



# FINANCE COMMITTEE AGENDA

**Tuesday, December 11, 2018**

**8:30 AM**

Executive Conference Room, Level Three  
Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

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**MEMBERS:** Council Member Cecilia Hupp and Council Member Marty Simonoff  
**ALTERNATE:** Mayor Glenn Parker

Materials related to an item on this agenda submitted to the Finance Committee after distribution of the agenda packet are available for public inspection in the third floor lobby of the Civic and Cultural Center at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

## CALL TO ORDER / ROLL CALL

1. Matters from the Audience

## CONSENT

2. Approval of Minutes of October 30, 2018 Meeting

### **Attachments**

Minutes

3. Professional Services Agreement with Juan M. Diaz (JMD) in the Amount Not-To-Exceed \$150,000 for Engineering Services Including Civil Engineering Design and Plan Checking of Design Plans

### **Attachments**

Proposal Letter  
Agreement

## DISCUSSION

4. Consideration of Lease Agreement for Administrative Offices of Ambassador Church at the Civic & Cultural Center

***NOTE: This agenda is subject to amendments up to 72 hours prior to the meeting date.***

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**Attachments**

Draft Lease

5. Schedule Next Meeting: January 8, 2019

cc: Mayor Pro Tem Christine Marick  
Council Member Steven Vargas

**Special Accommodations**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 990-7757. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

City of Brea

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**FINANCE COMMITTEE COMMUNICATION**

**FROM:** Bill Gallardo

**DATE:** 12/11/2018

**SUBJECT:** Approval of Minutes of October 30, 2018 Meeting

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**Attachments**

Minutes

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## FINANCE COMMITTEE MINUTES

**Tuesday, October 30, 2018**

**8:30 AM**

Executive Conference Room, Level Three  
Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

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### CALL TO ORDER / ROLL CALL

ATTENDEES: Council Member Cecilia Hupp, Council Member Marty Simonoff, Chris Emeterio, Tony Olmos, Cindy Russell, Michael Ho, Faith Madrazo, Mario Maldonado, Chris Nigg, Lee Squire, Alicia Brenner, Jenn Colacion, Warren Coleman and Raymond Contreras.

1. Matters from the Audience – *None*.

### CONSENT

2. Approval of Minutes of October 9, 2018 Meeting – *Approved*.
3. Amendment to Professional Services Agreement with MTGL, Inc. for Additional Construction Materials and Soils Testing Services on Capital Improvement Projects – *Recommended for City Council approval*.
4. Budget Adjustments to the City Operating and Capital Improvement Program Budgets for Fiscal Year 2018-19 – *Recommended for City Council approval*.
5. Budget Adjustments to the Successor Agency to the Brea Redevelopment Agency Operating and Capital Improvement Program budget for Fiscal Year 2018-19 – *Recommended for City Council approval*.

### DISCUSSION

6. Schedule Next Meeting: Tuesday, November 13, 2018

Meeting adjourned: 8:34 am

cc: Mayor Glenn Parker  
Mayor Pro Tem Christine Marick  
Council Member Steven Vargas

## City of Brea

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### FINANCE COMMITTEE COMMUNICATION

**TO:** Finance Committee Members

**FROM:** Bill Gallardo

**DATE:** 12/11/2018

**SUBJECT:** Professional Services Agreement with Juan M. Diaz (JMD) in the Amount Not-To-Exceed \$150,000 for Engineering Services Including Civil Engineering Design and Plan Checking of Design Plans

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### **RECOMMENDATION**

1. Approve agreement with JMD in the amount not-to-exceed \$150,000 for three (3) years plus two (2) one-year extensions; and
2. Authorize City Manager to approve extensions

### **BACKGROUND/DISCUSSION**

The City of Brea has an ambitious seven year Capital Improvement Program (CIP). The projects in the CIP include rehabilitation of arterial highways, residential streets and alley ways, replacement of undersized and deteriorated sewer and water lines, installation of traffic signals and other traffic safety enhancements, and rehabilitation of City-owned facilities. In order to complete the construction of these projects, there are a number of professional services needed to support City staff and to provide the technical expertise. These professional services include civil engineering design and plan checking of design plans.

In addition to the CIP, there is also a need to provide support to City staff in the plan checking of infill project development and redevelopment. There are many private development projects on the horizon and the Engineering staff needs additional resources to supplement its current staffing.

Staff solicited the services of Juan M. Diaz, Incorporated ("JMD"), an engineering consulting firm to provide staff augmentation, specialized engineering plan checking and design services. JMD offers a wide range of services covering planning, engineering and management for public agencies. These services cover all phases of project development from conceptual design through construction. Such depth of services is one of JMD's unique and distinguishing characteristics. JMD has highly qualified staff that has worked with many public agencies.

JMD has previously done work for the City of Brea. JMD recently assisted the City on The Tracks at Brea Western Extension. JMD was instrumental in working closely with the rail companies to support staff in the right of way acquisition, environmental documentation and analysis. Staff has been working with JMD for over a year and has been very satisfied. Staff intends to use JMD for staff augmentation and engineering consulting services. Duties may include design and plan checking CIP's, plan checking development related plans and

issuance of public works permits. JMD's proposal for hourly rates for the highly qualified staff are within industry standards and meet the City's needs. The proposed PSA is for a period of three (3) years with the option to extend for an additional two (2) one-year extensions. The total fee per consultant for all assignments to be authorized during a single year would be limited to a not-to-exceed fee of \$150,000.

### **SUMMARY/FISCAL IMPACT**

Since the consultant fees are paid from corresponding CIP project accounts and/or Cost Center accounts, an appropriation of funds for these consultant contracts is not required. There will be no General Fund impact.

### **RESPECTFULLY SUBMITTED**

William Gallardo, City Manager

Prepared by: Michael Ho, P.E., Deputy Director of Public Works/City Engineer

Concurrence: Tony Olmos, P.E., Director of Public Works

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### **Attachments**

Proposal Letter

Agreement

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November 19, 2018

Mr. Michael Ho  
Deputy Director of Public Works/City Engineer  
City of Brea  
1 Civic Center Circle  
Brea, CA 92821

2018.1112.0070.00

**Subject: Proposal to Provide On-Call Services for the City's Capital Improvements and Development Projects**

Dear Mr. Ho:

JMDiaz, Inc. (JMD), a local full-service engineering firm, is pleased to submit this proposal to provide professional on-call services to the City of Brea (City). Our proposal has been prepared in accordance with our meeting on Thursday, November 15, 2018. In addition, our attached SOQ outlines our qualifications.

### Our Project Manager

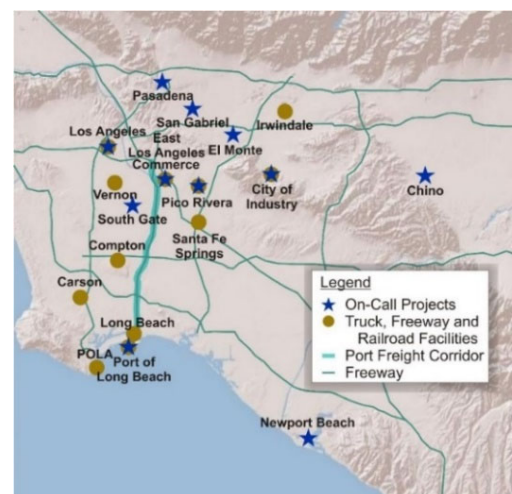
JMD's objective is to assist the City in achieving its goals in a timely and responsive manner. We have therefore assigned one of our best and experienced engineering professionals, Deepak Solanki, with over 28 years of municipal engineering and Brea experience. He has overseen analysis, design and construction of capital improvement projects for numerous agencies throughout Southern California. He has extensive experience in the design of diverse civil engineering projects such as parks, street, sewer, water, grading, storm drain systems, backbone utility layout and utility relocation. Mr. Solanki has successfully prepared design plans for various park improvements, street improvements, single family residential subdivisions, commercial, industrial and educational facilities, an Air Force/Naval Base facilities. A former Manhattan Beach City Engineer and current Brea consultant, Deepak understands City objectives and has been responsible for design and construction of street, utility (water, storm drain and sewer), bikeway, parks and development projects, often performing construction management and construction inspection by himself.

For this assignment, we can provide Mr. Solanki at **\$110 per hour** for services provided. Mr. Solanki's resume is enclosed.

