmental agencies having jurisdiction over the construction and occupancy of the Premises, the Building and the Real Property. Such documents shall be carefully annotated to reflect any material deviations in the work "as-built" from that initially shown, and upon completion of Tenant's work, Tenant shall cause reproducible drawings and electronic files to be delivered to Landlord which describe accurately all of Tenant's work as built. All plans, drawings, specifications and/or construction documents (the "Alteration Documents") provided hereunder shall be kept confidential and secure until the expiration or earlier termination of this Lease. Except as may be required by law, Landlord shall not disclose the contents of the Alteration Documents, except to its employees, contractors, consultants, counsel, lenders, and potential purchasers to the extent that disclosure is necessary in connection with Landlord's ownership, operation or disposition of the Premises, the Building and the Real Property. Unless

Landlord directs Tenant not to remove all or a portion of the Alterations (including the Parking Alterations, as defined in Article 28 of this Lease), all Alterations, except any passenger or freight elevators installed at the Premises with Landlord's consent, shall be removed by Tenant, at Tenant's sole cost and expense, prior to the expiration or earlier termination of this Lease. Tenant shall repair all damage to the Premises, the Building, the Parking Facilities, the Real Property and the public roadways occasioned by such removal and Tenant shall restore the same to their condition prior to the installation of such Alterations. If Landlord elects to retain any Alterations, Landlord shall indicate which Alterations shall remain, in a written notice given to Tenant at least ninety (90) days prior to the expiration of this Lease. Those Alterations Landlord elects to retain shall become the property of Landlord and remain upon and be surrendered with the Premises at the termination or expiration of the Lease Term in good condition and repair; provided that Tenant's machinery, equipment and trade fixtures, other than any which may be affixed to the Premises so that they cannot be removed without material damage to the Premises, shall remain the property of Tenant and shall be removed by Tenant on or before such time pursuant to Article 15. Upon surrender of any Alterations which Landlord shall elect to retain, Tenant shall assign any manufacturer's warranties issued in connection with such Alterations and shall provide Landlord with all repair and maintenance records relating to such Alterations.

8.2 Manner of Construction. Tenant shall construct all Alterations in conformance with any and all applicable rules and regulations of any federal, state, county or municipal code or ordinance and pursuant to a valid building permit, issued by the City of Richmond.

8.3 Furniture. It is hereby acknowledged by the parties that, in consideration of the Rent payable under the terms of this Lease, Tenant shall have the right to use cubicle work stations and modular office partitions ("Furniture"), more particularly described on the attached Exhibit E and owned by Landlord, which consist of office partition systems to create cubicles and offices. Such Furniture is provided by Landlord in its "AS IS" condition, with all faults and defects, and Tenant shall use such Furniture at Tenant's sole risk. No representations or warranties whatsoever as to the Furniture's condition or fitness for a particular purpose, express or implied, are made by Landlord. Tenant shall maintain and repair the Furniture, and shall surrender the Furniture at the expiration or earlier termination of the Lease, in the same condition as received by Tenant subject to ordinary wear and tear. Landlord also agrees that it will cooperate with Tenant if Tenant desires to purchase additional compatible furniture at Tenant's cost.

ARTICLE 9

REASONABLENESS AND GOOD FAITH

Except for determinations expressly described as being in the "sole discretion" of the applicable party, neither Landlord nor Tenant shall unreasonably withhold or delay any consent, approval or other determination provided for hereunder, and determinations subject to sole discretion shall not be unreasonably delayed. In the event that either Landlord or Tenant disagrees with any determination made by the other hereunder (other than a determination in the sole discretion of the determining party) and requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within ten (10) business days following such request. Furthermore, in addition to the foregoing, whenever the Lease grants Landlord or Tenant the right to take action, exercise discretion, establish rules and regulations, make allocations or other determinations, or otherwise exercise rights or fulfill obligations, Landlord and Tenant shall act reasonably and in good faith.

ARTICLE 10

INSURANCE

10.1 Indemnification and Waiver. Tenant shall indemnify, defend, protect, and hold harmless Landlord from any and all losses, costs, damages, expenses and liabilities (including, without limitation, court costs and reasonable attorneys' fees) incurred in connection with or arising from any cause in, on or about the Premises, the Building or the Parking Facilities to the extent arising out of the activities of Tenant, its employees, contractors, agents and invitees, during the Lease Term, provided that the terms of the foregoing indemnity shall not apply to the gross negligence or willful misconduct of Landlord. The provisions of this Section 10.1 shall survive the expiration

or sooner termination of this Lease with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

10.2 Landlord's Fire and Casualty Insurance. Landlord may insure the Building and the Real Property during the Lease Term against loss or damage due to fire and other casualties covered within the classification of fire and extended coverage, vandalism coverage and malicious mischief, sprinkler leakage, water damage, earthquake and special extended coverage on the Building. In addition, Landlord may, from and after the date hereof until expiration of the Lease Term, maintain Commercial General Liability Insurance or the equivalent against claims of bodily injury, personal injury or property damage arising out of Landlord's operations, assumed liabilities, contractual liabilities, or use of the Building, the Common Areas, the Real Property and the Parking Facilities. Such coverages may be in such amounts, from such companies, and on such terms and conditions, as Landlord may from time to time reasonably determine. At no additional cost to Landlord, Tenant and its designated affiliates may be named as additional insureds on any and all policies of liability insurance obtained by Landlord with respect to the Building, the Common Areas and the Parking Facilities.

10.3 Tenant's Insurance. Tenant shall, from and after the date hereof until expiration of the Lease Term, maintain Commercial General Liability Insurance or the equivalent against claims of bodily injury, personal injury or property damage arising out of Tenant's operations, assumed liabilities, contractual liabilities, or use of the Building, Common Areas and the Parking Facilities, including but not limited to the Exclusive Parking Area. Such coverages shall be written on the basis of occurrence, for limits of liability not less than \$20,000,000.00 per occurrence, from such companies, and on such terms and conditions, as Tenant may from time to time reasonably determine. The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease, except as otherwise provided in this Lease. Tenant's commercial general liability insurance policy shall (i) include coverage for premises and operations liability, products and completed operations liability, broad form property damage, contractual liability and personal and advertising liability; (ii) provide that the insurer has the duty to defend all insureds, and (iii) provide that defense costs do not deplete policy limits. As provided in Article 8 of this Lease, Alterations shall be the property of Tenant until the expiration or earlier termination of this Lease. Tenant shall also obtain and maintain insurance ("Personal Property Insurance") covering Alterations and Tenant's personal property and fixtures in an amount not less than one hundred percent (100%) of the full replacement cost and providing protection against events protected under "All Risk Coverage," as well as against sprinkler damage, vandalism and malicious mischief. Any proceeds from the Personal Property Insurance shall be used for the repair or replacement of the personal property damaged or destroyed, unless this Lease is terminated under an applicable provision herein. If the Premises is not repaired or restored following damage or destruction in accordance with this Lease, Tenant shall assign or pay over to Landlord and Landlord shall receive any proceeds from the Personal Property Insurance allocable to Tenant's leasehold improvements. Prior to the commencement of the Lease Term, Tenant shall deliver to Landlord copies of such policies or, at Landlord's option, certificates thereof with endorsements. At least thirty (30) days prior to the expiration of such policy or any renewal thereof, Tenant shall deliver to Landlord replacement or renewal binders, followed by certificates and endorsements within a reasonable time thereafter. If Tenant fails to obtain such insurance or to furnish Landlord any such duplicate policies, certificates and endorsements as herein required, Landlord may, at its election, upon notice to Tenant but without any obligation so to do, procure and maintain such coverage and Tenant shall reimburse Landlord on demand as Additional Rent for any premium so paid by Landlord. Tenant shall have the right to provide all insurance coverage required pursuant to this Lease in the form of blanket policies so long as such coverage is expressly afforded by such policies for the location which is the Premises. Such insurance shall also be endorsed to provide that (1) it may not be canceled or altered in such a manner as adversely to affect the coverage afforded thereby without thirty (30) days' prior written notice to Landlord, (2) Landlord and other entities designated by Landlord are named as additional insureds, (3) the insurer acknowledges acceptance of the mutual waiver of claims by Landlord and Tenant pursuant to paragraph (b) below, and (4) such insurance is primary with respect to Landlord and that any other insurance maintained by Landlord is excess and noncontributing with such insurance. The insurance obtained by Tenant pursuant to this Section 10.3 shall be reasonably acceptable to Landlord and, if required by applicable law, licensed to do business in the State of California. Landlord shall have the right to examine such policy or policies, or certificates thereof, at the Premises upon at least five (5) business days prior notice to Tenant. In the event that any of the policies of insurance carried under this Section 10.3 shall be canceled by the provider thereof, Tenant shall forward a copy of the cancellation notice to Landlord within two (2) business days of Tenant's receipt of such notice.

