

EXHIBIT A

Sample Ground Lease

CALIFORNIA INSTITUTION FOR MEN, CHINO
Project No. 131108

REQUEST FOR PROPOSALS

SAMPLE

<u>LEASE COVERING PREMISES LOCATED AT</u> California Institution for Men, Chino 14901 Central Avenue Chino, California 91708 COUNTY OF SAN BERNARDINO	GROUND DEVELOPMENT LEASE <u>LEASE NO.:</u> L- TBD
<u>AGENCY</u> DEPARTMENT OF GENERAL SERVICES REAL PROPERTY NO. 50	<u>LESSEE:</u> TBD

DRAFT

THIS LEASE, dated for reference purposes only, **TBD**, is made by and between the State of California, acting by and through its Director of the Department of General Services (DGS), with the consent of the California Department of Corrections and Rehabilitation (CDCR), hereinafter referred to as STATE, and **TBD**, a **TBD**, hereinafter referred to as LESSEE.

RECITALS:

WHEREAS, the STATE has under its control and possession certain property known as the California Institution for Men, Chino, hereinafter referred to as "CIM", located at 14901 Central Avenue, in the City of Chino, County of San Bernardino, California 91708; and

WHEREAS, pursuant to Government Code Section 11011.2, the Director of DGS, with the consent of CDCR, may let for any period of time any real property or interest in real property which belongs to the state, when the director determines that the real property is of no immediate need to the state but may have some potential future use to the state.

WHEREAS, the STATE's policy is to make available for Lease property under its control, when it is for the benefit of the public, and same is consistent with the State of California's program needs; and

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, STATE and LESSEE hereby agree as follows:

WITNESSETH:

- | | |
|--------------------|---|
| DESCRIPTION | 1. STATE does hereby lease to LESSEE, and LESSEE hereby hires from STATE a property situated in the southeast quadrant of the core CIM campus containing approximately 150 acres of undeveloped land within the boundaries of CIM, in the City of Chino, County of San Bernardino, California, hereinafter referred to as the "Premises" as outlined in <u>Exhibit "A"</u> , by this reference attached hereto and incorporated herein. |
| USE | 2. The Premises shall be used by LESSEE during the term of the Lease for the development of a project in substantial conformance to the project presented in the LESSEE's proposal dated xx/xx/xx . |
| TERM | 3. The term of this Lease shall commence on the TBD day of TBD 20xx , and shall terminate on the TBD day of TBD, 20xx (the "Term"), with such rights of termination as may be hereinafter expressly set forth. |

RENT

- 4. LESSEE shall make rental payments, hereinafter referred to as the "Rent", monthly in advance in the amount shown below, and is due on the first day of each month, beginning on the commencement date of this Lease. Beginning Rent shall be **TBD** DOLLARS (\$**TBD**.00).

NOTE: This Section to be revised as per LESSEE's proposal and final negotiation with State

Date **TBD** through and including Date **TBD** (see the Rent Schedule below). All Rent shall be payable and mailed to:

Department of General Services
Accounts Receivable PAL (L-**TBD**)
P.O. Box 989053
West Sacramento, CA 95798-9053

LESSEE'S method of payment to DGS shall display the state's lease number "L-**TBD**", which is also shown on page one of this document.

Beginning on **TBD**, and each subsequent anniversary during the Term, the STATE will automatically increase the annual rent owed by approximately five percent (5%) as shown below.

<u>Year</u>	<u>Monthly Rent</u>	<u>Amount Due</u>
1	TBD	TBD
2		
3		
4		
5		

UTILITIES

- 5. (a) LESSEE shall, at its sole cost and expense, make all arrangements and pay for all such utilities used by LESSEE at or upon the Premises, including but not limited to telephone service, gas, hazardous waste, infectious waste handling, removal, disposal, water, sewer, and storm drains.

HOLD OVER

- 6. Any holding over after the expiration of the Term or any extension thereof, with the written consent of the STATE expressed or implied, shall be deemed a tenancy only from month to month, and all other terms and conditions of this Lease shall continue in full force and effect; provided, however, that said holdover tenancy shall be subject, at the STATE's sole discretion, to market rent increases, payable monthly in advance. Absent a market rent increase notice, hold over rent shall automatically increase at a rate of five percent (5%) annually. Hold over rent is immediately due and payable on the first day of the month following the expiration of the Term, payable each month in advance. Hold over rent, and annual rent increases thereof, shall be due and payable to STATE whether or not an actual invoice is sent by STATE or received by LESSEE. LESSEE shall pay water, electric, gas and other utility charges and any other charges payable in connection with LESSEE's use of Premises during the hold over period.

NOTICES

- 7. (a) All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid or return receipt requested to the addresses set forth below. All such notices or other communications shall be deemed received upon the earlier of (1) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice or (2) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00 a.m. and 5:00 p.m. Pacific Standard Time, so long as such day is not a state or federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

TO LESSEE:

TBD

TO STATE:

DEPARTMENT OF GENERAL SERVICES
 Real Estate Services Division - SOLD
 P.O. Box 989052
 West Sacramento, CA 95798-9052
 (916) 375-4025 (phone)

(b) Notice of change of address shall be given by written notice in the manner described in this section. LESSEE is obligated to notice all state offices listed above. Failure to provide notice to all state offices will be deemed to constitute a lack of notice.

