

LEASE AGREEMENT-UNCLE CHARLIE'S FIREHOUSE & BREW

This Lease Agreement is made and entered into as of this 05 day of July, 2023 between the City of Folsom, a municipal corporation ("Lessor") and Pour Leadership Inc., DBA Uncle Charlie's Firehouse & Brew, a California Corporation ("Lessee").

WHEREAS, Lessor owns the retail space located within the City-owned parking garage at 905 Leidesdorff Street in Folsom, California, comprising approximately 3,600 square feet of building area (the "Facility"), described more fully in **Exhibit A** (Assessor Parcel Map, Site Plan, and Lease Space) attached hereto and incorporated herein by reference.

WHEREAS, Lessor hereby leases to Lessee and Lessee leases from Lessor for the term, at the rental, and upon all the conditions set forth herein the Facility, together with all improvements thereon and appurtenances thereto, and subject to the conditions set forth below, the continuous and uninterrupted right of Lessee and its officers, employees, business invitees, customers and patrons, of access to and from Facility.

NOW, THEREFORE, the parties hereto, in consideration of the mutual promises, covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, do hereby agree as follows:

1. TERM. Lessor agrees to allow Lessee to occupy the Facility, rent-free, for up to 6 months from the date of signing of this Lease to allow Lessee time to obtain a building permit for tenant improvements in the Facility. Once Lessee obtains a building permit for tenant improvements, or upon expiration of the 6-month period, whichever occurs first, Lessee shall be granted ten additional months of free rent. Lessee shall have all obligations under this Lease while occupying the Facility rent-free, and thereafter, including but not limited to insurance and payment of all expenses associated with this Lease and use of the Facility. After the end of the initial 10-month rent-free period, the term of this Lease shall commence for ten (10) years, starting as "Year 1" in **Exhibit B** attached hereto and incorporated herein by reference, unless sooner terminated pursuant to any provisions hereof. Lessee has the option to renew the Lease for two additional terms of 5 years each upon giving Lessor not less than 180 days prior written notice of Lessee's exercise of said option prior to the expiration of the initial or subsequent extended term. Failure to provide notice within the time herein provided to exercise the first option shall cause both options to terminate. Rent during the option term(s) shall be the then-prevailing market rent as determined by the Lessor at Lessor's reasonable discretion following consultation with the Lessee.

2. RENT. Lessee shall pay to Lessor as rent for use of the Facility at the rates shown in **Exhibit B** attached hereto and incorporated herein by reference, due and payable to Lessor on the first of each month. The first rent payment after the initial 10-month rent-free period shall be prorated based on 30 days. This Lease is net of taxes, utilities, and insurance.

3. USE. During the term of this Lease, and any renewal hereof, Lessee shall use the Facility only as approved by the Conditional Use Permit approved by the Folsom Historic

Commission on March 11, 2023, and further acknowledged after an appeal was denied by City Council on April 11, 2023. The Conditions of Approval are included in **Exhibit C**, attached hereto, and incorporated herein by reference. Lessee shall not permit any act or acts in or on the Facility or use the Facility or suffer it to be used in any manner which will cause a cancellation of any fire, liability, or other insurance policy covering the Facility or any part thereof.

4. ADDITIONAL AREAS OF USE

- a. Subject to Lessee apply and obtain an Encroachment Permit under Chapter 12.20 of the Folsom Municipal Code, Lessor shall grant Lessee use of approximately 200 square feet of outdoor space as noted on **Exhibit D**, attached hereto, and incorporated herein by reference, as part of business operations. Rent for said space is specified in **Exhibit B**. Lessee shall ensure this space is ADA accessible and safe from pedestrian and vehicular travel.
- b. Lessor hereby grants Lessee use of approximately 400 square feet of storage space within the parking garage area as part of business operations as noted in **Exhibit D**. Rent for said space is specified in **Exhibit B**.
- c. Lessor hereby grants Lessee use of two parking stalls within the public parking garage as identified by signage to be approved by Lessor for use by Lessee on the days of Monday through Friday from 7am to 12noon as noted on **Exhibit D**. There is no cost associated with this provision.

5. REPAIRS, MAINTENANCE, AND UTILITIES.

a. Lessor hereby grants Lessee a temporary license to enter into the Facility to construct and install Lessee's tenant improvements after issuance of the building permit for up to 10 months without payment of rent. Lessee shall bear all risks of loss, including but not limited to personal injury and property damage, while operating under this license.

b. Lessee shall comply with all City requirements for project submittal, plan review, plan check, inspection, and pay all fees (including non-City fees) applicable to Lessee's improvements except for the amount waived above. Subject to the foregoing, Lessee is solely responsible for all interior improvements necessary to comply with the Americans with Disabilities Act (ADA) at Lessee's sole cost and expense.

c. Lessor warrants that all operating systems in the Facility existing at the time of signing this Lease, such as, for example, HVAC, plumbing, electrical, and lighting (some systems may not be existing or applicable) shall be in good working order for the first 6 months of the Lease term. Except for warranty defects, Lessee shall maintain repair and replace all operating systems in the Facility throughout the term of this Lease, including without limitation, HVAC, plumbing, electrical, and lighting, and shall procure an HVAC maintenance contractor to service and maintain HVAC.

d. Lessee shall provide and pay for maintenance and repair of the exterior portion of the building leased to Lessee, including, but not limited to, windows, doors, Lessee-installed bi-

fold doors, and mechanical units; provided that Lessee shall not be responsible for maintenance or repair attributable to exterior landscaping and irrigation of the Facility.

e. Lessee shall pay at Lessee's sole expense all water, sewer, electricity, gas, telephone, internet, communication services, fire and intrusion alarm services, and other utility services inside the Facility.

f. Lessee shall provide, perform, and pay for maintenance, repair, and janitorial services for the interior of the Facility.

6. **ALTERATIONS AND IMPROVEMENTS.** Lessee shall have the right to make alterations and improvements to the Facility subject to the following terms and conditions:

a. No alterations or improvements made by Lessee shall in any way impair the structural stability of the building or diminish the value of the property.

b. All alterations or improvements (except for interior painting and hanging of pictures or similar objects) shall be first approved in writing by the Lessor, but said approval shall not be unreasonably withheld by Lessor.

c. All alterations and improvements, including but not limited to, the bathrooms, flooring, bifold doors, and lighting, made to the Facility shall become the property of the Lessor and shall remain on and be surrendered with the Facility at the expiration or sooner termination of this Lease or any renewal or extension of this Lease.

d. Lessee's personal property and its trade fixtures, including machinery, equipment, and furnishings, not mentioned above, shall remain the property of Lessee and may be removed by Lessee. Any personal property, trade fixtures, or equipment not removed by Lessee within thirty (30) days after the termination of this Lease or any extension thereof, shall automatically become the property of the Lessor. Lessee shall repair any damage to the Facility caused by Lessee's removal of its personal property, trade fixtures, or equipment, but Lessee shall have no obligation to remove such items from the Facility at any time.

7. **ENTRY AND INSPECTION.** Lessee shall permit Lessor or Lessor's agents to enter the Facility at all reasonable times and upon reasonable notice for the purpose of inspecting the Facility, and shall permit Lessor, at any time within sixty (60) days prior to the expiration of this Lease to place upon the Facility any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the Facility to inspect the Facility at reasonable times.

8. **HAZARDOUS MATERIALS.** Lessee shall not use, store, or dispose of any hazardous substances upon the Facility, except the use and storage of such substances that are customarily used in Lessee's business, and are in compliance with all applicable laws and regulations. Hazardous substances means any hazardous waste, substance, or toxic materials defined or regulated under any law or regulations.

9. **MECHANICS LIENS.** Lessee agrees to keep the Facility from any and all claims of claims of persons or firms or corporations who, at the request of Lessee or its employees or contractors, furnish labor or materials to or for the benefits of the Facility and Lessee further agrees to hold Lessor harmless from any and all claims.