10.4 Subrogation. Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any rights of subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance carried by Landlord and Tenant, respectively, is not invalidated thereby. As long as such waivers of subrogation are contained in their respective insurance policies, or would have been contained in such insurance policies had the responsible party used reasonable efforts to obtain such waivers and such waivers are routinely and customarily available, Landlord and Tenant hereby waive any right that either may have against the other on account of any loss or damage to their respective property to the extent such loss or damage is insurable under policies of insurance for fire and all risk coverage, theft, public liability, or other similar insurance. If either party fails to carry the amounts and types of insurance required to be carried by it pursuant to this Article 10, such failure shall be deemed to be a covenant and agreement by such party to self-insure with respect to the type and amount of insurance which such party so failed to carry, with full waiver of subrogation with respect thereto. Further, Tenant's agreement to indemnify Landlord pursuant to Section 10.1 are not intended and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease, to the extent such policies cover, or if carried, would have covered the matters subject to Tenant's indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease.

ARTICLE 11

DAMAGE AND DESTRUCTION

11.1 Repair of Damage to Premises by Landlord. Tenant shall promptly notify Landlord of any damage to the Premises resulting from fire or any other casualty. If the Premises, Parking Facilities or any Common Areas of the Building serving or providing access to the Premises shall be damaged by fire or other casualty, Landlord shall promptly and diligently restore the Premises, and such Common Areas, subject to the availability of adequate insurance proceeds and provided that at least one (1) year remains in the Lease Term, as such Lease Term may have been extended under Section 2.2, and further provided that Landlord shall have no obligation to restore Tenant's Alterations in the Building or the Exclusive Parking Area. Such restoration shall be to substantially the same condition of the Premises, Parking Facilities and Common Areas prior to the casualty, and except for modifications required by zoning and building codes and other laws, provided access to the Premises and any Common Areas serving the Premises, including, without limitation, the restrooms, shall not be materially impaired. In the event that fire or other casualty shall have damaged the Premises or Common Areas necessary to Tenant's occupancy, Landlord shall allow Tenant a proportionate abatement of Rent during the time and to the extent the Premises are unfit for occupancy for the purposes permitted under this Lease, and not occupied by Tenant as a result thereof, provided, further, if the Premises is damaged such that the remaining portion thereof is not sufficient to allow Tenant to conduct its business operations from such remaining portion, Landlord shall allow Tenant a total abatement of Rent during the time and to the extent the Premises are unfit for occupancy for the purposes permitted under this Lease.

11.2 Landlord's and Tenant's Option to Terminate. Notwithstanding the terms of Section 11.1 of this Lease, in the event the Premises and/or Building are substantially damaged, Landlord shall reasonably and in good faith cause a mutually acceptable contractor to estimate the amount of time required to rebuild and/or restore the Premises and/or the Building within thirty (30) days of the date of such damage. In the event the Premises cannot be used by Tenant for the Permitted Use or cannot be repaired within one hundred eighty (180) days from the date of the damage as estimated by such contractor, within sixty (60) days after the date of damage, Landlord or Tenant may elect to terminate this Lease by written notice to the other party, such notice to include a termination date giving Tenant one hundred eighty (180) days from the date of such damage to vacate the Premises. Notwithstanding anything to the contrary contained in this Lease, in the event that, for any reason, all the damage required to be restored by Landlord is not restored on or before the date occurring one (1) year from the date of the damage, Tenant shall, within thirty (30) days after the expiration of such one (1) year period, have the right to terminate this Lease by irrevocable notice to Landlord.

11.3 Other Terms. The provisions of this Lease constitute an express agreement between Landlord and Tenant with respect to any damage or destruction of the Real Property and any improvements thereon, and any statute or regulation of the State of California, including, without limitation, Sections 1932(2) and 1933(4) of the California Civil Code, with respect to any rights or obligations concerning damage or destruction in the absence of

an express agreement between the parties, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to the Real Property.

ARTICLE 12

NONWAIVER

No waiver of any provision of this Lease shall be implied by (i) any failure of either party to insist in any instance on the strict keeping, observance or performance of any covenant or agreement contained in this Lease or exercise any election contained in this Lease, or (ii) any failure of either party to enforce any remedy on account of the violation of such provision, even if such violation shall continue or be repeated subsequently. Any waiver by either party of any provision of this Lease may only be in writing, and no express waiver shall affect any provision other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

ARTICLE 13

CONDEMNATION

If the whole or any material part of the Premises or Building so as to substantially interfere with the conduct of Tenant's business from the Premises, shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord and Tenant shall each have the option to terminate this Lease upon ninety (90) days' prior notice. All Rent shall be apportioned as of the date of such termination, or the date of such taking, whichever shall first occur. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately reduced. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265 130 of The California Code of Civil Procedure.

ARTICLE 14

ASSIGNMENT AND SUBLETTING

Tenant shall not assign this Lease or sublet the Premises or any part thereof (collectively, "Transfer") and any such attempted assignment or subletting is void.

ARTICLE 15

OWNERSHIP AND REMOVAL OF TRADE FIXTURES AND PERSONAL PROPERTY

All articles of personal property and all business and trade fixtures, machinery and equipment, furniture and movable partitions owned by Tenant in the Premises (collectively, "Tenant's Property"), which items are not a part of the Alterations installed in the Premises, shall remain the property of Tenant, and may be removed by Tenant at any time during the Lease Term. Upon the expiration of the Lease Term, or upon any earlier termination of this Lease, Tenant shall remove Tenant's Property and Tenant shall repair at its own expense all damage to the Premises, the Building and the Real Property resulting from such removal and shall restore the same to its condition prior to the installation of Tenant's Property.

ARTICLE 16

HOLDING OVER

If Tenant holds over after the expiration of the Lease Term hereof, without the express consent of Landlord, such tenancy shall be from month-to-month only, and in such case Base Rent shall be payable at a monthly rate equal to one hundred fifty percent (150%) the Base Rent applicable during the last rental period of the Lease Term under this Lease. Such month-to-month tenancy shall be subject to every other term, covenant and agreement

contained herein. The provisions of this Article 16 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law.

ARTICLE 17

ESTOPPEL CERTIFICATES

Within ten (10) days following a request in writing by either Landlord or Tenant (the "Requesting Party"), the other party shall execute and deliver to the Requesting Party a commercially reasonable estoppel certificate, which estoppel certificate shall contain such information as may reasonably be requested by the Requesting Party.

ARTICLE 18

SUBORDINATION

As soon as is reasonably practicable following the full execution and delivery of this Lease, Landlord shall provide Tenant with a commercially reasonable subordination, nondisturbance and attornment agreement (the "Nondisturbance Agreement") from all ground lessors and holders of mortgages encumbering the Real Property (the "Current Lenders"). In addition, Landlord agrees to use reasonable efforts to provide Tenant with a Nondisturbance Agreement in favor of Tenant from any future mortgagee, beneficiary, trustee or ground lessor (collectively, the "Future Lender") of Landlord and Tenant agrees to duly authorize and execute such agreement within ten (10) days following Tenant's receipt thereof. The Current Lender and the Future Lender are collectively referred hereto as the "Lenders". Tenant subordinates this Lease and its other interests, if any, in the Real Property to any lien upon Landlord's interests in all or any portion of the Real Property which secures obligations of Landlord to the Lenders. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant has not committed any events of default and so long as there shall not be an event of default of Tenant, unless this Lease is otherwise terminated pursuant to its terms. If any Lender shall elect to have this Lease prior to the lien of its mortgage, deed of trust or ground lease, and shall give notice thereof to Tenant, this Lease shall be deemed prior to such mortgage, deed of trust, or ground lease, whether this Lease is dated prior to or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof. If any mortgage or deed of trust to which this Lease is subordinate is foreclosed or a deed in lieu of foreclosure is given to the mortgagee or beneficiary, Tenant shall attorn to the purchaser at the foreclosure sale or to the grantee under the deed in lieu of foreclosure; if any ground lease to which this Lease is subordinate is terminated, Tenant shall attorn to the ground lessor. Promptly following the request of any such purchaser, grantee, or ground lessor, Tenant shall execute and deliver a new lease, in the form of this Lease, with such requesting party as Landlord. Within ten (10) days following Landlord's request or the request of any such Lender, Tenant shall execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage, deed of trust or ground lease, as the case may be, or to evidence such attornment.

ARTICLE 19

DEFAULTS; REMEDIES

19.1 Events of Default. The occurrence of any of the following shall constitute a default of this Lease by Tenant;

19.1.1 Any failure by Tenant to pay any Rent or any other charge required to be paid under this Lease, or any part thereof, within ten (10) business days after Landlord's notice that the same is past due; or

19.1.2 Any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; provided however, that any such notice shall be in addition to, and not in lieu of, any notice required under California Code of Civil Procedure Section 1161 or any similar or successor law; and provided further that if the nature of such default is such that the same cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure said default as soon as possible.