### Our Services

JMD offers a variety of municipal services covering transportation and land development projects for local agencies. JMD has or is serving as City Engineer or City Traffic Engineer for the following clients:

- City of Covina (City Engineer)
- City of Chino (On Call Civil Engineer)
- City of Industry (City Engineering/City Traffic Engineer)
- City of Pico Rivera (On Call Traffic Engineer)
- City of San Gabriel (City Traffic Engineer)
- City of South Gate (City Traffic Engineer)





Mr. Michael Ho  
November 19, 2018  
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Our services include a wide array of capabilities including:

Municipal Services	Disciplines	Technical Services
City Engineering/ Staff Augmentation	Civil (Grading/Drainage/Roadway/Utilities/Bikeways) Highways (PSR-PDS, PR and PS&E) Rail Crossing and Track Analysis Rail Alignment Analysis and Design Structures (Rail/Highway Grade Separations) Traffic Impact and Parking Analysis Traffic Signal and Lighting Design Transit (Bus and Rail Facilities)	Safety and Mobility Analysis Design Study Review Plan Checking Permitting Coordination Construction Management Inspection
On Call	Civil Engineering Traffic Engineering Light Rail Transit Engineering	Analysis, Design and CM and Inspection Analysis and Design Analysis and Review
Project Specific	Civil Engineering  Highway Engineering Railroad Engineering Traffic Engineering  Transit Engineering	Roadway Rehabilitation Utility Design Freeway Mainline and Interchange Design Grade Crossings and Grade Separations Traffic Model and CIP Development Traffic Signal Design and Synchronization Lighting Analysis and Design LRT/BRT Facility (Station & Parking) Design

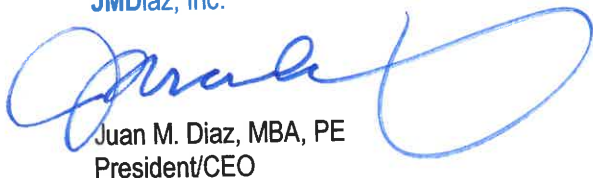
Enclosed is our statement of qualifications describing our complete services and experience of key staff.

We are very excited about the possibility of serving the **City of Brea** again and firmly believe we have numerous benefits to offer including:

- ✓ A Project Team with significant civil, traffic, highway, rail and transit experience.
- ✓ A Project Team with unique stakeholder knowledge, insight, experience and credibility.
- ✓ A local Project Manager and Team with a proven record of meeting budgets and schedules.
- ✓ A Project Team known for quality, responsive, innovative and cost-effective solutions.

We appreciate the opportunity to submit our proposal for this staff augmentation program. Should you have any questions, please contact me at (626) 820-1137 or by email at [jmdiaz@jmdiaz.com](mailto:jmdiaz@jmdiaz.com).

Sincerely,  
JMDiaz, Inc.



Juan M. Diaz, MBA, PE  
President/CEO

Enclosures



## Deepak Solanki

### Project Director



#### Title

Senior Project Manager

#### Years of Experience

28

#### Education

**M.S.** University, Faculty of Technology and Engineering, B.S. Civil Engineering, 1982

#### Affiliations

- American Society of Civil Engineers
- American Railway Engineering and Maintenance of Way Association

#### Qualifications

Deepak has over 28 years of experience assisting local agency Land Development Divisions with plan reviews for new developments and has managed numerous Capital Improvement Projects for public works departments. He has extensive experience in the design and plan review of diverse civil engineering projects, such as parks, street, sewer, grading, flood control projects, backbone utility layout and utility relocation. As Project Engineer and Project Manager, he has prepared design plans for single family residential subdivisions, commercial, industrial, educational facilities and Air Force/Naval Base facilities including underground utilities. He is familiar with right of way acquisition research, temporary construction easement documents, legal descriptions/plats, surveying, cost estimates and quantity take-offs.

He has extensive computer and design skills; able and proficient in Microsoft Word, Excel, Microsoft Projects, AutoCAD 2018, 3D Civil and Land Development Design Desktop, GIS Software - Arc View by ESRI, Haestad Methods for Hydraulic Calculations, and Felix software for the design of fire lines to develop project files and designs.

#### Relevant Experience

##### City Engineering Services – Brea

Served as *Plan Reviewer* responsible for plan checking grading and drainage improvement plans for subdivision and food distribution facilities. Assisted in generating Conditions of Approvals for different commercial, industrial, and Subdivision Projects. Provided review comments for Capital Improvement Projects (CIP), and reviewed plans that involved improvements within the public right-of-way. The projects included street overlay, widening projects, and Lambert/I-57 Freeway Interchange improvements. The responsibilities also entailed reviewing traffic control plans for projects initiated by Time Warner Cable, Southern California Edison, AT&T, and Southern California Gas Company.

##### The Tracks at Brea/UPRR ("OC Loop") Bike Trail – City of Brea

Serving as *Project Engineer* responsible for the analysis and design of the drainage element of the Brea/Union Pacific Rail Line Bikeway Project from the west City limit to the Brea Wash. The Brea bikeway will eventually connect to future bikeways to the west in the City of La Habra as part of OCTA's Regional Commuter Bikeway Priorities and Orange County Loop Project. The project tasks include hydrology analysis, preliminary and final engineering phases including conceptual design, preparation of environmental documents, schematic design, right-of-way engineering maps and necessary legal descriptions. The project includes paved bikeway, landscaping, hardscaping, drainage, traffic signals and one bridge.

##### La Habra/UPRR ("OC Loop") Bike Trail – La Habra

Serving as *Project Engineer* responsible for providing professional engineering services for the design of the La Habra Union Pacific Rail Line Bikeway Project, from the west City limit to the east City limit. The La Habra bikeway will

eventually connect to future bikeways to the west in the City of Whittier (Greenway Trail) and to the east to the City of Brea's bikeway as part of OCTA's Regional Commuter Bikeway Priorities and Orange County Loop Project. Project tasks include preliminary and final engineering phases including conceptual design, preparation of environmental documents, schematic design, right-of-way engineering maps and necessary legal descriptions, as well as preparation of final construction plans, specifications and cost estimates. The project includes bikeway alignment, drainage, traffic signal, and structural plans for the project.

#### **City Engineering Services – City of Industry**

Serving as *Project Engineer* responsible for performing engineering plan review and plan checks for all the improvements within public right of way. Also responsible for reviewing and approving design changes during construction phase for Puente Grade Separation, Fullerton Grade Separation Projects; reviewing improvement plans for encroachment permits; assisting the Planning Department; and providing engineering condition of approval for development projects. Responsibilities also included reviewing Sewer Capacity Study Reports; Industrial Waste Discharge application (coordination with L.A. County Sanitation District); Domestic Waste Discharge; managing the design and coordination with different stake holders; approval of CIP Projects; and provided front counter support at the City Hall. Acted as the City's representative and played an important role as a Construction Administrator for projects under construction, three of those projects being grade separation projects at Puente Avenue, Fullerton Road and Fairway Drive which exceeded \$80M. He assisted design firms with their technical inquiries and provide guidance to expedite preparation of design plans.

#### **City Engineering Services – JMH Weiss, Inc. San Jose**

Served as *Project Engineer* responsible for the marketing, proposals, field research, coordinating scope an survey limits, project meetings, utility coordination and design, preparing improvements plans, overseeing the design and drafting team, preparing technical specifications, providing construction support, preparing as-built plans, designing and managing the following institutional and commercial civil engineering projects:

- New Jail Project for the City and County of San Francisco located in San Bruno and San Francisco Juvenile Hall Complex (Laguna Honda)
- Torreno de Flores Housing Complex in Los Gatos
- Lexus of Coliseum Dealership in Oakland
- "W" Hotel in Palo Alto
- Cushing Bridge Road design/alignment for Catellus Development Corporation in Fremont
- Industrial Complex in Livermore
- Bio-Medical Laboratory in Hayward
- LEED Certified Green House with parking lot design for The William & Flora Hewlett Foundation in Menlo Park
- Catellus Development Corporation – Mission Bay, San Francisco. Dealt with utility location, utility coordination and design

#### **On-Site Grading/Drainage Plan and Street light improvements on Hill Street – Cathedral of Our Lady of the Angels, City of Los Angeles**

Served as *Project Engineer*, part of the design team, responsible for preparing plans for on-site grading and drainage plans. The project had complex interface with other design team such as Architect, Landscape Architect, Structural Engineer, Geotechnical Engineer, and MEP Engineer. Also responsible for the final design of the street lighting on Hill Street.

#### **City Engineering Services – Villa Park**

Served as *Plan Reviewer* responsible for plan checking rough, precise grading, underground utilities, and erosion control plans for various small residential subdivision and home remodel projects.

#### **City Engineering Services – Laguna Woods**

Served as *Plan Reviewer* responsible for plan checking traffic control plans, street widening, grading, and drainage plans for various commercial and residential projects.

#### **City Engineering Services – Manhattan Beach**

Served as *Plan Reviewer* responsible for plan checking grading, drainage, sewer, and water plans for single family custom homes. Reviewed sewer, storm drain, and water relocation plans for Macy's as well as grading and drainage plans for Gelson's Market, Toyota of Manhattan Beach, and the Medical Plaza.

#### **City Engineering Services – South Gate**

Served as *Plan Reviewer/Project Manager* responsible for reviewing comments for Capital Improvement Projects (CIP). The projects included street widening, parks, sewer master plan, ADA improvements, and Firestone Bridge widening Project over the Los Angeles River. Assisted in generating Conditions of Approvals for different commercial and industrial projects. The responsibilities also entailed managing Capital Improvement Projects, such as ADA Transition Plan, Citywide ADA ramps improvements, and Traffic Signal ADA improvements on Tweedy Boulevard at State Street and California Avenue.

