



AGENDA REPORT

Meeting Date: April 17, 2012
Item Number: F-5
To: Honorable Mayor & City Council
From: Brenda Lavender, Real Estate & Property Management Manager
Subject: LEASE AND MEMORANDUM OF LEASE BY AND BETWEEN THE CITY OF BEVERLY HILLS AND THE W. MCDEVITT COMPANY, INC.; AND A BROKER AGREEMENT BY AND BETWEEN THE CITY OF BEVERLY HILLS AND INDUSTRY PARTNER, INC.
Attachments:

1. Lease
2. Memorandum of Lease
3. Commission Agreement

RECOMMENDATION

It is recommended that the City Council approve the Lease and Memorandum of Lease by and between the City of Beverly Hills and The W. McDevitt Company, Inc. A copy of the lease and memorandum of lease is on file with the City Clerk. If approved The W. McDevitt Company (McDevitt) will lease the entire 3rd floor of the City owned building at 9400 Santa Monica Boulevard.

INTRODUCTION

The W. McDevitt Company is a real estate company that specializes in retail tenant representation. The company was founded in 1994 and represents all of the Urban Outfitters, Inc. brands (Urban Outfitters, Anthropologie, Free People, Terrain and BHLDN) throughout the United States. Urban Outfitters will share office space with the McDevitt location.

DISCUSSION

McDevitt is leasing the entire 3rd floor of the building which is approximately \$5,175 rentable square feet. The lease is for a term of ten (10) years, at an initial rental rate of \$4.00/square foot monthly. The City will provide a tenant improvement allowance of \$60.00 and pay the broker commission.

FISCAL IMPACT

The long term fiscal impact of this is lease is additional lease revenue of \$2,129,654.47 over the life of the lease. In the initial year of the lease term there is a negative impact of (\$259,524.20) from the upfront costs of the deal. The upfront costs include a broker commission of (\$72,224.20), tenant improvement allowance of (\$310,500), and six (6) months of free rent of (\$124,200).



Scott G. Miller, Director of
Administrative Services, CFO

Approved By

Council will be advised if lease is
not signed by Tuesday.

Attachment 1

**LEASE BETWEEN THE CITY OF BEVERLY HILLS
AND THE W. MCDEVITT COMPANY, INC.
FOR SPACE AT 9400 SANTA MONICA BOULEVARD**

This LEASE BETWEEN THE CITY OF BEVERLY HILLS AND THE W. MCDEVITT COMPANY, INC., FOR SPACE AT 9400 SANTA MONICA BOULEVARD (the “Lease”) is dated as of April 17, 2012 and is entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation (“City” or “Landlord”), as landlord, and THE W. MCDEVITT COMPANY, INC., a Pennsylvania corporation (the “Tenant”), as tenant.

1. LEASE OF PREMISES.

1.1 Lease of Premises to Tenant. City hereby leases to Tenant, and Tenant hereby leases from City, space on the third floor of the building at 9400 Santa Monica Boulevard, Beverly Hills, California (“Building”), which is described on Exhibit “A” hereto (the “Premises”), on the terms and conditions hereinafter set forth.

1.2 Parking. Commencing on the Certification Date (as defined in Section 3.1 below), Tenant shall have the right, but not the obligation, to rent from time to time up to fifteen (15) parking passes for unreserved parking spaces at the 450 Crescent Drive parking garage (the “Parking Structure”). Prior to the Certification Date, Tenant shall advise Landlord in writing as to the number of parking passes, if any, Tenant will rent in the Parking Structure. During the Term, Tenant shall have the right to terminate its rental of some or all of the parking passes, or obtain additional parking passes (subject to the maximum of 15 parking passes in total referred to above) upon thirty (30) days prior written notice to Landlord. Tenant shall pay the prevailing rate charged by Landlord for parking passes for unreserved parking spaces (currently, \$135.00 per space per month), as applicable, which shall be subject to periodic increase. Tenant understands and acknowledges that the Parking Structure is currently intended to be utilized, and shall at all times (in Landlord’s sole and absolute discretion) be available and used as a public parking facility.

1.3 Construction of Building. Landlord intends to construct the Premises in substantial accordance with Exhibit “B” attached hereto (collectively, the “Shell Improvements”).

2. USE OF COMMON AREAS AND PROJECT.

2.1 Certain Definitions. As used herein, the term “Common Areas” shall mean all areas within the exterior boundaries of the parcel of land on which the Building is located that are now or later made available for the general use of all persons entitled to occupy the Building, including without limitation, all lobbies, common corridors and hallways, stairwells, restrooms, parking facilities and other open areas. “Common Areas” shall not include the roof deck. The term “Project” shall mean the Building together with the parcel of land on which the Building is located.