19.2 Remedies Upon Default. Upon the occurrence of any event of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity, the option to pursue any one or more of the following remedies, each and all of which shall be cumulative and nonexclusive.

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Premises and the Parking Facilities to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and the Parking Facilities and expel or remove Tenant and any other person who may be occupying the Premises or the Parking Facilities or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant the following:

(i) The worth at the time of award of any unpaid rent which has been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease as allowed by applicable law; and

(v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term "rent" as used in this Section 19.2 shall be deemed to be and to mean all charges equivalent to rent required to be paid by Tenant pursuant to the terms of this Lease. As used in Paragraphs 19.2.1(i) and (ii), above, the "worth at the time of award" shall be computed by allowing interest at the "Interest Rate" as that term is defined in Section 29.10 of this Lease. As used in Paragraph 19.2.1(iii) above, the "worth at the time of award" shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

19.2.2 Landlord shall have the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has the right to sublet or assign, subject only to reasonable limitations). Accordingly, if Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all rent as it becomes due.

19.3 Landlord Defaults. Landlord shall not be in default under this Lease unless Landlord fails to perform obligations required of Landlord under this Lease within a reasonable time, but in no event later than thirty (30) days after notice by Tenant to Landlord specifying wherein Landlord has failed to perform such obligation; provided that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

19.4 Tenant Remedies. Subject to the terms and provisions of this Lease, upon the occurrence of a default by Landlord, Tenant shall have such rights and remedies available to it at law or in equity.

ARTICLE 20

COVENANT OF QUIET ENJOYMENT

Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Lease Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof without interference by any persons lawfully claiming by or through Landlord.

ARTICLE 21

SECURITY DEPOSIT

On execution of this Lease Tenant shall deliver to Landlord the sum of One Hundred Thousand Dollars (\$100,000.00) (the "Deposit"). The Deposit shall be held by Landlord as security for the performance by Tenant of all of the provisions of this Lease. Following an event of default by Tenant under this Lease, Landlord may use, apply or retain all or any portion of the Deposit for the payment of any rent or other charge in default, or the payment of any other sum to which Landlord may become obligated by Tenant's default, or to compensate Landlord for any expense, loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of the Deposit, then within ten (10) days after demand therefor Tenant shall deposit cash with Landlord in an amount sufficient to restore the Deposit to the full amount thereof, and Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep the Deposit separate from its general accounts. If Tenant performs all of Tenant's obligations under this Lease, the Deposit, or so much thereof as has not theretofore been applied by Landlord, shall be returned, without payment of interest for its use, to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest under this Lease) at the expiration of the term hereof, and after Tenant has vacated the Premises. No trust relationship is created herein between Landlord and Tenant with respect to the Deposit. Tenant waives the provisions of California Civil Code Section 1950.7, and all other present and future laws which restrict the amount or types of claim that a landlord may make upon a security deposit or imposes upon a landlord or a successor any obligation with respect to the handling or return of security deposits.

ARTICLE 22

HAZARDOUS MATERIALS

Landlord and Tenant shall strictly comply with all statutes, laws, ordinances, rules, regulations and precautions now or hereafter mandated or required by any federal, state, local or other governmental agency with respect to the use, generation, storage, or disposal of hazardous, toxic, or radioactive materials (collectively, "Hazardous Materials"). As herein used, Hazardous Materials shall include, but not be limited to, those materials identified in Section 339 of Title 8 of the California Code of Regulations, Division 1, Chapter 3.2, and Section 12000 of Title 22 of the California Code of Regulations, Division 2, Chapter 3, as amended from time to time, and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "chemicals known to cause cancer or reproductive toxicity," "radioactive materials," or other similar designations in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 *et seq.*, the Safe Water Drinking Act, 42 U.S.C. Section 300(f) *et seq.*, the Clean Air Act, 42 U.S.C. 7401 *et seq.*, California Health and Safety Code Section 25249.5 *et seq.*, California Water Code Section 13000 *et seq.*, California Health and Safety Code Section 39000 *et seq.* and any other governmental statutes, ordinances, rules, regulations and precautions adopted pursuant to the preceding laws or other similar laws, regulations and guidelines now or hereafter in effect. Tenant shall not cause, or allow anyone else to cause, any Hazardous Materials to be used, generated, stored, or disposed of on or about the Premises or the Building other than reasonable quantities of office and cleaning supplies in their retail containers and such substances as may specifically concern or relate to the operation of a hall of justice including armory, laboratory and evidence rooms and the storage of contraband. Tenant shall defend (with counsel reasonably approved by Landlord), indemnify and hold Landlord, its members, officers, directors, employees, agents and contractors and any entity having a security

interest in the Premises or the Building and their employees and agents (collectively, "Landlord Indemnitees") harmless from and against all liabilities, claims, costs, damages and depreciation of property value, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant, including, without limitation, the cost of any required or necessary investigation, monitoring, repair, cleanup, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, as well as penalties, fines and claims for contribution to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Tenant or any person claiming under Tenant. Neither the consent by Landlord to the use, generation, storage, or disposal of Hazardous Materials nor the strict compliance by Tenant with all statutes, laws, ordinances, rules, regulations and precautions pertaining to Hazardous Materials shall excuse Tenant from Tenant's obligation of indemnification set forth above. Landlord shall defend (with counsel reasonably approved by Tenant), indemnify and hold Tenant, its council members, officers, directors, employees, agents and contractors (collectively, "Tenant Indemnitees") harmless from and against all liabilities, claims, costs, and damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Landlord or any person claiming under Landlord, except the Tenant Indemnitees, including, without limitation, the cost of any required or necessary investigation, monitoring, repair, cleanup, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the termination of this Lease, as well as penalties, fines and claims for contribution to the full extent that such action is attributable, directly or indirectly, to the use, generation, storage, or disposal of Hazardous Materials by Landlord or any person claiming under Landlord. The obligations of Landlord and Tenant under this Article 22 shall survive the expiration or termination of this Lease.

ARTICLE 23

SIGNS

Subject to Landlord's prior written consent, which consent shall not be unreasonably withheld, Tenant may install signage, including monument signage, on or about the Premises, the exterior of the Building in the area of Tenant's Premises, and/or the Exclusive Parking Area in accordance with certain sign plans, to be submitted by Tenant ("Tenant's Signage"). Tenant shall install, maintain, repair and, at the expiration or earlier termination of this Lease, remove Tenant's Signage at Tenant's sole cost and expense.

ARTICLE 24

NOTICES

All notices, demands, statements or communications (collectively, "Notices") given or required to be given by either party to the other hereunder shall be in writing, shall be sent by Federal Express or other respected overnight courier, or delivered personally (i) to Tenant at the appropriate address set forth in Section 5 of the Summary, or to such other place as Tenant may from time to time designate in a Notice to Landlord; or (ii) to Landlord at the addresses set forth in Section 3 of the Summary, or to such other firm or to such other place as Landlord may from time to time designate in a Notice to Tenant. Any Notice will be deemed given on the date it is received if delivered by Federal Express or other respected overnight courier as provided in this Article 24 or upon the date personal delivery is made.

ARTICLE 25

LATE CHARGES

If any installment of Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within three (3) business days of the date when due, then Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such overdue amount.