10. **DAMAGE/DESTRUCTION.** If the Facility is damaged or destroyed in whole or in part by fire other casualty strictly unrelated to Lessee's actions, inactions, or operations, Lessor shall repair and restore the Facility to a good tenantable condition without liability to Lessee such as, for example, loss of use or loss of income. Rent shall abate wholly if the entire Facility is untenable or shall abate pro rata for the portion rendered untenable in case only a portion of the Facility is untenable, until the Facility is restored to a tenantable condition. Lessor shall commence and complete all work required to be done under this Section with reasonable promptness and diligence, but Lessor shall not be in default in any required performance if delay in performance results from, flood, storm, labor disputes, shortage of materials or transportation facilities, governmental regulations, war, act of God or other causes beyond Lessor's reasonable control. If Lessor does not commence such repair or restoration within thirty (30) days after such damage or destruction occurs or if repair or restoration will require more than one hundred twenty (120) days to complete, Lessor or Lessee may thereafter, at its option, terminate this Lease by giving written notice of its election to do so at any time prior to the commencement of such repair or restoration. In that event, this Lease shall terminate as of the date such notice is received by the intended recipient of the notice.

Notwithstanding any other provisions to the contrary, Lessee shall insure and shall be solely responsible for repairing and restoring Lessee's trade fixtures and personal property located in or on the Facility in the event of damage or destruction of the Facility.

11. **FIRE INSURANCE.** Lessee shall maintain, during the term of this Lease and any renewal hereof, coverage against loss or damage to the Facility in the amount of not less than ninety (90) percent of its full insurable value, against perils included within the classifications of fire, extended coverage, vandalism, malicious mischief, and special extended perils.

12. **INSURANCE.** Lessee, at its sole cost, shall maintain liability and property damage insurance during the entire term of this Lease as required in **Exhibit E** attached hereto and incorporated herein by reference.

13. **SIGNS.** Any and all signs or advertisements of any nature extending into, on, or located over the Facility, shall conform to all City of Folsom zoning and building codes and shall be approved by Lessor in writing prior to construction, use, or erection thereof.

14. **TAXES.** The terms of this Lease may result in the creation of a possessory interest. If such possessory interest is vested in a private party to this Lease, the private party may be subjected to payment of personal property taxes levied on such interest. Lessee shall be solely responsible for the payment of, and shall pay before they become delinquent, all taxes, assessments and fees assessed or levied upon Lessee or the Facility, or any interest therein, including, but not limited to, buildings, structures, fixtures, equipment, or other property installed, or constructed thereon. Lessee further agrees not to allow such taxes, assessments or

fees to become delinquent and as such to become a lien against the Facility or any improvement thereto. Nothing herein contained shall be deemed to prevent or prohibit Lessee from contesting the validity or amount of any such tax, assessment or fee in the manner authorized by law. The obligation to make any payments pursuant to this Section shall survive the expiration of the term of this Lease.

Unless otherwise provided by this Section, Lessee shall pay Lessor any other taxes, assessments, or fees, which the Lessor may become obligated to pay in connection with the ownership or maintenance of the Facility.

15. ASSIGNMENT AND SUBLETTING. Lessee shall not encumber, assign, sublet, or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in the Facility, without the prior written consent of Lessor, which may be withheld at Lessor's sole and complete discretion. A consent of Lessor to one assignment, subletting, or occupation and use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, or occupation and use by another person. Any encumbrance, assignment, transfer, or subletting in violation of this requirements hereof, whether it be voluntary or involuntary, by operation of law, or otherwise, is void and shall, at the option of Lessor, terminate this Lease.

16. TERMINATION OF LEASE.

a. In the event the Lessee determines in good faith that it no longer practicably, economically, or operationally can do business from the Facility, upon making a reasonable showing of same to Lessor, Lessee shall have the right to terminate this Lease upon giving ninety (90) days prior written notice to Lessor.

b. It is understood and agreed by the parties hereto that Lessor shall and hereby does reserve the right to cancel or terminate this Lease prior to expiration of the term or renewed or extended term hereof as follows:

- (i) If the Lessee is in default or breach of this Lease, as specified in Section 19 of this Lease or as otherwise provided by law; or,
- (ii) Upon 365 days' notice without cause.

17. RIGHTS AFTER TERMINATION. In the event of termination for default or unsatisfactory performance by the Lessee, the Lessor shall have the right (unless otherwise specified in the termination notice), at once and without further notice to the Lessee, or surety, to enter and take possession of the Facility occupied by the Lessee, and expel, oust and remove any and all parties who may occupy any portion of the Facility covered by this Lease, and any and all goods and chattels belonging to the Lessee or his associates which may be found in or upon same, without being liable for prosecution or to any claim for damages therefor. Upon such termination by the Lessor, all rights, powers and privileges of the Lessee shall cease, and the Lessee shall immediately vacate any and all space occupied by Lessee under this Lease, and shall make no claims of any kind whatsoever against the Lessor, its agents or representatives, by reason of such termination, or any act incident thereto.

18. COMPLIANCE WITH LAWS. During the term of this Lease and any renewals hereof, Lessee shall promptly execute and comply with all Federal, State, County, and City statutes, ordinances, regulations, laws, or other requirements applicable to the occupancy of the Facility, and the operation of the Facility as a brewery and eatery.

19. DEFAULTS/REMEDIES.

LESSEE:

The occurrence of any one or more of the following events constitutes a material default and breach of this Lease by Lessee:

a. The failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as, when due, where the failure continuous for a period of twenty (20) calendar days after written notice thereof from Lessor to Lessee.

b. The failure by Lessee to observe or perform any of the covenants, conditions, or provisions of this Lease to be observed or performed by Lessee, other than those described in Subsection a., above, where the failure continues for a period of thirty (30) calendar days after notice thereof from Lessor to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) calendar days are reasonably required for its cure, then Lessee shall not be deemed in default if Lessee commences such sure within the thirty (30) day period and thereafter diligently completes the cure.

c. The appointment of a receiver or the making of any general assignment, or general arrangement for the benefit of creditors.

d. The filing of a petition in bankruptcy by or against Lessee.

e. The judicial declaration of Lessee as bankrupt.

f. The appointment of a trustee or receiver to take possession of substantially all Lessee's assets located at the Facility or of Lessee's interest in this Lease if possession is not restored within thirty (30) calendar days.

g. The attachment, execution, or other judicial seizure of substantially all Lessee's assets located at the Facility or of Lessee's interest in this Lease, if the seizure is not discharged within thirty (30) calendar days.

In the event of any such default or breach with the exception of bankruptcy or receivership, by Lessee, Lessor may, after giving written notice as provided above, pursue those remedies available to Lessor under the laws or judicial decisions of the State of California. In the event of bankruptcy or receivership, this Lease shall immediately terminate, and possession of the Facility shall immediately return to Lessor.

If Lessee breaches this Lease or is in default, as provided above, the Lessor may terminate this Lease upon written notice as provided herein. On such termination, the Lessor may recover from Lessee:

- (i) The worth at the time of award of the unpaid rent which has been earned at the time of termination;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proved could have been unreasonably avoided;
- (iii) 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 such rental loss for such period that Lessee proves could be reasonably avoided; and
- (iv) Any other amount necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform his obligations under this Lease, or which in the ordinary course of things would likely to result therefrom.

The "worth at the time of award" of the amounts referred to in Subsections (i) and (ii) hereinabove is computed by allowing interest at the legal rate. The worth at the time of award of the amount referred to in paragraph (iii) of this Subsection is computed by discounting such amount at the legal rate of interest.

Even though Lessee breaches this Lease or is in default, as provided above, this Lease continues in effect for so long as the Lessor does not terminate Lessee's right of possession; and the Lessor may enforce all its rights and remedies under this Lease, including the right to recover the rent as it becomes due under this Lease.