2.2 Tenant Use. Tenant shall have the right to the reasonable nonexclusive use of the Common Areas.

2.3 City Use. Provided that access to Tenant's Premises and parking is not unreasonably affected, City have the right to: (a) utilize from time to time any portion of the Common Areas for promotional, entertainment and related matters; (b) place permanent or temporary kiosks, displays, carts and stands in the Common Area and lease same to tenants; (c) restrain the use of the Common Areas by unauthorized persons; (d) temporarily close any portion of the Common Areas for repairs, improvements or alterations, or to prevent dedication or an easement by prescription, or for any other reason deemed sufficient in City's reasonable judgment; (e) renovate, upgrade or change the shape and size of the Common Areas or add, eliminate or change the location of improvements to the Common Areas including, without limitation, parking areas, roadways and curb cuts; and (f) construct improvements on the Common Areas.

3. TERM.

3.1 Term. The term of this Lease ("**Term**") shall commence (the "**Commencement Date**") on the date that is one hundred and twenty (120) days after the date on which City certifies to Tenant in writing that City is prepared to deliver possession to Tenant of the Premises with all Shell Improvements completed and tenders delivery to Tenant by sending or delivering keys to Rick Chancellor of Tenant at Industry Partners, 3000 Olympic Boulevard, Santa Monica, California 90404 (the "**Certification Date**"), and shall expire ten (10) calendar years thereafter; provided that if the Certification Date has not occurred by May 15, 2012, then Tenant shall have the right to terminate this Lease by written notice to Landlord given on or before May 25, 2012 and provided, further, that if Tenant delivers to Landlord reasonable evidence that the delay in the Certification Date beyond May 1, 2012 has caused Tenant to incur holdover rent costs that are greater than the rent previously in effect for the holdover space, then the Certification Date has not occurred by May 1, 2012, the Commencement Date shall be extended by two (2) days for the number of days between May 1, 2012 and the later Certification Date. All of the terms of this Lease shall apply pursuant to Tenant's occupancy of the Premises from and after the Certification Date. Notwithstanding the foregoing, the Commencement Date shall be extended one day for each day the Tenant Improvements are delayed (as shown by reasonable evidence delivered to City) due to Landlord's unreasonable acts or unreasonable omissions or Landlord's failure to respond within a time period for City response in Exhibit "C".

3.2 Tenant Option to Extend. Provided Tenant notifies Landlord in writing of Tenant's exercise of the option described in this Section 3.2 ("**Extension Option**") at least one hundred and eighty (180) days prior to the expiration of the Term, and provided, further, that no Event of Default by Tenant exists as of the date of Tenant's notice, Tenant shall have the right to extend the term of this Lease for five (5) calendar years ("**Extension Term**"). Within thirty (30) days after timely receipt of Tenant's extension notice, Landlord will deliver a written statement of Landlord's determination of the prevailing fair market rental rate for the Premises, based on the criteria set forth below (the "**Fair Market Rental Rate**"). If Tenant exercises the Extension Option, Monthly Rent for the first year of the Extension Term shall be adjusted as of the first day of the Extension Term to ninety percent (90%) of the Fair Market Rental Rate, and on each anniversary of the first day of the Extension Term, the Monthly Rent payable during the Extension Term shall be increased by three percent (3%) of the Monthly Rent then in effect.

The Fair Market Rental Rate for the first full year of the Extension Term shall be

determined as follows:

(i) If Tenant objects to Landlord's determination of the Fair Market Rental Rate for the Premises (delivered in accordance with Section 3(b) above), then Tenant shall, within ten (10) business days after receipt of Landlord's notice, notify Landlord in writing that Tenant disagrees with Landlord's determination, whereupon Landlord and Tenant shall meet and endeavor in good faith to agree upon the Fair Market Rental Rate for the Extension Term. If Landlord 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 commercial space or appraising properties in the City of Beverly Hills and surrounding areas, 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. Fair Market Rental Rate shall be based on prevailing rates for leases of retail space similar to and in the vicinity of the Premises, but shall **not** take into account or afford Tenant with any savings to Landlord by virtue of Landlord's not having to pay additional tenant improvement or inducement costs, or pay additional brokers' commissions, upon such extension, and shall not reflect the value added to the Premises by virtue of tenant improvements made by Tenant at its expense. Until the Fair Market Rental Rate determination is completed, Tenant shall continue to pay to Landlord the amount of Monthly Rent due immediately preceding the commencement of the Extension Term. After the Fair Market Rental Rate determination is completed and the Fair Market Rent Rate for the Extension Term is established, Tenant shall make payment to Landlord for any underpayment of Monthly Rent owing for prior months within ten (10) days after written demand from Landlord. 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 agent 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) select a third broker who shall be a licensed commercial real estate agent meeting the qualifications stated above. If Landlord's broker and Tenant's broker are unable to agree on the third broker within such ten (10) day period, then either Landlord or Tenant may request the President of the BOMA Chapter including the area of the Project 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 determinations is closest to the Fair Market Rental Rate for the Extension Term, and the Fair Market Rental Rate determination so selected by the third broker shall be the Fair Market Rental Rate for the first year of the Extension Term.

