COUNTY OF LOS ANGELES

FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE
LOS ANGELES, CALIFORNIA 90063-3294
(323) 881-2401

P. MICHAEL FREEMAN
FIRE CHIEF
FORESTER & FIRE WARDEN

February 21, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

SUBLEASE AGREEMENT BETWEEN THE CITY OF LA HABRA AND THE CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY FOR A TEMPORARY FIRE STATION SITE (ORANGE COUNTY) (4TH DISTRICT) (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD, ACTING AS THE GOVERNING BODY OF THE CONSOLIDATED FIRE PROTECTION DISTRICT:

1) Find that the attached Sublease Agreement by and between the City of La Habra and the Consolidated Fire Protection District of Los Angeles County (District) for a temporary fire station site located within the City of La Habra (Sublease Agreement) is exempt from the California Environmental Quality Act (CEQA); and

2) Approve and instruct the Mayor to sign the Sublease Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On February 8, 2005, your Honorable Board approved and adopted the Agreement for Services by and between the District and the City of La Habra for the provision of fire protection, emergency medical, and related services. Included in this Agreement for Services was a requirement that the City acquire a temporary fire station site at a mutually agreeable location for the purpose of the placement and operation by the District of a temporary fire station facility.

The City has leased a suitable site for such purpose and has negotiated a Sublease Agreement with the District which sets forth the conditions for the District's tenancy of such temporary fire station site.

FISCAL IMPACT/FINANCING

The cost to the District for the Sublease of this temporary fire station site is a rental cost of $1.00 per year.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Section V, Subsection C of the Agreement for Services by and between the City and District requires the City to acquire a temporary fire station site at a mutually agreeable location and to provide this site to the District for the purpose of operating a temporary fire station. District shall operate a temporary fire station from this site until such time as the City completes construction of a permanent fire station facility.

The Sublease Agreement provides for the following:

- The term shall commence upon approval of the Sublease by your Honorable Board and shall terminate upon District's occupancy of a permanent fire station or the expiration of the Master Lease between the City and the property owner, which expiration date is May 31, 2008, whichever is sooner.

- District shall pay to the City as rent for the subleased premises the sum of $1.00 per year, which shall be in the form of a credit on the City's Annual Fee payment to the District.

- All financial obligations including base rent and monthly common area operating expenses, taxes, etc., to be paid under the term of the Master Lease are the City's responsibility.

- The District shall be responsible for rent and all direct costs associated with the District's occupancy, including operating and maintaining the facility, utilities and other direct operating expenses.

- In the event the permanent station is not completed before the expiration of the Master Lease, City shall provide an alternative temporary site at City's cost to the District for the purpose of operating the temporary fire station until such time as the City completes the permanent fire station. The rent for an alternative temporary site shall be $1.00 per year.

On December 19, 2005, the La Habra City Council approved, and authorized the City Manager to execute, the Sublease Agreement. A copy of the meeting Minutes is attached.

The Chief Administrative Office's Real Estate Division provided assistance to the District in the development of the Sublease Agreement. County Counsel has approved the Sublease Agreement as to form.

IMPACT ON CURRENT SERVICES

None.

NEGATIVE DECLARATION/ENVIRONMENTAL IMPACT REPORT

An Initial Study prepared for the temporary fire station concluded that the impact of the fire station will be less than significant to the community. Based on the findings in the Initial Study, the City of La Habra determined the project to be statutorily exempt per Section 15303 of the CEQA Guidelines developed by the State Office of Planning Research and prepared a Notice of Exemption. The District has reviewed the Initial Study and the Notice of Exemption and concurs with the City's determination that the project is exempt from CEQA. A copy of the Notice of Exemption is attached.

CONCLUSION

After approval of the Sublease Agreement, please instruct both the Mayor and the Executive Officer-Clerk of the Board to sign the Sublease Agreement in triplicate and further instruct the Executive Officer of the Board to transmit to the District two (2) executed originals and two (2) executed copies of the Sublease Agreement and two (2) copies of the minute order. The District shall forward one executed original to the City for their records.

Respectfully submitted,

P. MICHAEL FREEMAN

PMF:lb

Attachments

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors
Carlos Brea, Real Estate Division, CAO

SUBLEASE AGREEMENT

This sublease ("Sublease") is made and entered into on _____ 2006, by and between the City of La Habra, a California municipal corporation (the "City"), and the Consolidated Fire Protection District of Los Angeles County (the "District").

Recitals

On February 8, 2005, City and District entered into an Agreement whereby District agreed to provide certain fire protection, emergency medical and related services to the City (the "Service Agreement"). The Service Agreement includes provisions requiring City to acquire a site where a temporary fire station can be located, and then to provide that site to District for the construction and operation of the temporary fire station (the "Temporary Fire Station"). The terms of the Service Agreement are incorporated herein by this reference.

District's tenancy of the temporary fire station site property will terminate after the permanent fourth fire station (the "Permanent Fire Station") is occupied by the District.

In furtherance of the above, City, as Lessee, executed a lease with Trico-TCH II, a California Limited Partnership, as Lessor ("Lessor"), on May 16, 2005 (the "Master Lease"). A true and correct copy of the Master Lease is attached as Exhibit B, and is incorporated into this Sublease by this reference with the following exclusions and deletions;

1. The District shall be excluded from and not assume nor be subject to any of the financial obligations of the City identified in Article 2 Sections 2.01, 2.02, and 2.03, and Article 4, Sections 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, and 4.08 of the Master Lease which include but are not limited to Rent, Common Area Operating Expenses, Taxes, Assessments, and CAM Charges. The District's financial obligations shall be limited to those obligations enumerated in this Sublease. The District shall also be excluded from the requirements identified in Article 5, Sections 5.03 and 5.05 of the Master Lease.

2. The extent of the District's indemnification in regards to the placement and operation of the Temporary Fire Station on the subleased premises is as stated in Section 14 herein. Notwithstanding the foregoing, District shall assume the indemnification provisions contained in the Master Lease including Article 7, Section 7.02 paragraph (d), Article 8, Section 8.01, and Article 8, paragraph (d) of Section 8.04 which is erroneously numbered as the first Section 9.01 in the Master Lease only to the extent the District's own failure to comply with and perform the requirements of Section 7.02, District's own activities giving rise to a claim or cause of action under Section 8.01, or District's own bringing onto the Premises or authorizing or allowing the bringing onto the Premises, any Hazardous Substances as set forth in Section 8.04 which is erroneously numbered as the first Section 9.01 in the Master Lease.

3. District shall be excluded from and not assume nor be subject to the Provisions contained in Article 11, Sections 11.01 and 11.02 and shall be excluded from and not assume nor be subject to the Provisions contained in Article 11, Sections 11.03, and 11.04 of the Master Lease to the extent of any default by City under the Master Lease not caused by District.

4. District shall not assume any responsibility or liability for hazardous materials brought to the site by a third party not acting under the express authority of the District or its agents or employees.