The rights of the Lessor under this Lease shall be cumulative to all other rights or remedies now or hereafter given to Lessor by law. Nothing in this Lease affects the right of Lessor to equitable relief where such relief is appropriate.

Nothing in this Lease affects the rights of the parties under statutory provisions relating to actions for unlawful detainer, forcible entry, and forcible detainer. If Lessor brings an action in unlawful detainer, and possession of the property is no longer an issue because possession of the property is delivered to Lessor before trial or, if there is no trial, before judgment is entered, unless Lessor amends the complaint to state a claim for damages not recoverable in the unlawful detainer proceeding, the bringing of an unlawful detainer, forcible entry, or forcible detainer action as described hereinabove does not affect Lessor's right to bring a separate action for relief on termination, or in equity; but no relief shall be requested and no damages shall be recovered in the subsequent action for any detriment for which claim for damages was made and determined on the merits in the previous action.

Efforts by the Lessor to mitigate the damages caused by Lessee's breach of this Lease do not waive the Lessor's right to recover damages under this Section.

Nothing in this Section affects the right of the Lessor to indemnification for liability arising prior to the termination of this Lease for personal injuries or property damage as provided in Section 26 of this Lease.

20. DEFAULTS/REMEDIES.

LESSOR:

Lessor shall not be in default unless Lessor fails to perform obligations required of it within a reasonable time, but in no event later than thirty (30) days after written notice by Lessee to Lessor; provided that if the nature of Lessor's obligation is such that more than thirty (30) days are reasonably required for performance, then Lessor shall not be in default if Lessor commences performance within the thirty (30) day period and thereafter diligently complete performance.

If Lessor defaults in the performance of any of the obligations or conditions required to be performed by Lessor under this Lease, Lessee may, after giving notice as provided above elect to terminate this Lease upon giving thirty (30) days written notice to Lessor of its intention to do so. In that event, this Lease shall terminate upon the date specified in the notice, unless Lessor has meanwhile cured the default. The foregoing shall be Lessee's sole remedy in the event of a breach or default by Lessor.

21. CONDEMNATION. If all of the Facility or any portion thereof is taken under the power of eminent domain, solely under the threat of the exercise of said power, or disposed of to satisfy federal requirements (all of which are herein called "condemnation"), this Lease shall automatically terminate as of the date the condemning authority takes title possession, whichever occurs first.

Any award or payment made upon condemnation of all or any part of the Facility shall be the property of Lessor, whether such award or payment is made as compensation for the taking of the fee or as severance damages; provided Lessee shall be entitled to the portion of any such award or payment for loss of or damage to Lessee's trade fixture or removable personal property.

22. WAIVER. In the event that either Lessor or Lessee shall at any time or times waive any breach of this Lease by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Lease, whether of the same or any other covenant, condition, or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

23. BINDING EFFECT. This Lease shall be binding upon the parties hereto, their heirs, personal representatives, administrators, successors, and assigns.

24. ASSUMPTION OF NEW OWNER. In the event Lessor transfers any interest in the Facility to any other party or entity, this Lease shall remain in full force and effect, with the new owner assuming the role of Lessor with all the rights and duties specified in this Lease.

25. SURRENDER. Lessee agrees to take good care of the Facility and to commit no waste, and suffer no injury to be done to the same, and to return the possession of the same to Lessor at the expiration of the term, in as good condition as at the commencement of this Lease, normal and wear tear excepted.

If Lessee fails to surrender the Facility upon the expiration or termination of this Lease, Lessee shall indemnify and hold the Lessor harmless from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from Lessee's failure to surrender.

26. INDEMNITY. Lessee shall indemnify, protect, defend, save and hold Lessor, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Lessee or Lessee's officers, employees, volunteers, and agents during performance of this Lease, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Lessee or its employees, subcontractors, or agents, or by the quality or character of Lessee's work, or resulting from the negligence of the Lessor, its officers, employees, volunteers and agents, except for loss caused solely by the gross negligence of the Lessor. It is understood that the duty of Lessee to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by Lessor of insurance certificates and endorsements required under this Lease does not relieve Lessee from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Lease and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Lease, Lessee acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

27. NOTICES. All notices and other communications contemplated shall be in writing and shall be deemed given when personally delivered or received by mail, and shall be personally delivered or mailed by certified mail, return receipt requested, with postage and fees paid, as follows:

Lessor: City of Folsom
Attn: Parks and Recreation Director
50 Natoma Street
Folsom, California 95630

Lessee: Pour Leadership, Inc. DBA Uncle Charlie's Firehouse & Brew
Taryn Grows and Charlie Grows
821 Governor Drive
El Dorado Hills, CA 95762

28. ENTIRE AGREEMENT. All preliminary and contemporaneous agreements and understandings are merged and incorporated into this Lease which contains the entire agreement between the parties. This Lease may not be modified or amended in any manner except by an instrument in writing executed by the parties hereto.

29. VENUE. This Lease and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Lease shall be held exclusively in a state court in the County of Sacramento

30. ATTACHMENTS, HEADINGS, TERMS. All attachments referred to herein are hereby incorporated by reference into this Lease. The headings and underscoring contained herein are for convenience purposes only and shall not be used to interpret nor be deemed to extend or limit the specific sections. The work or words enclosed in quotation marks shall be construed as defined terms for the purposes of this Lease. The terms "Lessor" and Lessee" shall be construed to mean, when required by the context, the directors, officers, employees, invitees, contractors, materialmen, servants and agents of Lessor and Lessee.

31. ATTORNEY'S FEES. If either party named herein brings an action to enforce the terms of this Lease or to declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to reasonable attorney's fees to be paid by losing party as fixed by the Court.

32. EXECUTION AND DELIVERY. This Lease shall not be binding nor confer any rights upon either party unless and until executed and mutually delivered by and between both parties.

33. RELATIONSHIP OF PARTIES. This Lease does not create the relationship of principal and agent or a partnership or joint venture, or of any association other than that of Lessor and Lessee.

34. TIME OF ESSENCE. Time and specific performance are each of the essence of this Lease.

35. AUTHORITY TO EXECUTE. The person or persons executing this Lease on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Lease on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

36. COUNTERPARTS. This Lease may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

[END OF DOCUMENT – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the date first above written.

LESSEE:

Pour Leadership Inc. DBA Uncle Charlie's
Firehouse & Brew, a California Corporation:

(If a corporation, must be signed by two officers
of the corporation per Corporations Code
section 313.)

07/05/2023
Date

Signature

TARYN GROWS
Print Name

CO-FOUNDER
Title

88373 3248
Tax I.D. Number

Signature

CHARLES GROWS
Print Name

CO-FOUNDER
Title

PLEASE SEE ATTACHED
NOTARIAL CERTIFICATE

LESSOR:

CITY OF FOLSOM, A Municipal Corporation:

1/3/24
Date

Elaine Andersen, City Manager

ATTEST:

Christa Freemantle, City Clerk 1/4/24 Date

FUNDING AVAILABLE:
Stacey Tamagni, Finance Director 12/19/23 Date

ORIGINAL APPROVED AS TO CONTENT:

Kelly Gonzalez, Parks and Recreation Director Date

ORIGINAL APPROVED AS TO FORM:

Steven Wang, City Attorney 12/27/2023 Date

Folsom File No. 174-21 23-064
RES 11074 07/11/2023



41190

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

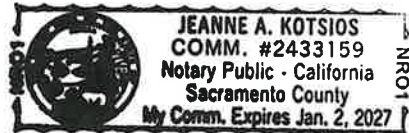
State of California
County of SACRAMENTO

On 05 July 2023 before me, Jeanne A. Kotsios, Notary Public
(insert name and title of the officer)

personally appeared Taryn Grows and Charles Grows,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jeanne A. Kotsios (Seal)