(iii) Each broker shall consider such information as Landlord and Tenant timely presents regarding the determination of Fair Market Rental Rate for the first year of the Extension Term, and each broker shall be given access to the information used by each other

broker.

3.3 Tenant's Right to Terminate. Tenant shall have the right to terminate this Lease upon one (1) calendar year's prior written notice to City at any time after the fifth (5th) year of the Term provided that Tenant concurrently pays to Landlord the unamortized portion of (a) the six month "free rent" period (at the rate of \$20,700 per month), (b) the tenant improvement allowance described in Paragraph E.1. of Exhibit "C" attached hereto, and (c) the broker's commission paid by Landlord in connection with this Lease (all of which shall be amortized on a straight line basis over the initial Term of this Lease).

4. RENT, SECURITY DEPOSIT.

4.1 Commencing on the date that is six (6) calendar months after the Commencement Date, and continuing throughout the Term, Tenant shall pay to City as monthly rent, without deduction, setoff, notice or demand, in advance, on the first day of each calendar month, the following amounts as "**Monthly Rent**" (provided that Tenant shall pay the first full month's Monthly Rent concurrently with its execution of this Lease and the next Monthly Rent payment shall be due on the first day of the seventh month of the Term):

<u>Year</u>	<u>Monthly Rent</u>
1 and 2	\$20,700.00
3 and 4	\$21,321.00
5 and 6	\$21,960.63
7 and 8	\$22,619.45
9 and 10	\$23,298.03

4.2 Concurrently with its execution of this Lease, (and in addition to payments of the first full month's rent in the amount of \$20,700) Tenant has deposited with Landlord the sum of Twenty Thousand Seven Hundred and No/100 Dollars (\$20,700.00) as a security deposit (the "**Security Deposit**"). The Security Deposit shall be held by Landlord as security for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the Term hereof. If Tenant defaults with respect to any provisions of this Lease and such default continues beyond any applicable notice and cure period, including but not limited to the provisions relating to the payment of rent, Landlord may (but shall not be required to) use, apply or retain all or any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any other amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to the then required amount. Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such Security Deposit. Tenant waives any rights it may have under Section 1950.7 of the California Civil Code with respect to the Security Deposit. Within sixty (60) days following the expiration of the Term or earlier termination of this Lease and provided that no default then exists, the Security Deposit or any balance thereof shall be returned to Tenant. If Landlord sells its interest in the Building during the Term hereof and deposits with the purchaser thereof the

then unappropriated funds deposited by Tenant as aforesaid, Landlord shall be discharged from any further liability with respect to such Security Deposit accruing after the date Landlord deposits such Security Deposit with such purchaser.

5. **USE.** Tenant shall use the Premises solely for office use. Tenant shall not use or permit the Premises to be used for any other purpose without the prior written consent of City, which City may withhold in its sole and absolute discretion. At no time shall Tenant cause or permit to be used any advertising, loudspeakers, or unusually bright or flashing lights which may be seen or heard outside the Premises.

6. **ROOF TOP PATIO.** Tenant shall have the right, subject to compliance with roof top rules and regulations and a reservation system created by City and delivered to Tenant (as amended from time to time), to use the roof top patio of the Building pursuant to such rules and regulations and reservation system. Tenant shall, as additional rent, reimburse City within thirty (30) days after written demand by City from time to time (but not more frequently than once every 30 days) for all reasonable costs incurred by City in connection with Tenant's use of the roof top patio (including, without limitation, cleaning costs, repair costs, maintenance costs and any applicable insurance costs prorated for the number of days (including partial days) the roof top patio is used by Tenant).

