

L-321  
5561 Sultana/Gallery Plaza/DSS/5610

# LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter LEASE) is made and entered into this 9th day of January, 2018, by and between 5561 Sultana LLC a California Limited Liability Company, 18321 Ventura Blvd., Suite 980, Tarzana, CA 91356 ("LESSOR"), and the COUNTY OF FRESNO, a political subdivision of the State of California, 333 W. Pontiac Way, Clovis, CA 93612 ("LESSEE"). LESSOR and LESSEE shall also be referred to herein singularly as a "Party" and collectively as "Parties."

1. LEASED PREMISES - LESSOR hereby leases to LESSEE approximately 9,552 square feet of office space at the location currently known as Gallery Plaza Shopping Center ("Shopping Center"), 5091 N. Fresno St., Suites 115, 116, 117 and 122, Fresno, CA 93710 (hereinafter the "Premises").

## 2. TERM -

A. The primary term of this Lease shall be three (3) years ("Primary Term") commencing on the date LESSEE first takes occupancy of the Premises (hereinafter "Commencement Date") as set forth in a written acknowledgement signed by LESSOR and LESSEE's Director of Internal Services, specifying that LESSOR has substantially completed the Tenant Improvements provided for in Section 9 herein and a building occupancy permit has been issued by the local governing agency. It is understood by the parties herein that LESSEE's occupancy of the Premises shall commence only after said written acknowledgement is executed, which such acknowledgement shall not be unreasonably withheld or delayed. If the Commencement Date is not the first day of a calendar month, then the Primary Term shall include such partial calendar month and a full three-year term starting thereafter on the first day of the month following such partial calendar month.

B. Upon expiration of the Primary Term, this Lease shall automatically renew for one (1) additional two-year period, unless LESSEE provides written notice of non-renewal to LESSOR at least six (6) months prior to the expiration of the

JS

Primary Term. LESSEE's Director of Internal Services is hereby authorized to provide such notice of non-renewal.

3. RENT - LESSEE shall pay rent on a monthly basis for the Premises ("Base Rent") beginning on the Commencement Date (subject to Section 9 herein below), as shown in the below payment schedule. Base Rent shall increase by three percent (3%) each year on the anniversary of the Commencement Date:

Rent Period	Rent/Month
Year One	\$ 9,552.00
Year Two	\$ 9,838.56
Year Three	\$ 10,133.72
Year Four	\$ 10,437.73
Year Five	\$ 10,750.86

If the Commencement Date does not occur on the first (1<sup>st</sup>) day of a month or if the Term ends on a day other than the last day of the month, then Base Rent for any such partial month shall be prorated based on the rate specified above for Year One.

4. ADDITIONAL RENT - In addition to the Base Rent, LESSEE shall pay on a monthly basis as "Additional Rent," the annual operations costs for the Premises to LESSOR, consisting of 100% of: LESSOR'S actual out of pocket cost for real estate taxes, insurance and all common area maintenance expenses ("CAM") incurred by LESSOR allocable to the Premises (collectively, "Operation Costs"). The estimated Operation Costs for the 2017 calendar year based on current Operation Costs are \$33,432.00; provided, however, this figure is simply an estimate and shall not be deemed or otherwise construed as a representation, warranty or covenant by LESSOR as to the actual Operation Costs for the 2017 calendar year. Based on the foregoing estimate, beginning on the Commencement Date, LESSEE shall pay Additional Rent to LESSOR for each month or partial month at the rate of \$2,786 per month, unless LESSOR provides LESSEE with an revised budget or a statement (as described hereinbelow) showing that LESSOR's actual Operation Costs have increased, at which time LESSEE shall pay Additional Rent in accordance with LESSOR's revised budget estimate or statement.

1  
2                   Within 120 days after the end of each calendar year or its fiscal year, LESSOR  
3 shall make good faith efforts and endeavor to furnish to LESSEE a statement covering  
4 the calendar or fiscal year (as the case may be) just expired, showing by cost category  
5 the actual Operation Costs incurred for that year, and the monthly payments made by  
6 LESSEE during that year for the Operation Costs. If LESSEE's share of the Operation  
7 Costs exceeds LESSEE's prior payments, LESSEE shall pay to LESSOR, as  
8 Additional Rent, the deficiency within 45 days after receipt of such annual statement. If  
9 LESSEE's payments for the calendar or fiscal year (as the case may be) exceed  
10 LESSEE's actual share of the Operation Costs, and provided LESSEE is not in arrears  
11 as to the payment of any Base Rent or Additional Rent, LESSEE may offset the excess  
12 against any payments of Operation Costs next due LESSOR.

13           5.     UTILITIES – LESSEE shall pay directly those metered costs for its use of  
14 natural gas and electricity, water, garbage, sewer and all costs associated with its use of  
15 telephone service.

16           6.     USE – LESSEE shall use the Premises as office space for its Department of  
17 Social Services or for any other County of Fresno department, office, or agency. LESSEE  
18 agrees to comply with all applicable laws, ordinances and regulations in connection with such  
19 use. LESSEE covenants that the Premises are suitable for the intended use.

20           LESSOR covenants that: ; (i) the Premises are in compliance with all applicable local,  
21 state and federal laws, ordinances and regulations, including but not limited to safety  
22 regulations, health and building codes; and (ii) the Premises shall remain in such compliance  
23 throughout the term of this LEASE.

24           7.     MAINTENANCE AND REPAIRS – LESSOR shall be responsible for all exterior  
25 and interior maintenance, including repair of air conditioning, heating units, plumbing systems,  
26 electrical systems and interior light fixture ballasts, fire sprinkler system, roof, painting, flooring,  
27 landscape, parking and other common area maintenance at the Premises. LESSOR is also  
28 responsible for the structural condition of the building and agrees that the building will always

1 be maintained in a condition acceptable for the LESSEE'S intended use of the Premises.  
2 LESSOR's maintenance responsibilities shall include carpet replacement and exterior and  
3 interior painting, as needed, due to normal wear and tear, but not more often than once every  
4 five years.

5 In the event building systems such as air conditioning and heating units malfunction,  
6 restroom fixtures are not draining properly, or water intrusion, leaks or other events that  
7 immediately impact the occupancy of the Premises by LESSEE occur, LESSOR shall use its  
8 best efforts to respond within twenty-four (24) hours after contact by LESSEE to diligently  
9 pursue repairs and replace equipment to restore the systems to full working order. Structural  
10 issues, including but not limited to damaged doors, walls, roof, and windows shall be a priority,  
11 and shall be addressed within a reasonable time after such are reported. LESSOR covenants  
12 that the Premises shall be maintained in substantially the same condition as that existing at  
13 the commencement of this LEASE, normal wear and tear excepted.

14 LESSEE shall be responsible for damages and repairs caused by LESSEE's  
15 employees or clients.

16 8. JANITORIAL SERVICES AND COST – LESSOR, at LESSOR's sole cost and  
17 expense, shall procure and provide janitorial services and supplies at the Premises  
18 (hereinafter "Janitorial Services"). Such Janitorial Services shall be provided five (5) days per  
19 week and shall include the services and supplies as described in Exhibit "A", attached hereto  
20 and by this reference incorporated herein.

21 LESSEE shall reimburse LESSOR for LESSOR's actual monthly cost for Janitorial  
22 Services. This monthly Janitorial Cost shall be in addition to the Base Rent and Additional  
23 Rent. LESSOR shall mail an invoice by the fifteenth (15th) day of each month for the Janitorial  
24 Cost to: County of Fresno, Department of Social Services, Attn: DSS Business Office, Gallery  
25 Plaza – DSS, P.O. Box 1912, Fresno, CA 93718.

26 LESSOR and LESSEE may agree to select a different janitorial service to correct  
27 deterioration in the quality of the janitorial service, or for any other reason mutually agreed  
28 upon by the parties.

1           9.     TENANT IMPROVEMENTS TO PREMISES/PAYMENT TERMS - LESSOR  
2 shall construct tenant improvements (hereinafter "Tenant Improvements") as described in  
3 Exhibit "B", attached hereto and incorporated herein by reference. LESSOR shall use  
4 commercially reasonable efforts to ensure that Tenant Improvements are completed within  
5 180 days of the execution of this Lease. Further, any modifications to Exhibit "B" or to the final  
6 Tenant Improvement drawings, plans and specifications shall be approved in writing by both  
7 LESSOR and LESSEE's Director of Social Services, or their respective designees, prior to  
8 commencement of construction of such modifications, which approval shall not be  
9 unreasonably withheld or delayed. LESSOR shall provide all labor, material and equipment  
10 for the completion of the above-described work in accordance with Exhibit "B", and the final  
11 Tenant Improvement drawings, plans and specifications.

12           LESSOR and LESSEE agree that the total cost for the Tenant Improvements shall not  
13 exceed the sum of \$1,290,151.95. LESSEE shall pay the cost in an amount not to exceed  
14 \$1,290,151.95, plus interest thereon, as follows: LESSEE'S cost for Tenant Improvements  
15 (hereinafter the "TI Rent") shall be amortized over three (3) years with interest accruing at 6%  
16 percent per year as described in Exhibit "C", attached hereto and by this reference  
17 incorporated herein; provided, however, that LESSOR and LESSEE agree that Exhibit "C" is  
18 intended as a hypothetical amortization schedule and upon determination of the actual cost of  
19 the Tenant Improvements, the hypothetical amortization schedule will be replaced with an  
20 amortization schedule reflecting computations based on the actual cost of the Tenant  
21 Improvements. LESSEE shall make monthly payments to LESSOR for the Tenant  
22 Improvements, which shall be in addition to the Base Rent and Additional Rent.

23           Should either party to this LEASE terminate this LEASE prior to completion of the three  
24 (3) year amortization period to pay for the Tenant Improvements described in this Section 9,  
25 then LESSEE shall pay to LESSOR, in one lump sum, an amount equal to the unamortized  
26 principal balance of LESSEE's share of the cost of the Tenant Improvements within forty-five  
27 (45) days after the LEASE termination date.

28           10.    ALTERATIONS – LESSEE shall make no alterations, installations, changes or

additions in or to the Premises, including any building thereat (collectively, "Alterations"), without first obtaining LESSOR's express written permission. Alterations shall not include moveable office furniture, office furnishings and office equipment.

11. COMPLIANCE WITH ALL LAWS – As to the Premises, LESSOR acknowledges public funds are used for payments made by LESSEE under this LEASE and for "public works" projects. Accordingly, LESSOR shall comply with, and shall ensure compliance by all contractors and subcontractors with all applicable laws and regulations, including the payment of prevailing wages pursuant to Section 1770 et. seq. of the Labor Code.

12. BREACH OF OBLIGATION TO MAINTAIN - In the event LESSOR breaches its obligation to maintain the Premises as herein provided, LESSEE shall give written notice to LESSOR within fifteen (15) days of the discovery of such breach. LESSOR shall then have thirty (30) days from the date of notice to cure its breach; however, that if such default continues for thirty (30) days after written notice thereof from LESSEE to LESSOR then LESSOR will not be in default hereunder if within such thirty (30) day period, LESSOR commences the curing of such default and diligently and in good faith prosecutes the same to completion. If the period for cure expires and if, in LESSEE'S sole and reasonable determination, LESSOR has failed to cure, then LESSEE may, at its election:

(A) terminate this LEASE by providing thirty (30) days prior written notice. In such case, LESSEE shall have the right to demand LESSOR refund any monies which, in the reasonable judgment of LESSEE, were paid to LESSOR pursuant to the LEASE but which were not earned by LESSOR by consequence of its breach. Upon receipt of such demand, LESSOR shall promptly refund all such monies; or

(B) after providing LESSOR with 10 days written notice of its intention to cure LESSOR'S breach, LESSEE may cure such breach and deduct the reasonable cost of such cure from LESSEE'S future rent obligation. LESSEE'S decision to cure LESSOR'S breach shall not constitute a waiver of

any rights or remedies that LESSEE may have arising from this LEASE or by operation of law, except that LESSEE shall not have the right to terminate described above with respect to the circumstances related to such cured breach.

13. DESTRUCTION OR DAMAGE FROM CASUALTY - If the Premises are damaged or destroyed as a result of fire, earthquake, act of God, or any other identifiable event of a sudden, unexpected, or unusual nature (hereinafter "Casualty"), then LESSOR shall either promptly and diligently repair the damage at its own cost, or terminate this LEASE as provided herein below.

(A) LESSOR'S Election to Repair: If LESSOR elects to repair the Casualty damage to the Premises, then it shall within fifteen (15) days after the date of Casualty or as soon as possible thereafter provide written notice (hereinafter "Notice of Repair") to LESSEE indicating the anticipated time required to repair. LESSOR shall bear the cost of all repairs to the Premises, including the cost to repair any alterations or fixtures installed or attached thereto by LESSEE. Such repairs shall restore the Premises to substantially the same condition as that existing at the commencement of this LEASE; such repairs shall also be made in compliance with all applicable state and local building codes. LESSOR shall not be liable to LESSEE for compensation for any loss of business, or any inconvenience or annoyance arising from repair of the Premises as a result of the Casualty except for rent reduction as hereinafter provided. LESSEE shall be responsible at its sole cost and expense for the replacement of its personal property.

(B) LESSOR'S Election to Terminate Due to Casualty: LESSOR may only elect to terminate this LEASE due to Casualty if: the Premises have been destroyed or substantially destroyed by said Casualty; and the estimated time to repair the Premises exceeds sixty (60) days from the date of the Casualty. LESSOR shall provide LESSEE with written notice of its election to terminate



within forty-five (45) days after the date of Casualty, specifying a termination date not less than thirty (30) days from the date of said notice.

(C) Rent Reduction Due to Casualty: In the event of Casualty, LESSEE'S obligation to pay rent (both Base Rent and Additional Rent) shall be reduced beginning on the date of the Casualty. Such reduction shall be proportional to the damage caused to the Premises by the Casualty as reasonably determined by LESSEE. If LESSOR elects to repair the Premises pursuant to the terms of this LEASE, to the extent the Premises remain unusable by LESSEE, the rent reduction shall continue until the date of substantial completion of repair.

(D) LESSEE'S Election to Terminate Due to Casualty: If LESSEE does not receive a Notice of Repair from LESSOR within fifteen (15) days or as soon as reasonably possible after a Casualty, or if the anticipated period of repair contained in the Notice of Repair exceeds ninety (90) days, then LESSEE may elect to terminate this LEASE by providing thirty (30) days prior written notice to LESSOR. In such case, LESSEE shall have the right to demand that LESSOR refund any monies which, in the reasonable judgment of LESSEE, were paid to LESSOR pursuant to the LEASE but which were not earned by LESSOR by consequence of the Casualty. Upon receipt of such demand, LESSOR shall promptly refund all such monies.

14. TERMINATION NOTICES – In the case of LESSEE, the County Administrative Officer, Director of Internal Services/Chief Information Officer, Director of Social Services or a designee of one of them, is authorized to provide termination notices as described herein to terminate this LEASE. Termination of this Agreement must be approved by the County of Fresno Board of Supervisors.

15. NON FUNDING TERMINATION - This LEASE is contingent on the allocation of funds by a governmental agency. Should funds not be allocated, this LEASE may be terminated by the Board of Supervisors at any time by giving at least thirty (30) days prior



1 written notice to LESSOR.

2 16. HOLD HARMLESS - LESSOR agrees to indemnify, save, hold harmless, and  
3 at LESSEE'S request, defend the LESSEE, its officers, agents, and employees from any and  
4 all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to  
5 LESSEE in connection with the performance, or failure to perform, by LESSOR, its officers,  
6 agents, or employees under this LEASE, and from any and all costs and expenses, damages,  
7 liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may  
8 be injured or damaged by the performance, or failure to perform of LESSOR, its officers,  
9 agents, or employees under this LEASE. This LEASE is made upon the express condition  
10 that the LESSEE is to be free of all liability, damages or injury arising from structural failures of  
11 the leased Premises, including, but not limited to, external walls, glass, doors, roof and floor.

12 LESSEE will indemnify, defend, and hold LESSOR harmless from and against any  
13 claims in any manner directly or indirectly caused, occasioned or contributed to by reason of  
14 the negligence, whether active or passive, of LESSEE or anyone acting under its direction or  
15 control or on its behalf in connection with or incidental to the performance of this LEASE or  
16 any claims otherwise arising in connection with LESSEE'S use and occupancy of the  
17 Premises.

18 The parties acknowledge that as between LESSOR and LESSEE, each is responsible  
19 for any claims arising from the acts or omissions of its own employees and invitees and  
20 notwithstanding anything to the contrary in this Section 16, each party hereby waives any  
21 claim or right to consequential or punitive damages. The parties acknowledge that as between  
22 LESSOR and LESSEE, each is responsible for the negligence of its own employees and  
23 invitees.

24  
25 17. INSURANCE - Without limiting the LESSEE'S right to obtain indemnification  
26 from LESSOR or any third parties, LESSOR, at its sole expense, shall maintain in full force  
27 and effect, the following insurance policies or a program of self-insurance throughout the term  
28 of the Agreement:

- a. Commercial General Liability - Commercial General Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). This policy shall be issued on a per occurrence basis. LESSEE may require specific coverages including completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal liability, or any other liability insurance deemed necessary because of the nature of this contract.
- b. Property Insurance – All-Risk property insurance.
- c. Worker's Compensation - A policy of Worker's Compensation insurance as may be required by the California Labor Code.

LESSOR shall obtain endorsements to the Commercial General Liability insurance naming the County of Fresno (hereinafter "County"), its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this LEASE are concerned. Such coverage for additional insured shall apply as primary insurance and any other insurance or self-insurance maintained by its officers, agents, and employees shall be excess only and not contributing with insurance provided under LESSOR'S policies herein. This insurance shall not be cancelled or changed without a minimum of thirty (30) days advance written notice given to County.

Within (30) days from the date LESSOR executes this LEASE, LESSOR shall provide certificates of insurance and endorsement as stated above for all of the foregoing policies, as required herein, to the County of Fresno, Attn: ISD Lease Services (L-321), 333 W. Pontiac Way, Clovis, CA 93612, stating that such insurance coverages have been obtained and are in full force; that the LESSEE, its officers, agents and employees will not be responsible for any premiums on the policies; that such Commercial General Liability insurance names the LESSEE, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this LEASE are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance or self- insurance shall not be cancelled or changed without a minimum of thirty (30) days

55

1 advance written notice given to LESSEE.

2 In the event LESSOR fails to keep in effect at all times insurance coverage as herein  
3 provided, the LESSEE may, in addition to other remedies it may have, suspend or terminate  
4 this Lease upon the occurrence of such event.

5 All policies shall be with admitted insurers licensed to do business in the State of  
6 California. Insurance purchased shall be purchased from companies possessing a current A.M  
7 Best Company rating of A FSC VII or better.

8 LESSEE shall maintain during the term of this Lease the following policies of  
9 insurance, which coverages may be provided in whole or in part through one or more  
10 programs of self-insurance:

11 a. Commercial General liability insurance with limits of not less than One  
12 Million Dollars (\$1,000,000.00) per occurrence and an annual aggregate of not less than Two  
13 Million Dollars (\$2,000,000.00). This policy shall be issued on an occurrence basis.

14 b. All-Risk property insurance.

15 18. SURRENDER OF POSSESSION/HOLDOVER - Upon the expiration or  
16 termination of this LEASE, LESSEE will surrender the Premises to LESSOR in such condition  
17 as existing at the commencement of this LEASE or upon completion of the Tenant  
18 Improvements (whichever is applicable) less reasonable wear and tear, less the effects of any  
19 Casualty as herein defined, and less the effects of any breach of LESSOR'S covenant to  
20 maintain. LESSEE will not be responsible for any damage which LESSEE was not obligated  
21 hereunder to repair.

22 If LESSEE holds over after the expiration of the Primary Term or Renewal Period or  
23 earlier termination thereof, with or without the express or implied consent of LESSOR,  
24 such tenancy shall be tenancy at sufferance only, and shall not constitute a renewal  
25 hereof or an extension for any further term. In such case LESSEE shall pay one  
26 hundred three percent (103%) of the Base Rent in effect just prior to expiration or  
27 termination, until either party gives thirty (30) days written notice of termination, reciting  
28 therein the effective date of cancellation. LESSOR hereby expressly reserves the right



1 to require LESSEE to surrender possession of the Premises to LESSOR as provided in  
2 this LEASE upon the expiration or other termination of this Lease. The provisions of  
3 this Section 18 shall not be deemed to limit or constitute a waiver of any other rights or  
4 remedies of LESSOR provided herein or at law.

5 19. FIXTURES - LESSOR agrees that any equipment, fixtures or apparatus  
6 installed in or on the Premises by LESSEE shall continue to be the property of LESSEE and  
7 may be removed by LESSEE at any time. LESSEE shall repair any damage caused by the  
8 removal of fixtures. Any fixtures not removed when LESSEE surrenders possession shall  
9 become the property of LESSOR.

10 20. RIGHT OF ENTRY - LESSOR, or its representative(s), upon giving 24 hours  
11 written notice, or immediately in the event of an emergency, shall have the right to enter the  
12 Premises at any time during business hours, or at such other time as LESSEE deems  
13 appropriate, to make any alterations, repairs or improvements to the Premises. The normal  
14 business of LESSEE or its invitees shall not be unnecessarily inconvenienced.

15 21. AMENDMENT - This LEASE may be amended in writing by the mutual consent  
16 of the parties without in any way affecting the remainder.

17 22. ASSIGNMENT - Neither Party shall assign, transfer or sub-let this LEASE, or the  
18 rights or duties under this LEASE, without the prior written consent of the other Party, which  
19 consent shall not be unreasonably withheld or denied, except that LESSOR may sell or refinance  
20 the Premises or any part thereof, in which case LESSOR shall promptly notify LESSEE in writing  
21 of such sale or refinancing.

22 23. GOVERNING LAW - Venue for any action arising out of or relating to this  
23 LEASE shall be in Fresno County, California. This LEASE shall be governed by the laws of  
24 the State of California.

25 24. NOTICES - All notices to be given under this LEASE by either Party to the other  
26 Party shall be in writing, and given by any one of the following methods:

- 27 (i) Personal delivery; or  
28 (ii) Sent by certified United States mail, first class postage prepaid, with



L-321  
5561 Sultana/Gallery Plaza/DSS/5610

return receipt requested, to the applicable addresses as set forth below, in which case such notice shall be deemed given three (3) business days if LESSOR is the recipient, or three (3) LESSEE business days if LESSEE is the recipient, after such deposit and postmark with the United States Postal Service; or

(iii) Sent by a reputable overnight commercial courier, in which case such notice shall be deemed given one (1) business day if LESSOR is the recipient, or one (1) LESSEE business day if LESSEE is the recipient, after such deposit with that courier to the applicable addresses as set forth below; or

The addresses and telephone numbers of the Parties for purposes of giving receiving notices under this LEASE are as follows:

LESSEE:	LESSOR:
County of Fresno (L-312)	5561 Sultana, LLC
Robert W. Bash, Director of Internal	ATTN: Rob Langer
Services/Chief Information Officer	18321 Ventura Blvd, Suite 980
333 W. Pontiac	Tarzana, CA 91356
Clovis, CA 93612	

Provided however, such notices may be given to such person or at such other place as either of the Parties may from time to time designate by giving written notice to the other Party, and provided further however, in any event, notices of changes of address or termination of this LEASE shall not be effective until actual delivery of such notice. Notices given hereunder shall not be amendments or modifications to this LEASE.

25. INDEPENDENT CONTRACTOR - In performance of the work, duties and obligations assumed by LESSOR under this LEASE, it is mutually understood and agreed that LESSOR, including any and all of the LESSOR'S officers, agents, and employees will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of the LESSEE. Furthermore, LESSEE shall have no right to control or supervise or direct the manner or method by which LESSOR shall perform its work and function. However, LESSEE shall retain the right to administer this LEASE so as to verify that LESSOR is performing its obligations in accordance with the terms and conditions thereof.

LESSOR and LESSEE shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

Because of its status as an independent contractor, LESSOR shall have absolutely no right to employment rights and benefits available to LESSEE'S employees. LESSOR shall be solely liable and responsible for providing to, or on behalf of its employees, all legally-required employee benefits. In addition, LESSOR shall be solely responsible and save LESSEE harmless from all matters relating to payment of LESSOR'S employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this LEASE, LESSOR may be providing services to others unrelated to the LESSEE or to this LEASE.

26. DISCLOSURE OF SELF DEALING TRANSACTIONS – This provision is only applicable if the LESSOR is operating as a corporation (a for-profit or non-profit corporation) or if during the term of this LEASE, the LESSOR changes its status to operate as a corporation.

Members of LESSOR'S Board of Directors shall disclose any self-dealing transactions that they are a party to while LESSOR is providing goods or performing services under this LEASE. A self-dealing transaction shall mean a transaction to which the LESSOR is a party and in which one or more of its directors has a material financial interest. Members of the Board of Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a Self-Dealing Transaction Disclosure Form Exhibit "D", attached hereto and by this reference incorporated herein, and submitting it to the County of Fresno prior to commencing with the self-dealing transaction or immediately thereafter.

27. ESTOPPEL CERTIFICATE – LESSEE shall, at any time upon not less than thirty (30) days prior request by LESSOR, execute, acknowledge and deliver to LESSOR a written estoppel certificate, in a form satisfactory to LESSOR, certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and, if applicable, the dates to which the Rent and any other charges have been paid in advance. Any such statement

1 delivered pursuant to this Section 26 may be relied upon by third persons, including a  
2 prospective purchaser or encumbrancer of the Premises.

3 LESSEE'S failure to execute and deliver an estoppel certificate within thirty (30) days  
4 after LESSEE'S receipt of LESSOR'S written request therefore shall be conclusive upon  
5 LESSEE that this Lease is in full force and effect, without modification except as may be  
6 represented by LESSOR, that there are no uncured defaults in LESSOR'S performance, that  
7 not more than one month's rental has been paid in advance, and that all other statements  
8 required to be made in the estoppel certificate are conclusively made.

9 28. SUBORDINATION AND ATTORNMENT – At LESSOR'S option, this Lease  
10 shall be subordinated to any mortgage or deed of trust which is now or shall hereafter be  
11 placed upon the Premises, and LESSEE agrees to execute and deliver any instrument which  
12 may be necessary to further effect the subordination of the Lease to any such mortgage or  
13 deed of trust; provided, however, that such instrument of subordination shall provide, or the  
14 mortgagee or beneficiary of such mortgage or deed of trust otherwise shall agree in writing in  
15 recordable form delivered to LESSEE, that the mortgagee or beneficiary, including their  
16 successors and assigns, recognize LESSEE's leasehold interest under this Lease and that so  
17 long as LESSEE is not in default under this Lease, foreclosure of any such mortgage or deed  
18 of trust or sale pursuant to exercise of any power of sale thereunder, or deed given in lieu  
19 thereof, shall not affect this Lease but such foreclosure or sale, or deed given in lieu thereof,  
20 shall be made subject to this Lease which shall continue in full force and effect, binding on  
21 LESSEE, as lessee, and the transferee, as lessor. LESSEE shall attorn to the transferee as if  
22 said transferee was LESSOR under this Lease.

23 29. ENERGY CONSUMPTION DISCLOSURE – If LESSEE (or any party claiming  
24 by, through or under LESSEE) pays directly to the provider for any energy consumed at the  
25 Premises, LESSEE shall, promptly upon request, deliver to LESSOR (or, at LESSOR's option,  
26 execute and deliver to LESSOR an instrument enabling LESSOR to obtain from such provider)  
27 any data about such consumption that LESSOR, in its reasonable judgement, is required to  
28 disclose to a prospective buyer, tenant or mortgagee or prospective mortgagee under



California Public Resources Code § 25402.10 or any similar law.

30. COUNTERPARTS – This Lease may be executed in one or more counterparts (which may be facsimile or .pdf e-mail counterparts followed by originals), each of which will be deemed an original and all, taken together, will constitute one and the same instrument.

31. FORCE MAJEURE - In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, adverse weather (including rain), inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire or other casualty or other reason of a similar nature beyond the reasonable control of the party delayed in performing work or doing the act required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period from the performance of any such act shall be extended for a period equivalent to the period of such delay (any such delay is herein referred to as an "Force Majeure Delay"). In no event shall LESSEE'S inability to satisfy a monetary obligation hereunder constitute or be subject to Force Majeure Delay.

32. AUTHORITY - Each individual executing this LEASE on behalf of LESSOR represents and warrants that such individual is duly authorized to execute and deliver this LEASE on behalf of 5561 Sultana LLC a California Limited Liability Company, and that this LEASE is binding upon 5561 Sultana LLC, a California Limited Liability Company, in accordance with its terms.

26. ENTIRE LEASE - This LEASE constitutes the entire LEASE between the LESSOR and LESSEE with respect to the subject matter hereof and supersedes all prior leases, negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly referenced in this LEASE.

///

///

///

///

///

L-321  
5561 Sultana/Gallery Plaza/DSS/5610

This LEASE shall be binding on and inure to the benefit of LESSOR'S heirs,  
successors and assigns. EXECUTED as of the date first herein written.

LESSOR:  
5561 Sultana LLC, a California Limited  
Liability Company

By: Highpoint Capital, LLC, a California  
limited liability company  
Its: Asset Manager

By: \_\_\_\_\_  
Jeffrey Seltzer, Manager

LESSEE:  
COUNTY OF FRESNO

By: Sal Quintero  
Sal Quintero, Chairman of the Board of  
Supervisors of the County of Fresno

ATTEST:  
Bernice E. Seidel  
Clerk to the Board of Supervisors  
County of Fresno, State of California

By: Renee Cuyler  
Deputy

*Base Rent and Additional Rent*

Fund 0001  
Subclass 10000  
Org No. 5610  
Acct. No. 7340

*Tenant Improvements*

Fund 0001  
Subclass 10000  
Org No 5610  
Acct No 8150

**EXHIBIT "A"**  
**JANITORIAL DUTIES**  
**L-321**

**PERFORMED DAILY**

- Vacuum all carpeted areas
- Sweep and/or dry mop floors
- Dust cleared desk and table surfaces, clean counters
- Empty all waste baskets and dispose of trash in appropriate trash bins
- Clean smudges and unsightly appearances from door jambs, light switches, glass partitions and counters
- Clean and sanitize all sinks, toilets and urinals
- Clean all restroom mirrors, tile and splash walls
- Spot clean restroom walls and partitions
- Refill supplies in restroom (paper towels, toilet tissue, soap, etc)

**PERFORMED EVERY MONTH**

- Dust all blinds and sills

**PERFORMED AS REQUIRED**

- Wet mop floors
- Remove interior cobwebs
- Dust wall picture frames and partition tops
- High dust, including walls, light fixtures, vents and ledges above normal reach door ledges
- Wash/clean light fixtures, walls, A/C vents
- Dust/clean baseboards
- Spot clean carpets
- Steam clean all carpets
- Strip and wax all vinyl and tile flooring
- Interior windows
- Exterior windows

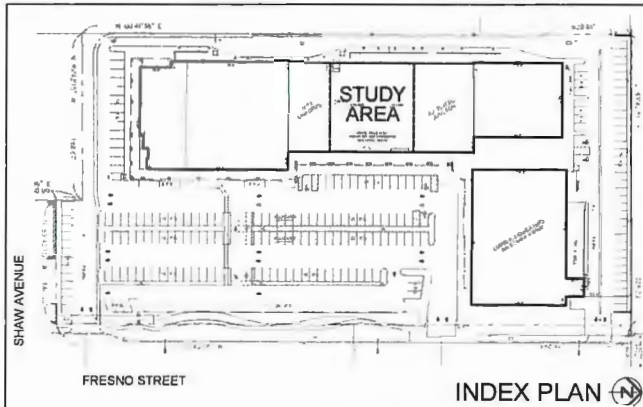
**EXHIBIT B****DSS GALLERY PLAZA, FRESNO CA**  
**TENANT IMPROVEMENT ALLOWANCES**

- Lease Area is established to be 9,552 sf.
- Preparation for 4-restrooms; utility room with janitor sink, 2-drinking fountains, and breakroom: saw cut; removal; add plumbing, backfill, patch slab.
- 150-lf backfill and concrete repair of interior trenching for plumbing.
- 973 lf of 10-ft height interior metal stud partition w/drywall.
- Paint: 1-coat primer, 2-coats finish on drywall surfaces.
- Breakroom: 7-lf base cabinet with granite top; 10-lf upper cabinet.  
Doors: 2-exterior rear doors; 1-new storefront entry door w/ ADA assist, panic hardware; seal 3-exterior front storefront doors (the remainder of the storefront to be delivered in existing condition); 30-interior solid core, paint-grade doors (includes 23-doors w/ tempered glass window); metal frames; hardware as required for locations (closers; privacy; panic; lockset).
- Acoustic Ceiling 'Second Look' ceiling tile in suspended grid; Drywall ceiling in restrooms.
- Carpet Tile flooring: 2,500-sf (Mgr, Secy, Spvsr, View, Work Area, Hall2, Hall3).
- Vinyl Composition Tile flooring: 2,010-sf (Reception, Hall1, Breakroom, Utility, Toy Cart, Server).
- Ceramic Tile: None identified; Restrooms w/ fiberglass reinforced wall panels (FRP).
- Sheet Vinyl flooring w/ Cove: 340-sf (4-Restrooms),
- 2-public restrooms / 2-staff restrooms: Toilet, sink, faucet, mirror, accessories per ADA.
- Break Room: Connections for sink, disposal, and refrigerator (by Lessee).
- Miscellaneous Inclusions: ADA Signage; lighting in ceiling grid; power outlets in fixed walls; emergency lighting/alarm; HVAC system; electrical system; (2) exterior outlets for security camera (by Lessee); audio connection for View Room; View Room one-way, tempered 4040 windows; 4-electrical conduit risers within Work Area walls; fire extinguishers; fire alarm boxes; 2-drinking fountains (1-ADA); all rooms with rubber Base except Restrooms.
- Lessor reserves option to utilize existing electrical meters, HVAC units, gas meters, and other existing utility services. Plan measurements are approximate and final improvements shall be determined by Lessor. Any items not specified shall be at the discretion of the Lessor. Any specified items not immediately available may be replaced with substantially similar items at the discretion of the Lessor..
- Server Room will be connected to the primary HVAC system and is not provided with special cooling system
- Satellite or Internet TV (not provided by Lessor) will be utilized in lieu of CableTV.
- Power for internal server, surveillance/security equipment locations identified by Lessee is included; respective systems are not included.

- Walls to be constructed with an acoustic rating of STC50 or better (insulation or sound board may be required); Interior doors solid core wood.
- Interior signage in excess of that required for ADA is not included.
- LF of walls (above) does not include existing walls which shall not be refinished but will be repaired/patched as necessary.
- Notwithstanding anything to the contrary contained herein, no cabinets, shelving, furniture, equipment, fixtures, personal property, or similar items are provided by Lessor
- In the event of a conflict between this Exhibit B and the Lease, the Lease shall prevail.



# EXHIBIT B



INDEX PLAN

NOTE: PAINT DOOR FRAMES 1/2" SEMI GLOSS. DOORS STAINED MAPLE

## FINISH LEGEND

ITEM	DESCRIPTION	FINISH
CE	CEILING GRID	SPF
CL	CARPET	WOMAN
CP	CARPET TILE	WOMAN
DR	DRYER	WOMAN
FR	FLOOR BASE	WOMAN
GR	GROUT	WOMAN
PA	PAINT COLOR 1	WOMAN
PC	PAINT COLOR 2	WOMAN
PS	PAINT COLOR 3	WOMAN
ST	STAIN	WOMAN

## FINISH SCHEDULE

ITEM	DESCRIPTION	FINISH
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS
RECEPTION	VIEW CHAIRS	VIEW CHAIRS

NOTE: THE ITEMS LISTED BELOW ARE PROVIDED BY LANDLORD UNLESS NOTED OTHERWISE. SEE SEASIDE FOR ADDITIONAL INFORMATION. LEASE COVERS

## KEYNOTES

- ENTRY DOOR 42" WIDE, ADA 55/57 SECURITY/FIRE HARDWARE
- CONFERENCE(2) SLIDING DOOR RAIL FRAME TEMPERED GLASS
- DOOR 3070 SOLID CORE METAL FRAME
- BREAK ROOM UPPER UNIT LOWER UNIT W/ COUNTER
- VIEW CHAIRS(2) BY OTHERS ALONG UNIT BLOCKING POWER INSTALLATION (ALSO UNIT SUPPLIED BY OTHERS) SHELFCOUNTER FOR COFFEE/POCKET DOOR 4000 PRIVACY WINDOWS (TEMPERED GLASS)
- SERVER ROOM DOOR W/ LOCKING HARDWARE
- ELECTRICAL CONDUIT IN WALL FOR WORKSTATION CONNECTION WORKSTATIONS BY OTHERS
- TEMPERED GLASS DOOR INSERT 20" Hx 24" W
- TEMPERED GLASS DOOR INSERT 20" Hx 24" W
- ELECTRICAL CONNECTION FOR SECURITY CAMERAS BY TENANT
- REMOVE (E) DOOR INSTALL IN GLAZING

## FLOOR PLAN

SCALE 1/8" = 1'-0"

THE AUGUST COMPANY  
1005 N. COLLEGE AVENUE, FRESNO, CA 93728  
(559) 261-1111



# GALLERY PLAZA BLDG 'B': SUITES 115 THRU 122

FRESNO, CA

REVISIONS	DATE	BY	SCALE
1	07-20-11	BY [Signature]	SCALE AS NOTED

A1

## Tenant Improvements Amortization Schedule

Year	Monthly	Annual
Year One	\$ 39,284.92	\$ 470,987.04
Year Two	\$ 39,284.92	\$ 470,987.04
Year Three	\$ 39,284.92	\$ 470,987.04



**SELF-DEALING TRANSACTION DISCLOSURE FORM**

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

*"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"*

The definition above will be utilized for purposes of completing this disclosure form.

**INSTRUCTIONS**

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
  - a. The name of the agency/company with which the corporation has the transaction; and
  - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

**Mail the completed form to:**

County of Fresno  
Attn: Lease Services (L-321)  
Internal Services Department  
333 W. Pontiac Way  
Clovis, CA 93612

<b>(1) Company Board Member Information:</b>			
<b>Name:</b>		<b>Date:</b>	
<b>Job Title:</b>			
<b>(2) Company/Agency Name and Address:</b>			
<b>(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):</b>			
<b>(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):</b>			
<b>(5) Authorized Signature</b>			
<b>Signature:</b>		<b>Date:</b>	