COMPLIANCE WITH LAWS

- 8. LESSEE shall, at its sole cost and expense, comply with all of the requirements of all municipal, state, and federal authorities now in force, or which may be in force pertaining to the Premises and the use thereof according to the USE clause in this Lease. LESSEE and its agents, employees, invitees and visitors shall comply with the rules and regulations of CIM, as adopted and altered by STATE from time to time. All changes to such rules and regulations will be sent by STATE to LESSEE in writing.

RIGHT TO ENTER

- 9. During continuance in force of this Lease, there shall be and is hereby expressly reserved to STATE and to any of its agencies, contractors, agents, employees, representatives or licensees, the right at any and all times, and any and all places, to temporarily enter upon said Premises for survey, inspection, or any other lawful STATE purposes. STATE shall use its best efforts to provide reasonable notice of such entry and to allow accompaniment of LESSEE's authorized representative.

EASEMENTS AND RIGHTS OF WAY

- 10. This Lease is subject to all existing easements and rights of way. STATE further reserves the right to grant additional public utility easements, other easements and rights of way, as may be necessary and LESSEE hereby consents to the granting of such easements and rights of ways. For public utilities, the public utility requesting an easement will be required to reimburse LESSEE for any damages caused by the construction work on the public utility easement area. STATE will not be liable for any such damage.

Any future easements required by LESSEE in connection with LESSEE's use or development of the leased Premises shall be obtained by LESSEE, shall be described by a licensed surveyor and shall be obtained only with prior review and written approval of STATE, at LESSEE's sole cost and expense and recorded in the County of San Bernardino.

MINERAL RIGHTS

11. LESSEE agrees not to interfere, in any way, with the interests of any person or persons that may presently, or in the future, hold oil, gas, or other mineral interests upon or under said Premises; nor shall LESSEE, in any way, interfere with the rights of ingress and egress of said interest holders.

CONTRACTING

12. Notwithstanding any other term of this Lease, no provision, covenant or condition of this Lease shall prohibit LESSEE from contracting with or otherwise engaging third parties, independent contractors, and/or subcontractors to assist the LESSEE in making those capital improvements on the Premises as required or permitted under the terms of this Lease and to assist LESSEE in furnishing services on the Premises.

CONSTRUCTION/ IMPROVEMENTS

13. (a) LESSEE shall perform offsite and onsite infrastructure and capital improvements in substantial conformance as described in Exhibit "B", attached hereto and by this reference made a part hereof, at its sole cost and expense.

CONSTRUCTION IMPROVEMENTS (CONTINUED)

(b) Within one hundred and eighty (180) days following the execution date of this Lease, LESSEE shall submit schematic drawings and written specifications, completed by a licensed architect/registered engineer, hereinafter referred to as the Preliminary Plans, to the STATE describing those offsite and capital improvements to be completed by LESSEE pursuant to subparagraph 13a) above, along with a construction schedule, hereinafter referred to as the "Schedule", for completing such improvements. In addition, said Preliminary Plans shall include an estimate of what LESSEE's costs will be for completing said improvements, hereinafter referred to as the "Estimated Budget".

(c) Within sixty (60) days following submission of said Preliminary Plans, Schedule and Estimated Budget to STATE by LESSEE, STATE shall approve said Preliminary Plans, or require LESSEE to modify said Preliminary Plans as STATE may deem reasonable; provided, however, STATE may only require those modifications it deems necessary in order for LESSEE to comply with STATE and local building codes or other applicable laws, or to prevent LESSEE from significantly disrupting or interfering with ongoing operations on the campus on which the FDC.

(d) (1) Upon obtaining written approval for said Preliminary Plans, Schedule and Estimated Budget from STATE with modifications, if any, and agreed to by LESSEE, Construction Documents shall be prepared within one hundred and eighty (180) days and submitted to STATE for review and approval as described in subparagraph 13(c). Should modifications be required to the Construction Documents, LESSEE shall diligently pursue and resubmit said documents to STATE, which shall diligently pursue further review and approval.

(2) Subsequent to obtaining final written approval for said Construction Documents, hereinafter referred to as "Plans", LESSEE shall begin to make those improvements and renovations set forth in the Plans according to the Schedule. In making those improvements, LESSEE shall not materially deviate from the Plans without obtaining written approval from the STATE's **Administrative Services Director**. STATE shall give written approval for such material deviations and amendments of the Plans proposed by the LESSEE unless STATE determines that such material deviations shall not comply with STATE building codes or other applicable laws or would otherwise materially disrupt or interfere with ongoing operations of FDC or other programs operating at the campus. No modification, amendment or alterations to Plans shall be valid unless it is in writing and signed by the parties hereto.

(e) Except as may be otherwise agreed to in writing by the parties, all capital improvements set forth in the Plans shall be completed within eighteen (18) months following commencement of the Construction Phase. For purposes of this Lease, the term "Construction Phase" shall mean the eighteen (18) month period which begins when the following three (3) conditions have been satisfied: (1) LESSEE has received written approval by STATE of said Plans, (2) LESSEE has received valid and written approval by the STATE of same Plans for conformance with the approved Preliminary Plans and compliance with applicable codes and regulations; to include the California Building Code (Title 24), and (3) LESSEE issues a Notice to Proceed to the General Contractor for completion of the proposed work.