7. **INITIAL TENANT IMPROVEMENTS; SUBSEQUENT ALTERATIONS AND IMPROVEMENTS.** Tenant may make initial improvements to the Premises in accordance with and subject to Exhibit "C" (which includes provisions for a tenant improvement allowance from City). Tenant shall not make any other material changes, alterations or additions (collectively "**Alterations**") to the Premises without City's prior written approval, in City's sole and absolute discretion. City's approval under this Lease with respect to any request by Tenant to make any Alterations shall be in addition to any municipal code, regulatory and legal requirements. Landlord and Tenant agree that provided Tenant gives City at least thirty (30) days prior written notice of the applicable improvement, alteration or addition, no Landlord approval shall be needed or required in the event Tenant desires to make non-structural improvements, alterations, or additions to the interior of the Premises that do not affect Building utility systems (including HVAC) ("**Minor Alterations**") and the costs of such Minor Alterations do not exceed \$90,000 in the aggregate or consist of Minor Alterations for subletting to Urban Outfitters West, LLC or an affiliate thereof as provided in Section 9 below.

8. **MAINTENANCE; COMMON AREA AND OPERATING EXPENSE CHARGES.**

8.1 **City Maintenance.** City shall maintain, in good condition and repair, and in compliance with all laws: (a) the structural portions of the Building, including the foundation, floor/ceiling slabs, roof, exterior walls and glass, columns, beams, shafts, stairs, stairwells and elevator cabs; (b) the Building mechanical, electrical, life safety, plumbing, sprinkler and heating, ventilating and air-conditioning systems (excluding any improvements or equipment installed by Tenant within the Premises); and (c) the Common Areas.

8.2 Operating Expense and Common Area Charges.

(a) For the purposes of this Section, the capitalized terms “Common Areas” and “Building” shall have the meanings set forth in Section 2.1, and the following capitalized terms are defined as follows:

(i) **“Base Operating Expenses”** means the Operating Expenses for the calendar year 2012.

(ii) **“Initial Operating Expense Payment Date”** shall mean January 1, 2013.

(iii) **“Operating Expenses”** shall consist of all costs paid by Landlord in respect of operation, management, ownership, maintenance and repair of the Building (including Common Area plants and landscaping costs), all as determined in accordance with accepted principles of sound real estate management accounting practice, consistently applied. Notwithstanding the foregoing, expenses allocated to management of the Building shall under no circumstances exceed eight percent (8%) of the total Operating Expenses. Operating Expenses shall not include the following:

(1) costs incurred in connection with the original construction of the Building or in connection with any major change in the Building, such as adding or deleting floors, and costs of the design and construction of tenant improvements to the Premises or the premises of any tenants or other occupants and the amount of any allowances or credits paid to or granted to tenants or other occupants for any such design or construction;

(2) depreciation, interest and principal payments on mortgages, bonds and other debt costs, if any, and any bad debt loss, rent loss, or reserves for bad debts or rent loss or any reserves of any kind;

(3) marketing costs, legal fees, space planners' fees, advertising and promotional expenses, and brokerage fees incurred in connection with the original development, subsequent improvement, or original or future leasing, or sale of the Building;

(4) costs of any items to the extent Landlord receives reimbursement from insurance proceeds (such proceeds to be excluded from Operating Expenses in the year in which received) or from a third party;

(5) costs associated with the operation of Landlord, as the same are distinguished from the costs of operation of the Building, including accounting, IT, supervision support, legal matters, costs of defending any lawsuits with any mortgagee (except as the actions of the Tenant may be in issue), costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Building, and costs incurred in connection with any disputes between Landlord and its employees, between Landlord and Building management, or between Landlord and other tenants or occupants;

(6) the wages and benefits of any employee who does not devote substantially all of his or her employed time to the Building unless such wages and benefits are prorated to reflect time spent on operating and managing the Building vis-à-vis time spent on matters unrelated to operating and managing the Building; provided, that in no event shall Operating Expenses for purposes of this Lease include wages and/or benefits attributable to personnel above the level of Real Estate & Property Manager, above the level of chief engineer or above the level of Facilities Manager (and prorated wages and benefits of the Building manager, chief engineer and maintenance supervisor may be included in Operating Expenses);

(7) late charges, penalties, liquidated damages, and interest or amount paid as ground rental or as rental for the Building by the Landlord;

(8) costs, including permit, license and inspection costs, incurred with respect to the installation of tenant improvements made for new tenants or other occupants in the Building or incurred in renovating or otherwise improving, decorating, painting or redecorating vacant space for tenants or other occupants of the Building;