#### **City Engineering Services – Baldwin Park**

Served as *Plan Reviewer* responsible for plan checking final maps (Parcel and Tract Maps). The plan reviewing responsibilities involved reviewing title reports, deeds, easements, centerline ties, lot line adjustments, Tentative Parcel Maps, Condition of Approvals, and boundary closure calculations.

#### **City Engineering Services – Mesa Water District and City of Costa Mesa**

Served as *Plan Reviewer* responsible for plan checking water plans for both domestic and fire. Performed meter upgrade calculations (based upon fixture counts and fire department requirements); and updated specifications, created guidelines, and recommended changes to the standard plans and fee study. Provided review comments for different development projects in the City of Costa Mesa at Development Review Committee meetings. Also, coordinated, approved, and plan checked all water improvement plans for both new and relocation projects for John Wayne Airport.

#### **City Engineering Services – Moreno Valley**

Served as *Project Engineer* responsible for performing engineering plan review and plan checks for the Land Development and Capital Projects Divisions. Reviewed and analyzed a variety of engineering reports and technical documentation, including water quality management plans; land title surveys; conceptual designs; and hydrology, hydraulics, geotechnical and soils reports. Generated condition of approvals, entitlements and plan checked civil plans for warehouses, commercial and industrial facilities. Plans reviewed were rough and precise grading, final maps, drainage, street and underground utilities. Also provided on-site inspector responsibilities for Public Work projects and prepared street overlay plans and specifications as well as prepared and updated Public Works City Standard Plans.

#### **City Engineering Services – Moreno Valley**

Served as *Project Engineer* who was responsible for managing the construction of road widening, sidewalks, street medians and improvement of private streets; the technical specification for public/private street improvements and Class II/Class III bikeway plans for Capital Improvement projects, preparing estimate for construction projects, working as an on-site inspector for Public Works Project's and preparing street overlay plans and specifications; developing ranking criteria to rank and prioritize improvements for private streets and infill sections of public streets, ranking order included design, construction and right-of-way acquisition costs. Responsibilities also included preparing and submitting Federal and State grant applications, such as TUMF, STP, BTA, SB821, TEA and SR2S; performing engineering plan review and plan checks for Land Development Division and Capital Projects Division; reviewing and analyzing a variety of engineering reports and technical documentation, including water quality management plans, land title surveys, conceptual designs and hydrology, hydraulics, geotechnical and soils reports; preparing and updating Public Works City Standard Plans; performing construction site field inspections, monitoring project progress, resolve field issues and ensuring compliance with approved plans, specifications and standards; preparing cost estimates for backbone infrastructures, costs were incorporated into City's Development Impact Fee Study; assisted in preparing Capital Improvement Plan budget; preparing the Arterial Street Choke Points Program which assisted in identifying streets with traffic flow issues; and assisted City right of way agent with boundary research and determine property rights. Prepare land acquisition legal descriptions and plats for various Capital Improvement Projects.

## PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, between the City of Brea, a Municipal Corporation (hereinafter referred to as "CITY") and Juan M. Diaz, Inc. (hereinafter referred to as "CONSULTANT"),

### A. Recitals

- (i) CITY has heretofore requested the CONSULTANT to provide **On-Call Services for the City's Capital Improvements and Development Projects** (Services hereafter).
- (ii) CONSULTANT has now submitted its proposal for the performance of such services, a full, true and correct copy of which proposal is attached hereto as Exhibit "A" and by this reference made a part hereof.
- (iii) CITY desires to retain CONSULTANT to perform professional services necessary to render advice and assistance to CITY, CITY's Planning Commission, City Council and staff in preparation of Project.
- (iv) CONSULTANT represents that it is qualified to perform such services and is willing to perform such professional services as hereinafter defined.

NOW, THEREFORE, it is agreed by and between CITY and CONSULTANT as follows:

### B. Agreement

- 1. **Definitions:** The following definitions shall apply to the following terms, except where the context of this Agreement otherwise requires:
  - (a) **Project:** Provision of **On-Call Services for the City's Capital Improvements and Development Projects** described in Exhibit "A" hereto including, but not limited to, the preparation of maps, surveys, reports, and documents, the presentation,

both oral and in writing, of such plans, maps, surveys, reports and documents to CITY as required and attendance at any and all work sessions, public hearings and other meetings conducted by CITY with respect to the project.

(b) Services: Such professional services as are necessary to be performed by CONSULTANT in order to complete the Project.

(c) Term: This agreement shall commence on the effective date and the term shall be three (3) years with CITY's option to extend the agreement for a maximum two (2) one year terms at the discretion of the Public Works Director and contingent upon satisfactory performance by CONTRACTOR. CONSULTANT hourly pay rates may be reviewed and renegotiated annually upon renewal. Any rate increase negotiated at the time of renewal may not exceed the rate of increase of the Consumer Price Index.

2. CONSULTANT agrees as follows:

(a) CONSULTANT shall forthwith undertake and complete the Project in accordance with Exhibit "A" hereto and all in accordance with Federal, State and CITY statutes, regulations, ordinances and guidelines, all to the reasonable satisfaction of CITY.

(b) CONSULTANT shall supply copies of all maps, surveys, reports, plans and documents (hereinafter collectively referred to as "documents") including all supplemental technical documents, as described in Exhibit "A" to CITY within the time specified in Schedule 1 of Exhibit "A". Copies of the documents shall be in such numbers as are required in Exhibit "A". CITY may thereafter review and forward to CONSULTANT comments regarding said documents and CONSULTANT shall thereafter make such revisions to said documents as are deemed necessary. CITY shall receive revised documents in such form and in the quantities determined necessary by CITY. The time

limits set forth pursuant to this Section B2(b) may be extended upon written approval of CITY.

(c) CONSULTANT shall, at CONSULTANT's sole cost and expense, secure and hire such other persons as may, in the opinion of CONSULTANT, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by CONSULTANT, CONSULTANT hereby warrants that such persons shall be fully qualified to perform services required hereunder. CONSULTANT further agrees that no subcontractor shall be retained by CONSULTANT except upon the prior written approval of CITY.

3. CITY agrees as follows:

(a) To pay CONSULTANT a not-to-exceed sum of \$150,000 (One Hundred Fifty Thousand Dollars (\$150,000) for the performance of the services required hereunder, plus a contingency of Zero Dollars (\$000.00). This sum shall cover the cost of all staff time and all other direct and indirect costs or fees, including the work of employees, consultants and subcontractors to CONSULTANT. Payment to CONSULTANT, by CITY, shall be made in accordance with the schedule set forth below. CITY must receive a written request from CONSULTANT to use any of the contingency amount prior to performing any work that is outside the Project scope as defined in Exhibit "A". It will be the CITY's sole discretion to authorize the use of the contingency funds and the CITY must give this authorization to CONSULTANT in writing prior to the commencement of said work. Any work performed outside the Project scope as defined in Exhibit "B" that has not received prior written approval by CITY is assumed to have been performed in support of said Project and included within the not-to-exceed contract amount.

(b) Payments to CONSULTANT shall be made by CITY in accordance with the invoices submitted by CONSULTANT, on a monthly basis, and such invoices shall be paid within a reasonable time after said invoices are received by CITY. All charges shall be in accordance with CONSULTANT's proposal either with respect to hourly rates or lump sum amounts for individual tasks. Notwithstanding any provision herein or as incorporated by reference, (i) in no event shall the totality of said invoices exceed 95% of the individual task totals described in Exhibit "A" and (ii) further provided that in no event shall CONSULTANT, or any person claiming by or through CONSULTANT be paid an aggregate amount in excess of the amount set forth in Section 3 (a).

(c) CONSULTANT agrees that, in no event, shall CITY be required to pay to CONSULTANT any sum in excess of 95% of the maximum payable hereunder prior to receipt by CITY of all final documents, together with all supplemental technical documents, as described herein acceptable in form and content to CITY. Final payment shall be made not later than 60 days after presentation of final documents and acceptance thereof by CITY.

(d) Additional services: Payments for additional services requested, in writing, by CITY, and not included in CONSULTANT's proposal as set forth in Exhibit "A" hereof, shall be paid on a reimbursement basis in accordance with the fee schedule set forth in said Exhibit "A". Charges for additional services shall be invoiced on a monthly basis and shall be paid by CITY within a reasonable time after said invoices are received by CITY.

4. CITY agrees to provide to CONSULTANT:

(a) Information and assistance as set forth in Exhibit "A" hereto.

(b) Photographically reproducible copies of maps and other information, if available, which CONSULTANT considers necessary in order to complete the Project.

(c) Such information as is generally available from CITY files applicable to the Project.

(d) Assistance, if necessary, in obtaining information from other governmental agencies and/or private parties. However, it shall be CONSULTANT's responsibility to make all initial contact with respect to the gathering of such information.