ARTICLE 26

ATTORNEYS FEES

If either party commences litigation against the other for the specific performance of this Lease, for damages for the breach hereof or otherwise for enforcement of any remedy hereunder, the parties hereto agree to and hereby do waive any right to a trial by jury and, in the event of any such commencement of litigation, the prevailing party shall be entitled to recover from the other party such costs and reasonable attorneys' fees as may have been incurred, including any and all costs incurred in enforcing, perfecting and executing such judgment

ARTICLE 27

ENTRY BY LANDLORD

Landlord shall have the right at all reasonable times and upon three (3) business days' notice (except in the case of emergencies, where no notice shall be required) to the Tenant to enter the Premises and/or the Exclusive Parking Area to (i) show the Premises and/or the Exclusive Parking Area to prospective purchasers, mortgagees or tenants (during the last twelve (12) months of the Lease Term), or to the ground or underlying lessors; or (ii) alter, improve, repair and maintain the Premises, the Building and the Parking Facilities, or for structural alterations, repairs or improvements to the Building in accordance with Landlord's repair obligations as set forth in this Lease; provided however, Landlord shall not be permitted access to secure areas of the Premises, including but not limited to holding cells, evidence laboratories, armories or storage areas which may from time to time be designated in writing by Tenant ("Secure Areas"), except under the supervision of Tenant. All of Landlord's entries and the performance of Landlord's work pursuant to item (ii), above, shall be scheduled and performed, as applicable, so as to minimize interference with Tenant's use of the Premises, and such entries shall be subject to the terms of Section 7.1 of this Lease. At all times during entry into the Premises, Tenant shall provide to Landlord accompaniment of at least one police officer of the City of Richmond Police Department ("Police"). Landlord shall not, including in the case of emergency, enter the Secure Areas of the Premises without Police escort. Tenant shall at all times have sole control of, and Landlord shall have no responsibility whatsoever for, any security, any security system, lock or bolt on any doors, windows or gates of the Premises or the Exclusive Parking Area, including key cards to the Premises or the Exclusive Parking Area and Landlord agrees not to alter any security system or lock or install any new or additional security systems, locks or bolts on any doors, windows or gates of the Premises or the Exclusive Parking Area. Notwithstanding the foregoing, i) Tenant shall provide access to Landlord to the second floor server room within four (4) hours of Landlord's request for such access and provided Tenant shall provide Landlord with Police escort; and ii) Landlord shall provide Tenant with access to the electrical room and telephone closet housing Tenant's telephone, data and security lines within four (4) hours of Tenant's request for such access and provided that Tenant is accompanied by Landlord

ARTICLE 28

PARKING

28.1 **Parking Facilities.** Tenant's use of the Parking Facilities shall be governed by the provisions of this Article 28. The Parking Facilities are shown on the attached Exhibit C.

28.2 **Tenant's Exclusive Parking Area.** Subject to the other provisions of this Article 28, Tenant shall have the right to exclusive parking throughout the Lease Term on the portion of the Parking Facilities in the area designated on the attached Exhibit C-1 for Tenant's exclusive use (the "Exclusive Parking Area")

28.3 **Non-Exclusive Parking Area.** Tenant may have the right to park on the portion of the Parking Facilities in the area designated on the attached Exhibit C-2 for Tenant's non-exclusive use (the "Non-Exclusive Parking Area"), subject to Landlord's right at any time and from time to time during the Lease Term to exclude Tenant from all or any part of the Non-Exclusive Parking Area. Notwithstanding the foregoing, Tenant shall at all times have a right of ingress and egress to the Exclusive Parking Area through the Non-Exclusive Parking Area.

28.4 Alterations to Parking Facilities. Landlord shall, at no cost to Tenant, cause the construction of certain alterations to the Parking Facilities (the "Pulte Improvements") as shown on Exhibit C-3. Tenant shall, at Tenant's sole cost and expense, construct the Alterations to the Parking Facilities as shown on Exhibit C-4, including fences, gates and a key card system separating the Exclusive Parking Area, the Non-Exclusive Parking Area and the No Parking Area (defined below) and a new entrance from Regatta Boulevard to the Non-Exclusive Parking Area, including any work in the public roadways (collectively, the "Parking Alterations") pursuant to Article 8 of this Lease. Landlord shall have no obligation to provide fences, gates, signage, security or security devices and wiring, lighting or any improvements other than the Pulte Improvements to the Exclusive Parking Area or the Non-Exclusive Parking Area. Tenant shall use reasonable efforts to complete the Parking Alterations no later than thirty (30) days after the Lease Commencement Date or the completion of the Pulte Improvements, whichever is later.

28.5 Temporary Parking During Construction. Notwithstanding anything to the contrary in this Lease, Tenant shall not park in the Exclusive Parking Area or the Non-Exclusive Parking Area until the Parking Alterations have been completed pursuant to Article 8. Tenant shall have no right of access to nor right to park on any portion of the Parking Facilities in the area designated on the attached Exhibit C-5 for use by others (the "No Parking Area"), except that for the period from the Lease Commencement Date until the Parking Alterations are substantially complete Tenant may park up to sixty (60) cars on the portion of the No Parking Area in the area designated on the attached Exhibit C-6 as the "Temporary Parking Area".

28.6 Maintenance of Parking Facilities. Tenant shall maintain, repair and restore the Exclusive Parking Area and the Non-Exclusive Parking Area at Tenant's sole cost and expense, provided that, upon Tenant's exclusion from all or any portion of the Non-Exclusive Parking Area by Landlord, Tenant shall have no obligation to maintain the portion of the Non-Exclusive Parking Area from which Tenant has been excluded during the period Tenant is excluded therefrom; and provided further that, if Landlord elects not to exclude Tenant from any portion of the Non-Exclusive Parking Area from which Tenant had been previously excluded, Tenant's shall resume maintenance and repair of such area.

ARTICLE 29

MISCELLANEOUS PROVISIONS

29.1 Binding Effect Each of the provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective successors or assigns.

29.2 Transfer of Landlord's Interest. Tenant acknowledges that Landlord has the right to transfer all or any portion of its interest in the Real Property and in this Lease, and Tenant agrees that in the event of any such transfer, provided that any such transferee agrees in writing to be bound by this Lease and to assume all of Landlord's obligations hereunder, Landlord shall automatically be released from all liability under this Lease, other than with respect to obligations of Landlord which arose prior to the date of such transfer, and Tenant agrees to look solely to such transferee for the performance of Landlord's obligations hereunder after the date of transfer. Tenant further acknowledges that Landlord may assign its interest in this Lease to a mortgage lender as additional security and agrees that such an assignment shall not release Landlord from its obligations hereunder and that Tenant shall continue to look to Landlord for the performance of its obligations hereunder.

29.3 Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computation of Rent nor any act of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

29.4 Application of Payments Landlord shall have the right to apply payments received from Tenant pursuant to this Lease, regardless of Tenant's designation of such payments, to satisfy any obligations of Tenant hereunder, in such order and amounts as Landlord, in its sole discretion, may elect; provided, however, that Landlord's application and characterization of such payments, whether made under protest by Tenant or not, shall

not prejudice Tenant with respect to any claims of Tenant under this Lease. Notwithstanding anything to the contrary contained in this Lease, Tenant shall be entitled to make any payments due to Landlord under this Lease under protest and the payment of any such expense shall be without prejudice to any rights or remedies Tenant shall have under this Lease or under applicable law, except to the extent as otherwise specifically provided herein.

29.5 Time of Essence. Time is of the essence of this Lease and each of its provisions.

29.6 Partial Invalidity. If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

29.7 Entire Agreement. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. This Lease, any schedules or exhibits attached hereto and any side letter or separate agreement executed by Landlord and Tenant in connection with this Lease and dated of even date herewith, contain all of the terms, covenants, conditions, warranties and agreements of the parties relating in any manner to the rental, use and occupancy of the Premises, shall be considered to be the only agreement between the parties hereto and their representatives and agents, and none of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

29.8 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, except with respect to the obligations imposed with regard to Rent and other charges to be paid by Tenant pursuant to this Lease (collectively, the "Force Majeure"), notwithstanding anything to the contrary contained in this Lease, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage and, therefore, if this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by a Force Majeure.

29.9 Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State of California.

29.10 Interest Rate. The "Interest Rate" is equal to the lesser of (A) four percent (4%) per year plus the annual "Bank Prime Loan" rate cited in the Federal Reserve Statistical Release Publication G.13(415), published on the first Tuesday of each calendar month (or such other comparable index as Landlord and Tenant shall reasonably agree upon if such rate ceases to be published), or (B) the maximum contract rate permitted by applicable law.

29.11 Landlord Authority. Landlord represents and warrants that each individual executing this Lease on behalf of Landlord is authorized to do so.

29.12 Brokers. Each party represents and warrants to the other party that it has not entered into any agreement to pay brokerage commissions to a real estate broker in connection with this Lease. In the event any real estate broker claims it is party to any such agreement, then Landlord shall indemnify, hold harmless and defend Tenant from and against such claims if and to the extent such claims are based upon any such agreement made by Landlord, and Tenant shall indemnify, and hold harmless and defend Tenant from and against such claims if and to the extent such claims are based upon any such agreement made by Tenant. ~~THIS CLAUSE IS SUBJECT TO DICON OBTAINING THE RELEASE FROM CUSHMAN & WAKEFIELD~~

29.13 Tenant Authority. Tenant represents and warrants to Landlord that the execution of this Lease has been duly authorized by [Resolution No. 144-06] of the City of Richmond and that each person signing this

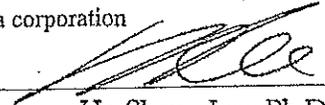
Lease on behalf of Tenant is authorized to do so and that no other authorizations or resolutions are required to make this Lease a valid and binding obligation of Tenant.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the day and date first above written.