Under the terms of the Master Lease, the real property described in Paragraph 1 of this Sublease was leased to City for a term of thirty six (36) months, commencing on June 1, 2005, and ending on May 31, 2008, subject to earlier termination as provided in the Master Lease;

City desires to sublease to District all of the property currently leased by City under the terms of the Master Lease, and District desires to sublease that property from City for the purpose of constructing and operating the Temporary Fire Station; and

The Lessor under the Master Lease shall consent to this Sublease by executing the "Consent of Lessor" provision at the end of this Sublease.

THEREFORE, City and District agree as follows:

Incorporation of Recitals

1. The foregoing recitals are true and correct and are made part of this Sublease as if fully set forth herein.

Leasing and Description of Property

2. Subject to the terms, conditions, and covenants set forth in this Sublease, City hereby leases to District, and District hereby leases from City, that certain real property located in the County of Orange, State of California, which is approximately 6,800 square feet in size, commonly known as 1251-1301-1351 and 1401 South Beach Boulevard, La Habra, California and is more particularly described in Exhibit "A," which is attached and made a part of this Lease (the "subleased premises" or "site").

Term

3. This Sublease shall commence on _____ 2006, and shall end on the date on which the Master Lease terminates or on the date the District occupies the

Permanent Fire Station, whichever is earlier. District shall give City at least thirty (30) days prior written notice of the date it intends to occupy the Permanent Fire Station.

Rent

4. District shall pay to City as rent for the subleased premises a rental of $1.00 per year payable in advance on the first day of each year during the term, commencing on _____. Rent shall be in the form of a $1.00 credit to the City's Annual Fee and shall be reflected on the first month's billing of each Fiscal Year.

Throughout the term of this Sublease, City shall be responsible for paying to Lessor all base rent and monthly common area operating expenses ("CAM charges"), taxes and all other financial obligations required to be paid under the terms of the Master Lease. District shall be responsible only for paying the Rent under this Sublease and all other costs directly associated with District's occupancy of the subleased premises, specifically including all costs associated with constructing, operating and maintaining the Temporary Fire Station and any Improvements (defined below) utilities and other direct operating expenses.

At the conclusion of this Sublease or any subsequent term extension of this Sublease for the subleased premises, District shall be responsible for immediately removing the Temporary Fire Station and all related Improvements, material, equipment and facilities added by District, and returning the site to the condition that existed as of the date this Sublease was executed.

Use of Premises

5. District shall use the subleased premises solely for the purpose of constructing, operating and maintaining the Temporary Fire Station and associated Improvements, and for no other purpose. It is understood that District is intending to install two (2) temporary buildings on the subleased premises consisting of an apparatus building and living quarters, as well as certain appurtenant parking areas and other related improvements (all buildings, parking and other improvements being collectively referred to as the "Improvements"). District shall not change the use of the subleased premises without first obtaining the written consent of City and Lessor, which consent will not unreasonably be withheld.

Quiet Enjoyment

6. City covenants that District shall be entitled to quiet enjoyment of the subleased premises, provided that District complies with the terms of this Sublease.

Condition of Premises

7. District agrees that District's act of taking possession will be an acknowledgment that the subleased premises are in a tenantable and good condition. District will, at District's own expense, maintain the subleased premises in a thorough state of repair and in good and safe condition.

Applicability of Master Lease

8. City and District acknowledge that the obligations of the District to the City under this Sublease are separate from any obligations of the Lessee to Lessor pursuant to the provisions of the Master Lease Agreement. Wherever a conflict arises between any of the provisions of the Master Lease and this Sublease as to the obligations of Lessee versus the obligations of the District as Sublessee, the provisions of this Sublease shall govern and prevail. The District's obligations shall be only those obligations expressly enumerated in this Sublease Agreement, except that District will be subject to all applicable non-financial terms of the MasterLease from which District is not expressly exempted herein.

District's Rights Regarding Continuing Possession

9. District shall have the right at any time, at City's expense, to take any action required to be taken, but not timely taken, by City, that may be necessary to prevent a default under the terms of the Master Lease. If City is provided with the right, under the terms of the Master Lease, to terminate the Master Lease before the expiration of its term, District rather than City shall have the right to make that decision during the time that District occupies the subleased premises under this Sublease. Nothing contained in this Sublease shall be construed so as to deprive District of District's right to surrender or otherwise terminate this Sublease as provided by law.

Obligations of City

10. City agrees to maintain the Master Lease during the entire term of this Sublease, or any extension term necessary for the City to complete the Permanent Fire Station, unless City has provided an alternate Temporary Site pursuant to paragraph 11 below. City also agrees not to modify or surrender the Master Lease without the prior consent of District during the time that District occupies the subleased premises under this Sublease. Any modification or surrender made without that consent shall be null and void and shall have no effect on the rights of District under this Sublease.

Termination of Master Lease

11. Notwithstanding Article 5, Section 5.12 of the Master Lease, title to all Improvements for the temporary fire station on the Subleased Premises shall be owned by the District. If the Master Lease is terminated, or if the City for any reason whatsoever is unable to negotiate a term extension for the Master Lease, this Sublease shall terminate simultaneously. Immediately thereafter, District shall remove all Improvements and return the subleased premises to the condition that existed at the time the subleased premises was delivered to District. The City, however, shall be responsible to immediately provide the District, at City's own expense, with another temporary site (the "New Temporary Facility site"), complete with improvements comparable in size and amenities to those previously placed by District on the subleased premises herein, pending the completion of the Permanent Fire Station. The rent for the New Temporary Facility site shall be at the same rate as Rent pursuant to this Sublease.

In the event a New Temporary Facility is constructed by the City for occupancy by the District, upon completion and occupancy of the Permanent Fire Station, the City, at its sole expense shall be responsible for all site restoration obligations of the New Temporary Facility site.

Attorney's Fees

12. If any action or other proceeding arising out of this Sublease is commenced by either party to this Sublease concerning the subleased premises, then as between City and District, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorney's fees, costs, and expenses incurred in the action or other proceeding by the prevailing party.

Insurance

13. District shall be required to maintain insurance in accordance with the terms of the Master Lease and Article V, subsection (O), of the Service Agreement.

Indemnity

14. District and City shall be obligated to indemnify, defend and hold each other harmless, as set forth in the Service Agreement, including but not necessarily limited to Section VI, and Section V, subsections (K) and (L).

Eminent Domain

15. If during the term of this Sublease or any extension period the Premises or any portion thereof are under the threat or actual exercise of the power of eminent domain, the City will make a reasonable effort to obtain such information from the landlord and provide notification to the District of such action.

16. General Provisions.

A. Notices.

All notices and written communications sent by one party to the other shall be personally delivered or sent by registered or certified U.S. Mail postage prepaid, return receipt requested to the following addresses indicated below:

IF TO CITY: City Manager
City of La Habra
P.O. Box 337
La Habra, Ca. 90631

TO DISTRICT: Fire Chief P. Michael Freeman
Consolidated Fire Protection District
1320 North Eastern Avenue
Los Angeles, CA 90063-3294

The effective date of any notice or written communications sent by one party to the other shall be the date received if by personal service, or 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark.