5. Ownership of Written Product:

(a) Unless otherwise agreed upon in writing, all reports, documents, or other original written material, including any original images, photographs, video files, digital files, and/or or other media created or developed for the CITY by CONSULTANT in the performance of this Agreement (collectively, "Written Product") shall be and remain the property of CITY without restriction or limitation upon its use or dissemination by CITY. All Written Product shall be considered to be "works made for hire", and all Written Product and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of CITY without restriction or limitation upon their use, duplication or dissemination by CITY. CONSULTANT shall not obtain or attempt to obtain copyright protection as to any of the Written Product.

(b) CONSULTANT hereby assigns to CITY all ownership and any and all intellectual property rights to the Written Product that are not otherwise vested in the CITY pursuant to subsection (a), above.

(c) CONSULTANT warrants and represents that it has secured all necessary licenses, consents or approvals to use any instrumentality, thing or component as to which any intellectual property right exists, including computer software, used in the rendering of the Services and the production of all Written Product produced under this Agreement, and that CITY has full legal title to and the right to reproduce the Written Product.



CONSULTANT shall defend, indemnify and hold CITY, and its elected officials, officers, employees, servants, attorneys, designated volunteers, and agents serving as independent contractors in the role of city officials, harmless from any loss, claim or liability in any way related to a claim that CITY's use of any of the Written Product is violating federal, state or local laws, or any contractual provisions, or any laws relating to trade names, licenses, franchises, copyrights, patents or other means of protecting intellectual property rights and/or interests in product or inventions. Consultant shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked documents, materials, equipment, devices or processes in connection with its provision of the Services and Written Product produced under this Agreement. In the event the use of any of the Written Product or other deliverables hereunder by CITY is held to constitute an infringement and the use of any of the same is enjoined, CONSULTANT, at its expense, shall: (a) secure for CITY the right to continue using the Written Product and other deliverables by suspension of any injunction, or by procuring a license or licenses for CITY; or (b) modify the Written Product and other deliverables so that they become non-infringing while remaining in compliance with the requirements of this Agreement. This covenant shall survive the termination of this Agreement.

6. **Termination:** This Agreement may be terminated by CITY upon the giving of a written "Notice of Termination" to CONSULTANT at least fifteen (15) days prior to the date of termination specified in said Notice. In the event this Agreement is so terminated, CONSULTANT shall be paid on a pro-rata basis with respect to the percentage of the Project completed as of the date of termination. In no event, however, shall CONSULTANT receive more than the maximum specified in paragraph 3(a), above. CONSULTANT shall provide to CITY any and all documents, data, studies, surveys, drawings, maps, models, photographs and reports, whether in draft or final form, prepared by CONSULTANT as of the date of termination. CONSULTANT may not terminate this Agreement except for cause.

7. Notices and Designated Representatives: Any and all notices, demands, invoices and written communications between the parties hereto shall be addressed as set forth in this section 7. The below named individuals, furthermore, shall be those persons primarily responsible for the performance by the parties under this Agreement:

CITY REPRESENTATIVE

Michael Ho, PE  
Deputy Director/City Engineer  
1 Civic Center Circle  
Brea, CA 92821

CONSULTANT REPRESENTATIVE

Juan M. Diaz, President/CEO  
Juan M. Diaz, Inc.  
18645 East Gale Ave. Suite 212  
City of Industry, CA 91748

Any such notices, demands, invoices and written communications, by mail, shall be deemed to have been received by the addressee forty-eight (48) hours after deposit thereof in the United States mail, postage prepaid and properly addressed as set forth above.

8. Insurance: The CONSULTANT shall not commence work under this contract until it has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONSULTANT allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained. The CONSULTANT shall take out and maintain at all times during the life of this contract the following policies of insurance:

(a) Workers Compensation insurance: Before beginning work, the CONSULTANT shall furnish to the CITY a certificate of insurance as proof that it has taken out full compensation insurance for all persons whom the CONSULTANT may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract. Further, such policy of insurance shall

provide that the insurer waives all rights of subrogation against CITY and its elected officials, officers, employees and agents.

In accordance with the provisions of Section 3700 of the California Labor Code, every contractor shall secure the payment of compensation to his employees.

CONSULTANT, by executing this Agreement, certifies as follows:

"I am aware of the provisions of Section 3700 of the labor Code which require every employer to be insured against liability for workers' compensation or to undertake self insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of work of this contract."

(b) For all operations of the CONSULTANT or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

(1) Commercial General Liability (occurrence) - for bodily injury, death and property damage for products/completed operations and any and all other activities undertaken by the CONSULTANT in the performance of this Agreement.

(2) Comprehensive Automobile Liability (occurrence) - for bodily injury, death and property damage insuring against all liability arising out of the use of any vehicle.

(3) Professional Errors and Omissions Liability (if required by the RFP) - insuring against all liability arising out of professional errors and/or omissions, providing protection of at least two million dollars and zero cents (\$2,000,000.00) for errors and/or omissions ("malpractice") of CONSULTANT in the performance of this Agreement. Such policy may be subject to a deductible or retention in an amount acceptable to CITY and shall further be subject to the provisions of subsections (2) and (6)

of Section c, below. If a "claims made" policy is provided, such policy shall be maintained in effect from the date of performance of work or services on CITY's behalf until three (3) years after the date the work or services are accepted as completed. Coverage for the post-completion period may be provided by renewal or replacement of the policy for each of the three (3) years or by a three (3) year extended reporting period endorsement which reinstates all limits for the extended reported period. If any such policy and/or policies have a retroactive date, that date shall be no later than the date of first performance of work or services on behalf of CITY. Renewal or replacement policies shall not allow for any advancement of such retroactive date. Each such policy or policies shall include a standard "notice of circumstances" provision, and shall be subject to the requirements of subsections (1), (2), (5), (6), (7), and (9) of Section 8 (c).

(5) Other required insurance, endorsements or exclusions as required by the Request for Proposal.

(6) The policies of insurance required in this Section 8(b) shall have no less than the following limits of coverage:

(i) \$2,000,000 (Two Million Dollars) for bodily injury or death;

(ii) \$2,000,000 (Two Million Dollars) for property damage;

(iii) The total of the limits specified in subsections (i) and (ii), above, where a combined single limit is provided.

(c) The policies of insurance required in subsections (1) and (2) of Section 8(b), above shall:

(1) Be subject to no deductible amount unless otherwise provided, or approved in writing by CITY;

(2) Be issued by an insurance company approved in writing by CITY, which is admitted and licensed to do business in the State of California and which is rated A/VII or better according to the most recent A.M. Best Co. Rating Guide;

(3) Name as additional insureds the CITY, its elected officials, officers, employees, attorneys and agents, and any other parties, including subcontractors, specified by CITY to be included;

(4) Specify that it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;

(5) Specify that it applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(6) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by CITY of written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."

(7) Specify that any failure to comply with reporting or other provisions of the required policy, including breaches of warranty, shall not affect the coverage required to be provided;

(8) Specify that the insurer waives all rights of subrogation against any of the named additional insureds; and

(9) Specify that any and all costs of adjusting and/or defending any claim against any insured, including court costs and attorneys' fees, shall be paid in addition to and shall not deplete any policy limits.

(10) Otherwise be in form satisfactory to CITY.

(d) Prior to commencing performance under this Agreement, the CONSULTANT shall furnish the CITY with original endorsements, or copies of each required policy, effecting and evidencing the insurance coverage required by this Agreement. The endorsements shall be signed by a person authorized by the insurer(s) to bind coverage on its behalf. All endorsements or policies shall be received and approved by the CITY before CONSULTANT commences performance. If performance of this Agreement shall extend beyond one (1) year, CONSULTANT shall provide CITY with the required policies or endorsements evidencing renewal of the required policies of insurance prior to the expiration of any required policies of insurance.

9. Indemnity for Design Professional Services.

9.1 In connection with its design professional services, CONSULTANT shall hold harmless and indemnify CITY, and its elected officials, officers, employees, servants, designated volunteers, and those CITY agents serving as independent contractors in the role of CITY officials (collectively, "Indemnitees"), with respect to any and all claims, demands, damages, liabilities, losses, costs or expenses, including reimbursement of attorneys' fees and costs of defense (collectively, "Claims" hereinafter), including but not limited to Claims relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to in whole or in part to the negligence, recklessness, or willful misconduct of CONSULTANT or any of its officers, employees,

subcontractors, or agents in the performance of its design professional services under this Agreement.

9.2 Other Indemnities. In connection with any and all claims, demands, damages, liabilities, losses, costs or expenses, including attorneys' fees and costs of defense (collectively, "Damages" hereinafter) not covered by this Section 9.1, CONSULTANT shall defend, hold harmless and indemnify the Indemnitees with respect to any and all Damages, including but not limited to, Damages relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to the acts or omissions of CONSULTANT or any of its officers, employees, subcontractors, or agents in the performance of this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the CITY, as determined by final arbitration or court decision or by the agreement of the parties. CONSULTANT shall defend Indemnitees in any action or actions filed in connection with any such Damages with counsel of CITY's choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. CONSULTANT's duty to defend pursuant to this Section 9.2 shall apply independent of any prior, concurrent or subsequent misconduct, negligent acts, errors or omissions of Indemnitees.