EXHIBIT A

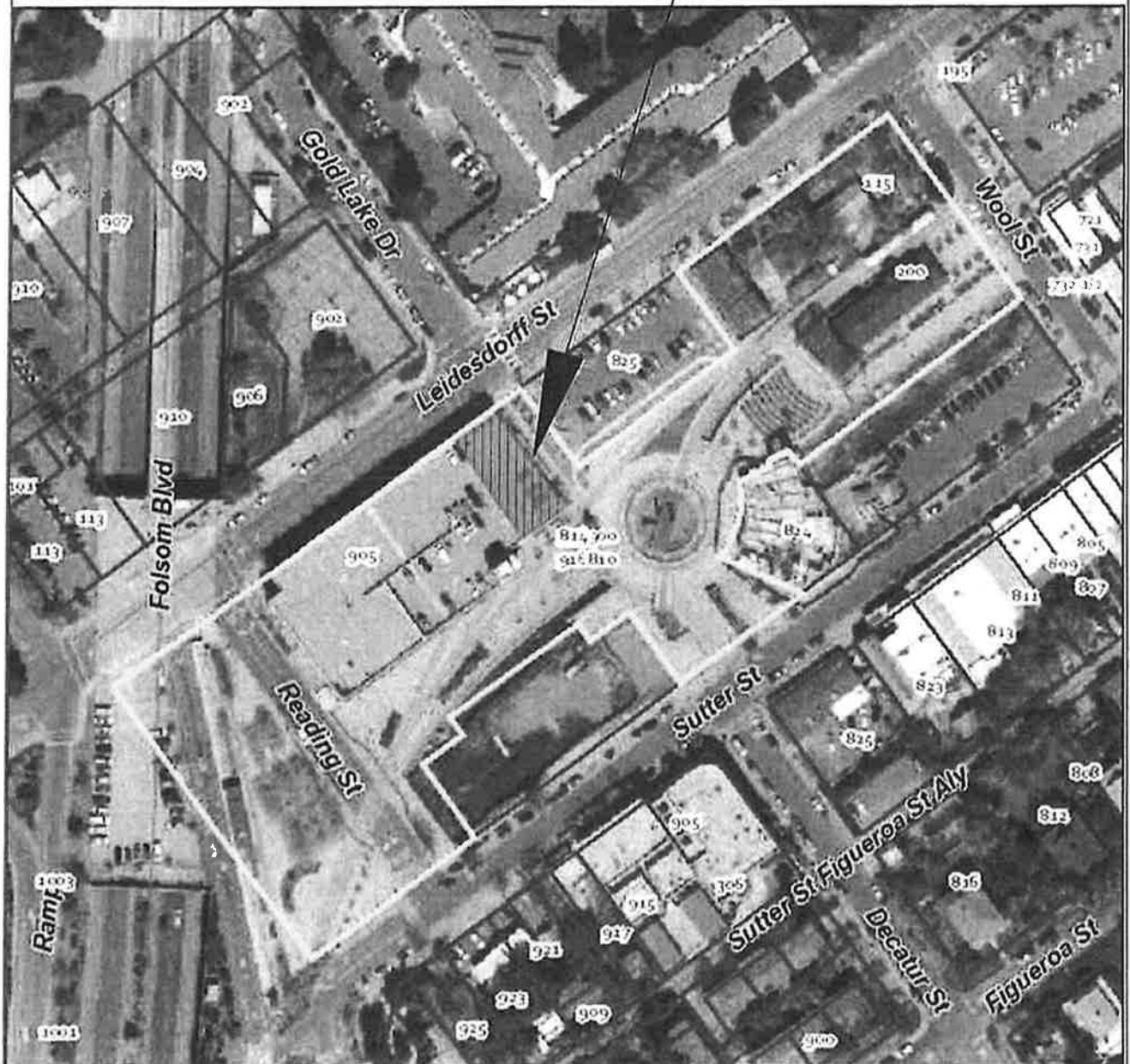
- Parcel Map**
- Site Plan**
- Lease Space**