"Landlord":

DICON FIBEROPTICS, INC.,

a California corporation

By: 

Its: Ho-Shang Lee, Ph.D.
President & CEO

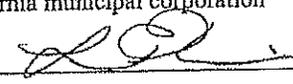
By: _____

Its: _____

"Tenant":

CITY OF RICHMOND, CALIFORNIA,

a California municipal corporation

By: 

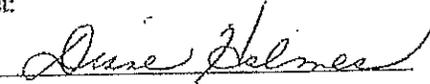
Its: Acting City Manager

Approved as to Form:

By: 

Its: City Attorney

Attest:

By: 

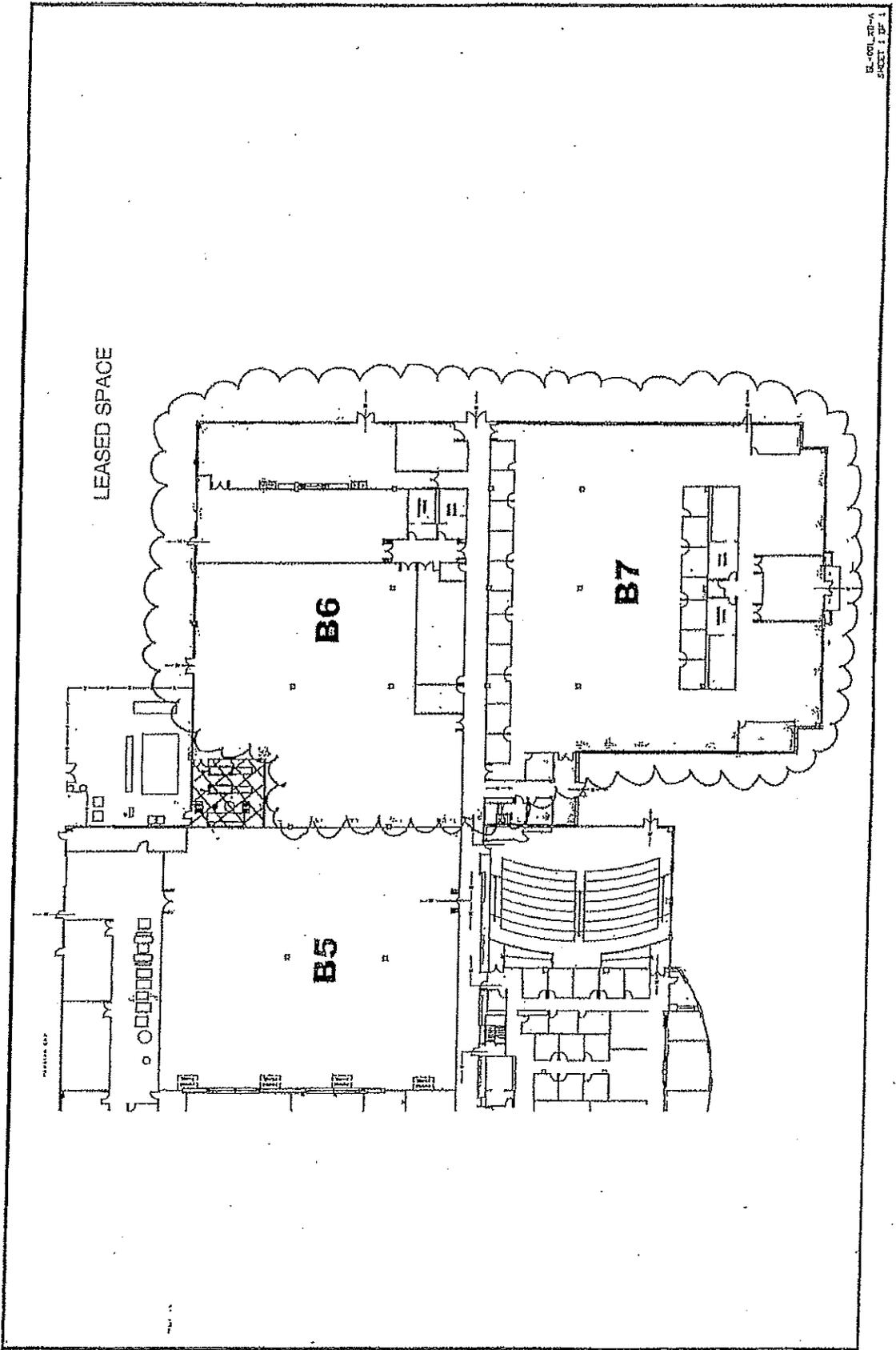
Its: City Clerk

EXHIBIT A

OUTLINE OF FLOOR PLAN OF PREMISES

DiCon AT MARINA BAY

First Floor Plan



DiCon AT MARINA BAY

Second Floor Plan

LEASED SPACE

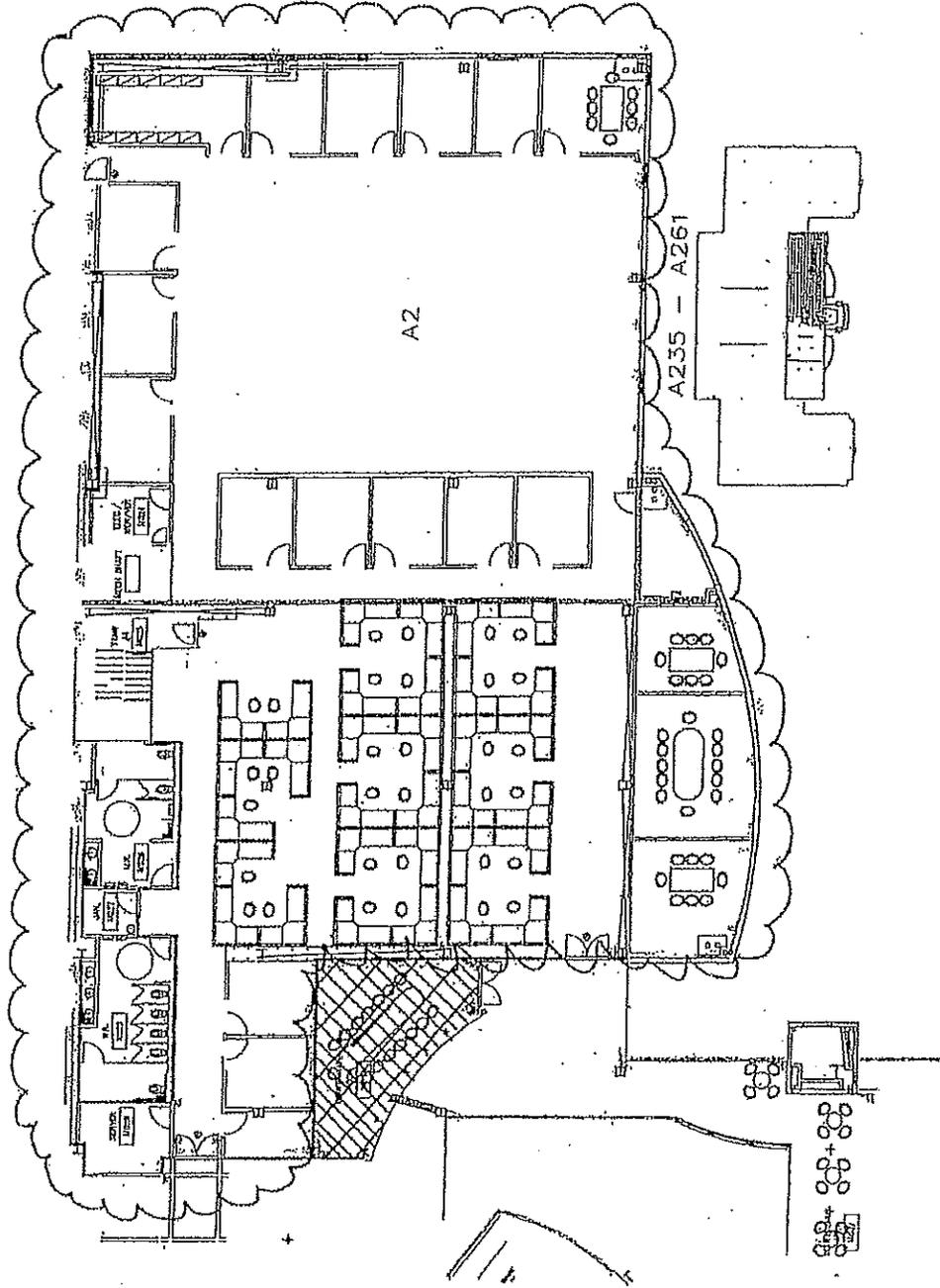


EXHIBIT B

LEGAL DESCRIPTION OF REAL PROPERTY

Lot 2 as shown on Parcel Map MS 753-04, recorded at Book 195 of Parcel Maps, pages 26-27, Contra Costa County Official Records.