B. Entire Agreement.

Except as may be specifically stated herein to the contrary and except as provided in the Service Agreement, this Sublease contains the entire agreement between the parties with respect to District's occupancy of the subleased premises, and supersedes all prior negotiations, understandings, or agreements whether verbal or written, concerning the same subject matter. This Sublease may be modified only by a writing signed by both parties.

C. Successors and Assigns.

This Sublease shall be binding on the successors and assigns of the parties. This Sublease may not be sold, transferred, assigned or subleased by either party, or by operation of law, to any other person or persons or business entity, without the other party's written permission. Any such sale, transfer or assignment, or attempted sale,

transfer or assignment without written permission of the other party shall be deemed null and void, and of no effect.

D. Governing Law.

This Sublease shall be governed by and construed in accordance with the laws of the State of California. Any action to enforce the terms of this Sublease or for the breach thereof shall be brought and tried in the County of Orange, California.

E. No Waiver of Breach; Time.

No waiver of any provision of this Sublease shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought referring expressly to this Paragraph. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

F. Compliance With Law.

District shall comply with applicable federal, state and local laws, rules and regulations affecting the District and its work hereunder.

G. Validity.

The validity in whole or in part of any provision of this Sublease shall not void or affect the validity of any other provisions of this Sublease.

H. Headings.

Section and subsection headings are not to be considered part of this Sublease, are included solely for convenience, and are not intended to modify or explain or to be a full or accurate description of the content thereof.

I. Counterparts.

This Sublease may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

J. Corporate Authority.

The persons executing this Sublease on behalf of the Parties hereto warrant that they are duly authorized to execute this Sublease on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provision of this Sublease.

IN WITNESS WHEREOF, City, by majority vote of its City Council, has caused this Sublease Agreement to be executed by its Mayor and which execution has been attested to by its Clerk; pursuant to action by a majority vote of the Board of Supervisors, as governing body of the District, the Mayor has executed this Agreement on behalf of the District and which execution has been attested to by its Clerk.

CITY OF LA HABRA:

City Manager

CONSOLIDATED FIRE PROTECTION DISTRICT OF LOS ANGELES COUNTY

Michael D. Antonovich
Mayor, Board of Supervisors

ATTEST:

City Clerk

ATTEST:

VIOLET VARONA LUKENS, Executive Officer, Clerk of the Board of Supervisors

Deputy

(SEAL)

(SEAL)

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

CONSENT OF LESSOR

The undersigned is the Lessor under the Master Lease described in the foregoing Sublease, and hereby consents to the sublease of the premises described in this Sublease to the Consolidated Fire Protection District of Los Angeles County for purposes of constructing and operating the Temporary Fire Station and related Improvements, Section 11 of the Sublease specifically. In granting this consent, the undersigned does not waive any of the Lessor's rights under the Master Lease as to the City or under the Sublease as to the District.

LESSOR

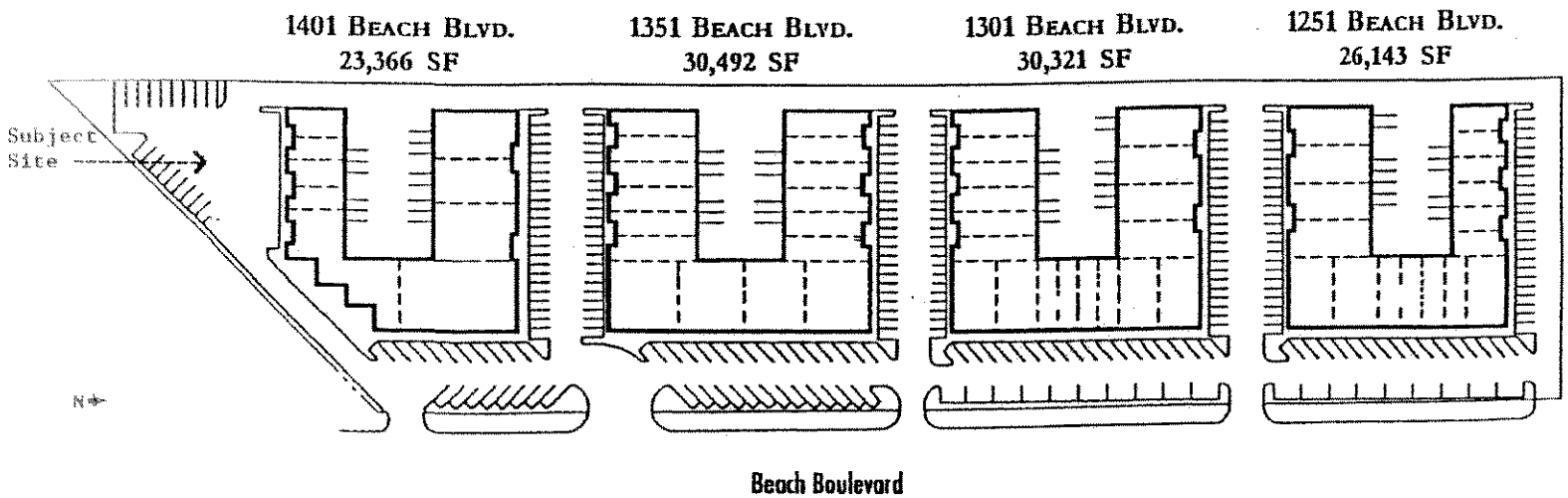
PRICO PCH II, A CALIF. LTD

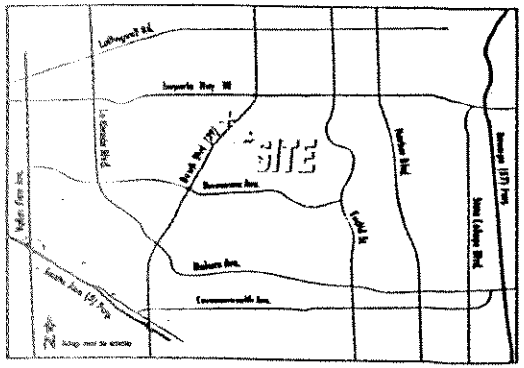
EXHIBIT A

Beach Commerce Center

1251–1401 Beach Boulevard ♦ La Habra, California

SITE PLAN
Exhibit "A"





The information above has been obtained from sources believed reliable. While we do not doubt its accuracy, we have not verified it and make no guarantee, warranty or representation about it. It is your responsibility to independently confirm its accuracy and completeness. Any projections, opinions, assumptions or estimates used are for example only and do not represent the success or future performance of the property. The value of this transaction to you depends on tax, and other factors which should be evaluated by your tax, financial and legal advisors. You and your advisors should conduct a careful, independent investigation of the property to determine to your satisfaction the suitability of the property for your needs. Fmsearch\Beach Commerce Center\Beach Commerce Center.b.bold

Lessee _____

Lessor _____

TRIPLE NET GROUND LEASE

Preamble and Recitals

This lease (the "Lease") is entered into on or about the day of 2005, by and between Trico-TCH II, a California Limited Partnership, referred to in this Lease as "Landlord," and The City of La Habra, a California municipal corporation, referred to in this Lease as "Tenant."