**CONSTRUCTION
IMPROVEMENTS
(CONTINUED)**

(f) Prior to the commencement of any work on the Premises, LESSEE or its general contractor shall obtain at its sole cost and expense and submit to STATE a Performance Bond in an amount equal to 100% of the construction costs as set forth in the Construction Contract between LESSEE and the general contractor, whereby surety binds itself unto the LESSEE and the State of California for performance by the general contractor, which is for LESSEE and/or the general contractor to commence and diligently prosecute construction to completion in accordance with the requirements set out in the Plans and to otherwise carry out and comply with all other terms and conditions of this Lease. In lieu of said performance bond, LESSEE may elect to secure its performance by an alternate plan of security, provided such plan is approved in writing by the STATE.

(g) Prior to commencement of work, LESSEE shall obtain or cause to be obtained, at its sole expense, and submit to STATE a Payment Bond in the amount of 50% of the cost of construction and covering the payment of any and all contractors, subcontractors, material suppliers, services, materials or supplies for or in connection with the construction of the improvements.

(h) The bonds referred to in subparagraphs 13(f) and 13(g) above shall be issued by a corporation or corporations admitted to do business in the State of California.

(i) (1) Should STATE determine during the Plan review period that new off-site or on-site infrastructure provided by LESSEE at their sole cost and expense or additional utility installations are needed for the relocation of

existing facilities and/or infrastructure on the CIM property, or if the capacity of the infrastructure of the CIM otherwise needs to be increased as a result of LESSEE's improvements to Premise, LESSEE shall, at LESSEE's sole cost and expense, construct or add such utility installations and/or increase capacity of the infrastructure on the CIM property, provided LESSEE shall first obtain written approval of the STATE for plans furnished by LESSEE for the construction to be undertaken by LESSEE pursuant to this subparagraph, such prior written approval of STATE not to be unreasonably withheld.

(2) In connection with constructing new or additional utilities and/or increasing the infrastructure on CIM property pursuant to this subparagraph 9(i), LESSEE shall not materially deviate from the Plans, as approved by the STATE, without obtaining prior written approval from the STATE for such material deviations, such prior written approval of STATE not to be unreasonably withheld.

(3) For purposes of clarification, it is hereby stated and expressly understood and agreed to by the parties that notwithstanding any other terms of this Lease, the amount of rent to be paid by LESSEE to the STATE during the term of this Lease pursuant to Clause 4 shall be neither affected by nor related to whether or not LESSEE constructs or adds new utilities and/or increases the infrastructure on CIM campus pursuant to this provision, covenant or condition (i.e., there will be no increase in rent because Lessee constructs and/or adds new utilities or increases infrastructure of the CIM property).

**CONSTRUCTION
IMPROVEMENTS
(CONTINUED)**

(j) LESSEE shall submit to STATE two (2) sets of "Record Drawings" within sixty (60) days of completion of the capital improvements in reproducible Mylar format and in electronic Computer Assisted Drafting and Design (CADD) format (AutoCAD 2008).

(k) During construction, said work shall be inspected by STATE for conformance with the approved plans and compliance with applicable codes and regulations. The cost of said inspection, including materials testing, shall be paid by LESSEE in advance of the start of construction.

**RESTORE
GROUND**

14. During the construction of the on-site and off-site improvements, or construction and/or placement of relocated CIM improvements, LESSEE shall be responsible for restoring the surface of the ground and any improvements thereon or there under to as near the same conditions as they were prior to any construction activity as is practical.

**PREVAILING
WAGES**

15. LESSEE agrees to comply with any laws, regulations and provisions regarding payment of prevailing wages as may be determined to be applicable to the proposed project.

**NON-
DISCRIMINATION**

16. In the performance of this Lease, the LESSEE shall not discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical

disability (including HIV and AIDS), mental disability, medical condition, age (over 40), marital status, sex, sexual orientation, or use of family care leave. LESSEE shall insure that the evaluation and treatment of its employees and applicants for employment are free from such discrimination and harassment.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

LESSEE shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Lease by reference and made a part hereof as if set forth in full. LESSEE shall give written notice of its obligations under this clause to any labor organizations with which they have a collective bargaining or other agreement. Further, LESSEE shall post in conspicuous places available to employees and applicants for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment Practices Section. (Government Code, Section 12920-12994).

REMEDIES FOR WILLFUL VIOLATIONS:

(a) STATE may determine a willful violation of the Fair Employment Practices provision to have occurred upon the receipt of a final judgment having that effect from a court in an action to which LESSEE was a party, or upon receipt of a written notice from the Fair Employment Practices Commission that it has investigated and determined that the LESSEE has violated the Fair Employment Practices Act and has issued an order pursuant to the appropriate provisions of the Government Code.

(b) STATE shall have the right to terminate this Lease and any loss or damage sustained by STATE by reason thereof shall be borne and paid for by the LESSEE.

NON-DISCRIMINATION (COTINUED)

CEQA REQUIREMENTS

17. LESSEE acknowledges that environmental documents are required for the proposed project. LESSEE shall comply with the California Environmental Quality Act (CEQA) and all CEQA guidelines.