EXHIBIT C

PARKING FACILITIES

EXHIBIT C-1

EXCLUSIVE PARKING AREA

EXHIBIT C-2

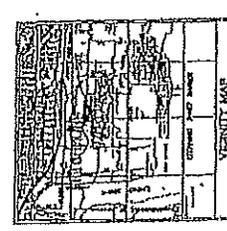
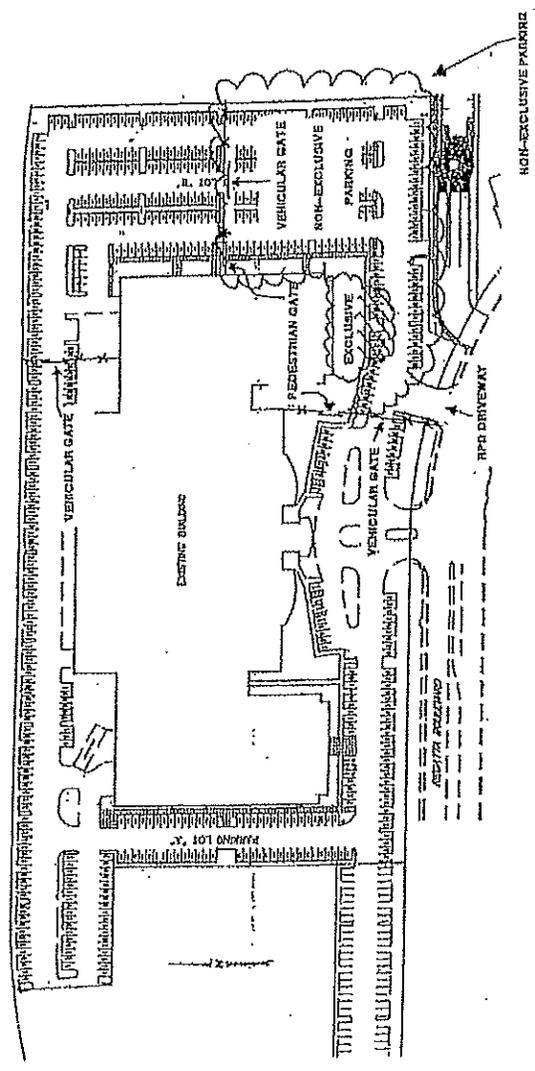
NON-EXCLUSIVE PARKING AREA

EXHIBIT C

1

DICON AT MARINA BAY

RICHMOND CALIFORNIA



PLANNING DEPARTMENT
 ENGINEERING DIVISION
 PROJECT NUMBER: 100

- 1 SWIFT DRIVE
- 2 DICON AT MARINA BAY
- 3 EXISTING BUILDING
- 4 EXISTING PARKING
- 5 EXISTING DRIVEWAY
- 6 EXISTING DRIVEWAY
- 7 EXISTING DRIVEWAY

EXHIBIT C-2

DICON AT MARINA BAY

DATE	1/15/80
BY	J. J. [unclear]
FOR	PLANNING DEPARTMENT
PROJECT	DICON AT MARINA BAY
NO.	100

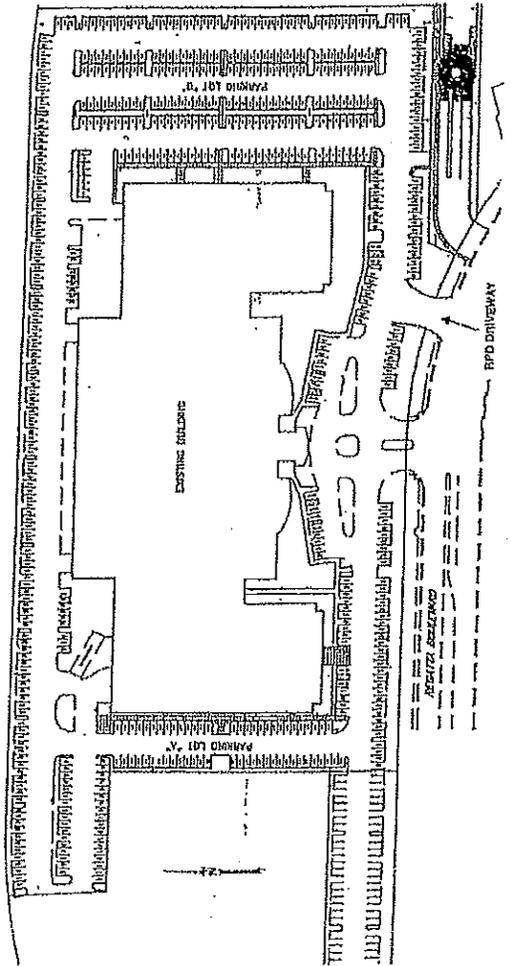
EXHIBIT C-3

PULTE IMPROVEMENTS

DICON AT MARINA BAY

RICHMOND CALIFORNIA

DICON AT MARINA BAY



IMPROVEMENTS

- 1. DRIVEWAY
- 2. PARKING
- 3. SIDEWALK
- 4. LANDSCAPING
- 5. SIGNAGE
- 6. LIGHTING
- 7. FENCE
- 8. UTILITY

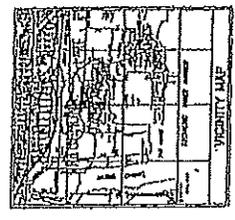


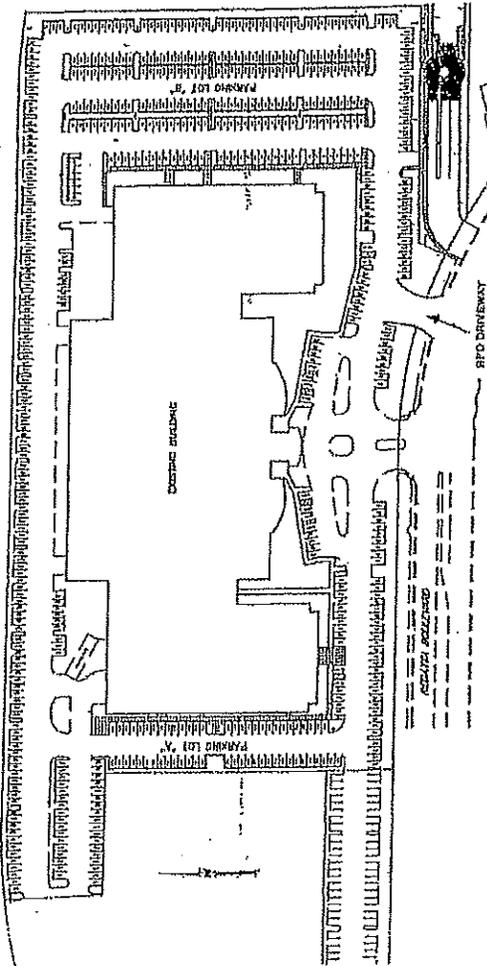
EXHIBIT C-8

DATE: 10/15/01
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: [Number]

EXHIBIT C-4
PARKING ALTERATIONS

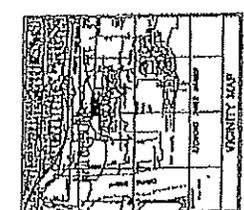
DICON AT MARINA BAY

RICHMOND CALIFORNIA



PARKING ALTERATIONS

- EXISTING PARKING
- NEW PARKING
- EXISTING DRIVEWAY
- NEW DRIVEWAY
- EXISTING DRIVEWAY
- NEW DRIVEWAY



PREPARED BY: [Name]
 DATE: [Date]
 SCALE: [Scale]

EXHIBIT C-4

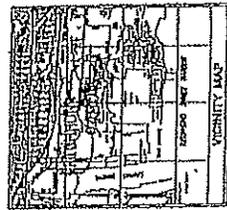
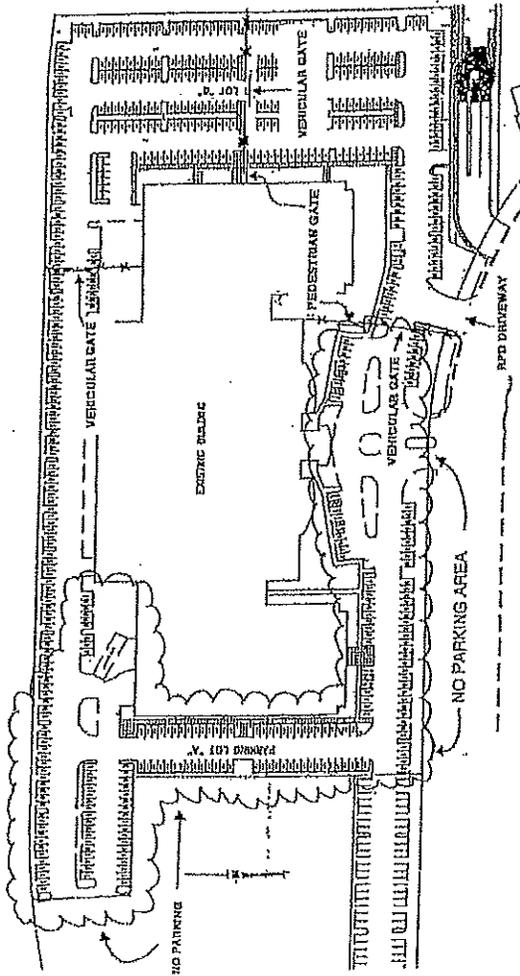
DICON AT MARINA BAY