(9) costs of capital repairs and alterations, capital improvements and equipment and other capital expenses or expenditures, except for those that reduce Operating Expenses (in which case they shall be amortized on a straight line basis over their useful life);

(10) any compensation paid to clerks, attendants or other persons in commercial concessions operated by or on behalf of the Landlord;

(11) rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment (i) which are not commercially reasonable either as to type or amount, and (ii) which if purchased the cost of which would be excluded from Operating Expenses as a capital cost, except equipment not affixed to the Building which is used in providing janitorial or similar services and, further excepting from this exclusion such equipment rented or leased to remedy or ameliorate an emergency condition in the Building (such as equipment leased to alleviate an interruption in utilities, including HVAC);

(12) all items and services for which Tenant or any other tenant in the Building is obligated to reimburse Landlord, or which Landlord provides selectively to one or more tenants (other than Tenant) without reimbursement;

(13) electric power costs for which any tenant directly contracts with a public service company;

(14) costs, other than those incurred in ordinary maintenance and repair, for sculpture, paintings, fountains or other objects of art;

(15) rent for any office space occupied by Building management personnel;

(16) Landlord's general corporate overhead and general and administrative expenses;

(17) costs incurred to comply with any existing or new applicable laws with respect to any hazardous material (including, without limitation, with respect to the monitoring, testing and reporting relating thereto) either (i) located on or below the surface of the Building, (ii) for asbestos or (iii) located in the Building;

(18) costs arising from Landlord's charitable or political contributions;

(19) any above Building standard cleaning, including, but not limited to construction cleanup or special cleanings associated with parties/events, the cost of any training or incentive programs, other than for tenant life safety information services, and programs offered to all tenants of the Building, settlements, judgments or awards paid or incurred because of disputes between Landlord and Tenant, Landlord and other tenants or prospective occupants or prospective tenants/occupants or providers of goods and services to the Building, and legal fees and costs concerning the negotiation and preparation of this Lease or any litigation between Landlord and Tenant or between Landlord and any other tenant in the Building;

(20) any reserves retained by Landlord;

(21) costs for extra or after-hours HVAC, utilities or services which are provided to Tenant and or any occupant of the Building and as to which either (x) Tenant is separately charged, or (y) the same is not offered or made available to Tenant at no charge;

(22) costs of any insurance deductibles or premiums with respect to insurance obtained or required to be obtained by Landlord with respect to events clearly caused by tenants or their officers, employees, contractors, or agents (to the extent costs are required to be paid by the applicable tenant pursuant to its lease);

(23) any fee imposed in connection with the management of the building;

(24) costs arising from the negligence, illegal acts or willful misconduct of Landlord or the Landlord Parties;

(25) in the event any facilities, services or utilities used in connection with the Building are provided from another building owned or operated by Landlord or vice versa, the costs incurred by Landlord in connection therewith shall be allocated to Operating Expenses by Landlord on a reasonably equitable basis;

(26) advertising and promotional expenses and costs of signs in or on the Building identifying the owner of the Building (except for costs for maintaining Building directories) or other tenants' signs, any entertainment, dining or travel expenses for any purpose, the costs of any flowers, gifts, balloons, etc. provided to any prospective tenants, costs reimbursed to Landlord under any warranty carried by Landlord for the Building, which warranties Landlord shall use commercially reasonable efforts to enforce, and costs of magazine and newspaper subscriptions;

- (27) any “validated” parking for any entity;
- (28) costs of any “tap fees” or any sewer or water connection fees for the benefit of any particular tenant in the Building;
- (29) costs of operating, maintaining and/or repairing the Parking Structure, including without limitation, employee salaries or third party operator costs;
- (30) the cost of any janitorial, utilities or trash service supplied to any restaurant tenant of the Building;
- (31) any other costs paid directly by Tenant under the terms of this Lease.