A. Landlord is the owner of certain real property in the County of Orange, State of California, improved with asphalt, landscaping and curbs, approximately 6,800 square feet in size and commonly known as 1251-1301-1351 and 1401 South Beach Boulevard, La Habra, California and more particularly described on Exhibit "A," which is attached and made a part of this Lease (referred to in this Lease as "the Premises").

B. Tenant desires to lease the Premises (together with certain appurtenant rights and easements) for the purpose of constructing a temporary city Fire Station, consisting of two (2) temporary buildings, an apparatus building and living quarters ("the Fire Station"), appurtenant parking areas, and other related improvements (collectively referred to in this Lease as "the Improvements") in accordance with the agreement of the parties as set forth in this Lease.

ARTICLE 1
LEASE OF PREMISES AND TERM OF LEASE

Agreement to Lease

Section 1.01. For and in consideration of the rents to be paid and covenants to be performed by Tenant under this Lease, Landlord agrees to lease the Premises to Tenant, and Tenant agrees to lease the Premises from Landlord, on the terms and conditions set forth in this Lease. Except as expressly otherwise provided in this Lease, "the Premises" includes but is limited to the real property described in Exhibit "A" of this Lease, exclusive of any Improvements now or subsequently located on the Premises, notwithstanding that any Improvements may or shall be construed as affixed to and as constituting part of the described Premises, and without regard to whether ownership of the Improvements is in Landlord or in Tenant. Tenant is also granted the right of ingress and egress over the common areas adjacent to the Premises.

Status of Title

Section 1.02. Title to the leasehold estate created by this Lease is subject to all exceptions, easements, rights, rights-of-way, and other matters of record.

Term of Lease

Section 1.03. The term of this Lease shall be for a period of thirty-six (36) months

commencing upon execution of this Lease and continuing until May 31, 2008 unless terminated earlier as provided in this Lease.

Tenant shall have the right to terminate this Lease for the period after May 31, 2007, provided they have given written notice to Landlord of such termination, on or before March 1, 2007.

ARTICLE 2
RENT

Base Rent

Section 2.01. Tenant agrees to pay to Landlord base rent (''Base Rent'') for each month during the term of this Lease in the following amounts:

(a) $ 1, 417.00 per month (" Base Rent") payable on the first day of each month commencing upon execution of this Lease, subject to adjustment as set forth below. The foregoing sum shall be paid upon execution of this Lease and each month thereafter.

The Base Rent shall be adjusted as of the first day of the thirteenth month of the term, and on the first day of each twelfth (12th) calendar month thereafter, including any extended term (the adjustment date), according to the following computation:

The base for computing the adjustment is the index figure for the second month next preceding the month in which the term commences (the index date), as shown in the Consumer Price Index for All Urban Consumers for Los Angeles-Anaheim-Riverside based on the period 1982-84=100 as published by the U.S. Department of Labor's Bureau of Labor Statistics. The index for the second month next preceding the adjustment date shall be computed as a percentage of the base figure on the index date and that percentage shall be applied to the initial monthly rent the result of which shall be the monthly rental for the period beginning on the adjustment date and continuing until the next adjustment date, provided, that the monthly rent shall not be reduced below the initial monthly rent specified hereinabove.

The index for the adjustment date shall be the one reported in the U.S. Department of Labor's most comprehensive official index then in use and most nearly answering the foregoing description of the index to be used. If it is calculated from a base different from the base period 1982-84=100 used for the base figure above, the base figure used for calculating the adjustment percentage shall be first converted under a formula supplied by the Bureau. If the described index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index had not been discontinued or revised.

Common Area Operating Expenses

(b) The Common Area Operating Expenses of $350.00 per month have been estimated by Landlord and payable on the first of each month, subject to adjustment as set forth below. Tenant's share of the Common Area Operating Expenses shall be adjusted on a quarterly basis and the Tenant shall thereafter pay the adjusted amount in accordance with the following provisions:
(1) **"Common Area Operating Expenses"** are defined, for purposes of this Lease, as all costs incurred by Landlord relating to the ownership and operation of the real property where the Premises are located (the "Project"), including, but not limited to, the following:
(i) The operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement, of the following:
(aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, and roof drainage systems.
(bb) Exterior signs and any tenant directories.
(ii) The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.
(iii) Trash disposal, pest control services, property management, security services, and the costs of any environmental inspections.
(iv) A reasonable amount of reserves set aside for maintenance and repair of Common Areas.
(v) Any real property taxes for the Project.
(vi) The costs of insurance for the Project.
(vii) Any deductible portion of an insured loss concerning the Premises or the Common Areas.
(viii) The cost of any Capital Expenditure to the Premises or the Project.
Provided, however, that Landlord shall allocate the cost of any such Capital Expenditure over a 12 year period and Tenant shall not be required to pay more than Landlord's Share of 1/144th of the cost of such Capital Expenditure in any given month.

(c). Landlord shall deliver to Tenant within 60 days after the expiration of each calendar year a reasonably detailed statement showing Tenant's Share of the actual Common Area Operating Expenses incurred during the preceding year. If Tenant's payments under this Paragraph during the preceding year exceed Tenant's Share as indicated on such statement, Landlord shall credit the amount of such over-payment against Tenant's Share of Common Area Operating Expenses next becoming due. If Tenant's payments under this Paragraph during the preceding year were less than Tenant's Share as indicated on such statement, Tenant shall pay to Landlord the amount of the deficiency within 10 days after delivery by Landlord to Tenant of the statement.

(d) total due upon execution of this Lease: $1767.00.

Time and Place for Payment of Rent

Section 2.02. All Rent provided for in Section 2.01 of this Lease shall be paid by Tenant on a monthly basis on the first day of each calendar month . and shall be paid to Landlord at 201 Paularino Avenue, Costa Mesa, California 92626, or any other place or places that Landlord may designate by written notice to Tenant. Any rent not paid within ten days of its due date shall incur a late charge equal to ten (10%) per cent of any Rent due and payable. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month.

Security Deposit

Section 2.03. There shall be no security deposit due upon signing of this Lease.

No Partnership or Joint Venture

Section 2.04. Nothing in this Lease shall be construed to render Landlord in any way or for any purpose a partner, joint venturer, or associate in any relationship with Tenant other than that of Landlord and Tenant, nor shall this Lease be construed to authorize either to act as agent for the other.

ARTICLE 3
USE OF PREMISES

Permitted Use

Section 3.01. Tenant shall use the Premises solely for the purpose of constructing and maintaining a Fire Station and the related Improvements. It is understood that Tenant is intending to construct two (2) temporary buildings on the Premises consisting of an apparatus building and living quarters. Tenant shall not change the use of the Premises without first obtaining the written consent of Landlord, which consent will not unreasonably be withheld.