ENVIRONMENTAL COMPLIANCE

18. (a) The LESSEE agrees to comply with all applicable federal, state, and local regulations pertaining to hazardous materials' use, storage, and disposal. The LESSEE shall indemnify and hold harmless STATE and its agents and representatives for any violation of hazardous materials law caused by LESSEE or LESSEE'S representatives. Furthermore, LESSEE shall reimburse STATE for any and all costs related to investigation, clean up, and/or fines incurred by STATE for environmental regulation non-compliance by the LESSEE or LESSEE's representative.

(b) If the LESSEE is required to prepare a Business Plan, as specified by Health and Safety Code Section 25500 et seq., or a Hazardous Waste

Contingency Plan, as specified in 22 CCR 66264.51 et seq., then a copy of the plan shall be submitted first to the Chief of Plant Operations.

(c) If LESSEE or LESSEE's representative generates any regulated hazardous wastes on STATE's property, LESSEE agrees to dispose of such wastes in accordance with all applicable federal, state, and local regulations. Copies of all hazardous waste manifests or disposal certificates shall be submitted to the Chief of Plant Operations.

(d) Storage of hazardous waste shall comply with 22 CCR 66264 et al., and all applicable fire regulations. The LESSEE shall not apply to become a "permitted" hazardous waste storage facility without written permission from the Chief of Plant Operations.

(e) STATE or its representatives reserves the right to inspect all areas which are leased or rented by LESSEE, for the purpose of verifying environmental compliance.

(f) At the request of the Chief of Plant Operations, the LESSEE shall provide copies of Material Safety Data Sheets (MSDS) for all hazardous materials used on STATE's property.

(g) Any violation in federal, state, or local environmental law deemed serious by STATE will be grounds for termination of Lease in accordance with applicable sections herein. Termination of Lease by either party or evacuation of leased property by LESSEE shall not relieve LESSEE of environmental or hazardous materials related liabilities incurred by STATE during LESSEE's occupancy or incurred as a result of LESSEE's actions.

OWNERSHIP OF IMPROVEMENTS

19. **Except as provided herein**, during the term of this Lease all structural improvements constructed on the Premises by LESSEE shall be vested in LESSEE. At the expiration or termination of this Lease, all building improvements constructed on the Premises by LESSEE shall vest in STATE. LESSEE shall deliver said buildings, structures and improvements to STATE broom clean and in safe and habitable condition, reasonable wear and tear excepted, without compensation to LESSEE, any subtenant or third party, free and clear of all claims to or against them by LESSEE, any subtenant or third party, and LESSEE shall defend and hold STATE harmless from all liability arising from such claims or from the exercise by STATE of its rights under this clause of this Lease.

In the event said buildings, structures and improvements are not delivered to STATE broom clean and in safe and habitable condition, reasonable wear and tear excepted, STATE shall make the necessary maintenance and repairs and LESSEE shall be liable to and shall reimburse STATE for any such expenditures made, plus interest at a rate equal to the Federal Reserve Board discount rate per annum from the date of completion of work.

FAILURE TO PERFORM

20. In the event of the failure, neglect, or refusal of LESSEE to do or perform work, or any part thereof, or any act or provision, covenant and condition, of this Lease provided to be done and performed by LESSEE following receipt of thirty (30) day notice and LESSEE's failure to perform same within said thirty (30) days, STATE shall, at its option, have the right to do and perform the

same, and LESSEE hereby covenants and agrees to pay STATE the cost thereof on demand.

LOSSES

21. STATE will not be responsible for loss or damage to LESSEE's personal property, equipment or materials. LESSEE shall report all loss of STATE-owned property to FDC's **Administrative Services Director** in writing immediately upon discovery.

REGULATION BY STATE

22. STATE, through the CIM's Administrative Services Director, shall have the right to regulate the LESSEE's operations, insofar as they may affect the operation, safety, and conduct of CIM activities at the same location.

(a) LESSEE must notify all contractors, agents, employees, representatives, or licensees that said real property is within the larger CIM property and that the CIM occupies facilities in the same general area of the Premises and that they will respect the privacy and sensitivity of CIM habitants, visitors, volunteers and staff and shall comply with all requests of CIM administrators and managers regarding health and safety issues and impacts on CIM operations.

(b) Access rights granted by this Lease may be restricted by said authorities in charge in the event that turmoil or emergency conditions are occurring at said CIM property.

(c) No article or material deemed by said authorities in charge to be considered as contraband shall be brought on said Premises. Contraband includes, but is not limited to, alcoholic beverages, narcotics, the possession or use of firearms, explosives or edged weapons, and restricted controlled substances. Any willful violation, by the LESSEE, of said authorities' rules and regulations is grounds for immediate termination of this Lease.