905 Leidesdorff Street

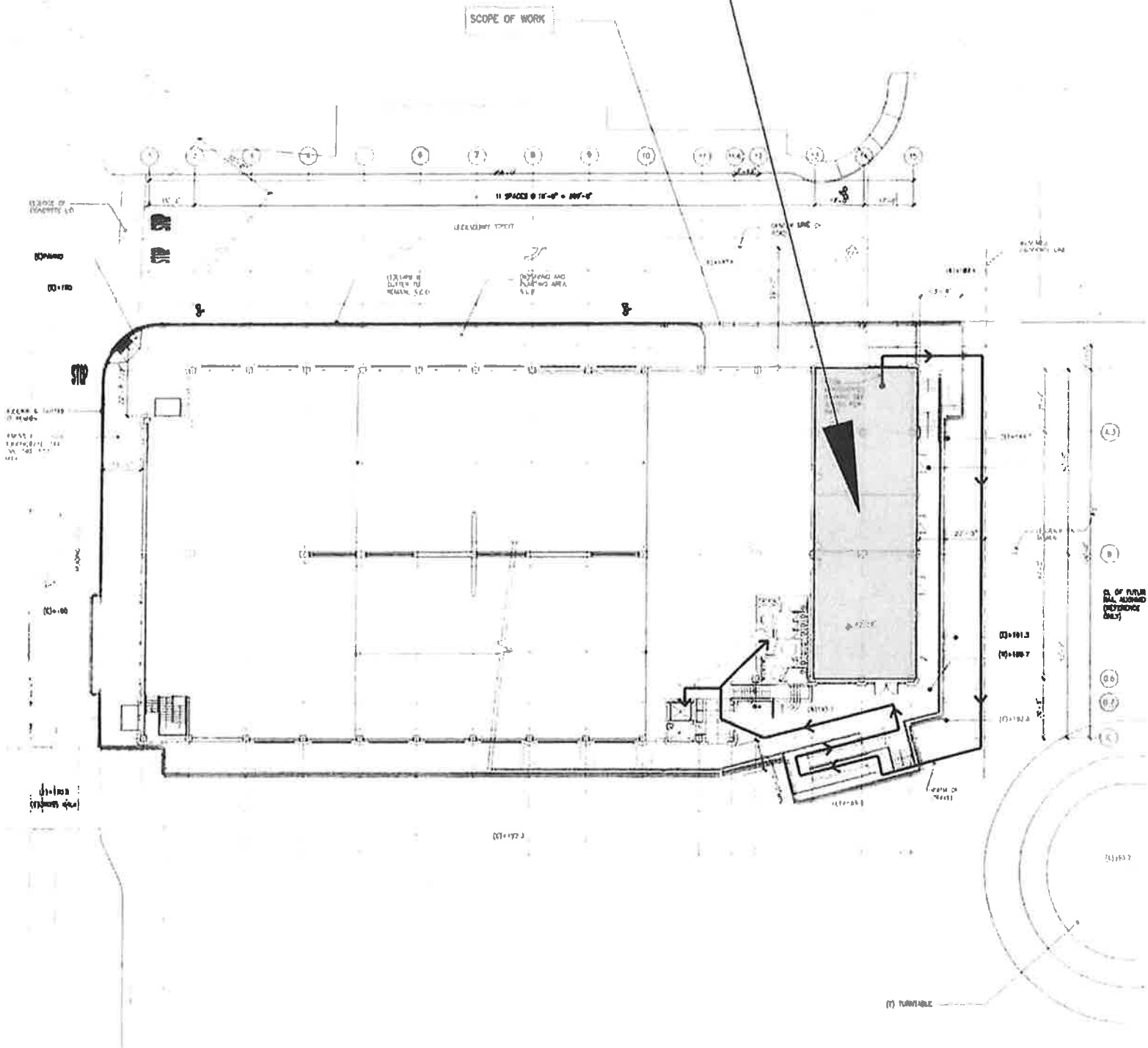
SACRAMENTO
COUNTY

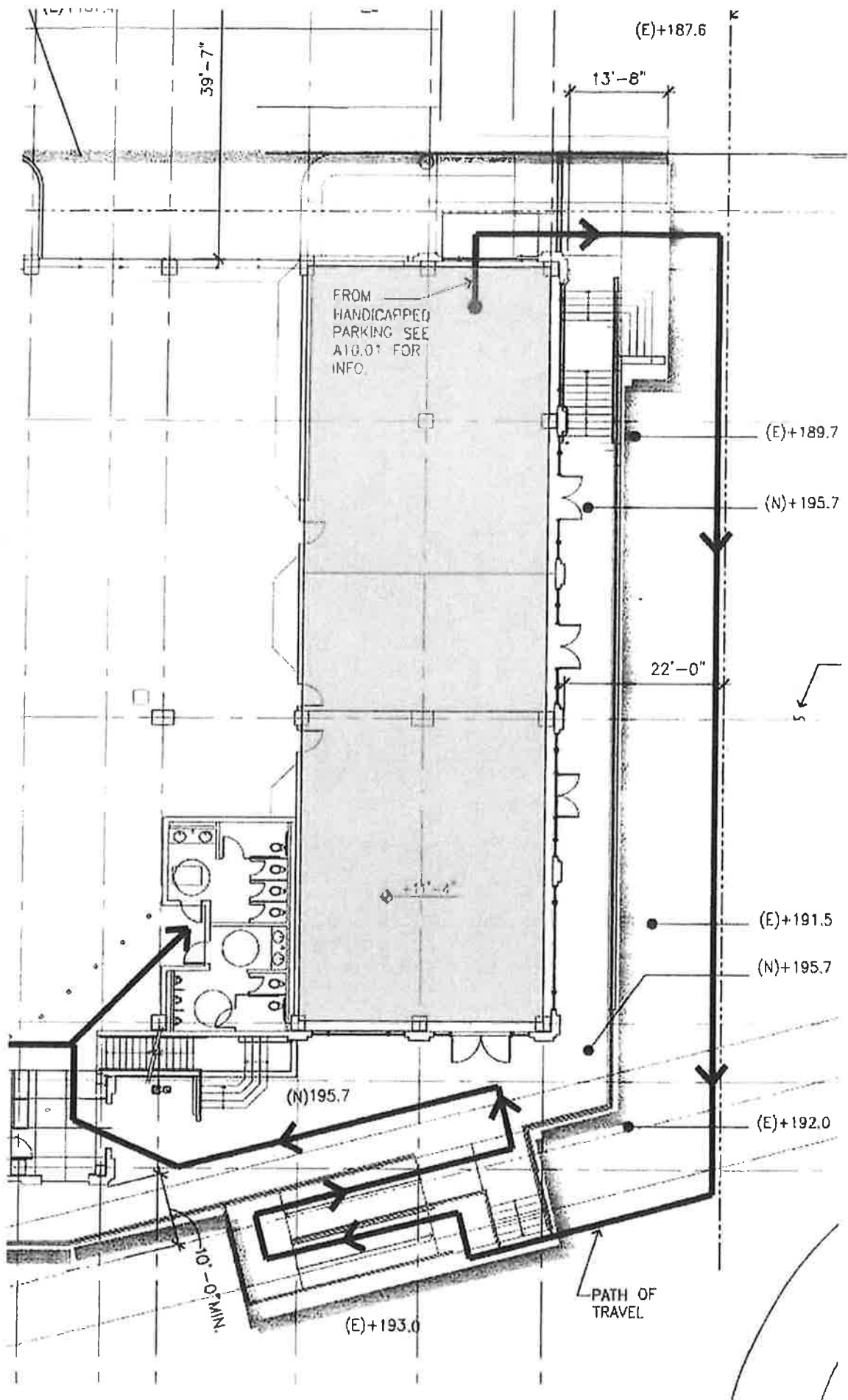
APN: 07000520230000

Print date 5/27/2021



Site Plan





Space for Lease

EXHIBIT B

-Rental Rate for Facility-Base Lease

-Rental Rate for Outdoor Patio

-Rental Rate for Storage Area in Garage

EXHIBIT B

FACILITY LEASE RATES FOR 905 LEIDESDORFF STREET-RETAIL SPACE IN PARKING GARAGE (3,600 SQUARE FEET)

Base Lease					Total
Time Period	\$ /RSF/MO		\$ /MONTH		Annual Rent
Months 1 - 10	No Rent		No Rent		
Year 1	\$1.75	/ RSF	\$6,300	plus NNN	\$ 75,600
Year 2	\$2.50	/ RSF	\$9,000	plus NNN	\$ 108,000
Year 3	\$2.58	/ RSF	\$9,270	plus NNN	\$ 111,240
Year 4	\$2.65	/ RSF	\$9,548	plus NNN	\$ 114,577
Year 5	\$2.73	/ RSF	\$9,835	plus NNN	\$ 118,015
Year 6	\$2.81	/ RSF	\$10,130	plus NNN	\$ 121,555
Year 7	\$2.90	/ RSF	\$10,433	plus NNN	\$ 125,202
Year 8	\$2.99	/ RSF	\$10,746	plus NNN	\$ 128,958
Year 9	\$3.07	/ RSF	\$11,069	plus NNN	\$ 132,826
Year 10	\$3.17	/ RSF	\$11,401	plus NNN	\$ 136,811
Year 11	\$3.26	/ RSF	\$11,743	plus NNN	\$ 140,916
Year 12	\$3.36	/ RSF	\$12,095	plus NNN	\$ 145,143
Year 13	\$3.46	/ RSF	\$12,458	plus NNN	\$ 149,497
Year 14	\$3.56	/ RSF	\$12,832	plus NNN	\$ 153,982
Year 15	\$3.67	/ RSF	\$13,217	plus NNN	\$ 158,602
Year 16	\$3.78	/ RSF	\$13,613	plus NNN	\$ 163,360
Year 17	\$3.89	/ RSF	\$14,022	plus NNN	\$ 168,260
Year 18	\$4.01	/ RSF	\$14,442	plus NNN	\$ 173,308
Year 19	\$4.13	/ RSF	\$14,876	plus NNN	\$ 178,508
Year 20	\$4.26	/ RSF	\$15,322	plus NNN	\$ 183,863
				TOTAL	\$ 2,788,222

Patio					Total
Time Period	\$/RSF/MO		\$/MONTH		Annual Rent
Months 1 - 10	No Rent		No Rent		
Year 1	\$0.88	/ RSF	\$0	plus NNN	\$ -
Year 2	\$1.25	/ RSF	\$0	plus NNN	\$ -
Year 3	\$1.29	/ RSF	\$0	plus NNN	\$ -
Year 4	\$1.33	/ RSF	\$0	plus NNN	\$ -
Year 5	\$1.37	/ RSF	\$0	plus NNN	\$ -
Year 6	\$1.41	/ RSF	\$0	plus NNN	\$ -
Year 7	\$1.45	/ RSF	\$0	plus NNN	\$ -
Year 8	\$1.49	/ RSF	\$0	plus NNN	\$ -
Year 9	\$1.54	/ RSF	\$0	plus NNN	\$ -
Year 10	\$1.58	/ RSF	\$0	plus NNN	\$ -
Year 11	\$1.63	/ RSF	\$326	plus NNN	\$ 3,914
Year 12	\$1.68	/ RSF	\$336	plus NNN	\$ 4,032
Year 13	\$1.73	/ RSF	\$346	plus NNN	\$ 4,153
Year 14	\$1.78	/ RSF	\$356	plus NNN	\$ 4,277
Year 15	\$1.84	/ RSF	\$367	plus NNN	\$ 4,406
Year 16	\$1.89	/ RSF	\$378	plus NNN	\$ 4,538
Year 17	\$1.95	/ RSF	\$389	plus NNN	\$ 4,674
Year 18	\$2.01	/ RSF	\$401	plus NNN	\$ 4,814
Year 19	\$2.07	/ RSF	\$413	plus NNN	\$ 4,959
Year 20	\$2.13	/ RSF	\$426	plus NNN	\$ 5,107
				TOTAL	\$ 44,873