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

EXHIBIT C-5
NO PARKING AREA

DICON AT MARINA BAY

RICHMOND CALIFORNIA



- DATE INDEX**
- 1. DATE INDEX
 - 2. EXHIBIT PLAN
 - 3. EXHIBIT PLAN
 - 4. EXHIBIT PLAN
 - 5. EXHIBIT PLAN

EXHIBIT C-5

DICON AT MARINA BAY

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		

PREPARED BY: J. L. ALLEN
 ENGINEER
 1000 MARINA BAY DRIVE
 RICHMOND, CALIFORNIA 94801

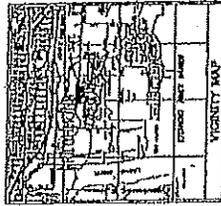
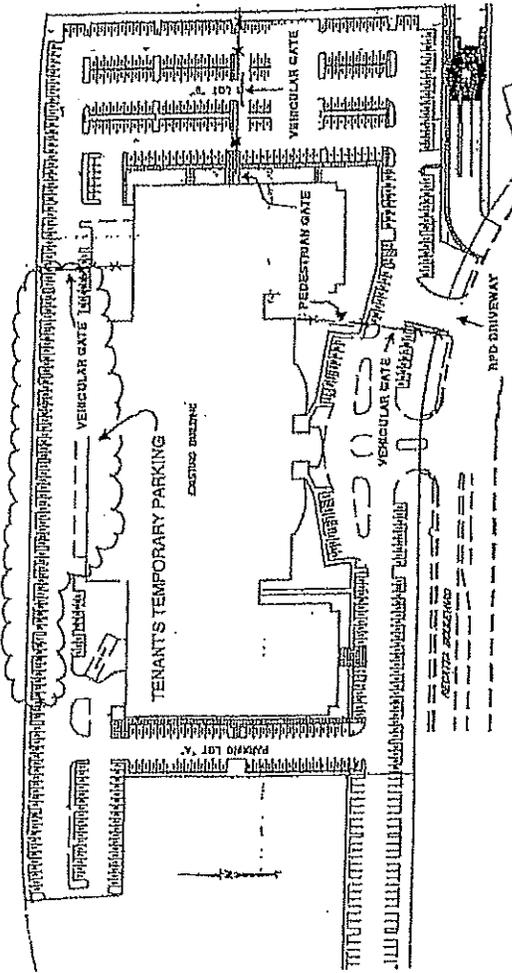
EXHIBIT C-6

TENANT'S TEMPORARY PARKING

EXHIBIT C

DICON AT MARINA BAY

RICHMOND CALIFORNIA



BARBARA S. ZIMMERMAN
 CIVIL ENGINEER
 PROJECT NUMBER: 001-1573-001

- DATE: 10/11/11
 DRAWN BY: J. L. [unreadable]
 CHECKED BY: [unreadable]
 APPROVED BY: [unreadable]
 PROJECT NUMBER: 001-1573-001

EXHIBIT C-6

DICON AT MARINA BAY

NO.	DATE	DESCRIPTION
1	10/11/11	ISSUED FOR PERMITTING
2	10/11/11	ISSUED FOR PERMITTING
3	10/11/11	ISSUED FOR PERMITTING
4	10/11/11	ISSUED FOR PERMITTING
5	10/11/11	ISSUED FOR PERMITTING
6	10/11/11	ISSUED FOR PERMITTING
7	10/11/11	ISSUED FOR PERMITTING
8	10/11/11	ISSUED FOR PERMITTING
9	10/11/11	ISSUED FOR PERMITTING
10	10/11/11	ISSUED FOR PERMITTING

EXHIBIT D

RULES AND REGULATIONS

Tenant shall faithfully observe and comply with the following Rules and Regulations

1. All doors opening to public corridors shall be kept closed at all times except for normal ingress and egress to the Premises, unless electrical hold backs have been installed.
2. Landlord shall have the right to control and operate the public portions of the Building, the public facilities, and any other facilities furnished for the common use of tenants. The driveways, sidewalks, halls, passages, exits, entrances, elevators and stairways of the Building shall not be obstructed by Tenant used by Tenant for any purpose other than for ingress to and egress from the Premises. Such routes of ingress and egress are not for the general public and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business. Landlord shall have the right at any time without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor to i) make changes to the Common Areas, the Building and the Parking Facilities (except the Exclusive Parking Area), including changes in location, size, shape and number of driveways, entrances, hallways, parking spaces, ingress, egress, direction of driveways, entrances, corridors, lobby areas and walkways; ii) close temporarily any of the Common Areas for maintenance purposes, so long as reasonable access to the Premises remains available; and iii) demolish buildings or improvements and/or construct additional buildings or improvements on the Real Property.
3. The requirements of Tenant will be attended to only upon application at the office of the Building or at such office location designated by Landlord. Employees of Landlord shall not perform any work or do anything outside their regular duties unless under special instructions from Landlord.
4. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the tenant who, or whose employees or agents, shall have caused it.
5. Except for machines concerning or relating to the Permitted Use, as defined in the Lease, and vending machines intended for the sole use of Tenant's employees and invitees, no vending machine or machines of any description other than fractional horsepower office machines shall be installed, maintained or operated upon the Premises without the written consent of Landlord.
6. Except as may concern or relate to the Permitted Use, Tenant shall not use or keep in or on the Premises, the Building or the Parking Facilities any kerosene, gasoline or other inflammable or combustible fluid or material. Notwithstanding anything to the contrary in the Lease or in these Rules and Regulations, Tenant shall not operate a target range nor store or detonate any explosives within the Premises or on the Real Property.
7. Except as may concern or relate to the Permitted Use, Tenant shall not use, keep or permit to be used or kept, any foul or noxious gas or substance in or on the Premises or on the Real Property, or permit or allow the Premises or the Parking Facilities to be occupied or used in a manner unreasonably offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors, or vibrations, or interfere in any way with other Tenants or those having business therein. Notwithstanding anything to the contrary in the Lease or in these Rules and Regulations, Tenant shall not test lights, sirens or horns on the Premises or the Real Property at any time.
8. Except as may concern or relate to the Permitted Use, Tenant shall not bring into or keep within the Building, the Premises or the Parking Facilities any animals (except seeing eye dogs), birds, bicycles or other vehicles.

9. Except as may concern or relate to the Permitted Use, no cooking shall be done or permitted on the Premises, nor shall the Premises be used for the storage of merchandise, for lodging or for any improper, objectionable or immoral purposes. Notwithstanding the foregoing, Underwriters' laboratory-approved equipment and microwave ovens may be used in the Premises for heating food and brewing coffee, tea, hot chocolate and similar beverages, provided that such use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations, and does not cause odors which are objectionable to Landlord and other tenants.
10. Except as to those persons who are in Police custody, Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules and Regulations. Notwithstanding anything to the contrary in the Lease or in these Rules and Regulations, Tenant shall not, except as required by law, release combative persons, felons, persons under warrant or persons with health problems in or about the Premises.
11. Tenant, its employees and agents shall not loiter in the entrances or corridors, nor in any way obstruct the sidewalks, lobby, halls, stairways or elevators, and shall use the same only as a means of ingress and egress for the Premises.
12. Tenant shall store all its trash and garbage within the interior of the Premises. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes at such times as Landlord shall designate.
13. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.
14. Tenant shall assume any and all responsibility for protecting the Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.
15. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord.
16. The sashes, sash doors, skylights, windows, and doors that reflect or admit light and air into the halls, passageways or other public places in the Building shall not be covered or obstructed by Tenant, nor shall any bottles, parcels or other articles be placed on the windowsills.
17. Food vendors shall be allowed in the Premises upon receipt of a written request from the Tenant. Under no circumstance shall the food vendor display their products in a public or common area including corridors and elevator lobbies. Any failure to comply with this rule shall result in immediate permanent withdrawal of the vendor from the Building.
18. Tenant must comply with reasonable requests by the Landlord concerning the informing of their employees of items of importance to the Landlord.
19. Tenant shall comply with any non-smoking ordinance adopted by any applicable governmental authority.
20. The washing and/or detailing of or, the installation of windshields, radios, telephones in or general work on, automobiles shall be allowed only on the Exclusive Parking Area.
21. Landlord reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Landlord's judgment may from time to time be reasonably necessary for the management, safety, care and cleanliness of the Premises and Building, and for the preservation of good order therein, as well as for the convenience of other occupants and tenants therein, provided such changes, rescissions or additions do not materially interfere with the Permitted Use.