REGULATION BY STATE (CONTINUED)**LEASEHOLD FINANCING**

23. (a) Non-Subordination, Hypothecation and Security Interests. STATE will not subordinate its interest in the Lease as security for any loans or financing. STATE will agree that the interests of LESSEE and/or sublessees may be pledged as security for loans or financing.
- (b) Estoppel Certificate. STATE shall, from time to time, upon not less than thirty (30) days prior written request by LESSEE or LESSEE's lender, execute, acknowledge and deliver to LESSEE or LESSEE's lender a statement in writing attached as **Exhibit "C"**, consisting of two (2) pages incorporated herein by reference, certifying to LESSEE's lender or to an independent third party designated by LESSEE that this Lease is unmodified and in full force and effect and that STATE has no knowledge of any uncured defaults of LESSEE under this Lease (or, if there have been any modifications that the same are in full force and effect as modified and stating the modifications and, if there are any defaults, setting them forth in reasonable detail), the commencement date of the initial term, and the dates to which the rent and other charges under this Lease have been paid. Any such statement delivered pursuant to this clause of this Lease may be relied upon by any prospective lender.
- (c) Lender's Rights. With respect to any lender who shall have delivered to STATE, pursuant to the Notice clause of this Lease, a written notice which

shall state the name, address and a general description of the type of lien it holds on the Premises or subleased premises, the following provisions, covenants and conditions shall apply:

(1) STATE, when giving notice to LESSEE with respect to any default or termination under the provisions, covenants and conditions of this Lease shall also serve a copy of such notice upon any known lender.

(2) Any lender may do **any act or thing** required of LESSEE hereunder and shall have the right of entry upon the Premises for the purpose of performing **any such act or doing any such thing**. All such acts or things done and performed shall be accepted by STATE and be as effective to prevent a forfeiture of LESSEE's rights hereunder as if done or performed by LESSEE. As a condition of site access, lender(s) must comply with all STATE security procedures.

(3) Any lender may acquire and succeed to the interest of LESSEE hereunder by foreclosure of the Leasehold Mortgage or by assignment in lieu of foreclosure and may assign the leased Premises to a bona fide purchaser for value with STATE's consent; provided, however, any such purchaser for value shall execute an agreement assuming all of LESSEE obligations of any nature under this Lease arising from and after the effective date of assignment. Any lender shall submit information concerning the purchase for value for review by consent to any assignment to a bona-fide purchaser for value. Upon execution of the assumption agreement, lender shall thereupon be released from its obligation to perform the obligations of LESSEE whose interest has been so acquired to prevent a termination or forfeiture of this Lease except for any indemnity and hold harmless obligations, such lender may owe to STATE. STATE must approve, in writing, any assumption agreement.

(4) In the event of a default by LESSEE in the payment of rental or other sums, any lender may pay such rental or other sums to STATE, and such rental payment alone, without further requirement, shall be sufficient to prevent a termination or forfeiture of the leased Premises; provided, however, that such right to prevent such termination or forfeiture shall exist only for a period of thirty (30) days after expiration of the cure period during which LESSEE or sublessee may cure a default in payment of rental which default was a subject of a notice given by STATE to LESSEE and LESSEE or sublessee's lender.

(5) STATE's right to full recovery or performance on behalf of LESSEE will not be hindered by lack of notice provided to any lender, not of official record, as established in this section and as required in Notice clause of this Lease.

(d) Cure by Lender. Upon the occurrence of an event of default other than a rental default, STATE shall take no action to finalize a termination and forfeiture of this Lease without first giving to lender a reasonable time period (or lesser time period as required by an emergency) within which (i) to obtain control by receivership which shall not exceed forty-five (45) days, (ii) to obtain possession of the property and cure such default or (iii) to immediately and diligently institute foreclosure proceedings and complete such

**LEASEHOLD
FINANCING
(CONTINUED)**

foreclosure, or otherwise acquire the leased Premises. However, such reasonable period to obtain possession or complete a foreclosure shall not exceed one hundred eighty (180) days. STATE's covenant herein to take no action to finalize a termination and forfeiture shall not prevent STATE from exercising other remedies reserved to STATE under this Lease or allowed by law.

(e) If LESSEE's lender(s) requests additional terms and conditions to those already provided herein, STATE agrees to consider any such requests, but may refuse such requests in its sole and absolute discretion and may unreasonably withhold consent or approval of such additional terms and conditions.

LIENS

24. LESSEE shall keep the leased Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by LESSEE and shall indemnify, hold harmless and defend STATE from such liens and encumbrances arising out of any work performed or materials furnished by or at the direction of LESSEE or Contractors of LESSEE. Notice is hereby given that STATE shall not be liable for any work or materials furnished to LESSEE on credit and no mechanic's or other lien for any such work or materials shall attach to or affect STATE's interest in the leased Premises based on any work or materials supplied to LESSEE or anybody claiming through LESSEE. LESSEE shall within thirty (30) days after being furnished notice of filing of any such lien, take action, whether by bonding or otherwise, as will remove or satisfy any such lien. STATE shall have the right at all times to post and keep posted on the leased Premises any notices permitted or required by law or that STATE deems proper for its protection, and the protection of the leased Premises from liens.

**LIENS
(CONTINUED)**

**HOLD
HARMLESS /
DEBT LIABILITY
DISCLAIMER**

25. (a) This Lease is made upon the express condition that the State of California is to be free from all liability and claims for damages by reason of any injury to any person or persons, including LESSEE, or property of any kind whatsoever and to whomsoever belonging, including LESSEE, from any cause or causes whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease or any occupancy hereunder, except those arising out of the sole negligence of the STATE. LESSEE further agrees to provide necessary Workers Compensation Insurance for all employees of LESSEE upon said Premises at the LESSEE's own cost and expense. In the event STATE commences a legal action to compel LESSEE to indemnify STATE and or defend the STATE, STATE shall be entitled to its attorney's fees and costs.