Storage in Garage					Total
Time Period	\$/RSF/MO		\$/MONTH		Annual Rent
Months 1 - 10	No Rent		No Rent		
Year 1	\$0.88	/ RSF	\$350	plus NNN	\$ 4,200
Year 2	\$1.25	/ RSF	\$500	plus NNN	\$ 6,000
Year 3	\$1.29	/ RSF	\$515	plus NNN	\$ 6,180
Year 4	\$1.33	/ RSF	\$530	plus NNN	\$ 6,365
Year 5	\$1.37	/ RSF	\$546	plus NNN	\$ 6,556
Year 6	\$1.41	/ RSF	\$563	plus NNN	\$ 6,753
Year 7	\$1.45	/ RSF	\$580	plus NNN	\$ 6,956
Year 8	\$1.49	/ RSF	\$597	plus NNN	\$ 7,164
Year 9	\$1.54	/ RSF	\$615	plus NNN	\$ 7,379
Year 10	\$1.58	/ RSF	\$633	plus NNN	\$ 7,601
Year 11	\$1.63	/ RSF	\$652	plus NNN	\$ 7,829
Year 12	\$1.68	/ RSF	\$672	plus NNN	\$ 8,063
Year 13	\$1.73	/ RSF	\$692	plus NNN	\$ 8,305
Year 14	\$1.78	/ RSF	\$713	plus NNN	\$ 8,555
Year 15	\$1.84	/ RSF	\$734	plus NNN	\$ 8,811
Year 16	\$1.89	/ RSF	\$756	plus NNN	\$ 9,076
Year 17	\$1.95	/ RSF	\$779	plus NNN	\$ 9,348
Year 18	\$2.01	/ RSF	\$802	plus NNN	\$ 9,628
Year 19	\$2.07	/ RSF	\$826	plus NNN	\$ 9,917
Year 20	\$2.13	/ RSF	\$851	plus NNN	\$ 10,215
			TOTAL		\$ 154,901

*Note: Square foot price is ½ half of interior square foot rent for both the Outdoor Patio and Storage Area in Garage.

EXHIBIT C

-Conditions of Approval for CUP

Historic District Commission
 Uncle Charlie's Firehouse and Brew (PN 22-158)
 March 1, 2023

FINAL CONDITIONS OF APPROVAL FOR UNCLE CHARLIE'S FIREHOUSE AND BREW CONDITIONAL USE PERMIT AND DESIGN REVIEW 905 LEIDESDORFF (PN 22-158) GENERAL REQUIREMENTS			
Cond. No.	Mitigation Measure	When Required	Responsible Department
1.	<p>The applicant shall submit final site development plans to the Community Development Department that shall substantially conform to the exhibits referenced below:</p> <ol style="list-style-type: none"> 1. Site Plan, dated February 17, 2023 2. Garage Plan, dated February 17, 2023 3. Patio Plan, dated February 17, 2023 4. Floor Plan, dated February 17, 2023 5. Building Elevations, dated February 17, 2023 6. Signage Program 	B	CD (P)(E)
2.	<p>The project is approved for the development and operation of the 3,322-square-foot Uncle Charlie's Firehouse and Brew project. Implementation of the project shall be consistent with the above-referenced items as modified by these conditions of approval.</p> <p>Building plans, and all applicable civil engineering and landscape plans, shall be submitted to the Community Development Department for review and approval to ensure conformance with this approval and with relevant codes, policies, standards and other requirements of the City of Folsom.</p>	B	CD (P)(E)(B)
3.	<p>The project approvals (Conditional Use Permit and Design Review) granted under this staff report shall remain in effect for one year from final date of approval (March 1, 2024). If the Conditional Use Permit has not been exercised within the identified time frame prior to the expiration date and the applicant has not demonstrated substantial progress towards the development of the project, respectively, these approvals shall be considered null and void without further action. The owner/applicant may file an application with the Community Development Department for a permit extension not less than 30 days prior to the expiration date of the permit, along with appropriate fees and necessary submittal materials pursuant to <u>Chapter 17.60 of the Folsom Municipal Code</u>.</p>	B	CD (P)

Historic District Commission
Uncle Charlie's Firehouse and Brew (PN 22-158)
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4.		If the Community Development Director finds evidence that conditions of approval for Uncle Charlie's Firehouse and Brew have not been fulfilled or that the use has resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or has a substantial adverse impact on public facilities or services, the Director will refer the use permit to the Historic District Commission for review. If, upon such review, the Historic District Commission finds that any of the above-stated results have occurred, the Commission may modify or revoke the Conditional Use Permit.	OG	CD (P)
5.		This Conditional Use Permit shall be deemed revoked without further action by the Historic District Commission if the operation of the facility in the manner described in the Conditional Use Permit ceases for any consecutive period of six (6) months.	OG	CD
6.		<p>The owner/applicant shall defend, indemnify, and hold harmless the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul any approval by the City or any of its agencies, departments, commissions, agents, officers, employees, or legislative body concerning the project. The City will promptly notify the owner/applicant of any such claim, action or proceeding, and will cooperate fully in the defense. The City may, within its unlimited discretion, participate in the defense of any such claim, action or proceeding if both of the following occur:</p> <ul style="list-style-type: none"> • The City bears its own attorney's fees and costs; and • The City defends the claim, action or proceeding in good faith <p>The owner/applicant shall not be required to pay or perform any settlement of such claim, action or proceeding unless the settlement is approved by the owner/applicant.</p>	OG	CD (P)(E)(B) PW, PR, FD, PD
7.		Compliance with all local, state and federal regulations pertaining to building construction and demolition is required.	OG	CD (B)
DEVELOPMENT COSTS AND FEE REQUIREMENTS				
8.		The owner/applicant shall pay all applicable taxes, fees and charges at the rate and amount in effect at the time such taxes, fees and charges become due and payable.	B	CD (P)(E)

Historic District Commission
 Uncle Charlie's Firehouse and Brew (PN 22-158)
 March 1, 2023

9.		The City, at its sole discretion, may utilize the services of outside legal counsel to assist in the implementation of this project, including, but not limited to, drafting, reviewing and/or revising agreements and/or other documentation for the project. If the City utilizes the services of such outside legal counsel, the applicant shall reimburse the City for all outside legal fees and costs incurred by the City for such services. The applicant may be required, at the sole discretion of the City Attorney, to submit a deposit to the City for these services prior to initiation of the services. The applicant shall be responsible for reimbursement to the City for the services regardless of whether a deposit is required.	B	CD (P)(E)
10.		If the City utilizes the services of consultants to prepare special studies or provide specialized design review or inspection services for the project, the applicant shall reimburse the City for actual costs it incurs in utilizing these services, including administrative costs for City personnel. A deposit for these services shall be provided prior to initiating review of the improvement plans or beginning inspection, whichever is applicable.	B	CD (P)(E)
11.		This project shall be subject to all City-wide development impact fees, unless exempt by previous agreement. This project shall be subject to all City-wide development impact fees in effect at such time that a building permit is issued. These fees may include, but are not limited to, fees for fire protection, park facilities, park equipment, Quimby, Humbug-Willow Creek Parkway, Light Rail, TSM, capital facilities and traffic impacts. The 90-day protest period for all fees, dedications, reservations or other exactions imposed on this project has begun. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.	B	CD (P)(E), PW, PK
12.		The owner/applicant agrees to pay to the Folsom-Cordova Unified School District the maximum fee authorized by law for the construction and/or reconstruction of school facilities. The applicable fee shall be the fee established by the School District that is in effect at the time of the issuance of a building permit. Specifically, the owner/applicant agrees to pay any and all fees and charges and comply with any and all dedications or other requirements authorized under Section 17620 of the Education Code; Chapter 4.7 (commencing with Section 65970) of the Government Code; and Sections 65995, 65995.5 and 65995.7 of the Government Code.	B	CD (P)

Historic District Commission
Uncle Charlie's Firehouse and Brew (PN 22-158)
March 1, 2023

LIGHTING REQUIREMENT			
13.	Final exterior building and site lighting plans shall be submitted for review and approval by Community Development Department for location, height, aesthetics, level of illumination, glare and trespass prior to the issuance of any building permits. In addition, all lighting shall be designed to be shielded and directed downward onto the project site and away from adjacent properties and public rights-of-way.	B	CD (P)
NOISE REQUIREMENT			
14.	Compliance with Noise Control Ordinance and General Plan Noise Element shall be required. Hours of construction operation shall be limited from 7:00 a.m. to 6:00 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on Saturdays. No construction is permitted on Sundays or holidays. Construction equipment shall be muffled and shrouded to minimize noise levels.	B	CD (P)(E)
CONDITIONAL USE PERMIT REQUIREMENTS			
15.	Current occupancy loads shall be posted at all times, and the owner/applicant shall have an effective system to keep count of the number of occupants present at any given time. This information shall be provided to public safety personnel upon request. Applicant shall ensure that occupancy does not exceed the maximum allowed.	B, OG	FD NS (B)
16.	A Conditional Use Permit Modification shall be required if the operation of the business deviates from the Historic District Commission's approval. No approvals are granted in this Conditional Use Permit except as provided. Any intensification or expansion of the use approved and conditioned herein will require a Conditional Use Permit Modification by the Historic District Commission. In any case where the conditions to the granting of a Conditional Use Permit have not been, or are not, complied with, the Historic District Commission shall give notice to the permittee of intention to revoke such permit at least ten days prior to a hearing thereon. Following such hearing the Historic District Commission may revoke such permit.	OG	CD, PD
17.	The owner/applicant shall maintain full compliance with all applicable laws ABC laws, ordinances, and state conditions. In the event that a conflict arises between the requirements of this Conditional Use Permit and the ABC license, the more stringent regulation shall apply.	OG	CD (P)
18.	All entertainment (as defined in Chapter 5.90 of the Folsom Municipal Code) shall be subject to an Entertainment Permit.	OG	CD (P)
19.	Compliance with the City of Folsom's Noise Control Ordinance (Folsom Municipal Code Chapter 8.42) and General Plan Noise Element shall be required.	OG	CD (P)

Historic District Commission
 Uncle Charlie's Firehouse and Brew (PN 22-158)
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20.		Hours of operation (including private parties) shall be limited as follows: <ul style="list-style-type: none"> o <u>Monday Wednesday-Sunday: 12:00 p.m. to 10:00 p.m.</u> No expansion of business hours beyond what is stated above shall be permitted without prior approval being obtained from the Historic District Commission through a discretionary Conditional Use Permit Modification <u>(This Condition was modified by the Historic District Commission at its March 1, 2023 meeting).</u>	OG	CD (P)
21.		Uncle Charlie's Firehouse and Brew shall be limited to the sale and consumption of beer, seltzers, non-alcoholic beverages, and food products. No sale or consumption of spirits shall be permitted.	OG	CD (P)
22.		Doors and windows to the outdoor patio area shall be closed at all times when music is being played.	OG	CD (P)
23.		No audio speakers, music, televisions, or screens shall be permitted on the outdoor patio, the building exterior walls, windows, or any other exterior architectural elements.	OG	CD (P)
24.		No dancing shall be permitted anywhere on the premises including the outdoor patio area. (This condition was deleted by the City Council at its April 11, 2023 meeting).	OG	CD (P)
25.		Based on recommendations provided by the Sacramento Metropolitan Air Quality Management District (SMAQMD), the applicant shall implement the following measures to minimize the potential for any odor-related impacts: <ul style="list-style-type: none"> • A ventilation system shall be installed in the designated brewing area. • Scheduling brewing times shall be limited to Mondays and Tuesdays only. • Brewing activity shall be limited to the daytime hours of 8:00 a.m. <u>7:00 a.m.</u> to 6:00 p.m. • Spent grains shall be disposed of on a daily basis. • Eco-friendly cleaning agents/caustics shall be used in the brewing/sanitation process. • The owner/applicant shall monitor and replace the air filters on a regular basis. <u>(This Condition was modified by the Historic District Commission at its March 1, 2023 meeting and by the City Council at its April 11, 2023 meeting).</u>	OG	CD (P)

Historic District Commission
 Uncle Charlie's Firehouse and Brew (PN 22-158)
 March 1, 2023

ARCHITECTURE/SITE DESIGN REQUIREMENTS				
26.		<p>The project shall comply with the following architecture and design requirements:</p> <ol style="list-style-type: none">1. This approval is for exterior and interior modifications associated with the Uncle Charlie's Firehouse and Brew project. The applicant shall submit building plans that comply with this approval, the attached site plan, building elevations, photographic examples, floor plans, and signage exhibits dated February 17, 2023.2. The design, materials, and colors of the proposed Uncle Charlie's Firehouse and Brew project shall be consistent with the submitted building elevations and photographic examples to the satisfaction of the Community Development Department.3. Roof-mounted mechanical equipment, including satellite dish antennas, shall not extend above the height of the parapet walls. Ground-mounted mechanical equipment shall be shielded by landscaping or trellis type features. <u>Exterior vents may be allowed to extend above the height of the rooftop parapet walls if the vents are not visible from the adjacent public right-of-way (streets, sidewalks, etc.) to the satisfaction of the Community Development Department</u>4. All Conditions of Approval as outlined herein shall be made as a note or separate sheet on the Construction Drawings.5. The final location, design, height, materials, and colors of the fencing and gates associated with the outdoor patio area shall be subject to review and approval by the Community Development Department. <p><u>(This condition was modified by the Historic District Commission at its March 1, 2023 meeting).</u></p>	I, B	CD (P)
SIGN REQUIREMENT				
27.		The owner/applicant shall obtain a sign permit prior to installation of the three wall signs.	B	CD (P)

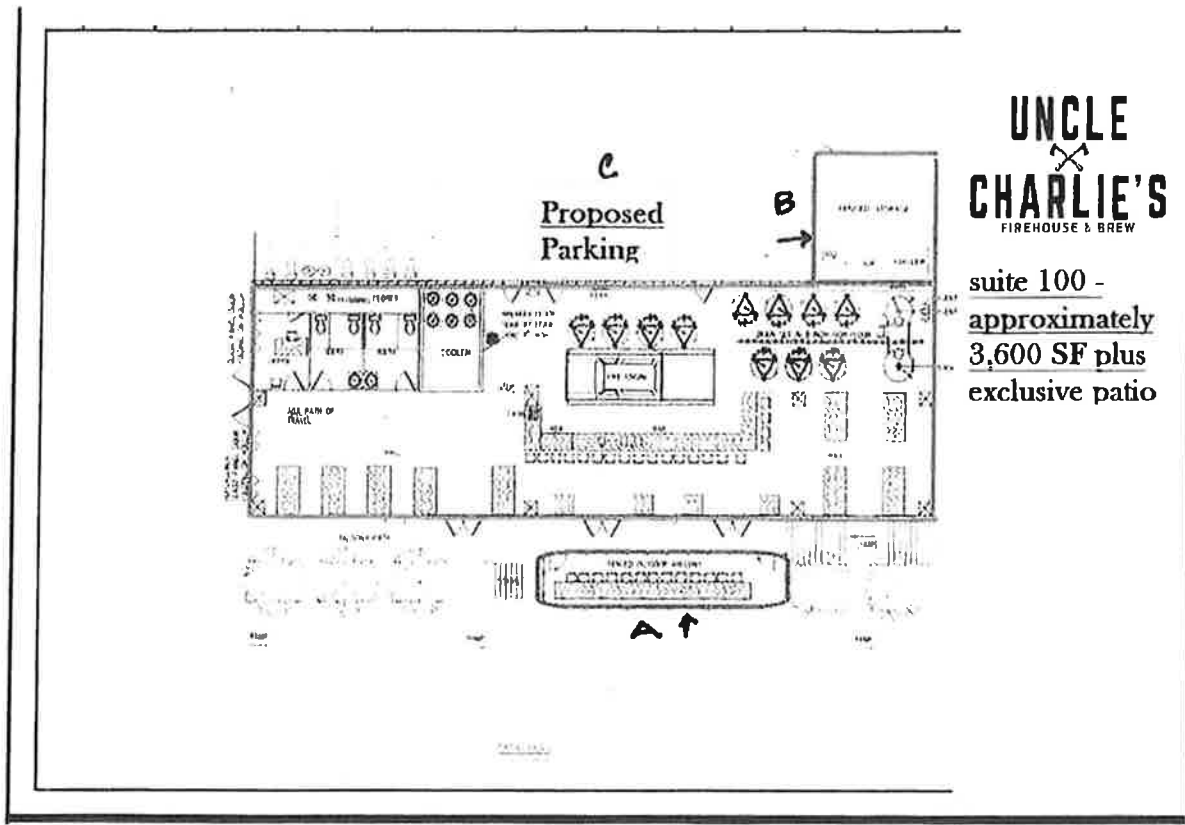
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28.	<p>The boil kettle shall be equipped with a water spray condenser and the condenser shall be operated in accordance with the manufacturer's specifications at all times that the wort boiling process is conducted to control the releases of brewing odors and vapors to a level that will not adversely impact adjacent properties. The ventilation system shall be operated at all times when the brewing operation generates odors that may be offensive to adjacent properties. The system shall vent brewing vapors/odors to the stack operated at a minimum stack flow gas rate of 42 ft./sec., with an unobstructed discharge (This condition was added by the Historic District Commission at its March 1, 2023 meeting).</p>	B, OG	CD (P), B
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RESPONSIBLE DEPARTMENT		WHEN REQUIRED	
CD	Community Development Department	I	Prior to approval of Improvement Plans
(P)	Planning Division	M	Prior to approval of Final Map
(E)	Engineering Division	B	Prior to issuance of first Building Permit
(B)	Building Division	O	Prior to approval of Occupancy Permit
(F)	Fire Division	G	Prior to issuance of Grading Permit
PW	Public Works Department	DC	During construction
PR	Park and Recreation Department	OG	On-going requirement
PD	Police Department		

EXHIBIT D

-Uncle Charlie's Firehouse & Brew-Lease Areas and Locations



Main Lease Area=3,600 square feet (at rate shown in Exhibit B)

Additional areas:

- A. Outdoor Patio=200 square feet (at rate shown in Exhibit B)**
- B. Storage Area in parking garage=400 square feet (at rate shown in Exhibit B)**
- C. 2 parking stalls for deliveries (Monday through Thursday) from 7am to noon (No Charge)**

EXHIBIT E

INSURANCE

NOTE: The word "Consultant" in this Exhibit refers to Lessee as the term is used in the Lease Agreement to which this Exhibit is attached.

- A. During the term of this Agreement, Consultant shall maintain in full force and effect at all times during the term of the contract, at its sole cost and expense, policies of insurance as set forth herein:

General Liability:

- a. General liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:
 - Each occurrence: One Million Dollars (\$1,000,000)
 - Products & Completed Operations: One Million Dollars (\$1,000,000)
 - Personal & Advertising Injury: One Million Dollars (\$1,000,000)
- e. If a general aggregate limit of liability is used, the minimum general aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the general aggregate limit shall apply separately to the project that is the subject of the contract.
- f. If a product and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the 'each occurrence' limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to the project which is the subject of the contract.
- g. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Automobile Liability:

- h. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
- i. Coverage shall be at least as broad as Insurance Services Office Automobile

Liability coverage form CA 0001, symbol 1 (any auto).

- j. The limits of liability per accident shall not be less than:
- | | |
|-----------------------|-----------------------------------|
| Combined Single Limit | One Million Dollars (\$1,000,000) |
|-----------------------|-----------------------------------|
- k. If Automobile Liability coverage, as required above, is provided by the Commercial General Liability form, the General Liability policy shall include an endorsement providing automobile liability as required above.

Workers' Compensation

- l. Workers' Compensation Insurance, with coverage as required by the State of California (unless the Consultant is a qualified self-insurer with the State of California), and Employer's Liability coverage.
- m. Employer's Liability Coverage with a limit not less than \$1,000,000 per accident for bodily injury and disease.
- n. Consultant shall sign and file with the City department responsible for this Agreement/Contract the Worker's Compensation Certificate contained in the Project Manual.

Insurance Required in the Supplementary Conditions: Consultant shall be required to comply with all conditions as stipulated in the Standard Construction Specifications, any supplementary conditions and any special provisions as applicable.

Professional Liability Insurance

If required, errors and omissions, malpractice, or professional liability insurance with coverage of not less than \$1,000,000 per claim.

Other Insurance Provisions:

- i. The City, its officials, employees, agents and volunteers shall be covered and specifically named as additional insureds on a separate endorsement as respects liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied, or used by the Consultant, or automobiles owned, leased, hired, or borrowed by the Consultant in a form acceptable to the City Attorney.
 - ii. The Endorsement requirement may be satisfied with express provisions in the insurance policy(ies) which identifies any person or entity required to be included as an insured under the policy. A copy of the declarations page identifying the policy number, and pertinent provisions in the policy providing additional insured coverage shall be provided to the City.
 - iii. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents, or volunteers.
- p. For any claims related to the project, the Consultant's General Liability and Automobile insurance coverage shall be primary insurance in their coverage of the City and its officers, officials, employees, agents, or volunteers, and any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance

and shall not contribute with it.

- q. Any failure to comply with reporting or other provisions of the policies on the part of the Consultant, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
- r. The Consultant's Workers Compensation and Employer's Liability policies shall contain an endorsement that waives any rights of subrogation against the City, its officers, officials, employees, agents, and volunteers.
- s. Each insurance policy shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, non-renewed, or materially changed except after **30 days prior written notice** by certified mail has been given to the City. Ten days prior written notice by certified mail shall be given to the City in the event of cancellation due to nonpayment of premium.

Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A: VII.**

The Consultant shall furnish the City with Certificates of Insurance and endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this section, the Standard Specifications, Special Provisions and/or any Supplementary Conditions. **The Consultant shall furnish complete, certified copies of all required insurance policies, including original endorsements specifically required hereunder if requested.**

The Consultant shall report, by telephone to the Project Manager within 24 hours, and also report in writing to the City within 48 hours, after Consultant or any Subcontractors or agents have knowledge of, any accident or occurrence involving death of or serious injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property of the City or others, arising out of any work done by or on behalf of the Consultant as part of the contract.

Such report shall contain:

- t. the date and time of the occurrence,
- u. the names and addresses of all persons involved, and
- v. a description of the accident or occurrence and the nature and extent of the injury or damage.

The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.

If the Consultant fails to procure or maintain insurance as required by this section, the Standard Specifications, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Consultant under the contract.

Failure of the City to obtain such insurance shall in no way relieve the Consultant from any of its responsibilities under the contract.

The making of progress payments to the Consultant shall not be construed as relieving the Consultant or its Subcontractors of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.

The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.

In the event Consultant carries Excess Liability Coverage, the Excess Liability Coverage shall apply to any and all claims related to the project on a primary and non-contributory basis, and the City's insurance or self-insurance coverage shall be excess to the Consultant's Excess Liability Coverage.