

THIRD AMENDMENT TO LEASE AGREEMENT
Lease No. 1290

This Third Amendment to Lease Agreement (this "**Amendment**"), dated for reference purposes only as of April __, 2019, is made by and between SAN BRUNO OFFICE ASSOCIATES LLC, a Colorado limited liability company ("**Landlord**"), and the COUNTY OF SAN MATEO, a political subdivision of the State of California ("**County**" or "**Tenant**").

Recitals

A. As authorized by San Mateo County Resolution No. 70051, Landlord and County entered into an Office Lease, dated for reference purposes as of April 1, 2009 (the "**Original Lease**"), pursuant to which Landlord leased to County approximately 2,522 square feet of rentable space in Suite 150 in that certain building commonly known as 883 Sneath Lane, San Bruno, California (the "**Premises**").

B. As authorized by San Mateo County Resolution No. 70264, Landlord and County entered into a First Amendment to Lease Agreement, dated for reference purposes as of July 7, 2009 (the "**First Amendment**"), to clarify the initial monthly Base Rent.

C. As authorized by San Mateo County Resolution No. 73103, Landlord and County entered into a Second Amendment to Lease Agreement, dated for reference purposes as of April 8, 2014 (the "**Second Amendment**"), to extend the Term and modify the Base Rent. The Original Lease, as amended by the First Amendment and Second Amendment, is hereinafter referred to as the "**Lease**".

D. County and Landlord wish to amend the Lease to extend the Term and modify the Base Rent, all upon and subject to the terms and conditions set forth in this Third Amendment.

Agreement

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **Term**. The Term of the Lease is hereby extended such that the "**Expiration Date**" shall be amended and restated as "May 31, 2024". Tenant shall have one (1), five (5) year option to extend the Lease following the expiration of the Third Amendment Extension Term (defined below) on the terms set forth below. Sections 1.9, 3.4 and 4.2 of the Original Lease (deleted in the Second Amendment) are hereby added back into the Lease as follows:

"Section 1.9 **Extension Options (Section 3.4)** One (1) additional extension term of (5) five years."

"Section 3.4 **Extension Option**

County shall have the right to extend the Term of this Lease (the "Extension Option") for the additional term specified in the Basic Lease Information (the "Extended Term"). Such Extension Option shall be on all of the terms and conditions contained in this Lease. County, at its sole discretion, may exercise the Extension Option, if at all, by giving written

notice to Landlord at least one hundred eighty (180) days, but not more than two hundred seventy (270) days, prior to the expiration of the Term; provided, however, if County is in material default under this Lease on the date of giving such notice and fails to cure such default as set forth in Section 14.1, or has materially defaulted on three (3) prior occasions, Landlord may reject such exercise by delivering written notice thereof to County promptly after such failure to cure.”

“4.2 Determination of Base Rent for the Extended Term”

At the commencement of the Extended Term, the Base Rent shall be adjusted to the prevailing market rate for space of comparable size and location to the Premises then being offered for rent in other buildings similar in age, location and quality to the Premises situated within the City of San Bruno area of San Mateo (“Reference Area”); provided, however, in no event shall the Base Rent be reduced below the Base Rent for the lease year prior to commencement of such Extended Term. As used herein, the term “prevailing market rate” shall mean the base rental for such comparable space, taking into account (i) any additional rental and all other payments and escalations payable hereunder, (ii) floor location and size of the premises covered by leases of such comparable space, (iii) the duration of the renewal term and the term of such comparable leases, (iv) free rent given under such comparable leases and any other tenant concessions, and (v) building standard tenant improvement allowances and other allowances given under such comparable leases.

If County disputes Landlord’s determination of the prevailing market rate, County shall so notify Landlord within fourteen (14) days following Landlord’s notice to County of the prevailing market rate and such dispute shall be resolved as follows:

- (a) Within thirty (30) days following Landlord’s notice to County of the prevailing market rate, Landlord and County shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement.
- (b) If within this thirty (30) day period Landlord and County cannot reach agreement as to the prevailing market rate, they shall each select one appraiser to determine the prevailing market rate. Each such appraiser shall arrive at a determination of the prevailing market rate and submit his or her conclusions to Landlord and County within thirty (30) days of the expiration of the thirty (30) day consultation period described in (a) above.
- (c) If only one appraisal is submitted within the requisite time period, it shall be deemed to be the prevailing market rate. If both appraisals are submitted within such time period, and if the two appraisals so submitted differ by less than ten percent (10%) of the higher of the two, then the average of the two shall be the prevailing market rate. If the two appraisals differ by more than ten percent (10%) of the higher of the two, then the two appraisers shall immediately select a third appraiser who will within thirty (30) days of his or her selection make a determination of the prevailing market rate and submit such determination to Landlord and County. This third appraisal will then be averaged with the closer of the two previous appraisals and the result shall be the prevailing market rate.
- (d) All appraisers specified herein shall be members of the American Institute of Real Estate Appraisers (MAI) with not less than five (5) years’ experience appraising

leases of commercial properties similar to the Premises in the San Mateo area. Landlord and County shall pay the cost of the appraiser selected by such party and one-half of the cost of the third appraiser plus one-half of any other costs incurred in the arbitration.”

Notwithstanding the foregoing, Tenant shall have no further option to renew or extend the Lease, except as provided in this Third Amendment.

2. **Rent.** Commencing on June 1, 2019 (the “**Extension Date**”) through the Expiration Date (the “**Third Amendment Extension Term**”), monthly Base Rent shall be as follows:

June 1, 2019 – May 31, 2020	\$7,188.00 per month
June 1, 2020 – May 31, 2021	\$7,403.00 per month
June 1, 2021 – May 31, 2022	\$7,625.00 per month
June 1, 2022 – May 31, 2023	\$7,854.00 per month
June 1, 2023 – May 31, 2024	\$8,090.00 per month

3. **Repairs and Maintenance.** During the first six months of the Third Amendment Extension Term, Landlord shall perform the following work in the Premises: (1) add a garbage disposal to the existing kitchen sink in the break room and any ancillary work to the plumbing connected to the garbage disposal required for the garbage disposal’s operation, provided, however, that Landlord shall not be required to perform any routine maintenance or repair for such plumbing which is Tenant’s responsibility under the Lease, (2) reinstall the glass sidelight to the correct orientation; (3) repair the westerly suite door so it closes properly; (4) install insulation above the plenum between the break room and adjacent suite for noise control, provided that if the foregoing fails to appropriately control such noise in Landlord’s reasonable opinion, Landlord may install appropriately sized sound dampening panel(s); and (5) clean all carpet in the Premises at a time mutually acceptable to Landlord and Tenant, utilizing a vendor reasonably acceptable to County that does not use deodorizers (collectively, “**Landlord’s Work**”). Landlord’s Work shall be performed at Landlord’s sole cost and expense. Notwithstanding the terms of this Section 3, Landlord shall have no obligation to perform Landlord’s Work if (i) Landlord is unable to promptly commence and substantially complete Landlord’s Work due to any delay caused by Tenant in the performance of Landlord’s Work, including but not limited to failure by Tenant to make the Premises or portions thereof available to Landlord for the performance of Landlord’s Work or timely approve the carpet cleaning vendor, any delay attributable to postponement of the performance of Landlord’s Work, and any other delay caused by Tenant, all as reasonably determined by Landlord, or (ii) Tenant is in default beyond any applicable notice and cure period. Landlord makes no representation or warranty regarding Landlord’s Work and Tenant waives all claims against Landlord for the design and performance of Landlord’s Work.

4. **Parking.**

(a) Section 1.6 of the Lease is hereby deleted and replaced with the following:

“1.6 Parking (Section 2.3): County shall have the exclusive right to use eight (8) parking spaces adjacent to the Building identified in Exhibit B-1 together with the non-exclusive right to use the parking facilities of the Property in common with other tenants of the Buildings and the Property, provided that County agrees to the following: County may not (i) use any parking that is specifically assigned to another tenant of the Property, nor any parking in excess of its proportionate share of parking facilities as set forth in Section 2.3, and (ii) County may not use the common area parking facilities for the purpose of parking

any automobiles owned or operated by County (provided, however, that any employees, agents, licensees or invitees or County may use such common area parking facilities for the purposes of parking their personal automobiles).”