If the Building is not at least ninety five percent (95%) occupied during all or a portion of the applicable year for Base Operating Expenses or any comparison year, Landlord shall make an appropriate adjustment to the variable components of Operating Expenses for such year (but not fixed components of Operating Expenses that do not vary based on occupancy) by employing sound real estate accounting and management principles, consistently applied, to determine the amount of Operating Expenses that would have been incurred had the Building been ninety five percent (95%) occupied in that year; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Landlord shall (i) not make a profit by charging items to Operating Expenses that are otherwise also charged separately to others, and (ii) Landlord shall not collect Operating Expenses from Tenant and all other tenants/occupants in the Building in an amount in excess of what Landlord incurred for the items included in Operating Expenses. Any refunds or discounts actually received by Landlord for any category of Operating Expenses shall reduce Operating Expenses in the applicable year (pertaining to such category of Operating Expenses). If a new category of Operating Expenses is incurred that is not included in the Base Operating Expenses, including without limitation, the cost of any service or maintenance contracts and the cost of any repair, but specifically excluding (i) any cost imposed by any new Laws or changes in Laws, or (ii) any generally applicable lender requirements not specific to the Building, then the change in the first full year’s Operating Expenses for such item shall be added to the Base Operating Expenses commencing with the first full calendar year that such Operating Expenses is incurred, so that Tenant shall only be required to pay subsequent increases in such Operating Expenses.

(iv) As used herein, the term “**Tax Expenses**” shall include any form of assessment, license fee, license tax, business license fee, transit tax or fee, commercial rental tax, levy, charge, or similar imposition (exclusive of penalties, late charges and interest thereon), imposed by any authority having the direct power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage, transportation or other improvement or special assessment district thereof, as against any legal or equitable interest of Landlord in the Building and the Premises, or any portion thereof, and paid by Landlord, including, but not limited to, the following:

- (1) any tax on Landlord’s right to rent or right to other income from the Premises or as against Landlord’s business of leasing the Premises;

(2) any assessment, tax, fee, levy or charge in substitution, partially or totally, of any assessments, taxes, fees, levies and charges that may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants. It is the intention of Tenant and Landlord that all such new and increased assessments, taxes, fees, levies and charges be included within the definition of Tax Expenses for the purposes of this Lease;

(3) any assessment, tax, fee, levy or charge allocable to or measured by the area of the Premises or the rent payable hereunder, including, without limitation, any gross receipts tax or excise tax levied by the state, city or federal government, or any political subdivision thereof, with respect to the receipt of such Rent, or upon or with respect to the possession, leasing, operating, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or any portion thereof; and

(4) any assessment or tax upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises (excluding possessory interest taxes, which are payable by Tenant directly to the taxing authority).

Notwithstanding any provision of this Section express or implied to the contrary: (A) Tax Expenses shall not include (I) Landlord's federal or state net income, gift taxes, capital stock taxes, excess profits taxes, franchise, inheritance or estate taxes and other taxes to the extent applicable to Landlord's general or net income (as opposed to rents, receipts or income attributable to operations at the Building), (II) tax penalties, interest or late charges incurred as a result of Landlord's (or Landlord's agents', contractors' or employees') negligence, inability or unwillingness to make payments when due; (III) special assessments or special taxes initiated by Landlord as a means of financing improvements to the Building; (IV) possessory interest taxes paid by Tenant; and (V) any amounts charged directly to and paid by Tenant or other tenants; and (B) there shall be no duplication of items included in Tax Expenses and items included in Operating Expenses. Refunds of Tax Expenses shall be credited against Tax Expenses and refunded to Tenant regardless of when received, based on the year to which the refund is applicable. All special assessments which may be paid in installments shall be paid by Landlord in the maximum number of installments permitted by law and not included in Tax Expenses except in the year in which the assessment is actually paid.

(v) Tenant's Share: 34.75%. Landlord and Tenant hereby stipulate and agree that the Building contains 14,822 rentable square feet. Notwithstanding the foregoing, Tenant shall have the right for a period of twenty (20) days after the Certification Date to measure the Premises. If, based on such measurements, Tenant believes that the Tenant's Share is not accurate, Tenant shall submit its measurements to Landlord. If the parties are not able to agree on the Tenant's Share within ten (10) business days after Tenant submits its measurements to Landlord, then either party may terminate this Lease upon five (5) business days' prior written notice to the other. If the parties agree on a new measurement for the Premises, then the Monthly Rent, Security Deposit and Tenant Improvement Allowance, as well as Tenant's Share, shall be appropriately adjusted.