Compliance With Laws

Section 3.02. Tenant shall, at Tenant's own cost and expense, comply with all statutes, ordinances, regulations, and requirements of all governmental entities, both federal and state and county or municipal, including those requiring capital improvements to the Premises or Improvements, relating to any use and occupancy of the Premises (and specifically not limited to any particular use or occupancy by Tenant), whether those statutes, ordinances, regulations, and requirements are now in force or are subsequently enacted. If any license, permit, or other governmental authorization is required for the lawful use or occupancy of the Premises or any portion of the Premises, Tenant shall procure and maintain it throughout the term of this Lease. The judgment of any court of competent jurisdiction, or the admission by Tenant in a proceeding brought against Tenant by any government entity, that Tenant has violated any such statute, ordinance,

regulation, or requirement shall be conclusive as between Landlord and Tenant and shall constitute grounds for termination of this Lease by Landlord.

Prohibited Uses

Section 3.03. Tenant shall not use or permit the Premises or any portion of the Premises to be improved, developed, used, or occupied in any manner or for any purpose that is in any way in violation of any valid law, ordinance, or regulation of any federal, state, county, or local governmental agency, body, or entity. Furthermore, Tenant shall not maintain, commit, or permit the maintenance or commission of any nuisance as now or hereafter defined by any statutory or decisional law applicable to the Premises or any part of the Premises.

ARTICLE 4
TAXES AND UTILITIES

Tenant to Pay Taxes

Section 4.01. Tenant shall pay during the term of this Lease, without abatement, deduction, or offset, any and all real and personal property taxes, general and special assessments, and other charges (including any increase caused by a change in the tax rate or by a change in assessed valuation) of any description levied or assessed during the term of this Lease by any governmental agency or entity on or against the Premises, the Improvements located on the Premises, personal property located on or in the Premises or Improvements, and the leasehold estate created by this Lease.

Proration of First and Last Year Taxes

Section 4.02. Notwithstanding the provisions of Section 4.01 of this Lease, all taxes, assessments, or other charges levied or assessed during the tax years in which the term of this Lease commences and ends shall be prorated between Landlord and Tenant as of 12:01 A.M. on the date the term commences and on the date the term ends, respectively, on the basis of tax years that commence on July 1 and end on June 30 of each year. Landlord shall pay the taxes, assessments, or other charges for the year in which the term of this Lease commences and Tenant shall promptly, on service of written request by Landlord, reimburse Landlord for Tenant's share of those taxes, assessments, or other charges. Tenant shall pay the taxes, assessments, and other charges for the year in which this Lease is to end; and Landlord shall promptly, on service of written request by Tenant, reimburse Tenant for Landlord's share of those taxes, assessments, and other charges.

Separate Assessment of Leased Premises

Section 4.03. Should the Premises be assessed and taxed with or as part of other property owned by Landlord before the commencement of the term of this Lease, Landlord shall arrange with the taxing authorities to have the Premises taxed and assessed as a separate

parcel distinct from any other real or personal property owned by Landlord. Should the Premises be assessed and taxed for the year in which this Lease is to commence with or as part of other property owned by Landlord, the share of the taxes, assessments, or other charges for which Tenant is liable to pay under Section 4.02 shall be determined as follows: Tenant shall pay an amount equal to that portion of the taxes, assessments, and other charges that bears the same ratio to the total of the taxes, assessments, and other charges as the ground area of the Premises bears to the ground area of the total taxed property.

Payment Before Delinquency

Section 4.04. Any and all taxes and assessments and installments of taxes and assessments required to be paid by Tenant under this Lease shall be paid by Tenant at least 10 days before each such tax, assessment, or installment of tax or assessment becomes delinquent. On the written request of Landlord, Tenant shall deliver to Landlord the official and original receipt evidencing the payment of any taxes, assessments, and other charges required under this Article.

Taxes Payable in Installments

Section 4.05. Should any special tax or assessment be levied on or assessed against the Premises that may be either paid in full before a delinquency date within the term of this Lease or paid in installments over a period either within or extending beyond this Lease, Tenant shall have the option of paying the special tax or assessment in installments. The fact that the exercise of the option to pay the tax or assessment in installments will cause the Premises to be encumbered with bonds or will cause interest to accrue on the tax or assessment is immaterial and shall not interfere with the free exercise of the option by Tenant. Should Tenant exercise the option to pay any such tax or assessment in installments, Tenant shall be liable to pay only those installments becoming due during the term of this Lease. Landlord shall cooperate with Tenant and on written request of Tenant execute or join with Tenant in executing any instruments required to permit any such special tax or assessment to be paid in installments.

Tax Hold-Harmless Clause

Section 4.06. Tenant shall indemnify and hold Landlord and Landlord's property, including the Premises and any Improvements now or subsequently located on the Premises, free and harmless from any liability, loss, or damage resulting from any taxes, assessments, or other charges required by this Article to be paid by Tenant and from all interest, penalties, and other sums imposed thereon and from any sales or other proceedings to enforce collection of any such taxes, assessments, or other charges.

Utilities

Section 4.07. Tenant shall pay or cause to be paid, and hold Landlord and Landlord's property including the Premises free and harmless from, all charges for the furnishing of

gas, water, electricity, telephone service, and other public utilities to the Premises during the Lease's term.

Payment by Landlord

Section 4.08. Should Tenant fail to pay within the time specified in this Article any taxes, assessments, or other charges required by this Article to be paid by Tenant, Landlord may, without notice to or demand on Tenant, pay, discharge, or adjust that tax, assessment, or other charge for the benefit of Tenant. In that event, Tenant shall promptly on written demand of Landlord reimburse Landlord for the full amount paid by Landlord in paying, discharging, or adjusting that tax, assessment, or other charge together with interest thereon at the then-maximum legal rate from the date of payment by Landlord until the date of repayment by Tenant. If this Article does not specify the time within which Tenant must pay any charge required by this Article, Tenant shall pay that charge before it becomes delinquent.

ARTICLE 5
CONSTRUCTION BY TENANT

Duty to Construct

Section 5.01. Tenant shall, at Tenant's sole cost and expense, construct or cause to be constructed on the Premises, a Fire Station and related Improvements in the manner and according to the terms and conditions specified in this Article. It is understood that Tenant is intending to construct two (2) temporary buildings on the Premises consisting of an apparatus building and living quarters.

Requirement of Landlord's Written Approval

Section 5.02. No structure or other improvement of any kind shall be constructed on the Premises unless and until the plans, specifications, and proposed location of that structure or improvement have been approved in writing by Landlord. No structure or other improvement shall be constructed on the Premises that does not comply with plans, specifications, and locations approved in writing by Landlord. Notwithstanding the foregoing, Landlord understands that during the term of this agreement, the Premises will be occupied by the Consolidated Fire Protection District of Los Angeles County (District), who will also be responsible for the design and construction of the Fire Station and its related Improvements. Landlord agrees that District has particular expertise concerning the needs and requirements of Fire Station facilities and Improvements. Accordingly, Landlord agrees that substantial deference shall be given to the District in the proposed design, that Landlord will review the proposed plans and specifications in a timely manner, and that Landlord's consent to any submitted plans and specifications for the Premises will not be unreasonably withheld.

Preparation and Submission of Plans

Section 5.03. Tenant shall, at Tenant's own cost and expense, engage a licensed architect or engineer to prepare plans and specifications for the Fire Station and shall submit the following to Landlord for approval:

(a) Within 120 days after execution of this Lease, two copies of the following:

(1) Drawings and materials in the form of plans, elevations, sections, and rendered perspectives sufficient to convey the architectural design of the Shopping Center to Landlord; and

(2) A statement of estimated construction costs for the Fire Station prepared by the engaged architect or engineer.