(b) The State of California, including but not limited to the State's General Fund, and any special self insurance programs, is not liable for any debts, liabilities, settlements, liens or any other obligations of the LESSEE or its heirs, successors or assigns. The State of California and its agencies, departments and divisions shall not be liable for and shall be held harmless by LESSEE and its Lender or Mortgagee for any claims or damages associated with any contract, tort, action or inaction, error in judgment, act of negligence, intentional tort, mistakes, or other acts taken or not taken by the LESSEE, its employees, agents, servants, invitees, guests or anyone acting in

concert with or on behalf of the LESSEE. The State of California has no obligation to defend or undertake the defense on behalf of the LESSEE or its heirs, successors or assigns. In the event of a lawsuit or proceeding in which a conflict exists between the interests of the STATE and the interests of LESSEE, LESSEE shall retain counsel selected by the State of California, defend the State of California and its agencies, departments and divisions from any claims, actions, lawsuits, administrative proceedings or damages associated with any contract, tort, action or inaction, error in judgment, act of negligence, intentional tort, mistakes, or other acts taken or not taken by the LESSEE, its employees, agents, servants, invitees, guests, or anyone acting in concert with or on behalf of the LESSEE; provided, however, that LESSEE shall defend the State of California and its agencies, departments, and divisions with LESSEE's counsel if a conflict does not exist.

- MEDICAL** 26. Medical support shall not be provided by CIM or by STATE. Necessary emergency medical care of LESSEE's clients, visitors, volunteers and staff will be LESSEE's responsibility. As used herein, this is intended to mean that LESSEE shall be liable for any and all medical and care costs for LESSEE's employees served by LESSEE's program.
- INSURANCE** 27. Final requirements TBD based on development details and in partnership with Jeff Dierks of ORIM.
- TAXES / ASSESSMENTS** 28. LESSEE agrees to pay all lawful taxes, assessments, or charges which at any time may be levied upon interest in this Lease. It is understood that this Lease may create a possessory interest subject to property taxation and LESSEE may be subject to the payment of property taxes levied on such interest.
- CONDITION OF PREMISES** 29. LESSEE accepts the Premises in its present condition and agrees that upon expiration of this Lease or sooner termination, LESSEE shall deliver the Premises and all capital improvements located thereon to STATE in good and clean condition, reasonable use and wear thereof.
- LESSEE has visited and inspected said Premises and it is agreed that the acreage stated herein and on the attached Exhibit "A" is only approximate and STATE does not hereby warrant or guarantee the acreage included hereunder.
- MAINTAINING PREMISES** 30. LESSEE shall maintain the Premises in a decent, safe and sanitary condition in compliance with the sanitation laws and regulations of the State of California, and in compliance with all other laws of the state and the rules and regulations of the CIM.

Subsequent to occupying the Premises, LESSEE shall not without prior written consent of STATE:

(a) Make further material or substantial structural changes or alterations to the Premises, except as required to repair or restore damage or worn improvements;

(b) Make material or substantial structural or architectural design changes to the Premises; or

(c) Construct any new building(s) or structure(s) on the Premises, other than those specified in the Plans without first obtaining written consent of STATE which consent shall not be unreasonably withheld. Nothing within this clause shall be construed or understood to modify or amend the terms of subparagraph 13(i) of this Lease.

**PROTECTION
OF
PREMISES**

31. LESSEE is not permitted to dump refuse in or around any area of the Premises, and LESSEE shall not commit or suffer to be committed any waste or nuisance upon the Premises. LESSEE agrees not to cut or remove any trees or brush thereon except as approved in writing by STATE. LESSEE further agrees that he shall at all times exercise due diligence in the protection of the Premises against damage or destruction by fire or other cause.

**RESTORATION
OF PREMISES**

32. (a) In the event Premises is damaged or destroyed by any cause LESSEE, at its sole cost and expense, shall promptly and diligently repair and restore the damaged or destroyed Building and/or improvements in conformance with the intent of the Plans, subject to obtaining written approval by STATE for said repairs and/or restoration.

**RESTORATION
OF PREMISES
(CONTINUED)**

(b) Any and all fire or other insurance proceeds that become payable at any time during the term hereof because of damage to or destruction of the leased building and improvements on the Premises shall be paid to LESSEE and applied by LESSEE toward the cost of repairing and restoring the damaged or destroyed Buildings and improvements.

**SURRENDER
OF PREMISES**

33. Upon termination of this Lease for any cause the LESSEE shall remove any and all equipment and personal property of the LESSEE and restore the entire Premises to a broom clean, safe and habitable condition, except however, STATE may approve, in writing, any deviation from this requirement. STATE shall provide LESSEE within seven (7) days after notice of termination, with a punch-list of any special conditions and shall walk-thru the Premises with LESSEE prior to vacancy. All capital improvements shall become the property of STATE.

**ABANDONMENT
OF PREMISES**

34. If the LESSEE abandons, vacates or surrenders the Premises, or is dispossessed by process of law, any personal property belonging to the LESSEE and left on the Premises shall be deemed to be abandoned, at the option of the STATE. Failure by LESSEE to occupy and/or use the Premises for a period of thirty (30) days or longer shall constitute abandonment by LESSEE.

**FIRE/POLICE
PROTECTION**

35. LESSEE is a separate and distinct entity from the CIM and shall so inform the local Fire and Police Agencies. STATE shall in no way be responsible or liable for such protection to LESSEE.

**SECURITY
CLEARANCE
STAFF
AVAILABILITY**

36. TBD (check with CIM for current security directives)
37. STATE and LESSEE shall each have a person readily available either on or offsite at all times when the facility is in use who has authority to make any and all decisions on behalf of STATE and LESSEE in the event of an

emergency that immediately jeopardizes life or health. A list of persons of authority shall be updated on a regular basis and this list shall be on file in the **CIMAdministration Office**, for use in an emergency.

**LESSEE
SECURITY**

38. LESSEE will be responsible for the security of the Premises and that of all clients, visitors, volunteers, staff and **construction workers** while such persons are in, on or about the Premises; provided, however, nothing herein shall be understood to modify or amend Clause 36 herein. In the event of a serious security emergency, STATE shall cooperate with LESSEE, but such assistance shall not interfere with STATE's normal operations at FDC. All rules and regulations governing employees and residents of FDC, which are applicable to LESSEE, shall be strictly adhered to by LESSEE.

**EMERGENCY
PREPAREDNESS**

39. LESSEE agrees to be responsible for maintaining LESSEE's own emergency preparedness program. The LESSEE shall not assume STATE will provide food or supplies during a local or area wide disaster. STATE will, if time and material allow, assist during a disaster.

**SMOKING
RESTRICTIONS**

40. Local Smoking is not allowed in or upon the Premise. LESSEE is required to clearly post signs at all entrances, exits, and other conspicuous locations notifying occupants that smoking is prohibited within the building and within 20 feet from any entrance. The signs shall be in bold print and legible from a distance of 25 feet away. Neither LESSEE nor LESSEE's invitees shall smoke outside near an open window.

SIGNS

41. All signs shall be under the control of STATE, including placement, size, color, and working; provided, however, nothing herein shall prohibit LESSEE from placing one (1) distinctly visible sign on the building or near the entrance to the building, and STATE shall not unreasonably withhold approval of such sign. LESSEE shall obtain any and all permits from the City of Costa Mesa as may be required for LESSEE to place said sign at or near the entrance to FDC.

TERMINATION

42. **TBD (Except as otherwise provided herein, the parties hereto agree that LESSEE may terminate this Lease at any time during the term hereof by giving sixty (60) days written notice to the STATE.), provided however that if such termination should occur during initial construction of the Premise that LESSEE shall: a) complete any partially constructed improvements, or b) return the premise to it's original condition prior to commencement of any construction.**

CANCELLATION

43. (a) Except as may otherwise be expressly provided herein, LESSEE shall materially breach this Lease and be in default and STATE may forthwith terminate this Lease, if any of the following occurs during the term hereof:

(1) The failure by LESSEE to pay rent as set forth in Clause 4 herein when the same is due, if such failure shall continue for a period of ten (10) days after written notice thereof from STATE to LESSEE.

(2) The failure of LESSEE to observe or perform any of the provisions, covenants and conditions of this Lease where such failure shall continue for a period of sixty (60) days after written notice thereof from STATE to LESSEE or such additional time as is reasonably required in the event that

such cure cannot be completed within sixty (60) days and LESSEE continues to diligently prosecute such cure to completion.

(3) The making by LESSEE of an assignment for the benefit of creditors or the filing of a voluntary petition in bankruptcy or for reorganization under the United States Bankruptcy Act, or the filing by LESSEE of a petition for an arrangement or other debtor's relief under any provision of the laws of the United States or of any State.

(4) The filing of an involuntary petition in bankruptcy against LESSEE under the United States Bankruptcy Act if the same is not dismissed within sixty (60) days after the date of filing.

(5) The appointment of a permanent receiver, trustee or liquidator for LESSEE or of or for the property of LESSEE, if such receiver, trustee or liquidator is not discharged within sixty (60) days after the date of his or her appointment.

(6) Except as otherwise provided herein, the occurrence of any contingency whereby the rights of LESSEE under this Lease would, by operation of law or otherwise, without the written consent of STATE, pass to any person, firm or corporation other than LESSEE.

**CANCELLATION
(CONTINUED)**

(b) Except as may otherwise be expressly provided herein, STATE shall materially breach this Lease and be in default and LESSEE may forthwith terminate this Lease in the event STATE fails to observe or perform any of the provisions, covenants and conditions of this Lease where such failure shall continue for a period of sixty (60) days after written notice thereof from LESSEE to STATE.

(c) In addition, LESSEE may terminate this Lease by giving written notice to STATE thirty (30) days prior to the date when such termination shall become effective, upon:

(1) The voluntary or involuntary bankruptcy of LESSEE as set forth in subparagraphs 39(a) (3) - (6) of this Lease;

(2) Changes/amendments in applicable statutes, regulations or reimbursement law or reimbursement practice of third party payee(s) and/or enactment of new statutes, regulations or reimbursement law or reimbursement practice of third party payee(s), which render it uneconomic or impractical for LESSEE, or its successor, to continue to rent the Premises pursuant to the terms and conditions of this Lease;

(3) The LESSEE going out of business for any reason and/or ceasing to provide a housing program.

(4) LESSEE receiving notification from STATE that STATE intends to cease operation of and/or vacate FDC.

SUBLETTING

44. LESSEE shall not assign this Lease in any event without the prior written and approval of the State.

- CORPORATE AUTHORITY** 45. If Lessee is a public, private or non-profit corporation or partnership each individual executing this Lease on behalf of the entity represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said Corporation in accordance with a duly adopted Resolution of the Board of Directors of said Corporation or in accordance with the Bylaws of said Corporation and that this Lease is binding upon said Corporation in accordance with its terms. LESSEE shall, within thirty (30) days after execution of this Lease deliver to STATE a copy of the minutes of the Board of Directors or a certified copy of the Resolution of the Board of Directors of the corporation or partnership ratifying the execution of this Lease.
- PARTNERSHIP DISCLAIMER** 46. LESSEE and any and all agents and employees of LESSEE shall act in an independent capacity and not as officers or employees of STATE. Nothing herein contained shall be construed as constituting the parties herein as partners.
- AUDIT REQUIREMENTS** 47. LESSEE shall keep available, for a period of **four (4)** years after each year of operation, the books and records and information of accounts of LESSEE for such year, showing the amount of rent or revenues from the operation of the premise from business conducted under this Lease, the deductions therefrom, and other pertinent information required by the STATE. Such books and records of account shall be made available to STATE or its duly authorized agents or auditors during the regular business hours of STATE for the purpose of verifying compliance by LESSEE and/or the terms of the Lease and compliance with the rules, regulations and statutes of the STATE.
- AUDIT REQUIREMENTS (CONTINUED)**
- RECOVERY OF LEGAL FEES** 48. If action is brought by the STATE for the recovery of Rent or any payments here due under the provisions hereof, or for any breach hereof, or to restrain the breach of any provision, covenant or condition contained herein, or for the recovery of possession of the Premises, or to protect any rights given to the STATE against LESSEE, and if the STATE shall prevail in such action, the LESSEE shall pay to the STATE all costs and expenses including attorney's fees as the court shall determine to be reasonable, which shall be fixed by the court as part of the costs of said action.
- MUTUAL CONSENT** 49. Notwithstanding any terms herein contained to the contrary, this Lease may be terminated and the provisions, covenants and conditions of the Lease may be altered, changed, or amended by mutual written consent of the parties hereto.
- ENTIRE AGREEMENT** 50. This Lease, together with its exhibits, contains all the agreements of the parties hereto and supersedes any prior negotiations. There have been no representations by the STATE or understandings made between the STATE or LESSEE other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties hereto.
- SEVERABILITY** 51. If any provision, covenant or condition of this Lease or any application thereof, to any extent, is found invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of this Lease will not be affected thereby, and will be valid and enforceable to the fullest extent permitted by law.
- CUMULATIVE REMEDIES** 52. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
- RECORDATION** 53. This Lease shall not be recorded; provided, however, a short form, Memorandum

of Lease may be recorded at the request of STATE or LESSEE. The party recording the Memorandum of Lease shall, upon expiration or termination of this Lease, file a Quitclaim Deed at their sole cost and expense.

- BINDING** 55. The terms of this Lease and provisions, covenants and conditions contained herein shall apply to and shall bind and inure to the benefit of the heirs, representatives, assigns and successors in interest of the parties hereto.
- ESSENCE OF TIME** 56. Time is of the essence of each and all of the provisions, covenants and conditions of this Lease.
- SECTION HEADINGS** 57. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provisions, covenants and conditions of this Lease.

This Lease, together with its exhibits, contains all agreements of the parties hereto and supersedes any prior negotiations. There have been no representations by STATE or understandings made between STATE or LESSEE other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties hereto.

IN WITNESS WHEREOF, this Lease agreement has been executed by the parties hereto as of the written below.

**STATE OF CALIFORNIA
APPROVED:**

LESSEE:

DIRECTOR OF DEPARTMENT OF
GENERAL SERVICES

TBD, a TBD

By: _____
TONY PSIHOPAIDAS, Manager
State Owned Leasing and Development

By: _____
NAME AND TITLE TBD

DATE EXECUTED: _____

DATE SIGNED: _____

Consents:

State

By: _____

DATE SIGNED: _____

STATE

By: _____

DATE SIGNED: _____

Recommended for Approval:

DEPARTMENT OF GENERAL SERVICES
REAL ESTATE SERVICES DIVISION

By: _____

SAMPLE

EXHIBIT "A"
PREMISES (PAGE X of Y)

SAMPLE

EXHIBIT "A"
PREMISES (PAGE X of Y)

SAMPLE

EXHIBIT "B"
IMPROVEMENTS

TBD

SAMPLE

EXHIBIT "C"
ESTOPPEL CERTIFICATE (PAGE X of Y)

SAMPLE