10. Assignment and Subcontracting: No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, nor shall any required performance be subcontracted, either in whole or in part, by CONSULTANT without the prior written consent of CITY.

11. Damages: In the event that CONSULTANT fails to submit to CITY the completed project, together with all documents and supplemental material required

hereunder, in public hearing form to the reasonable satisfaction of CITY, within the time set forth herein, or as may be extended by written consent of the parties hereto, CONSULTANT shall pay to CITY, as liquidated damages and not as a penalty, the sum of Zero Dollars (\$000.00) per day for each day CONSULTANT is in default, which sum represents a reasonable endeavor by the parties hereto to estimate a fair compensation for the foreseeable losses that might result from such a default in performance by CONSULTANT, and due to the difficulty which would otherwise occur in establishing actual damages resulting from such default, unless said default is caused by CITY or by acts of God, acts of the public enemy, fire, floods, epidemics, or quarantine restrictions.

12. Independent Contractor: CONSULTANT is retained by CITY only to the extent set forth in this Agreement, and the CONSULTANT's relationship to the CITY is that of an independent contractor. CONSULTANT shall be free to dispose of all portions of CONSULTANT's time and activities which CONSULTANT is not obligated to devote to the CITY in such a manner and to such persons, firms, or corporations as the CONSULTANT sees fit except as expressly provided in this Agreement. Neither the CITY nor any of its agents shall have control over the conduct of the CONSULTANT or any of the CONSULTANT's employees, except as set forth in this Agreement. CONSULTANT shall not have the status of an employee under this Agreement, or be entitled to participate in any insurance, medical care, vacation, sick leave or other benefits provided for CITY's officers or employees. CONSULTANT shall have no power to incur any debt, obligation, or liability on behalf of CITY or otherwise act on behalf of the CITY as an agent. CONSULTANT shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the CITY. CONSULTANT agrees to pay all required



taxes on amounts paid to CONSULTANT under this Agreement, and to indemnify and hold CITY harmless from any and all taxes, assessments, penalties, and interest asserted against CITY by reason of the independent contractor relationship created by this Agreement. CONSULTANT shall fully comply with the workers' compensation law regarding CONSULTANT and CONSULTANT's employees. CONSULTANT further agrees to indemnify and hold CITY harmless from any failure of CONSULTANT to comply with applicable workers' compensation laws. CITY shall have the right to offset against the amount of any fees due to CONSULTANT under this Agreement any amount due to CITY from CONSULTANT as a result of CONSULTANT's failure to promptly pay to CITY any reimbursement or indemnification arising under this Section..

13. Governing Law and Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for any legal action arising out this Agreement shall be the Superior Court of the County of Orange, California.

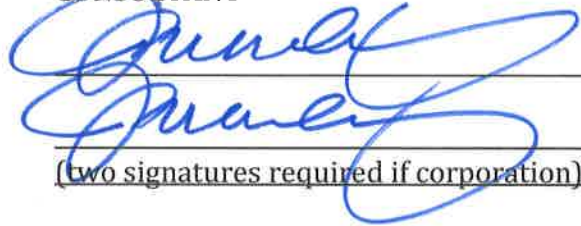
14. Attorneys' Fees: In the event any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party shall be entitled to recover attorneys' fees, experts' fees, and all other costs of litigation from the opposing party in an amount determined by the court to be reasonable.

15. Entire Agreement: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing signed by all parties. In the event of any inconsistency between this

document and any of the Exhibits, the provisions of this document shall govern over the Exhibits, and the provisions of Exhibit A shall govern over the provisions of Exhibit B.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the  
day and year first set forth above:

CONSULTANT

  
\_\_\_\_\_  
\_\_\_\_\_  
(two signatures required if corporation) CFO CFO

CITY

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## City of Brea

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### FINANCE COMMITTEE COMMUNICATION

**TO:** Finance Committee Members

**FROM:** David Crabtree

**DATE:** 12/11/2018

**SUBJECT:** Consideration of Lease Agreement for Administrative Offices of Ambassador Church at the Civic & Cultural Center

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### **RECOMMENDATION**

Approve the Five-Year Lease Agreement between the City of Brea and Ambassador Church.

### **BACKGROUND/DISCUSSION**

Ambassador Church has operated its administrative offices within 1,550 square feet of space on the Plaza Level of the Brea Civic & Cultural Center since February 1, 2014. The current Lease, which expires January 31, 2019, provides for a three-year term with a two-year extension and includes annual rent adjustments which Ambassador Church has implemented. They are currently paying \$1.70 per square foot totaling \$2,631.03 in monthly rent (Note - Exact calculations were used to determine monthly and annual rent. Figures provided in price per square foot show rounding for purpose of display).

The rent for the space over the past five years has been as follows:

Year	Price per square foot	Price per square foot per year	Monthly Rent	Annual Rent
1	\$1.40	\$16.80	\$2,170.00	\$26,040.00
2	\$1.50	\$18.00	\$2,325.00	\$27,900.00
3	\$1.60	\$19.20	\$2,480.00	\$29,760.00
4	\$1.65	\$19.78	\$2,554.40	\$30,652.80
5	\$1.70	\$20.37	\$2,631.03	\$31,572.38

Over the years, Ambassador Church has been an excellent tenant and has always paid their rent on time. They are respectful of the City's facilities, and work well with City staff. Ambassador also continues to use the Curtis Theater for their worship services under a separate use agreement with the City, which has been active since 2008. Their primary use for the subject lease space is for the Church's administrative office functions with minor incidental use of two rooms for classroom space on the weekend.

With the current lease agreement coming to an end on January 31, 2019, Ambassador Church and staff are proposing a renewal of the lease for a five-year term commencing on February 1, 2019, at \$1.76 per square foot for a monthly rent amount of \$2,733.64. The starting rent for the new lease represents an increase in CPI of 3.9% over the current rent of

\$2,631.03. Staff compared this rate to approximately 20 commercial leases in Brea and narrowed the focus to properties positioned as gross modified leases, or leases where the landlord generally pays for certain operating costs. For example, the City of Brea will pay for the maintenance and upkeep of the shared parking, restrooms, elevators, landscaping, and other common amenities while Ambassador will pay for and maintain the upkeep for the interior of their leased space. Based on the research, the proposed monthly rent is within the market range, at the lower end of the surveyed properties and commensurate with the constraints and unique characteristics of the facility and this tenant space.

Market Comparison:

Location	Price per square foot	Price per square foot per year
770 S. Brea Blvd.	\$1.74	\$20.88
265 S. Randolph Ave.	\$1.90	\$22.80
3000 E. Birch St.	\$1.90	\$22.80
3700 Saturn St.	\$2.05	\$24.60
3030 Saturn St.	\$2.05	\$24.60
<b>Average</b>	<b>\$1.93</b>	<b>\$23.14</b>

The rent for the space will be as follows:

Year	Price per square foot	Price per square foot per year	Monthly Rent	Annual Rent
6	\$1.76	\$21.16	\$2,733.64	\$32,803.71
7-10*	TBD	TBD	TBD	TBD

\*Rent increased annually by CPI, floored at 2% and capped at 4%

The proposed five-year term does not include extensions. Any renewals will be brought back for City Council consideration. Annual increases based on CPI will be floored at 2% and capped at 4%. Provisions added to the new lease include a two-month security deposit, access for regular inspections, and a "120 day notice or 120 day rent" early termination provision.

### **SUMMARY/FISCAL IMPACT**

Ambassador Church has been leasing office space on the Plaza Level of the Brea Civic & Cultural Center since February 1, 2014. Ambassador Church is interested in renewing their lease for a term of five years at a monthly rent of \$2,733.71. This will provide an annual revenue of \$32,803.71 to the City of Brea, and the rental amount will increase on an annual basis.

### **RESPECTFULLY SUBMITTED**

William Gallardo, City Manager

Prepared by: Linda Tang, Management Analyst I

Concurrence: David Crabtree, Community Development Director

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### **Attachments**

Draft Lease



## **LEASE**

This LEASE (the "Lease") is dated \_\_\_\_\_, 20\_\_ and is entered into by and between the CITY OF BREA, a municipal corporation (hereinafter referred to as "City"), and AMBASSADOR CHURCH, a California nonprofit corporation ("Tenant").

### **1. Premises**

City hereby agrees to lease to Tenant and Tenant agrees to lease from City that certain office space in the City of Brea, California, located on the Plaza Level of City's Civic and Cultural Center located at 1 Civic Center Circle (the "Building") more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Premises"), subject to the terms, covenants and conditions hereinafter set forth.

### **2. Term**

The term of this Lease shall be for five (5) years, commencing on February 1, 2019, and ending on January 31, 2024.

Tenant may terminate this Lease either: (i) upon giving one hundred and twenty (120) days prior written notice; or (ii) upon written notice if a termination fee of one hundred and twenty (120) days rent is concurrently paid to Landlord with the delivery of the lease termination notice (without deduction or offset, and without credit of the security deposit, which will be used and returned as described in Section 4 below).

### **3. Rent**

Commencing on February 1, 2019, Tenant agrees to pay to City as rent, without prior notice or demand by the City, \$2,733.64 per month, on or before the first day of each calendar month during the term of this Lease.

The monthly rent shall be increased annually, effective on February 1 of each year, by an amount equal to the annual percentage increase published as the CPI (Consumer Price Index) for the U.S. Department of Labor, Bureau of Labor Statistics, for the Los Angeles-Long Beach-Anaheim area, determined by comparing the CPI for the month of September of the previous calendar year to the CPI for the month of September one year earlier, in order to calculate the annual increase, with a minimum increase of two percent (2%) in any given year and a maximum increase of four percent (4%) in any given year.

Rent for any period during the term hereof which is for less than one (1) month shall be a prorated portion of the monthly payment required herein, based upon a thirty (30) day month. Said rental shall be paid to City without prior demand and without deduction or offset, in lawful money of the United States of America, at 1 Civic Center Circle, Brea, California, 92821-5732, or at such other place as City may designate in writing.

### **4. Security Deposit**

Concurrently with its execution and delivery of this Lease, Tenant shall deposit with City the sum of \$5,467.28 as a security deposit for the performance by Tenant ("Security Deposit").

The Security Deposit shall be held by City as security for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant. If a default by Tenant occurs, City may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any other amount which City may spend or become obligated to spend by reason of Tenant's default or to compensate City for any loss or damage which City may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with City in an amount sufficient to restore the Security Deposit to its initial amount. City shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such Security Deposit. **TENANT WAIVES ANY RIGHTS IT MAY HAVE UNDER SECTION 1950.7 OF THE CALIFORNIA CIVIL CODE WITH RESPECT TO THE SECURITY DEPOSIT.** Within forty-five (45) days following the expiration of the Term or earlier termination of this Lease and Tenant's vacation of the Premises, the Security Deposit or any unapplied balance thereof shall be returned to Tenant.

**5. Use**

Tenant shall use the Premises for professional office purposes in connection with its operations and in accordance with and subject to Exhibit "B", and shall not use or permit the Premises to be used for any other purpose without the prior written consent of City at its sole and absolute discretion. Tenant shall not do or permit anything to be done in or about the Premises nor bring or keep anything therein which will in any way increase the existing rate of or affect any fire or other insurance upon the Premises or any of its contents, or cause cancellation of any insurance policy covering the Premises or part thereof or portion of its contents. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other parties or injure or annoy them or use or allow or permit the Premises to be used for any improper, immoral, unlawful or objectionable purpose. Nor shall Tenant cause, maintain or permit any nuisance in or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises. Tenant shall maintain the Premises so as to be free from risk hazards to the public health, safety, or welfare.

**6. Compliance with Law**

Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or other governmental rule or regulation now in force or which may hereinafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all law, statutes, ordinance and other governmental rules, regulations or requirements now in force or which may hereinafter be enacted or promulgated, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements and acts. The judgment of a court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether City is party thereto or not, the Tenant has violated any law, statute, ordinance or any other governmental rule or regulation shall be conclusive of that fact as between City and Tenant.



**7. Alterations and Additions**

Tenant shall not make or suffer to be made any alterations, additions or improvements in or about the Premises or any part thereof without the written consent of City. Any alterations, additions or improvements in, to or about the Premises including, but not limited to, wall coverings, paneling and built-in cabinet work, but excepting movable furniture and trade fixtures, shall on the expiration or sooner termination of the term hereof, become a part of the realty shall belong to City and shall be surrendered with the Premises. In the event City consents to the making of any alterations, additions or improvements to the Premises by Tenant, the same shall be made by Tenant at Tenant's sole cost and expense. Refer to Section 29, "Performance Bond", and Section 32, "Execution by City Not a Waiver", as these apply to any alterations and additions.

**8. Physical Condition of Premises; Limited City Maintenance Responsibilities**

By taking possession of the Premises, Tenant shall be deemed to have accepted the Premises As-Is and as being in good sanitary order, condition and repair.

The subject leased premises have not been inspected by a Certified Access Specialist (CAsp). A Certified Access Specialist (CAsp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CAsp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CAsp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CAsp inspection, the payment of the fee for the CAsp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises. City, and Tenant hereby agree, however, that City shall not bear the cost of any such inspections or repairs it being the intent and agreement of City and Tenant that any such repairs be performed by Tenant.

Tenant shall, as Tenant's sole cost and expense, keep the Premises and any part thereof in good condition and repair. If Tenant fails to do so within five (5) business days after written demand by City, then City may do so and Tenant shall reimburse City for City's costs, as additional rent, within five (5) business days after written demand with evidence of such costs.

Tenant shall, upon the expiration or sooner termination of this Lease, surrender the Premises to City in good condition. City shall have no obligation whatsoever to alter, remodel, improve, repair, decorate or paint the Premises, or any part thereof, and the parties hereto affirm that City has made no representations to Tenant respecting the conditions of the Premises or the building thereon except as specifically set forth herein. Tenant further agrees that it shall submit to City, prior to applying for any permits to renovate, reconstruct, improve, alter or in any other way modify the premises, plans and specifications for City's approval.

City shall not be liable for any failure to make any repairs, or to perform any maintenance with respect to the Premises, except as specifically provided herein. Except as may otherwise expressly be provided herein, there shall be no abatement of rent and no liability of City by reason of any injury to or interference with Tenant's business arising from the making of any

repairs, alterations or improvements in or to any portion of the building or the Premises or in or to any fixtures, appurtenances and equipment therein. Tenant hereby specifically waives the right to make repairs at City's expense under any law, statute or ordinance now or hereafter in effect.

**9. Claims Against Premises**

Tenant shall not suffer or permit to be enforced against the Premises, or any part thereof, any mechanic's, materialman's, contractor's or subcontractor's liens arising from, or any claim for any work of construction, repair, restoration, replacement or improvement of or to the Premises or any other claim or demand howsoever the same may arise, but Tenant shall pay or cause to be paid any and all such claims or demands before any action is brought to enforce the same against the Premises. Tenant agrees to indemnify, defend and hold the City and the Premises free and harmless of all liability for any and all such claims and demands, together with City's reasonable attorneys' fees and all costs and expenses in connection therewith.

**10. Utilities**

City and Tenant agree that the rent specified in paragraph 3 of this Lease includes the base cost of all water, electrical, gas and other utility services, but excludes telephone costs and the costs of janitorial services (which Tenant shall procure at its sole cost and expense). Tenant shall not run any new utility or communication service lines without City's prior written consent.

**11. Taxes**

Tenant shall pay, or cause to be paid, before delinquency, any and all taxes levied or assessed and which become payable during the term hereof upon all of Tenant's possessory interest in and to the Premises, leasehold improvements, equipment, furniture, fixtures and personal property located in or about the Premises. Tenant agrees that, without prior demand or notice by City, Tenant shall, not less than fifteen (15) days prior to the date upon which any such possessory interest or other such tax is due, provide City with proof of payment of such tax.

**12. Rules and Regulations**

Tenant shall faithfully observe and comply with all the rules and regulations as they pertain to the Premises that City shall from time to time promulgate. City reserves the right from time to time to make reasonable modifications to said rules and regulations. The additions and modifications to those rules and regulations shall be binding upon Tenant upon delivery of a copy thereof to Tenant.

**13. Holding Over**

If Tenant remains in possession of the Premises or any part thereof after the expiration of the term hereof, with the express written consent of City, such occupancy shall be a tenancy from month-to-month at a rental in the amount of one hundred and thirty-five percent (135%) of the last monthly rental, plus all other charges payable hereunder, and upon all the terms and conditions hereof.

**14. Entry by City**

Tenant hereby agrees that representatives of the City, as designated by City's City Manager, shall during normal business hours, have the right to enter the Premises and inspect the same to determine if the same complies with each and every term and condition of this Lease and with all applicable City, County, State and Federal laws, rules, ordinances and regulations relating to building occupancy and the conduct of Tenant's business. Tenant hereby waives any claim for damages or for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises and any loss occasioned thereby. For each of the aforesaid purposes, City shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults, safes and files, and City shall have the right to use any and all means which City may deem proper to open said doors in an emergency, in order to obtain entry to the Premises without liability to Tenant except for any failure to exercise due care for Tenant's property. Any entry to the Premises obtained by City by any of said reasons, or otherwise, shall not, under any circumstances, be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof.

**15. Default**

The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

A. The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof by City to Tenant;

B. A failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by, Tenant, where such failure shall continue for a period of thirty (30) days after written notice thereof by City to Tenant; provided, however, that if the nature of the default involves such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within such thirty (30) day period and thereafter diligently prosecutes said cure to completion; and

C. The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt, or a petition or reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets located in or about the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's interest in this Lease, where such seizure is not discharged in thirty (30) days.

## **16. Remedies for Default**

In the event of any such material default or breach by Tenant, City may at any time thereafter and without notice or demand and without limiting City in the exercise of a right or remedy City may have by reason of such default or breach:

A. Terminate Tenant's right to possession of the Premises by any lawful means in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to City. In such event, City shall be entitled to recover from Tenant all damages incurred by City by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, for reasonable attorneys' fees and costs, any real estate commission actually paid, or the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent for the balance of the term after the time of such rental loss for the same period that Tenant proves could be reasonably avoided. Unpaid installments of rent or other sums shall bear interest from the due date thereof at the rate of eighteen percent (18%) per annum or at the maximum legal rate then in effect in California, whichever is higher. In the event Tenant shall have abandoned the Premises, City shall have the option of (1) taking possession of the Premises and recovering from Tenant the amount specified in this subparagraph, or (2) proceeding under the provisions of the following subparagraphs.

B. Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, City shall be entitled to enforce all of City's rights and remedies under this Lease, including the right to recover rent as it becomes due hereunder.

C. Pursue any other remedy now or hereafter available to City under the laws or judicial decisions of the State of California. Furthermore, Tenant agrees that no election by City as to any rights or remedies available hereunder or under or pursuant to any law or judicial decisions of the State of California shall be binding upon City until the time of trial of any such action or proceeding.

## **17. Eminent Domain**

If more than twenty-five percent (25%) of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, either party hereto shall have the right, as its option, to terminate this Lease, and City shall be entitled to any and all income, rent, award, or any interest therein whatsoever which may be paid or made connection with such public or quasi-public use or purpose, and Tenant shall have no claim against City for the value of any unexpired term of this Lease. If either less than or more than twenty-five percent (25%) of Premises is taken, and neither party elects to terminate as herein provided, the rental thereafter to be paid shall be equitably reduced.

## **18. Offset Statement**

Tenant shall at anytime and from time to time upon not less than ten (10) days prior written notice from City, execute, acknowledge and deliver to City a statement in writing (a) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the

nature of such modification and certifying that this Lease, as so modified, is in full force and effect and the date to which the rental and other charges are paid in advance, if any, and (b) acknowledging that there are not, to Tenant's knowledge, any incurred defaults on the part of City hereunder, or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of which the Premises are a part.

**19. Assignment and Subletting**

Tenant shall not assign or transfer this Lease or any right hereunder to any other party or parties nor shall Tenant sublet all or any portion of the Premises without first obtaining the written consent of City. Any assignment or subletting without such prior written consent shall be void for all purposes and City may, at its option, declare a forfeiture of the same in any manner provided by law. Consent to any such assignment or subletting shall be at City's sole and absolute discretion and City is not required hereunder to consent to any such proposed assignment or subletting.

**20. Attorneys' Fees**

In the event that any action or proceeding is brought by either party to enforce any term or provision of this Lease, the prevailing party shall recover its reasonable attorneys' fees, experts' costs, and all other costs of suit.

**21. Fixtures**

All trade fixtures installed in or on the Premises by Tenant may be removed by Tenant at any time during the term of this Lease so long as the same may be removed without permanent damage to the Premises. Tenant shall repair all damage which may result therefrom to the reasonable satisfaction of City.

**22. Indemnification**

Tenant agrees that Tenant will defend, indemnify and hold City and its elected officials, officers, agents and employees free and harmless from all liabilities, claims, losses, damages, costs and expenses for damage to persons or property by reason of Tenant's negligence or Tenant's acts or those of Tenant's employees, agents, guests or invitees in connection with Tenant's use and occupancy of the Premises and any common areas of the Building or other portions of the Building.

**23. Insurance**

**A. Fire and Extended Coverage**

**1) Tenant's Duty to Keep Improvements Insured**

Throughout the term hereof at Tenant's sole cost and expense, Tenant shall keep or cause to be kept insured, for the mutual benefit of City and Tenant, all improvements located on or appurtenant to the Premises against loss or damage by fire and such other risks as are now or hereafter included in an extended coverage endorsement in common use

for such structures, including vandalism and malicious mischief. The amount of the insurance shall be the then replacement cost but without deduction for depreciation (herein called "Full Insurable Value"). City shall not carry any insurance the effect of which would be to reduce the protection or payment to Tenant under any insurance that this Lease obligates Tenant to carry. If any dispute as to whether the amount of insurance complies with the above cannot be resolved by agreement, City may, not more than once every three (3) months, request the carrier of the insurance then in force to determine the Full Insurable Value as defined in this provision, and the resulting determination shall be conclusive between the parties for the purpose of this paragraph. Tenant shall include the holder of any mortgage on the Lease as a loss payee to the extent of that mortgage interest.

2) **Proceeds of Fire and Extended Coverage Insurance**

City shall, at Tenant's sole cost and expense, cooperate fully with Tenant to obtain the largest possible recovery, and all policies of fire and extended coverage insurance required above, shall provide that the proceeds shall be paid to Tenant as follows:

a) The proceeds shall be deemed to be held in trust by the recipient to the uses and purposes prescribed by this Lease.

b) Disbursements of proceeds for repair, restoration, reconstruction of improvements shall be made monthly on architect's certificates until all the work is completed and accepted; provided, however, that such disbursements shall not exceed ninety percent (90%) of the work in place until completion, acceptance, expiration of time for lien claims, and elimination of all liens claimed.

c) Any insurance proceeds remaining after complying with the provisions of this Lease relating to maintenance, repair, and reconstruction of improvements shall be the sole property of Tenant.

B. **Commercial General Liability Insurance**

Throughout the term hereof, at Tenant's sole cost and expense, Tenant shall keep or cause to be kept in full force and effect, for the mutual benefit of City and Tenant, commercial general liability insurance against claims and liabilities for personal injury, death, and/or property damage arising from the use, occupancy, disuse, or condition of the Premises, improvements, or adjoining areas or ways, providing protection of at least One Million Dollars (\$1,000,000) for bodily injury or death to any one person, One Million Dollars (\$1,000,000) for any one accident or occurrence and at least Five Hundred Thousand Dollars (\$500,000) for property damage.

C. **Policy Form, Contents and Insurer**

All insurance required by express provision of this Lease shall be carried only in responsible insurance companies licensed to do business in the State of California. All such policies shall contain language providing that (1) the insurer waives the right of subrogation against City and its employees, agents and representatives, (2) the policies are primary and noncontributing with any insurance that may be carried by City, and (3) they cannot be canceled or materially altered except after thirty (30) days' notice by the insurer to City. Tenant shall

furnish City with copies of all such policies promptly upon receipt of them, or certificates evidencing the insurance. Prior to the commencement of this Lease, Tenant shall furnish City with certificates and endorsements representing all insurance required by this Lease. The required policy shall name the City of Brea and its respective elected officials, officers, agents and employees as additional insureds. Tenant may affect for its own account any insurance not required under this Lease.

**D. Failure to Maintain Insurance; Proof of Compliance**

Tenant shall deliver to City, in the manner required for notices, copies of certificates and endorsements of all insurance policies required by this Lease, together with evidence satisfactory to City of having procured and currently maintaining all required policies, with the following time limits:

For insurance required at the commencement of this Lease, upon execution of this Lease; for insurance becoming required at a later date, at least ten (10) days before that requirement takes effect, or as soon thereafter as the requirement, if new, takes effect;

For any renewal or replacement of a policy already in existence, at least twenty (20) days before expiration or other termination of the existing policy.

If Tenant fails or refuses to procure or maintain insurance as required by this Lease, or fails or refuses to furnish City with required proof that the insurance has been procured and is in full force and paid for, City shall have the right, at City's election and on five (5) days notice, to procure and maintain such insurance. The premiums paid by City shall be treated as added rent due from Tenant with interest at the rate of eighteen percent (18%) per year or the maximum allowable legal rate in effect in the State of California on the date when the premium is paid, whichever is higher, to be paid on the first day of the month following the date on which the premium was paid. City shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the day of the notice.

**24. Authority**

Each individual executing this Lease on behalf of Tenant represents and warrants that he or she is fully authorized to execute and deliver this Lease on behalf of Tenant and that this Lease is binding upon Tenant in accordance with terms.

**25. Waiver**

The waiver by City of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, on any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by City shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of the Tenant to pay the particular rental so accepted, regardless of City's knowledge of such preceding breach at the time of the acceptance of such rent.

**26. Time**

Time is of the essence of this Lease and each and all of its provisions in which performance is a factor.

**27. Late Charges**

Tenant hereby acknowledges that late payment by Tenant to City of rent or other sums due hereunder will cause City to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of rent from Tenant shall not be received by City or City's designee within ten (10) days after written notice that said amount is past due, then Tenant shall pay to City a late charge equal to ten percent (10%) of such overdue amount. The parties hereby agree that such late charges represent a fair and reasonable estimate of the cost that City will incur by reason of the late payment by Tenant. Acceptance of such late charges by City shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent City from exercising any of the rights and remedies granted hereunder.

**28. Inability to Perform**

This Lease and the obligations of Tenant hereunder shall not be affected or impaired because City is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, war, civil, insurrection, acts of God, or any other cause beyond the reasonable control of City.

**29. Signs**

City shall provide white vinyl lettering signage similar to all other Civic and Cultural Center tenants. Tenant shall not place any sign upon the Premises without City's prior written consent.

**30. Performance Bond**

Prior to the commencement of any repair, alteration, addition, renovation or Improvement as may be required or permitted herein, Tenant shall file with the City Clerk of City a corporate surety bond satisfactory to City's City Council and conditioned that the Tenant shall well and truly observe, fulfill and perform each and every repair, alteration, addition, renovation or improvement contemplated. The corporate surety bond shall be in the penal sum of one hundred and ten percent (110%) of the reasonable value of any such repair, alteration, addition, renovation or improvement as determined by City's Building Official, whose decision shall be final. In the event of any breach of any condition of the aforesaid bond, the whole amount of the penal sum therein named shall be deemed to be liquidated damages, and the same shall be recoverable from the principal and sureties upon the bond. This corporate surety bond will be required for any repair, alteration, addition, renovation or improvement over \$10,000, as estimated by the City.

Upon completion of the repairs, alterations, additions, renovations or improvements secured by said corporate surety bond, Tenant may apply to City's Building Official for a



reduction in the penal sum of said bond and said Building Official, upon satisfactory proof being presented shall reduce the penal sum thereof to an amount not exceeding fifty percent (50%) of the reasonable value of said repairs, alterations, etc.

**31. Successors**

Subject to the provisions of this Lease with respect to assignment and subletting, each and all of the covenants and conditions of this Lease shall be binding upon and inure to the benefit of all successors in interest of the parties.

**32. Notices**

Any notice required or permitted under the terms of this Lease shall be deemed served when personally served on Tenant or City's City Clerk or when the same has been placed in the United States mail, postage prepaid and addressed as follows:

<u>Tenant:</u>	To the Premises
<u>City:</u>	City of Brea Attention: City Manager Brea Civic & Cultural Center 1 Civic Center Circle Brea, CA 92821

**33. Execution by City Not a Waiver**

Tenant understands and agrees that City, by entering into and executing this Lease, shall not have waived any right, duty, privilege, obligation or authority vested in City to approve, disapprove or conditionally approve any application which Tenant may be required to make under any laws, rules, ordinances or regulations now or hereafter in effect which City may be empowered to apply, including, but not limited to, any use permit or approval whether similar in nature or not.

**34. Entire Agreement**

This Lease contains the entire agreement between the parties with respect to the subject matter herein. No promise, representation, warranty, or covenant not included in this Lease has been or is relied on by either party. Each party has relied on its own examination of this Lease, the counsel of its own advisors, and the warranties, representations, and covenants in the Lease itself. The failure or refusal of either party to inspect the Premises or improvements, to read the Lease or other documents or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advice.

**35. Attorney's Fees**

The prevailing party in any action brought for breach or to enforce any provision of this Lease shall be entitled to recover its reasonable attorney's fees, experts cost, and all costs of suit.

**36. Possessory Interest Taxes**

TENANT ACKNOWLEDGES AND AGREES THAT FOR SO LONG AS THE BUILDING IS OWNED BY THE CITY OR ANY OTHER PUBLIC ENTITY OR GOVERNMENT, INCLUDING WITHOUT LIMITATION A MUNICIPAL CORPORATION, THIS LEASE AND TENANT'S INTEREST HEREUNDER MAY CONSTITUTE A POSSESSORY INTEREST SUBJECT TO PROPERTY TAXATION AND AS A RESULT TENANT MAY BE SUBJECT TO THE PAYMENT OF POSSESSORY INTEREST TAXES LEVIED ON THAT INTEREST. TENANT SHALL PAY SUCH TAXES WHEN DUE, TO THE LEVYING AUTHORITY.

**37. Memorandum of Lease**

Concurrently with its execution and delivery of this lease, Tenant shall execute and acknowledge a short form memorandum of this Lease for recording purposes in the form attached hereto as Exhibit "C" and shall deliver it to the City for execution and recording. Upon the expiration or earlier termination of this Lease for any reason, Tenant shall within five (5) business days following written request by City, deliver to City an executed, acknowledged and recordable quitclaim deed conveying to City any and all interest Tenant may have under this Lease.

WHEREFORE, the parties hereto have entered into the Lease as of the date set forth below opposite the name of each signatory hereto.

**TENANT:**

AMBASSADOR CHURCH,  
a California nonprofit corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Trustee

**CITY:**

CITY OF BREA

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

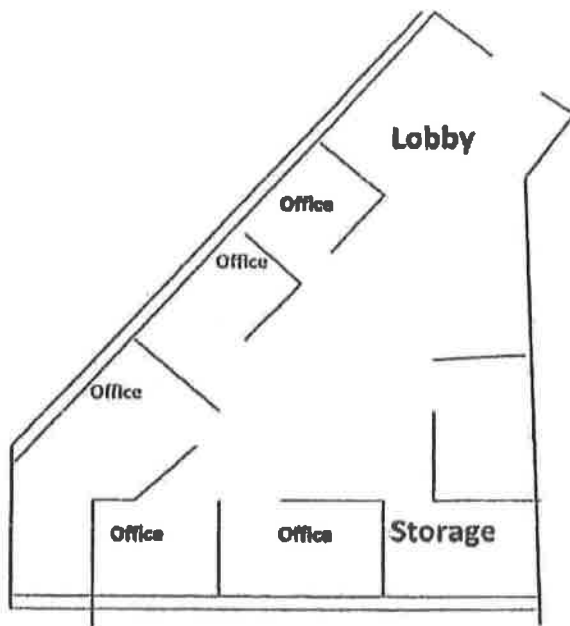
**EXHIBIT "A"**

**DIAGRAM OF PREMISES**

(Attached.)

**EXHIBIT "A"**  
**DIAGRAM OF PREMISES**

1,550 square feet



**EXHIBIT "B"**

**RESTRICTIONS ON USES/HOURS**

(Attached.)

### **Ambassador Church Brea Office Usage**

<b>Day</b>	<b>Time</b>	<b>Rooms Used</b>	<b>Description</b>
Sunday	7 AM - 1 PM	Office 1	Classroom
		Office 2	Accounting
		Office 3	Classroom
Monday	8 AM - 5:30 PM	Office 1-3	Administrative, Conference Room
Tuesday	8 AM - 5:30 PM	Office 1-3	Administrative, Conference Room
Wednesday	8 AM - 5:30 PM	Office 1-3	Administrative, Conference Room
Thursday	8 AM - 5:30 PM	Office 1-3	Administrative, Conference Room
Friday	8 AM - 5:30 PM	Office 1-3	Administrative, Conference Room
Saturday	9 AM - 12 PM	Office 3	Music Team Practice

Provided, however, that Landlord may in good faith alter the hours for Music Team Practice by written notice to Tenant from time to time if the music practice is disturbing other tenants.

**EXHIBIT "C"**

**FORM OF MEMORANDUM OF LEASE**

(Attached.)



RECORDING REQUESTED BY,  
WHEN RECORDED RETURN TO:

City of Brea  
1 Civic Center Circle  
Brea, California 92821  
Attention: City Clerk

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[Space Above For Recorder's Use Only]

The undersigned declare that this Memorandum of Lease is exempt from Recording Fees pursuant to California Government Code Section 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.

**MEMORANDUM OF LEASE**

THIS MEMORANDUM OF LEASE (this "**Memorandum**") is dated as of \_\_\_\_\_, 20\_\_\_\_, and is entered into by and between the CITY OF BREA ("Landlord"), and AMBASSADOR CHURCH, a California nonprofit corporation ("Tenant").

**RECITALS**

A. Tenant and Landlord have entered into that certain Lease dated \_\_\_\_\_, 20\_\_\_\_ (the "Lease"), pursuant to which Landlord has agreed to lease and demise to Tenant, and Tenant has agreed to lease and accept from Landlord, a portion (the "Premises") of that certain building located in the City of Brea, County of Orange, State of California, commonly known as 1 Civic Center Circle (the "Property"). The Premises are more particularly described in the Lease.

B. Tenant and Landlord now desire to enter into this Memorandum to provide record notice of the Lease and comply with California law requiring that municipal leases be recorded.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord agree as follows:

1. **Lease.** Landlord hereby leases and demises to Tenant, and Tenant hereby leases and accepts from Landlord, the portion of the Property defined as the "Premises" in the Lease for a term of five (5) years at the rental rate and upon the other terms and conditions set forth in the Lease, which are incorporated herein by this reference.
2. **Purpose.** This Memorandum is prepared for the purposes of recordation only and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the term or condition of the Lease shall prevail.

3. Counterparts. This Memorandum may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date first written above.

**LANDLORD:**

CITY OF BREA

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_, (SEAL)

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
\_\_\_\_\_, City Clerk

**TENANT:**

AMBASSADOR CHURCH

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Trustee

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 Orange )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
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 \_\_\_\_\_

(Seal)



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 Orange County )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
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(Seal)

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State of California )  
County of Orange County )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
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Signature \_\_\_\_\_

(Seal)