(b) Within 180 days after approval by Landlord of the items specified in subsection (a) of this Section and the obtaining by Tenant of any variance permits, use permits, or rezoning required for the Fire Station , two copies of the following:
(1) Detailed working drawings, plans, and specifications for the Shopping Center; and

(2) A revised statement of estimated construction costs for the Shopping Center prepared by the engaged architect or engineer.

Landlord's Approval or Rejection of Plans

Section 5.04. Within 30 days after receipt by Landlord of any of the documents submitted to Landlord for approval under Section 5.03 of this Lease, Landlord shall either approve those documents by endorsing Landlord's approval on each such document and returning one set of the documents to Tenant, or Landlord shall give written notice to Tenant of any objections Landlord may have to those documents. Landlord's failure to give written notice to Tenant within that 30 day period of any objections Landlord may have to the documents shall constitute approval of the documents by Landlord. Within 30 days after service on Tenant of the written notice of Landlord's objections, Tenant may deliver corrective amendments to the documents to Landlord and Landlord shall, within 30 days after receiving the corrective amendments, serve written notice on Tenant of Landlord's approval or rejection of the documents as so amended. Failure of Landlord to serve written notice on Tenant within that 30 day period after receipt of the corrective amendments shall constitute approval by Landlord of the documents as so amended. In accordance with Section 5.02, Landlord's consent to or approval of any submitted plans and/or specifications will not be unreasonably withheld.

Changes in Plans

Section 5.05. After approval by Landlord of the documents pertaining to the Fire Station described in Section 5.03(b) of this Lease, any substantial change in the plans or specifications for the Fire Station shall be approved by Landlord. For purposes of this Section, "substantial change" means one that materially changes the exterior appearance of the Fire Station. Landlord's failure to give written notice to Tenant of any objections

Landlord may have to any proposed changes within 30 days after a written statement of the proposed changes has been given to Landlord by Tenant shall constitute Landlord's approval of the changes. Minor changes in work or materials not constituting a substantial change need not be approved by Landlord but a copy of the altered plans and specifications reflecting those changes shall be given to Landlord. Landlord's consent to any substantial change shall not be unreasonably withheld.

All Work on Written Contract

Section 5.06. All work required in the construction of the Fire Station and Improvements, including any site preparation work, landscaping work, and utility installation work, as well as actual construction work on the Shopping Center, shall be performed only by competent contractors licensed under the laws of the State of California and shall be performed in accordance with written contracts with those contractors. Each such contract shall provide that the final payment under the contract due to the contractor shall be in an amount equaling at least 10 percent of the full amount payable under the contract and shall not be paid to contractor until whichever of the following last occurs:

(a) The expiration of 35 days from the date of recording by Tenant as owner of a Notice of Completion of the Fire Station, Tenant agreeing to record that Notice of Completion promptly within the time specified by law for the recording of that notice; or

(b) The settlement and discharge of all liens of record claimed by persons who supplied either labor or materials for the construction of the Shopping Center.

Performance and Lien Bonds

Section 5.07. Each contractor engaged by Tenant to perform any services for construction of the Fire Station, including any construction, site preparation, utility installation, landscaping, or parking lot construction services, shall furnish to Tenant, who shall deliver copies of both of the following to Landlord, at the contractor's own expense at the time of entering a contract with Tenant for those services:

(a) A bond issued by a corporate surety authorized to issue surety insurance in California in an amount equal to 100 percent of the contract price payable under the contract securing the faithful performance by the contractor of its contract with Tenant; and

(b) A bond issued by a corporate surety authorized to issue surety insurance in California in an amount equal to 50 percent of the contract price payable under the contract securing the payment of all claims for the performance of labor or services on, or the furnishing of materials for, the performance of the contract.

Compliance With Law and Standards

Section 5.08. The Fire Station shall be constructed, all work on the Premises shall be performed, and all buildings or other improvements on the Premises shall be erected in

accordance with all valid laws, ordinances, regulations, and orders of all federal, state, county, or local governmental agencies or entities having jurisdiction over the Premises; provided, however, that any structure or other improvement erected on the Premises, including the Fire Station , shall be deemed to have been constructed in full compliance with all such valid laws, ordinances, regulations, and orders when a valid final Certificate of Occupancy entitling Tenant and subtenants of Tenant to occupy and use the structure or other improvement has been duly issued by proper governmental agencies or entities. All work performed on the Premises under this Lease, or authorized by this Lease, shall be done in a good workmanlike manner and only with new materials of good quality and high standard.

Time for Completion

Section 5.09. Tenant shall cause construction of the Fire Station to be commenced no later than 30 days after approval by Landlord of the documents described in Section 5.03(b) of this Lease, shall then cause construction of the Fire Station to be diligently pursued without unnecessary interruption, and shall cause the Fire Station to be completed and ready for occupancy not later than 365 days after commencement of its construction. Tenant shall be excused for any delays in construction or commencement of construction caused by the act of Landlord, the act of any agent of Landlord, the act of any governmental authority, the act of any public enemy, acts of God, the elements, war, war defense conditions, litigation, strikes, walkouts, or other causes beyond Tenant's control. Tenant shall, however, use reasonable diligence to avoid any such delay and to resume construction as promptly as possible after the delay.

Mechanics' Liens

Section 5.10. At all times during the term of this Lease, Tenant shall keep the Premises and all Improvements now or hereafter located on the Premises free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Premises. Should Tenant fail to pay and discharge or cause the Premises to be released from any such lien or claim of lien within 20 days after service on Tenant of written request from Landlord to do so, Landlord may pay, adjust, compromise, and discharge any such lien or claim of lien on any terms and in any manner that Landlord may deem appropriate. In that event, Tenant shall, on or before the first day of the next calendar month following any such payment by Landlord, reimburse Landlord for the full amount paid by Landlord in paying, adjusting, compromising, and discharging that lien or claim of lien, including any attorneys' fees or other costs expended by Landlord, together with interest at the then-maximum legal rate from the date of payment by Landlord to the date of repayment by Tenant.

Zoning and Use Permits

Section 5.11. Should Tenant deem it necessary or appropriate to obtain any use permit, variance, or rezoning of the Premises to construct or operate the Fire Station and the Improvements, Landlord agrees to execute any documents, petitions, applications, and

authorizations that may be necessary or appropriate and hereby appoints Tenant as Landlord's attorney in fact to execute in the name and on behalf of Landlord any such documents, petitions, applications, or authorizations; provided, however, that any such permits, variances, or rezoning shall be obtained at the sole cost and expense of Tenant and Tenant agrees to protect and save Landlord and the property of Landlord, including the Premises, free and harmless from any such cost and expense.