(b) Section 2.3 of the Lease is hereby deleted and replaced with the following:

“2.3. Parking

County shall have the right to park in the parking facilities of the Property as set forth in Section 1.6 of the Basic Lease Information, and in common with other tenants of the Property, provided that, excluding County’s use of the Reserved Parking Spaces as defined in this Section, County agrees : (i) not to use in excess of its proportionate share of common area parking facilities, which is 3.3 spaces for each 1,000 rentable square feet of the Premises, (ii) not to use the common area parking facilities for the purpose of parking any automobiles owned or operated by the County (provided, however, that any agents, servants, employees, customers, guests, and invitees of County may use such common area parking facilities for the purposes of parking their personal automobiles), and (iii) to cooperate with Landlord and the other tenants of the Property in the use of the parking facilities.

It is agreed that County, its agents, servants, employees, customers, guests, and invitees, shall have the exclusive right to park without charge, throughout the Term of this Lease, eight (8) automobiles in eight (8) designated parking spaces marked with the name County of San Mateo (“Reserved Parking Spaces”), located along the easterly side of the 881/883 Sneath Lane parking area, indicated on Exhibit B-1, attached to and made a part of this Lease. Landlord shall be responsible for identifying the parking spaces with appropriate markings and signage of County’s exclusive right to the spaces. Landlord shall take reasonable actions to ensure the availability of the parking spaces leased by Tenant, but Landlord does not guarantee the availability of those spaces at all times against the actions of other tenants of the Building and users of the parking area for the Building. Tenant shall be responsible for causing any employee of Tenant or other person using parking spaces allocated to Tenant to comply with all parking rules and regulations.

Landlord shall have the right to adopt and implement such parking programs as may be necessary to alleviate parking problems during peak traffic periods. Any such program shall not include the relocation of the Reserved Parking Spaces off-site. Landlord may require County and its employees to use off-site parking for its proportionate share of common area parking facilities provided the distance of said off-site parking does not exceed 300 feet from the entry to Premises. County shall be responsible for ensuring that its employees comply with all provisions of this Section 2.3 and such other parking rules and regulations as may be adopted and implemented by Landlord from time to time that are not in conflict with this Section 2.3; provided that Landlord shall implement such employee parking program on a uniform basis with respect to all tenants of the Building.”

(c) Exhibit B of the Lease is hereby deleted and replaced with Exhibit B-1 attached hereto.

5. Civil Code Section 1938(e) Notice. Pursuant to California Civil Code Section 1938, Landlord hereby notifies Tenant that as of the Effective Date, the Premises have not undergone inspection by a “Certified Access Specialist” to determine whether the Premises meet all applicable construction-related accessibility standards under California Civil Code Section 55.53. Landlord hereby discloses pursuant to California Civil Code Section 1938 as follows: “A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner

or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.”

6. **Hazardous Substance Disclosure.** California law requires landlords to disclose the existence of certain hazardous substances. Accordingly, the existence of gasoline and other automotive fluids, cleaning and maintenance substances, tobacco smoke and asbestos containing materials (“ACM”) must be disclosed. Gasoline and other automotive fluids are found in the Parking Areas. Cleaning and maintenance substances are found in the utility areas of the Property. Although smoking is prohibited in the interior spaces of the Property, smoking may occur in the Parking Areas and tobacco smoke may migrate into the interior areas of the Property. . Further, certain areas of the Property contain ACM. ACM is a potential health hazard. The areas in which ACM has been found are the wallboard and joint compound, wall texture, brown cove base mastic, certain floor and wall tiles and associated grout, mortar and mastic, thermal system insulation on HVAC units, resilient floor sheeting, sink undercoating and roofing felt. The ACM is currently in good condition (or has been encapsulated or enclosed) and should not present a danger unless disturbed or damaged. Tenant agrees not to expose or disturb any ACM unless Landlord grants its prior written consent to such activity and Tenant complies with all Legal Requirements and Landlord’s procedures for handling such Hazardous Materials. If Tenant becomes aware of any evidence of disturbance or damage to the ACM, Tenant shall promptly report the same to Landlord or its property manager. Landlord’s cleaning and maintenance personnel have been instructed to take special precautions in the conduct of their work to avoid accidental disturbance of the ACM. All ACM is inspected periodically. Additional measures will be taken if Landlord determines that they are necessary. Tenant may obtain a copy of Landlord’s written procedures for handling ACM from Landlord’s property manager.