(b) Commencing on the Initial Operating Expense Payment Date, Tenant shall pay to Landlord as additional rent, in equal monthly installments, in advance, on or before the first (1st) day of each month, without prior demand and without offset, abatement or deduction, except as otherwise specifically set forth herein, an amount per month reasonably estimated by Landlord in good faith on a category by category basis (the “**Monthly Operating Expense Payment**”) for Tenant’s Share of Operating Expenses that exceed the Base Operating Expenses and Tenant’s Share of estimated Tax Expenses. Landlord shall use reasonable efforts to notify Tenant in writing by March 1, 2013 of Landlord’s estimate of Tenant’s Share of Operating Expenses for 2013 in excess of the Base Operating Expenses. On the first anniversary of the Initial Operating Expense Payment Date, and on each subsequent anniversary of the Initial Operating Expense Payment Date during the Term of the Lease (each such anniversary shall be referred to herein as an “**Adjustment Date**”), the Monthly Operating Expense Payment (and Tax Expense payment) payable during the twelve (12) months commencing upon and following such Adjustment Date shall be revised as needed to reflect Landlord’s reasonable estimate of Tenant’s Share of Operating Costs for that twelve (12) month period that exceed the Base Operating Expenses and Tenant’s Share of estimated Tax Expenses. Landlord will use reasonable efforts to notify Tenant of the revised estimate on or before the date that is thirty (30) days prior to the applicable Adjustment Date, but if such notice is not given, Tenant shall continue to make payments in the amounts previously estimated until Landlord gives Tenant such notice.

(c) As soon as reasonably practicable after the anniversary of the Initial Operating Expense Payment Date, and each subsequent anniversary of the Initial Operating Expense Payment Date, which Landlord shall use good faith efforts to perform by April 1 of each year, Landlord shall furnish Tenant a statement on a category-by-category basis with respect to the preceding year, showing actual Operating Expenses and actual Tax Expenses owed by Tenant for that year in excess of the Base Operating Expenses, and the total payments made by Tenant with respect thereto. Notwithstanding anything to the contrary contained herein, Tenant shall not be responsible for Tenant’s Share of any Operating Expenses or Tax Expenses attributable to any year which are first billed to Tenant more than two (2) calendar years after the earlier of the expiration of the applicable year or the expiration or earlier termination of the Term, provided that in any event Tenant shall be responsible for Tenant’s Share of Operating Expenses or Tax Expenses levied by any governmental authority or by any public utility companies at any time following the expiration or earlier termination of the Term which are attributable to any year. Unless Tenant raises any objections to Landlord’s statement within one hundred twenty (120) days after it is given to Tenant, such statement shall conclusively be deemed correct and Tenant shall have no right thereafter to dispute such statement or any item therein or the computation of Tenant’s share thereof. Additionally, if following Tenant’s delivery to Landlord of a written request for a Tenant review, Landlord fails to make its accounting records for the applicable year reasonably available for such purpose, then the review period shall be extended one (1) day for each day that Tenant and/or Tenant’s auditor, as the case may be, is so prevented from accessing such accounting records. In no event shall the payment by Tenant of any Operating Expenses or Tax Expenses, or any amount on account thereof, preclude Tenant from exercising its rights under this Section. If Tenant does object to such statement, Landlord shall provide Tenant’s accountant (who must be a duly licensed CPA) with access to back-up books and records for the figures shown on the statement for Tenant’s review. In connection with the foregoing review, Landlord shall make available to Tenant such reasonable supporting documentation relating to the subject statement as Tenant may reasonably

request and Landlord will provide Tenant with reasonable space for such Tenant review and reasonable use of such available office equipment, but may charge Tenant for telephone calls and photocopies at Landlord's actual cost. If after such audit, Tenant still objects to Landlord's statement, the parties shall negotiate in good faith to resolve any disputes. In the event that following Tenant's review, Tenant and Landlord continue to dispute the amounts shown on Landlord's statement and Landlord and Tenant are unable to resolve such dispute, then either Landlord or Tenant may submit the matter to judicial resolution and the proper amount of the disputed items shown on such statement shall be determined by such judicial resolution. If the resolution of the parties' dispute with regard to the sums shown on the statement reveals an error in the calculation of Tenant's Share of Operating Expenses or Tax Expenses to be paid for such year, the parties' sole remedy shall be for the parties to make appropriate payments or reimbursements, as the case may be, to each other as are determined to be owing, plus interest at the Interest Rate from the date originally paid or owed. Any such payments shall be made within thirty (30) days following the resolution of such dispute. At Tenant's election, Tenant may treat any overpayments resulting from the foregoing resolution of such parties' dispute as a credit against Rent and additional rent until such amounts are otherwise paid by Landlord. Tenant shall be responsible for all costs and expenses associated with Tenant's review, and Tenant shall be responsible for all reasonable audit fees of Tenant, as well as attorney's fees and related costs of Tenant (collectively, the "**Costs**"), provided that if the parties' final resolution of the dispute involves the overstatement by Landlord of Operating Expenses or Tax Expenses for such year in excess of five percent (5%), then Landlord shall be responsible for all Costs. This provision shall survive the termination of this Lease to allow the parties to enforce their respective rights hereunder. Any amounts due Landlord or Tenant shall be paid at the time and in the manner set forth below. Any objection of Tenant to Landlord's statement and resolution of any dispute shall not postpone the time for the payment of any amounts due Tenant or Landlord based on Landlord's statement, nor shall any failure of Landlord to deliver Landlord's statement in a timely manner relieve Tenant of Tenant's obligation to pay any amounts due Landlord based on Landlord's statement except as specifically provided above.