Ownership of Improvements

Section 5.12. Title to all Improvements, including the Fire Station , to be constructed on the Premises by Tenant shall be owned by Tenant until expiration of the term or earlier termination of this Lease. Upon the termination of the Lease, the Tenant shall restore the Premises to the condition they were as of the date of execution of this Lease, and Tenant shall surrender the Premises in the same condition as delivered to Tenant on execution of the Lease, with NO allowance for ordinary wear and tear. Tenant shall remove all temporary structures placed and/or constructed on the Premises and repair any damage occasioned by the installation, maintenance, construction or removal of the Fire Station. Tenant shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Tenant, or any third party even if such removal would require Tenant to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Tenant and shall be removed by Tenant.

Section 5.13. Tenant represents and warrants that it has fully investigated the Premises, and has determined that it is suitable for the construction of the Fire Station. It is further understood and agreed that Tenant shall, prior to any construction on the Premises, make its own tests to ascertain the amount and extent of the present fill and/or any surface or soil conditions upon or in connection with Premises, and that this Lease is made subject to and without liability because of or resulting from any fill or any subsurface or soil condition upon or in connection with the leased Premises.

ARTICLE 6
ENCUMBRANCE OF LEASEHOLD ESTATE

No Right of Tenant to Encumber

Section 6.01. Tenant shall not at any time encumber the Premises.

ARTICLE 7
REPAIRS AND RESTORATION

Maintenance by Tenant

Section 7.01. At all times during the term of this Lease Tenant shall, at Tenant's own cost and expense, keep and maintain the Premises, all Improvements, and all appurtenances

(excluding landscaped and parking areas) now or hereafter on the Premises in good order and repair and in a safe and clean condition.

Requirements of Governmental Agencies

Section 7.02. At all times during the term of this Lease, Tenant, at Tenant's own cost and expense, shall do all of the following:

(a) Make all alterations, additions, or repairs to the Premises or the Improvements on the Premises required by any valid law, ordinance, statute, order, or regulation now or hereafter made or issued by any federal, state, county, local, or other governmental agency or entity;

(b) Observe and comply with all valid laws, ordinances, statutes, orders, and regulations now or hereafter made or issued respecting the Premises or the Improvements on the Premises by any federal, state, county, local, or other governmental agency or entity;

(c) Contest if Tenant, in Tenant's sole discretion, desires by appropriate legal proceedings brought in good faith and diligently prosecuted in the name of Tenant, or in the names of Tenant and Landlord when appropriate or required, the validity or applicability to the Premises of any law, ordinance, statute, order, or regulation now or hereafter made or issued by any federal, state, county, local, or other governmental agency or entity; provided, however, that any such contest or proceeding, though maintained in the names of Tenant and Landlord, shall be without cost to Landlord, and Tenant shall protect the Premises and Landlord from Tenant's failure to observe or comply during the contest with the contested law, ordinance, statute, order, or regulation; and

(d) Indemnify and hold Landlord and the property of Landlord, including the Premises, free and harmless from any and all liability, loss, damages, fines, penalties, claims, and actions resulting from Tenant's failure to comply with and perform the requirements of this Section.

Tenant's Duty to Restore Premises

Section 7.03. If at any time during this Lease's term, any Improvements now or hereafter on the Premises are destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of Landlord, this Lease shall continue in full force and effect and Tenant, at Tenant's own cost and expense, shall repair and restore the damaged Improvements. Any restoration by Tenant shall comply with original plans for the Improvements described in Article 5, except as may be modified by Tenant to comply with the terms of any sublease of the Improvements, or except as may be otherwise modified by Tenant and approved in writing by Landlord. The work of repair and restoration shall be commenced by Tenant within 120 days after the damage or destruction occurs and shall be completed with due diligence not later than one (1) year after the work is commenced. In all other respects, the work of repair and restoration shall be done in accordance with the requirements for original construction work on the

Premises set forth in Article 5 of this Lease. Tenant's obligation for restoration described in this Section shall exist whether or not funds are available from insurance proceeds.

ARTICLE 8
INDEMNITY

Indemnity Agreement

Section 8.01. Tenant shall indemnify and hold Landlord and Landlord's property, including the Premises and Improvements now or hereafter on the Premises, free and harmless from any and all liability, claims, loss, damages, or expenses resulting from Tenant's occupation and use of the Premises, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of the following:

(a) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or by reason of the damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatever while that person or property is in or on the Premises or in any way connected with the Premises or with any of the Improvements or personal property on the Premises;

(b) The death or injury of any person, including Tenant or any person who is an employee or agent of Tenant, or by reason of the damage to or destruction of any property, including property owned by Tenant or any person who is an employee or agent of Tenant, caused or allegedly caused by either (1) the condition of the Premises or some building or improvement on the Premises, or (2) some act or omission on the Premises of Tenant or any person in, on, or about the Premises with the permission and consent of Tenant;

(c) Any work performed on the Premises or materials furnished to the Premises at the instance or request of Tenant or any person or entity acting for or on behalf of Tenant; or

(d) Tenant's failure to perform any provision of this Lease or to comply with any requirement of law or any requirement imposed on Tenant or the Premises by any duly authorized governmental agency or political subdivision.

Notwithstanding the foregoing, Tenant shall have no duty to indemnify and hold Landlord harmless to the degree that any claim or cause of action arises from the negligence or willful misconduct of Landlord.

Self Insured

Section 8.02. Tenant represents and warrants to Landlord that as a California municipality it is self insured and has sufficient assets and financial reserves to meet any and/or all obligations pursuant to this Lease, including but not limited to the obligations of this paragraph 8.01.

Proof of Self Insurance

Section 8.03. Tenant shall, within 10 days after the execution of this Lease and promptly thereafter when requested by Landlord provide such financial information to verify the ability of Tenant to perform the obligations pursuant to this Lease, including but not limited to the obligations of paragraph 8 hereunder.

Hazardous Substances.

Section 9.01. Hazardous Substances

(a) **Reportable Uses Require Consent**. The term **"Hazardous Substance"** as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Tenant shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Landlord and timely compliance (at Tenant's expense) with all Applicable Requirements. **"Reportable Use"** shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Landlord to any liability therefore. In addition, Landlord may condition its consent to any Reportable Use upon receiving such additional assurances as Landlord reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Landlord** . If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Landlord, Tenant shall immediately give written notice of such fact to Landlord, and provide Landlord with a copy of any report, notice,

claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Tenant Remediation**. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Tenant's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Tenant, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Tenant, or any third party.

(d) **Tenant's Indemnification**. Tenant shall indemnify, defend and hold Landlord, its agents, employees, and lenders, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Tenant, or any third party, during the term of this Lease. Tenant's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Tenant, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant shall release Tenant from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement.

ARTICLE 9
CONDEMNATION

Total Condemnation

Section 9.01. If, during the term of this Lease, fee title to all of the Premises or to all of the Improvements, or the entire leasehold estate of Tenant is taken under the power of eminent domain by any public or quasi-public agency or entity (a "Total Taking"), this Lease shall terminate as of 12:01 A.M. on whichever of the following occurs first: (1) the date legal title becomes vested in the agency or entity exercising the power of eminent domain, or (2) the date actual physical possession is taken by the agency or entity exercising the power of eminent domain. Thereafter, both Landlord and Tenant shall be released from all obligations under this Lease.