7. **Brokers.** Tenant warrants and represents to Landlord that in the negotiating or making of this Third Amendment neither Tenant nor anyone acting on Tenant’s behalf has dealt with any real estate broker or finder who might be entitled to a fee or commission for this Third Amendment. Tenant agrees to indemnify, defend and hold Landlord harmless from any claim or claims, including costs, expenses and attorney’s fees incurred by Landlord, asserted by any broker or finder for a fee or commission based upon any dealings with or statements made by Tenant or its representatives.

8. **Development Termination Right.** If after June 1, 2020, and not before such date, Landlord desires to demolish all or a substantial part of the Building or redevelop all or a substantial part of the Building to such an extent that Landlord cannot complete such work while tenants remain in possession of premises within the Building, Landlord shall have the right to terminate this Lease by notifying Tenant of Landlord’s election to terminate this Lease as of a date specified in such notice (the “**Redevelopment Termination Date**”), which Redevelopment Termination Date shall be at least three hundred sixty-five (365) days after notice is delivered in writing to Tenant. In the event the Redevelopment Termination Date is prior to the May 31, 2024. Tenant’s obligation to pay monthly Base Rent shall be abated for four (4) months commencing on the date that Landlord gives notice to Tenant. Notwithstanding the foregoing, if the Lease is terminated due to Tenant’s default, then Landlord shall be entitled to recover the monthly Base Rent abated hereunder in addition to its other damages.

9. **Effective Date; Approval.** This Third Amendment shall become effective on the first date (the “**Effective Date**”) by which all of the following conditions have been satisfied: (i) the County Board of Supervisors has adopted a resolution authorizing the execution of this Third

Amendment, and (ii) this Third Amendment has been duly executed by both the County and the Landlord. Notwithstanding the foregoing, if the Effective Date has not occurred prior to July 1, 2019, then Landlord's offer of the terms herein as evidenced by its execution of this Third Amendment shall be considered revoked, and this Third Amendment shall be null and void and shall have no force or effect, regardless of whether the County subsequently executes this Third Amendment pursuant to authorization from a resolution from the County Board of Supervisors.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS THIRD AMENDMENT, LANDLORD ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF COUNTY HAS AUTHORITY TO COMMIT COUNTY HERETO UNLESS AND UNTIL THE COUNTY BOARD OF SUPERVISORS HAS ADOPTED A RESOLUTION AUTHORIZING THE EXECUTION OF THIS THIRD AMENDMENT TO THE AGREEMENT. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF COUNTY OR LANDLORD HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS THIRD AMENDMENT SHALL BE NULL AND VOID UNLESS THE BOARD OF SUPERVISORS ADOPTS A RESOLUTION AUTHORIZING THE EXECUTION OF THIS THIRD AMENDMENT. APPROVAL OF THIS THIRD AMENDMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF COUNTY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ADOPTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON COUNTY UNLESS AND UNTIL SUCH RESOLUTION IS ADOPTED.

10. **Counterparts.** This Third Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Any signature delivered by email in portable data format (.pdf) or by facsimile shall be deemed an original signature for purposes of the execution hereof.

11. **Terms.** Capitalized terms used but not otherwise defined herein shall have the same meanings as are set forth in the Lease.

12. **No Further Amendments; Entire Agreement; Conflicts; Successors and Assigns.** All the terms and conditions of the Lease remain in full force and effect except as expressly amended herein. The Lease as amended by this Third Amendment constitutes the entire agreement between Landlord and County regarding the leased premises and may not be modified except by an instrument in writing duly executed by the parties hereto. In the event of any conflict between the terms of the Lease and the terms of this Third Amendment, the terms of this Third Amendment shall control. All references in the Lease to the Lease (e.g., "this Lease," "herein," "agreement," etc.) shall constitute references to the Lease, as amended by this Third Amendment. This Third Amendment shall be binding upon and inure to the benefit to the parties and their respective successors and assigns.

[Signatures on Following Page(s)]

Landlord and County have executed this Third Amendment as of the Effective Date.

LANDLORD:

SAN BRUNO OFFICE ASSOCIATES LLC,
a Colorado limited liability company

By: 

Name: THOMAS G. KEANE

Its: VP LEASING OPERATIONS

Dated: 4/23/2019

COUNTY:

COUNTY OF SAN MATEO,
a political subdivision of the State of California

By: _____

Name: _____
President, Board of Supervisors

Dated: _____

Attest:

Clerk of the Board

Resolution No.: _____

Resolution Date: _____

Exhibit B-1

Reserved Parking Spaces



(Not To Scale)