Tenant shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition of its occupancy of the Premises.

EXHIBIT E

FURNITURE

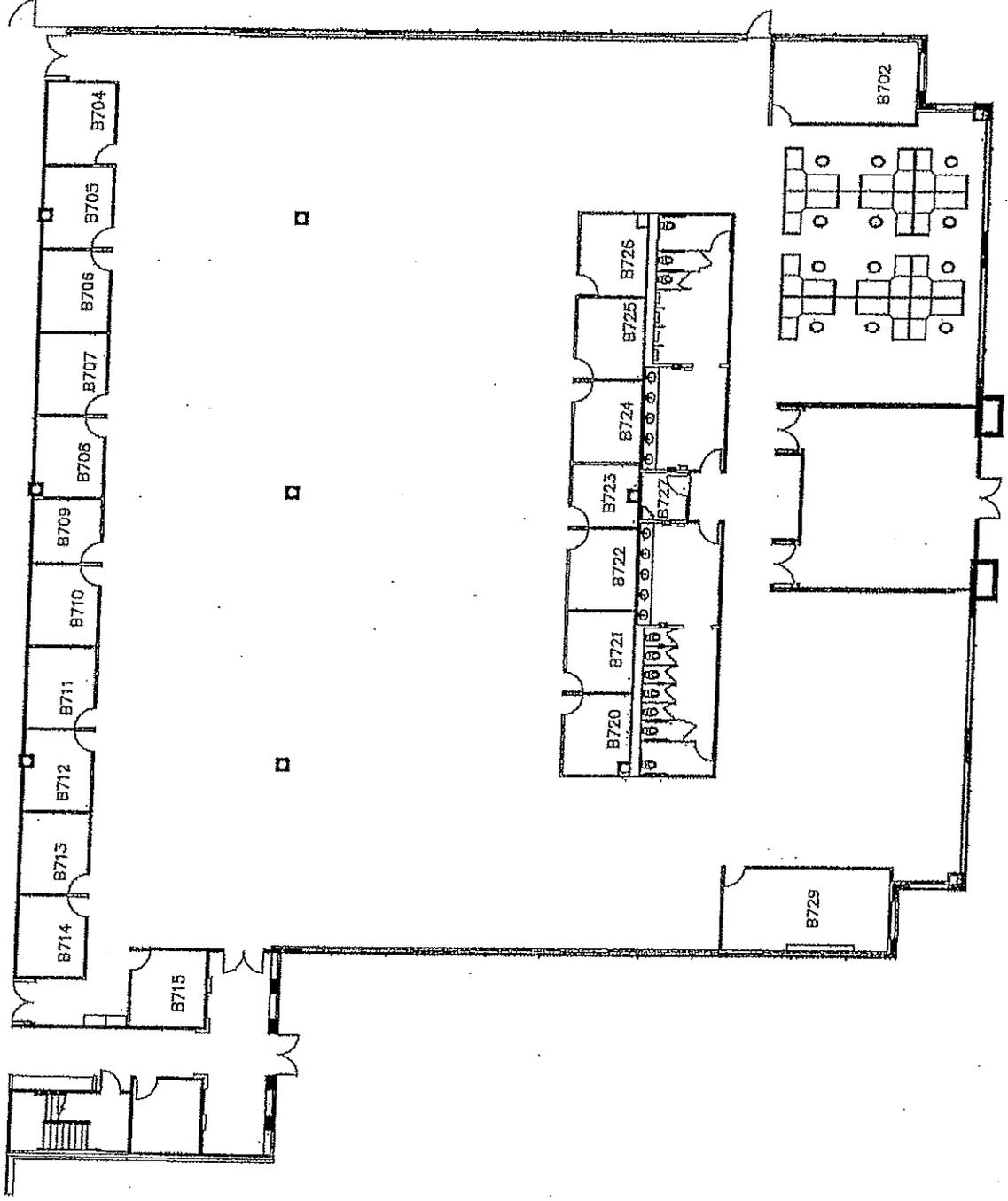
B7 12 Cubicles, 21 High Partition Offices
A2E 42 Cubicles, 17 High Partition Offices

Total: 54 Cubicles and 38 High Partition Offices

Each Cubicle is 90" x 72", includes working surface, hanging
Stationery trays, keyboard tray, one drawer, cable route, liftable
Panel for network and electrical sockets.

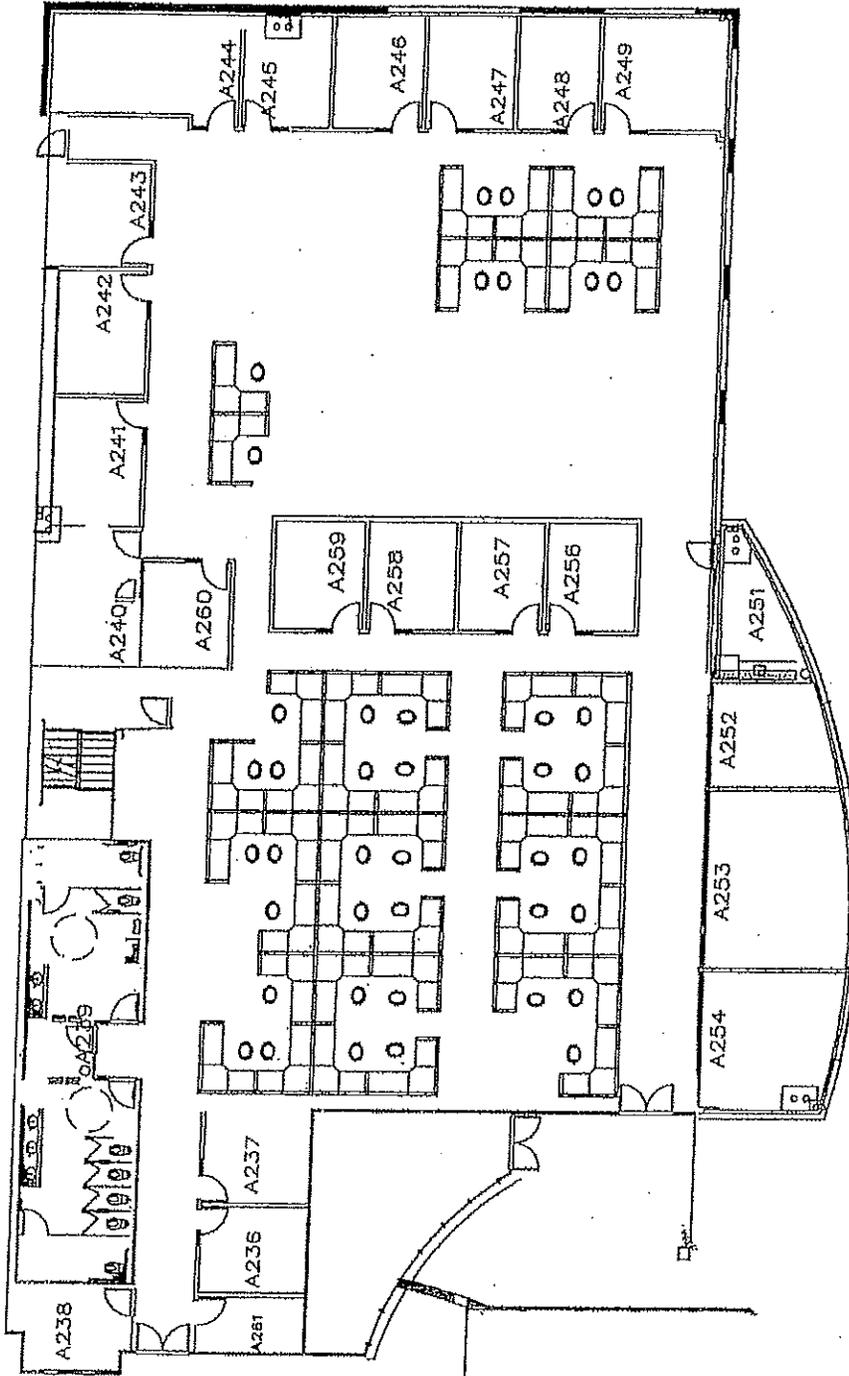
(see drawings on following pages)

B7



12 CUBICLES AND 21 HIGH PARTITION OFFICES

A2-EAST



42 CUBICLES AND 17 HIGH PARTITION OFFICES