Voluntary Conveyance in Lieu of Eminent Domain

Section 9.02. A voluntary conveyance by Landlord of title to all or a portion of the Premises to a public or quasi-public agency or entity in lieu of and under threat by that agency or entity to take it by eminent domain proceedings shall be considered a taking of title to all or any portion of the Premises under the power of eminent domain subject to

the provisions of this Article.

ARTICLE 10
ASSIGNMENT AND SUBLEASING

No Assignment Without Landlord's Consent

Section 10.01. Tenant may assign or sublease this Lease or any interest in this Lease, subject to the prior written consent of Landlord. Landlord shall not unreasonably withhold or delay its consent, and shall grant consent if the proposed assignee is financially qualified and is a public agency, and covenants of this Lease and all other agreements entered into by Tenant which relate to the management, operation, maintenance, construction, and restoration of the Improvements and the Premises. Landlord understands that Tenant intends to have District construct and operate a Fire Station and related Improvements on the Premises, and Landlord hereby approves Tenant's and District's use of the Premises for this purpose during the term of this Lease.

ARTICLE 11
DEFAULT AND REMEDIES

Continuation of Lease in Effect

Section 11.01. Should Tenant breach this Lease and abandon the Premises before the natural expiration of the Lease term, Landlord may continue this Lease in effect by not terminating Tenant's right to possession of the Premises, in which event Landlord shall be entitled to enforce all Landlord's rights and remedies under this Lease, including the right to recover the rent specified in this Lease as it becomes due under this Lease. Landlord shall take reasonable action to mitigate any such loss.

Termination and Unlawful Detainer

Section 11.02. In the event of a tenant default under this Lease, Landlord may terminate this Lease by written notice to Tenant and may also do the following:

(a) Bring an action to recover the following from Tenant:
(1) The worth at the time of award of the unpaid rent that had been earned at the time of termination of the lease;

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

(3) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that Tenant proves could be reasonably avoided; and

(4) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this lease; and

(b) Bring an action, in addition to or in lieu of the action described in subparagraph (a) of this Section, to reenter and regain possession of the Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect.

Breach and Default by Tenant

Section 11.03. All covenants and agreements contained in this Lease are declared to be conditions to this Lease and to the term hereby leased to Tenant. Should Tenant fail to perform any covenant, condition, or agreement contained in this Lease and the default is not cured within thirty (30) days (three (3) days for nonpayment of rent) after written notice of the default is served on Tenant by Landlord, then Tenant shall be in default under this Lease; provided, however, that if the nature of such default is such that it can be cured by Tenant but that more than thirty (30) days are reasonably required for its cure (for any reason other than financial inability), then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) days, and thereafter diligently prosecutes such cure to completion.

Cumulative Remedies

Section 11.04. The remedies given to Landlord in this Article shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law and elsewhere provided in this Lease.

Waiver of Breach

Section 11.05. The waiver by Landlord of any breach by Tenant of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Tenant of either the same or a different provision of this Lease.

Surrender of Premises

Section 11.06. On expiration or earlier termination of this Lease, Tenant shall restore the Premises to the condition they were as of the date of execution of this Lease, and Tenant shall surrender the Premises in the same condition as delivered to Tenant on execution of the Lease, with NO allowance for ordinary wear and tear. Tenant shall remove all temporary structures placed and/or constructed on the Premises and repair any damage occasioned by the installation, maintenance, construction or removal of the Fire Station. Tenant shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Tenant, or any third party even if such removal would require Tenant to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Tenant and shall be removed by Tenant.

ARTICLE 12
OTHER PROVISIONS

Force Majeure

Section 12.01. Except as otherwise expressly provided in this Lease, if the performance of any act required by this Lease to be performed by either Landlord or Tenant is prevented or delayed by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused. However, nothing contained in this section shall excuse the prompt payment of rent by Tenant as required by this Lease or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

Attorneys' Fees

Section 12.02. Should any litigation be commenced between the parties to this Lease concerning the Premises, this Lease, or the rights and duties of either in relation thereto, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to a reasonable sum as and for that party's attorneys' fees in that litigation that shall be determined by the court in that litigation or in a separate action brought for that purpose.

Notices to Landlord

Section 12.03. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to Landlord by Tenant or any Lender described in Article 6 of this Lease shall be in writing and shall be deemed duly served and given when personally delivered to Landlord, to any managing employee of Landlord, or, in lieu of personal service, when deposited in the United States mail, first-class postage prepaid, or sent by express mail that allows for tracking, addressed to Landlord at 201 Paularino Avenue, Costa Mesa, California 92626. Landlord may change Landlord's address for the purpose of this section by giving written notice of that change to Tenant in the manner provided in Section 12.04.

Notices to Tenant

Section 12.04. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to Tenant by Landlord shall be in writing and shall be deemed duly served and given when personally delivered to the City Clerk of Tenant City, when deposited in the United States mail, first-class postage prepaid, or sent by express mail that allows for

tracking, addressed to Tenant at: City of La Habra, Attention: Jennifer Cervantez, 201 East La Habra Blvd, La Habra, California 90631.

Tenant may change its address for the purpose of this section by giving written notice of that change to Landlord in the manner provided in Section 12.03 of this Lease.

Governing Law

Section 12.05. This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision or holding concerning this Lease arises.

Binding on Heirs and Successors

Section 12.06. This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto, but nothing in this section shall be construed as a consent by Landlord to any assignment of this Lease or any interest in the Lease by Tenant except as provided in Article 10 of this Lease.

Partial Invalidity

Section 12.07. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

Sole and Only Agreement

Section 12.08. This instrument constitutes the sole and only agreement between Landlord and Tenant respecting the Premises, the leasing of the Premises to Tenant, the construction and operation of the Fire Station and related Improvements by District on the Premises, and the lease terms set forth in this Lease, and correctly sets forth the obligations of Landlord and Tenant to each other as of its date. Any agreements or representations respecting the Premises, their leasing to Tenant by Landlord, or any other matter discussed in this Lease not expressly set forth in this instrument are null and void.

Time of Essence

Section 12.09. Time is expressly declared to be of the essence of this Lease.

Memorandum of Lease for Recording

Section 12.10. Neither Landlord nor Tenant shall record this Lease without the written consent of the other. However, Landlord and Tenant shall, at the request of either at any time during the term of this Lease, execute a memorandum or "short form" of this Lease for purposes of, and in a form suitable for, recordation. The memorandum or "short form" of this Lease shall describe the parties, set forth a description of the leased Premises,

specify the term of this Lease, incorporate this Lease by reference, and include any other provisions required by Lender(s).

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed on their behalf by their duly authorized representatives on the date and year first above written. The persons signing on behalf of the parties warrant that they are authorized to bind their respective entities.

TRICO-TCH II, A CALIFORNIA LIMITED PARTNERSHIP
"LANDLORD"

BY: _____
TRICO REALTY INVESTORS, LLC, a California limited liability company
GENERAL PARTNER

THE CITY OF LA HABRA
"TENANT"

_____
CITY MANAGER

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY