



## AGENDA REPORT

**Meeting Date:** May 27, 2009  
**Item Number:** F-8  
**To:** Honorable Mayor & City Council  
**From:** Brenda A. Lavender, Real Estate & Property Manager  
**Subject:** LEASE BETWEEN JAE IN LEE DBA CALIFORNIA COFFEE SELECTO AND THE CITY OF BEVERLY HILLS

**Attachments:**

1. Lease
2. Memorandum of Lease

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### RECOMMENDATION

Staff recommends approval of the Lease by and between the City of Beverly Hills and Jae In Lee dba California Coffee Selecto. California Coffee Selecto has been a long-standing tenant of the City at 434 N. Camden Drive.

### INTRODUCTION

A Lease and Memorandum of Lease with California Coffee Selecto has been prepared for City Council approval. This is a new lease directly with Jae In Lee. Jae In Lee purchased the business from the previous tenant in 2003, at which time the lease was assigned to him and he has operated the business since that time. This agreement is for five (5) years with a starting rental rate of \$2.86 per square foot monthly and increased annually thereafter by CPI.

### DISCUSSION

California Coffee Selecto is 1,607 square foot coffee shop serving both breakfast and lunch. The current lease expired March 31, 2009 and they have been operating on a month-to-month tenancy since the expiration. City Council agreed to extend the lease term at the current rental rate for one year in response to the current economical environment and the City's committee to sustaining small business.

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**FISCAL IMPACT**

The fiscal impact of this lease is \$55,152.24 in annual revenue for the first year. Base rent will be adjusted annually thereafter by the consumer price index. There is no investment of funds from the City on this transaction.



Scott G. Miller, Director of  
Administrative Services, CFO  
Approved By

# **Attachment 1**

Lease

**CITY OF BEVERLY HILLS  
LEASE -- CAMDEN DRIVE PARKING STRUCTURE  
434 NORTH CAMDEN DRIVE**

1. PARTIES. This lease is made by and between the City of Beverly Hills ("City") and JAI IN LEE, an individual (dba "California Coffee Selecto") ("Tenant").

2. PREMISES. For and in consideration of the rents, covenants, and conditions set forth herein, City hereby leases to Tenant and Tenant hereby leases from City that certain space ("the Premises") described on Exhibit "A" in the building ("the Parking Structure") located at 434 North Camden Drive, Beverly Hills, California. City makes no warranties or representations, express or implied, regarding the size or condition of the Premises, and takes possession of the Premises in their current "as is" condition. Tenant acknowledges that Tenant is currently in possession of the Premises.

3. TERM.

A. INITIAL TERM. The initial lease term ("Initial Term") shall be five (5) years, commencing April 1, 2009 ("the Commencement Date") and ending on March 31, 2014.

B. OPTION TO EXTEND TERM. Tenant is given the option to extend the initial term of this Lease for one five-year period (the "Extension Term") on all the provisions contained in this Lease (except that Monthly Rent shall be increased at the beginning of the Extension Term to the "Fair Market Rental Rate", as described in Section 4B below), by giving written notice of exercise of the option ("Option Notice") to City at least six (6) months but not more than one (1) year before the expiration of the Initial Term. However, if Tenant is in default on the date of giving the Option Notice, the Option Notice shall be totally ineffective, or if Tenant is in default on the date the Extension Term is to commence, the Extension Term shall not commence and this Lease shall expire at the end of the Initial Term.

4. RENT.

A. MONTHLY RENT. Tenant shall pay to City as monthly rent, without deduction, setoff, prior notice, or demand, the sum of \$4,610.00, which sum is subject to adjustment as provided in Sections 4.B and 4.C below, per month in advance on the first day of each month, commencing on the Commencement Date, and continuing during the term.

Monthly Rent for the first full calendar month after the Commencement Date shall be paid concurrently with execution of this Lease. Monthly rent for any partial month shall be prorated at the rate of 1/30th of the monthly rent per day.

B. FAIR MARKET RENTAL RATE FOR EXTENSION TERM. The Fair Market Rental Rate for the beginning of the Extension Term shall be determined as follows:

(i) No later than forty-five (45) days following Tenant's delivery of its Option Notice, City shall notify Tenant of City's determination of the Fair Market Rental Rate for the Premises. If Tenant objects to City's determination of the Fair Market Rental Rate for the Premises, Tenant shall, within twenty (20) days after receipt of City's notice, notify City in

writing that Tenant disagrees with City's determination, whereupon City and Tenant shall meet and endeavor in good faith to agree upon the Fair Market Rental Rate for the Extension Term. If City and Tenant fail to reach agreement within twenty (20) days after Tenant's notice, then, within twenty (20) days thereafter, each party, at its own cost and by giving notice to the other party, shall appoint a licensed commercial real estate broker with at least seven (7) years full-time experience as a real estate broker active in the leasing of retail (including office) space in the City of Beverly Hills, but not then or previously employed or engaged by either party for any other purpose, to determine the Fair Market Rental Rate for the Extension Term. Until the Fair Market Rental Rate determination is completed, Tenant shall continue to pay to City the amount of Monthly Rent due immediately preceding the commencement of the Extension Term. After such Fair Market Rental Rate determination is completed and the Fair Market Rent Rate for the Extension Term is established, Tenant shall promptly make payment to Landlord for any underpayment of Monthly Rent owing for prior months. If a party does not appoint a broker within the aforementioned period, the single broker appointed shall determine the Fair Market Rental Rate for the Extended Term. If there are two (2) brokers appointed by the parties as stated above, the brokers shall meet within twenty (20) days after the second broker has been appointed and attempt to determine the Fair Market Rental Rate for the Extension Term. If they are unable to agree on such Fair Market Rental Rate within twenty (20) days after the second broker has been appointed, they shall, within ten (10) days: (i) notify all of the parties in writing as to their respective Fair Market Rental Rate determinations, and (ii) attempt to select a third broker who shall be a licensed commercial real estate agent meeting the qualifications stated above. If City's broker and Tenant's broker are unable to agree on the third broker within such ten (10) day period, then either City or Tenant may request Judicial Arbitration and Mediation Service ("JAMS") (through the JAMS office then nearest to the Premises) to select a third broker meeting the qualifications stated in this subsection. Each of the parties shall bear one-half (1/2) of the cost of appointing the third broker and the third broker's fee.

(ii) Within ten (10) business days after the selection of the third broker, the third broker shall notify both parties in writing as to which of the two Fair Market Rental Rates for the Extension Term determined by City's broker and Tenant's broker most closely approximates the Fair Market Rental Rate, and such Fair Market Rental Rate selected by the third broker shall be binding on the parties and shall constitute the Fair Market Rental Rate above for the purpose of determining the rental rate for the Extension Term.

(iii) Each broker shall consider such information as City and Tenant timely presents regarding the determination of Fair Market Rental Rate for the Extension Term, and each broker shall be given access to the information used by each other broker. Upon determination of the Fair Market Rental Rate for the applicable Extension Term, the brokers shall immediately notify the City and Tenant in writing of such determination.

C. ANNUAL RENT ADJUSTMENTS. The Monthly Rent (including the initial Monthly Rent for the Extension Term) shall be adjusted on each anniversary of the Commencement Date (each, an "Adjustment Date"), as follows:

The base for computing the adjustment on each Adjustment Date is the Consumer Price Index for All Urban Consumers for the Los Angeles-Anaheim-Riverside Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), which

is published for the twenty-seventh calendar month prior to that Adjustment Date ("the Base Index"). If the Index published for the third calendar month prior to that Adjustment Date ("the Adjustment Index") is more than the Base Index but less than 107% of the Base Index, the monthly rent shall be adjusted to an amount determined by multiplying the monthly rent in effect immediately prior to that Adjustment Date by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Base Index. If the Adjustment Index is equal to or more than 107% of the Base Index, the monthly rent shall be adjusted to an amount equal to 107% of the monthly rent in effect immediately prior to the Adjustment Date. If the Adjustment Index is less than or equal to the Base Index, the monthly rent shall not be adjusted, and the monthly rent shall remain at the amount in effect immediately prior to the Adjustment Date.

If the Index is changed so that the base year differs from that used for the Beginning Index, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

5. USE.

A. Tenant agrees to use the Premises only for the retail sale of coffee, beverages and food and related items; provided, however, that Tenant shall not use the Premises for cooking. Tenant shall not use the Premises for any use not expressly permitted by the preceding sentence.

B. Tenant acknowledges that the City has a significant interest in promoting retail sales in the City of Beverly Hills in order to maximize sales tax revenues and otherwise benefit both Landlord and the retail businesses in the City. During the winter shopping/holiday season ("Winter Shopping Season") established or identified by the Beverly Hills Chamber of Commerce (the "Chamber"), Tenant shall: (i) remain open during any extended hours recommended, established or identified for the Winter Shopping Season by the Chamber; and (ii) reasonably decorate the Premises for the Winter Shopping Season at Tenant's cost.

6. SECURITY DEPOSIT. Landlord currently holds the sum of \$7,092.00 from Tenant, which sum shall be held by City as security for the faithful performance by Tenant of all the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the term hereof. If Tenant defaults with respect to any provision of this Lease, including, but not limited to the provisions relating to the payment of rent, City may (but shall not be required to) use, apply or retain all or any part of this security deposit for the payment of any rent or any other sum in default, or for the payment of any amount which City may spend or become obligated to spend by reason of Tenant's default, or to compensate City for any other 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 five days after written demand therefor, deposit cash with City in an amount sufficient to restore the security deposit to its original amount and Tenant's failure to do so shall be a default under this Lease. City shall not be required to keep the security deposit separate from its general funds, and Tenant shall not be entitled to interest on the security deposit. If Tenant shall fully and faithfully perform every provision of this Lease to

be performed by Tenant through the fifth anniversary of the Commencement Date, on that date the amount of the security deposit required under this Lease shall be reduced to an amount equal to two times the then-effective Monthly Rent, and City shall refund the excess to Tenant (or, at City's option, to the then-assignee of Tenant's interest hereunder) within 30 days after that date. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the balance of the security deposit shall be returned to Tenant (or, at City's option, to the last assignee of Tenant's interest hereunder) within 30 days following expiration of the Lease term. If City transfers its interest in this Lease, City shall transfer the unapplied portion of security deposit to City's successor in interest. Tenant waives any rights it may have under Section 1950.7 of the California Civil Code with respect to the security deposit.

7. ALTERATIONS AND IMPROVEMENTS. Any improvements constructed or placed on the Premises by Tenant shall become the property of the City at the time of such construction or placement and shall remain the property of the City after termination or expiration of this Lease as herein provided. City agrees that Tenant may at Tenant's expense make alterations, additions, and changes in and to the interior of the Premises provided that the value of any structure or improvements then on the Premises is not thereby diminished, and provided, however, that no such alterations, additions or changes which affect the structure of the Parking Structure may be made without first procuring the approval in writing of City. No alterations, additions, or changes shall be made to the front, exterior walls, or roof of the Premises, unless and until written approval of City shall have been obtained first. All alterations, additions, or changes to be made to the structure or improvements on the Premises shall be under the supervision of a competent architect or competent licensed structural engineer and made in accordance with the plans and specifications with respect thereto, approved in writing by the City before the commencement of work and all work must be done in a good and workmanlike manner and diligently prosecuted to completion. City may require that upon expiration or termination of this Lease, such alterations, additions, or changes to the structure of the Premises and any floor covering which is cemented or attached to the Premises shall be considered as improvements and shall not be removed by Tenant but shall become a part of the Premises, and in such event, Tenant shall not have the right to remove the same.

8. MAINTENANCE. As part of the consideration for rental, Tenant, at its sole cost and expense, shall at all times maintain in good order, condition, cleanliness, and repair, the Premises and every part thereof, including, without limiting the generality of the foregoing, all plumbing, heating, air-conditioning and electrical facilities, and equipment within the Premises, fixtures, interior walls, and interior surface of exterior walls, ceilings, store front, windows, doors, plate glass, showcases, entrances, and vestibules located within the Premises, sidewalks adjacent to the Premises, and any trash areas assigned to Tenant. If Tenant fails to promptly make any necessary repairs, or maintain cleanliness as provided for in this Lease, City shall have the right to make said repairs or provide cleaning service and Tenant shall pay the cost thereof as additional rent. City shall repair the structural parts, exterior foundations, exterior walls, downspouts, gutters, and the upper levels of the Parking Structure, sewage system, the plumbing and utilities outside the Parking Structure and in or under the floor of the Premises, except (as to all items) for damage caused by any negligent act or omission of Tenant or its customers, employees, agents, invitees, licensees, or contractors.

9. **USES PROHIBITED.** 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 Parking Structure or any of its contents, or cause a cancellation of any insurance policy covering the Parking Structure or any part thereof or any 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 tenants or occupants of the Parking Structure or injure or annoy them or use or allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose; nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or allow to be committed any waste in or upon the Premises. Tenant shall not conduct or permit to be conducted any sale by auction, in, upon or from the Premises whether said auction be voluntary, involuntary, pursuant to any assignment for the payment of creditors or pursuant to any bankruptcy or other insolvency proceeding.

Tenant shall not cause or permit any Hazardous Substances (as defined below) to be used, stored, generated, or disposed of on or in the Premises by Tenant, Tenant's agents, employees, contractors, or invitees without first obtaining City's written consent. If Hazardous Substances are used, stored, generated, or disposed of on or in the Premises except as permitted above, or if the Premises become contaminated in any manner for which Tenant is legally liable, Tenant shall indemnify and hold harmless City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the Premises or the Parking Structure, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the term of this Lease and arising as a result of that contamination. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. Without limitation of the foregoing, if Tenant causes or permits the presence of any Hazardous Substance on the Premises which results in contamination, Tenant shall promptly, at Tenant's sole expense, take any and all necessary actions to return the Premises to the condition existing prior to the presence of any such Hazardous Substance on the Premises. Tenant shall first obtain City's approval for any such remedial action. The provisions of this paragraph shall be in addition to any other obligations and liabilities Tenant may have to City at law or equity and shall survive the expiration or the termination of this Lease.

For purposes of this Lease, the term "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of California, or the United States Government. "Hazardous Substance" includes without limitation any and all materials or substances that are defined by Law as "hazardous waste", "extremely hazardous waste," or a "hazardous substance". "Hazardous Substance" includes but is not limited to asbestos, polychlorobiphenyls ("PCBs"), and oil, petroleum and their by-products.

10. **POSSESSORY INTEREST TAXES.** TENANT ACKNOWLEDGES AND AGREES THAT FOR SO LONG AS THE BUILDING IS OWNED BY THE STATE OR ANY LOCAL 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.

11. LIENS. Tenant shall keep the Premises and the Parking Structure free from any liens or stop notices arising out of any work performed, materials furnished or obligations incurred by or on behalf of Tenant. City may require, at City's sole option, that Tenant shall provide to City, at Tenant's sole cost and expense, a payment and completion bond in an amount equal to 1½ times the estimated cost of any improvements, additions, or alterations in the Premises which the Tenant desires to make, to insure City against any liability for mechanics' and materialmen's liens or stop notices and to insure completion of the work.

12. ASSIGNMENT AND SUBLETTING. Tenant shall not, either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest herein, or any right or privilege appurtenant hereto, or allow any other person (the employees, agents, servants and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without first obtaining the written consent of City, which consent may be withheld in the sole discretion of City. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Consent to any such assignment or subletting shall in no way relieve Tenant of any liability under this Lease. Any such assignment or subletting without such consent shall be void, and shall, at the option of the City, constitute a default under this Lease. If Tenant be a partnership or joint venture, a withdrawal, addition, or change (voluntary, involuntary, by operation of law, or otherwise) of any of the partners or venturers thereof, or if Tenant be composed of more than one person, a purported assignment or transfer (voluntary or involuntary, by operation of law, or otherwise) from one thereof unto the other or others thereof, or if Tenant be a corporation, a change in the ownership (voluntary or involuntary, by operation of law, or otherwise) of 33-1/3% or more of its capital stock, shall be deemed an assignment prohibited hereby unless the written consent of the City is first obtained thereto.

13. LATE PAYMENT. A late payment charge of 10% of any rent or any other required payment to the City shall be paid by the Tenant if such payment is not paid to the City on or before the 10th day after payment is due. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs City will incur by reason of late payment by Tenant, and that such costs, by their nature, are extremely difficult to calculate with certainty. Acceptance of the late charge by City shall not constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent City from exercising any of the other rights and remedies available to City.

14. INDEMNIFICATION. Tenant shall indemnify and hold harmless City, the City Council and each member thereof, and City's officers, employees and agents (all collectively referred to as "Indemnitees") from and against any and all claims, liabilities, damages, costs and expenses arising from Tenant's use of the Premises or from the conduct of its business or from any activity, work, or other things done, suffered by the Tenant in or about the Premises, and shall further indemnify and hold harmless Indemnitees from and against any and all claims, liabilities,

damages, costs and expenses arising from any breach or default in the performance of any obligations on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of the Tenant, or any officer, agent, employee, guest, or invitee of Tenant, and from all costs, attorney's fees, and liabilities incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding be brought against Indemnitees by reason of any such claim, Tenant, upon notice from Indemnitees shall defend Indemnitees at Tenant's expense, by counsel reasonably satisfactory to Indemnitees. Tenant, as a material part of the consideration to City, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises, from any cause; and Tenant hereby waives all claims in respect thereof against City. Tenant shall give prompt notice to City in case of casualty or accidents in the Premises. City or its agents shall not be liable for any loss or damage to persons or property resulting from fire, explosion, earthquake, flood, falling plaster, steam, gas, electricity, water or any other cause whatsoever. City or its agents shall not be liable for interference with the light, air, or for any latent defect in the Premises.

## 15. INSURANCE.

A. Liability. Tenant agrees that at all times during the term of this Lease and any renewal or extension thereof, it shall at Tenant's expense maintain in force insurance policies which will insure and indemnify the Tenant, City and the other Indemnitees against liability or financial loss resulting from any suits, claims or actions and from all costs and expenses of litigation, in an amount of not less than \$1 million combined single limit for any injury to persons and/or damage to property in or about the Premises by reason of the use and occupation by Tenant or by any other person or persons of the Premises together with an endorsement as set forth in the standard City Certificate of Insurance. Not more frequently than once each year, if, in the opinion of the insurance broker or consultant retained by City, the amount of public liability and property damage insurance coverage at that time is not adequate, Tenant shall increase the insurance coverage as required by City's insurance broker or consultant.

B. Fire. Tenant shall, at Tenant's cost and expense, obtain and at all times during the term hereof maintain in effect, insurance covering (1) the improvements to the Premises made by or on behalf of Tenant, at Tenant's expense, prior to the date of commencement of this Lease; (2) Tenant's boilers and machinery, if any; (3) trade fixtures, furnishings, equipment, and inventory of merchandise located in the Premises; and (4) all alterations, additions, and changes made in or to the Premises during the term of this Lease at Tenant's expense, providing protection to the extent of not less than 90% of the insurable value of all said items against any peril included under insurance industry practices in the jurisdiction of the Premises within the classification "fire and extended coverage," together with insurance against vandalism, malicious mischief, and sprinkler leakage or other sprinkler damage, if sprinklers are installed, and including "use and occupancy" and/or "business interruption" coverage. Tenant hereby waives any and all rights of recovery against City for any loss occurring to such items on account of fire or other casualty, and the aforesaid policies of insurance shall contain appropriate provision recognizing this release by Tenant and waiving all right of subrogation by the insurance carrier. The proceeds of such insurance, so long as this Lease remains in effect, shall be used to repair or replace the items so insured in the event of loss on account of fire or other casualty.

C. Certificate. Said policies shall be issued by an insurer rated in Best's Insurance Guide with a financial rating of B+ VII or better. Said policies shall provide that the insurance coverage shall not be cancelled or reduced by the insurance carrier without the City having been given 30 days' prior written notice thereof by such carrier. The Tenant agrees that it will not cancel or reduce said insurance coverage. At all times during the term of this Lease and prior to taking possession of the Premises, Tenant shall provide the City Clerk of the City a Certificate from the insurance carrier or carriers showing the aforesaid insurance policies are in effect in the amounts above provided, and if requested, a copy of each insurance policy. Notwithstanding any other provision to the contrary contained in this Lease, Tenant shall not have the right to take possession of the Premises until such certificate or certificates and insurance policies are filed with the City Clerk.

D. Lapsed Insurance. Tenant agrees that if it does not keep the aforesaid insurance in full force and effect, the City may take out the necessary insurance and pay the premium thereon, and the repayment thereof shall be deemed to be a part of the rental of said Premises in addition to the usual monthly rent and payable as such on the next day after the payment by the City for said insurance policy upon which rent becomes due hereunder.

16. UTILITIES. Lessee agrees to pay before delinquency every charge, lien or expense accruing or payable during the term of this Lease in connection with the use of the Premises including, but, not by way of limitation, electricity, gas, telephone, water, and other utilities and services used by Lessee on the Premises. If any such charge, lien or expense is not paid when due, City may pay the same, and any amount so paid by City shall be paid by Lessee to City upon demand as additional rent. If any utilities are not separately metered, Lessee shall as additional rent pay to City on a monthly basis Lessee's share of the cost of such utilities, as estimated by City based on City's reasonable estimate of Lessee's consumption, within 15 days after Lessee receives an invoice from City.

17. SIGNS. Tenant shall not without City's prior written approval install or affix any lighting or plumbing fixtures, shades, awnings, or decorations (including exterior painting), signs, lettering, placards, or the like on the exterior of Premises; display or sell merchandise on, or otherwise obstruct, any area outside the exterior walls of the Premises; cause or permit to be used any advertising, loudspeakers, unusually bright or flashing lights, and similar devices which may be seen or heard outside the Premises. Tenant shall at all times maintain show windows and signs on the Premises in a neat, clean and orderly condition. If any exterior sign needs maintenance, repair, cleanup, or repainting and Tenant shall fail to do so after 10 days' written notice from City, City may repair, repaint, clean, or maintain such exterior sign and the cost thereof shall be payable by Tenant to City as additional rent.

18. COMPLIANCE WITH LAW. Tenant agrees to comply with all existing and future ordinances, rules, laws, or regulations of the City and of any other governmental agency which are applicable to the Premises or the operations of Tenant on the Premises, and shall make all improvements to the Premises required by new laws and changes in laws.

19. RIGHT OF ACCESS. The City and City's officers, employees, and agents shall at all reasonable times have the right to enter the Premises for the purpose of inspecting the same, posting notices of non-responsibility or any other notices required by law for the protection of

the City, doing any work that City is permitted or required to perform under this Lease, and making any reasonable repairs which the City determines may be required. Tenant shall furnish City with a pass key to the Premises which the City shall use only in case of emergency to prevent or investigate a crime, or in such cases where access is necessary to prevent damage to the Parking Structure or to the Premises or to make repairs necessary to ensure continuous operation of the Parking Structure. City shall have the right to enter the Premises and post "For Lease" or "For Rent" signs in the windows of the Premises during the last three months of the term, or during any period while Tenant is in default.

In conducting its activities on the Premises as allowed in this section City shall attempt to minimize the inconvenience, annoyance, or disturbance to Tenant. However, City shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of City's entry on the Premises as provided in this section, except damage resulting from the negligent or intentional wrongful acts or omissions of City or its authorized representatives. Tenant shall not be entitled to an abatement or reduction of rent if City exercises any rights reserved in this section.

20. TAXES AND ASSESSMENTS. Tenant shall pay or cause to be paid, before delinquency, any and all taxes and assessments levied and assessed against its interest in the Premises, upon all Tenant's leasehold improvements, equipment, furniture, fixtures, and any other personal property located in or on the Premises, or which become a lien against the Premises or Tenant's interest therein or its property. Tenant recognizes and understands that this Lease may create a possessory interest subject to taxes levied upon such interest.

21. RULES AND REGULATIONS. Tenant shall faithfully observe and comply with the rules and regulations that City shall from time to time promulgate and/or modify. The rules and regulations shall be binding upon the Tenant upon delivery of a copy of them to Tenant. City shall not be responsible to Tenant for the nonperformance of any said rules and regulations by any other lessees or occupants of the Parking Structure.

22. TENANT'S 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 vacating or abandonment of the Premises by Tenant; (b) 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 three (3) days after written notice thereof by City to Tenant; (c) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by the Tenant, other than described in subsection (b), where such failure shall continue for a period of 30 days after written notice thereof by City to Tenant; provided, however, that if the nature of Tenant's default is such that more than 30 days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion; (d) The making by Tenant of any general assignment or general arrangement for the benefit of creditors; or unless prohibited by Bankruptcy Law or other paramount law, 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 60 days); or the appointment of a trustee or a receiver to take possession of substantially all of Tenant's assets located at the

Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within 30 days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within 30 days.

23. REMEDIES ON DEFAULT. In the event of any such default or breach by Tenant, City may at any time thereafter, in its sole discretion, with or without notice or demand and without limiting City in the exercise of a right or remedy which 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; reasonable attorney's fees; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent and other charges and adjustments called for herein for the balance of the term after the time of such award exceeds the amount of such loss for the same period that Tenant proves could be reasonably avoided; and that portion of any leasing commission paid by City and applicable to the unexpired term of this Lease. Unpaid installments of rent or other sums shall bear interest from the date due at the maximum legal rate; or (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 the rent and any other charges and adjustments as may become due hereunder; or (c) Pursue any other remedy now or hereafter available to City under the laws or judicial decisions of the State of California.

24. DEFAULT BY CITY. City shall not be in default unless City fails to perform obligations required of City within 30 days after written notice by Tenant to City specifying wherein City has failed to perform such obligation; provided, however, that if the nature of City's obligation is such that more than 30 days are required for performance then City shall not be in default if City commences performance within such 30 day period and thereafter diligently prosecutes the same to completion. In no event shall Tenant have the right to terminate this Lease as a result of City's default and Tenant's remedies shall be limited to damages and/or an injunction.

25. RECONSTRUCTION. In the event the Premises are damaged by fire or other perils covered by extended coverage insurance, City agrees to repair the damage, and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a reduction of the rent from the date of damage and while such repairs are being made, such reduction to be based upon the extent to which the damage and making of such repairs interfere with the business carried on by the Tenant in the Premises. If the damage is due to the fault or neglect of Tenant or its employees, there shall be no abatement of rent. In the event the Premises are damaged as a result of any cause other than the perils covered by fire and extended coverage insurance, the City shall repair the damage, provided the extent of the destruction be less than 10% of the then full replacement cost of the Premises. In the event the destruction of the Premises is to an extent of 10% or more of the full replacement cost then City shall have the option: (1) to repair or restore such damage, this Lease continuing in full force and effect, but the rent to be proportionately

reduced as hereinabove in this Section provided; or (2) give notice to Tenant at any time within 60 days after such damage, terminating this Lease as of the date specified in such notice, which date shall be no more than 30 days after the giving of such notice. In the event of giving such notice, this Lease shall expire and all interest of the Tenant in the Premises shall terminate on the date so specified in such notice and the rent, reduced by a proportionate reduction, based upon the extent, if any, to which such damage interfered with the business carried on by the Tenant in the Premises, shall be paid up to date of such termination. If the Parking Structure is damaged by any casualty and the cost of repair exceeds 25% of the then replacement value of the Parking Structure, City can elect within 60 days of the destruction to terminate this Lease upon written notice to Tenant whether or not the Premises are destroyed. Notwithstanding anything to the contrary contained in this Section City shall not have any obligation whatsoever to repair, reconstruct or restore the Premises when the damage resulting from any casualty covered under this section occurs during the last twenty-four months of the term of this Lease or any extension thereof. City shall not be required to repair any injury or damage by fire or other cause, or to make any repairs or replacements of any leasehold improvements, fixtures, or other personal property of Tenant.

26. EMINENT DOMAIN. If more than 25% of the Premises shall be taken or appropriated by any authority under the power of eminent domain, either party hereto shall have the right, at its option, within 60 days after said taking, to terminate this Lease upon 30 days' written notice. If either less than or more than 25% of the Premises are taken (and neither party elects to terminate as herein provided), the rent thereafter to be paid shall be equitably reduced. If any part of the Parking Structure other than the Premises is so taken or appropriated, City shall within 60 days of said taking have the right at its option to terminate this Lease upon written notice to Tenant. In the event of any taking or appropriation whatsoever, City shall be entitled to any and all awards and/or settlements which may be given and Tenant shall have no claim against City for the value of any unexpired term of this Lease.

27. PAYMENTS AND NOTICES. All rental payments hereunder shall be paid by Tenant to the Office of the Cashier of the City at 455 North Rexford Drive, Beverly Hills, California 90210 or at such other address or to such other persons as the City may from time to time designate in writing, and all notices delivered to both the City Clerk of City and to the City Attorney at 455 North Rexford Drive, Beverly Hills, California 90210, or at such other addresses or to such other persons as the City may from time to time designate in writing. All notices given by City to Tenant hereunder shall be in writing and delivered to Tenant at the Premises.

28. SUCCESSORS. Each and every one of the terms, covenants, and conditions of this Lease shall inure to the benefit of and shall bind, as the case may be, not only the parties hereto but each and everyone of the heirs, executors, administrators, successors, assigns, and legal representatives of the parties hereto; provided, however, that any subletting or assignment by Tenant of the whole or any part of the Premises or any interest therein shall be subject to the provisions of Section 12 of this Lease.

29. HOLDING OVER. If Tenant, with City's consent, remains in possession of the Premises after expiration or termination of the term, or after the date in any notice given by City to Tenant terminating this Lease, such possession by Tenant shall be deemed to be a month-to-month tenancy, terminable on 30 days' notice given at any time by either Party, at a monthly rental

equal to 150% of the monthly rental in effect immediately prior to expiration or termination. All provisions of this Lease except those pertaining to rent and term shall apply to the month-to-month tenancy.

30. SURRENDER. At the expiration or termination of the term of this Lease, Tenant shall surrender the Premises to the City in the same condition as received, reasonable wear and tear excepted, and all structures and improvements constructed thereon. Notwithstanding the foregoing provision, not later than 90 days after expiration or termination of the term of this Lease, the City may give notice of its election to require the removal of all improvements and restoration of the Premises.

31. SUBORDINATION. At the option of the City, this Lease shall be either subordinate or superior to any ground or underlying lease, deed of trust, mortgage or other encumbrance now or hereafter placed on the Parking Structure. Tenant shall upon request by City execute any written subordination agreements or other documents necessary or convenient to implement this section. In addition, Tenant shall deliver to the City, at its request: (i) a financial statement of Tenant duly certified by Tenant; (ii) an estoppel certificate in a form satisfactory to the City Attorney duly executed by Tenant stating that this Lease is in full force and effect, that the Tenant claims no default by the City hereunder, the monthly rent and the amount of any security deposit; and (iii) Tenant's agreement to attorn to any lender.

32. MEMORANDUM OF LEASE. Tenant and City shall execute and acknowledge a short form memorandum of this Lease for recording purposes in the form attached hereto as Exhibit B. Upon the expiration or earlier termination of this Lease for any reason, Tenant shall within three (3) 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.

33. BROKERS. Each party represents that it has not had dealings with any real estate broker, finder, or other person performing the functions of a broker or finder, with respect to this Lease in any manner. Each party ("Indemnifying Party") shall hold harmless the other party from all damages resulting from any claims that may be asserted against the other party by any broker, finder, or other person with whom the Indemnifying Party has or purportedly has dealt.

34. PARKING SPACES. City shall at Tenant's request from time to time issue to Tenant permits for up to two (2) parking spaces in the Parking Structure on the terms and conditions of City's standard form parking permit agreement, as such agreement may be changed from time to time by City. The monthly permit fee for the parking spaces shall be the standard monthly fee charged by City from time to time for spaces in that parking structure. The monthly permit fees for the parking spaces shall be payable concurrently with the monthly rent under this Lease, and shall be deemed additional rent.

City will use good faith efforts to provide Tenant with permits for such additional parking spaces as Tenant may reasonably require for its employees in the parking facilities located at 225 North Crescent Drive, 333 North Crescent Drive, 9351 Civic Center Drive, or such other parking facilities owned and/or leased by City as City may designate from time to time, on the terms and conditions of City's standard form parking permit agreement, as such agreement may be changed

from time to time by City. The monthly permit fee for such parking spaces shall be the standard monthly fee charged by City from time to time for spaces in those facilities. The monthly permit fees for such parking spaces shall be payable concurrently with the monthly rent under this Lease, and shall be deemed additional rent.

35. GENERAL PROVISIONS.

A. Plats and Riders. Clauses, plats, riders and addenda, if any, affixed to this Lease are a part hereof.

B. 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 or 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 default 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 default at the time of the acceptance of such rent.

C. Joint Obligation. If there be more than one Tenant the obligations hereunder imposed shall be joint and several.

D. Marginal Headings. The marginal headings and article titles to the articles of this Lease are not a part of the Lease and shall have no effect upon the construction or interpretation of any part hereof.

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

F. Prior Agreements. This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreements or understanding pertaining to any such matters shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Lease shall not be effective or binding on any party until fully executed by both parties hereto.

G. Inability to Perform. This Lease and the obligations of the Tenant hereunder shall not be affected or impaired because the 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, labor troubles, acts of nature, or any cause beyond the reasonable control of the City.

H. Partial Invalidity. Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair or invalidate any other provision hereof and such other provision shall remain in full force and effect.

I. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, whenever possible, be cumulative with all other remedies at law or in equity.

J. Authority of Tenant. If Tenant is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with the bylaws of said corporation, and that this Lease is binding upon said corporation.

K. City's Approvals. Neither City's execution of this Lease nor any consent or approval given by City hereunder in its capacity as City shall waive, abridge, impair or otherwise affect City's powers and duties as a governmental body. Any requirements under this Lease that Tenant obtain consents or approvals of City are in addition to and not in lieu of any requirements of law that Tenant obtain approvals or permits. However, City shall attempt to coordinate its procedures for giving contractual and governmental approvals so that Tenant's requests and applications are not unreasonably denied or delayed.

36. EXHIBITS. The following drawings and special provisions are attached hereto as Exhibits and made a part of this Lease:

Exhibit A

Exhibit B

Executed this \_\_\_\_ day of \_\_\_\_\_, 2009, in the City of Beverly Hills, California.



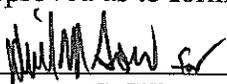
\_\_\_\_\_  
JAEIN LEE,  
an individual

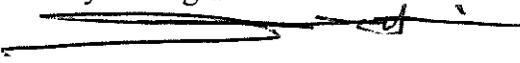
CITY OF BEVERLY HILLS,  
a municipal corporation

By: \_\_\_\_\_  
Nancy Krasne,  
Mayor of the City of Beverly Hills,  
California

ATTEST:

\_\_\_\_\_ (SEAL)  
Byron Pope,  
City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Laurence S. Wiener, City Attorney

Approved as to content:  
\_\_\_\_\_  
Roderick Wood  
City Manager  
  
\_\_\_\_\_  
Scott Miller,  
Chief Financial Officer

**EXHIBIT A**

**DESCRIPTION/DIAGRAM OF LEASED PREMISES**

(Attached.)

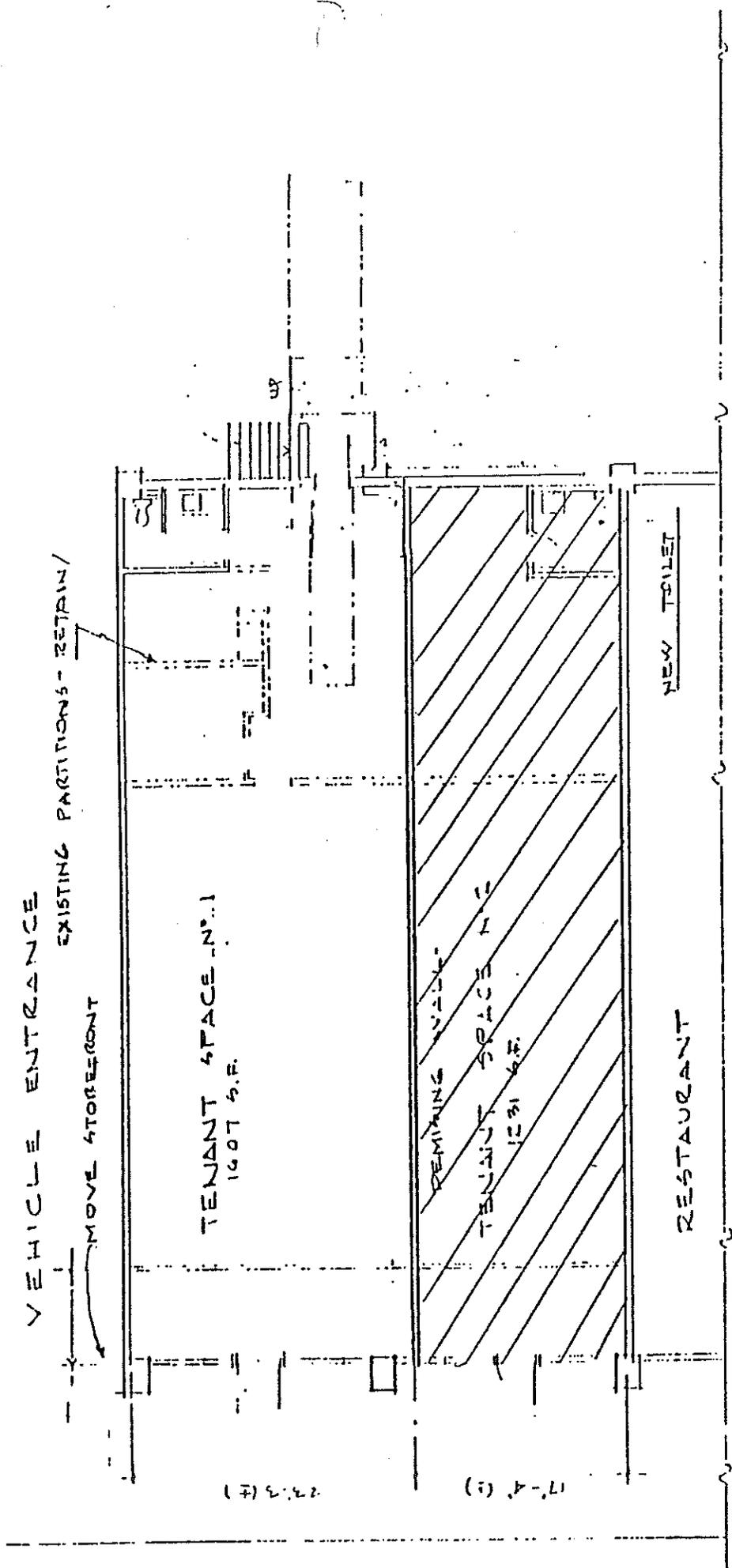


EXHIBIT "A" FOR :  
 TENANT SPACE NO. 1  
 434 N. CAMDEN DR.  
 BEVERLY HILLS, CA

**EXHIBIT B**

**FORM OF MEMORANDUM OF LEASE**

RECORDING REQUESTED BY:  
WHEN RECORDED RETURN TO:

City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, California 90210  
Attention: City Clerk

---

[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 made as of \_\_\_\_\_ 2009, by and between the CITY OF BEVERLY HILLS ("City"), and JAI IN LEE, an individual (dba "California Coffee Selecto") ("Tenant").

**RECITALS**

A. Tenant and City have entered into that certain City of Beverly Hills Lease of substantially even date herewith (the "Lease"), pursuant to which City has agreed to lease and demise to Tenant, and Tenant has agreed to lease and accept from Authority, a portion (the "Premises") of that certain building located in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 434 North Camden Drive. The Building is located on the land more particularly described on Exhibit A attached hereto (the "Property"). The Premises are more particularly described in the Lease.

B. Tenant and Authority now desire to enter into this Memorandum to provide record notice of the Lease.

**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 Authority agree as follows:

1. Lease. Authority hereby leases and demises to Tenant, and Tenant hereby leases and accepts from Authority, the portion of the Property defined as the "Premises" for an initial term of five (5) years commencing on April 1, 2009, subject to extension for up to 5 years pursuant to one five-year extension option. The rental rate and other terms and

conditions of the Lease are set forth in the Lease (including any options to extend the Term of the Lease), which terms and conditions 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:**

**TENANT:**

THE CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Nancy Krasne  
Mayor

\_\_\_\_\_  
JAI IN LEE,  
an individual

ATTEST:

\_\_\_\_\_  
Byron Pope, City Clerk

**ACKNOWLEDGMENT**

State of California )  
 )  
County of \_\_\_\_\_ )

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

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)  
Signature of Notary Public

**ACKNOWLEDGMENT**

State of California )  
 )  
County of \_\_\_\_\_ )

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

personally appeared \_\_\_\_\_

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WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)  
Signature of Notary Public

**EXHIBIT "A"**  
**TO MEMORANDUM OF LEASE**

**LEGAL DESCRIPTION OF PROPERTY**

Block 1, Lot 7 of Track Beverly, in the City of Beverly Hills, County of Los Angeles, State of California, as per map recorded in Book 11, Page 94 of Maps, in the Office of the County Recorder of said County.

## **Attachment 2**

### Memorandum of Lease

RECORDING REQUESTED BY:  
WHEN RECORDED RETURN TO:

City of Beverly Hills  
455 North Rexford Drive  
Beverly Hills, California 90210  
Attention: City Clerk

---

[Space Above For Recorder's Use Only]

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**LANDLORD:**

**TENANT:**

THE CITY OF BEVERLY HILLS

By: \_\_\_\_\_  
Nancy Krasne  
Mayor

  
\_\_\_\_\_  
JAEIN LEE,  
an individual

ATTEST:

\_\_\_\_\_  
Byron Pope, City Clerk

**ACKNOWLEDGMENT**

State of California )  
County of Los Angeles )

On April 29, 2009 before me, B. ROUS, Notary Public  
(insert name and title of the officer)

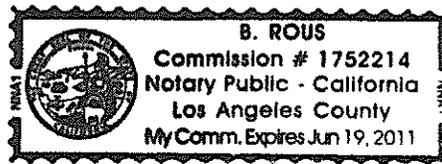
personally appeared Joe In Lee

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   
Signature of Notary Public



(Seal)

**ACKNOWLEDGMENT**

State of California )  
 )  
County of \_\_\_\_\_ )

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

personally appeared \_\_\_\_\_,

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Signature \_\_\_\_\_ (Seal)  
Signature of Notary Public

**EXHIBIT "A"**  
**TO MEMORANDUM OF LEASE**

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