If Tenant's Share, as finally determined for a calendar year, exceeds the total payments made by Tenant on account thereof, Tenant shall pay Landlord the deficiency within thirty (30) days after Landlord's delivery to Tenant of Landlord's statement. If Tenant shall have overpaid, then Tenant's excess payments shall be credited toward the monthly rent next due from Tenant under this Lease, provided that if such overpayment exceeds one month's rent or is determined after the last month of the Lease, Landlord shall refund the amount that is more than the next month's rent payable by Tenant within thirty (30) days after Landlord's delivery to Tenant of Landlord's statement. For any partial calendar year at the end of the Term, sums due hereunder shall be prorated on the basis of a 365-day year by computing Tenant's Share for the entire year and then prorating such amount for the number of days during such year included in the Term. Notwithstanding the termination of this Lease, Landlord shall pay to Tenant or Tenant shall pay to Landlord, as the case may be, within thirty (30) days after Landlord delivers to Tenant a final statement for the calendar year in which this Lease terminates, the difference between Tenant's Share for that year, as finally determined by Landlord, and the total amount previously paid by Tenant on account thereof.

9. **ASSIGNMENT AND SUBLETTING.** Except as otherwise provided herein, Tenant shall not 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, 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 shall not be unreasonably delayed, conditioned or withheld with respect to subleases of up to fifty percent (50%) of the Premises. 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, whether or not the term of the Lease is extended by the assignee or sublessee. 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.

Landlord and Tenant further agree that during the Term, or any extension thereof, Tenant shall have the right to sublease all or any portion of the Premises or assign this Lease to Urban Outfitters West, LLC, or its affiliate (collectively, "UOW") without Landlord's approval provided Tenant delivers to City an executed copy of the sublease or assignment between Tenant and UOW to Landlord at least ten (10) days prior to UOW (or the affiliate) occupying the Premises.

In connection with any request for Landlord's consent to an assignment or sublease (excluding a sublease to, or assumption by UOW) as required under the provisions of this Section, Tenant shall pay a processing fee to Landlord equal to \$1,000.

Additionally, except for rent, additional rent, or other consideration received by Tenant from UOW, in the event any assignment or sublease requiring Landlord's consent is approved, Landlord shall receive as additional rent hereunder fifty percent (50%) of Tenant's "Excess Consideration" derived from such assignment or sublease. In the event of a sublease or assignment, "**Excess Consideration**" shall mean all rent, additional rent or other consideration actually received by Tenant from such subtenant and/or actually paid by such subtenant on behalf of Tenant in connection with the subletting in excess of the rent, additional rent and other sums payable by Tenant under this Lease during the term of the sublease on a per square foot basis, less the sum of Tenant's reasonable (and reasonably documented) out-of-pocket costs incurred in connection with such sublease or assignment for: (i) changes, alterations and improvements to the Premises necessary for the transfer, (ii) brokerage commissions in connection with the transfer, (iii) improvement allowances or other reasonable and bona fide cash allowances (space planning allowance, moving allowance, etc.) paid by Tenant to the transferee in connection with such transfer; (iv) attorneys' fees incurred by Tenant, including attorneys' fees and/or processing fees paid to Landlord (collectively, "**Subleasing Costs**"). "**Excess Consideration**" shall also include, but not be limited to, key money, bonus money or other cash consideration paid by transferee to Tenant in connection with such transfer (as opposed to the sale of Tenant's business), and any payment in excess of fair market value for services rendered by Tenant to transferee or for assets, fixtures, inventory, equipment, or furniture transferred by Tenant to transferee in connection with such transfer. The determination of the amount of Landlord's applicable share of the Excess Consideration shall be made on a monthly basis as rent or other consideration is received by Tenant under the transfer. Notwithstanding anything contained herein to the contrary, under no circumstance shall Landlord be paid any Excess Consideration until Tenant has recovered all Subleasing Costs for such

transferred space. If part of the Excess Consideration shall be payable by the assignee or subtenant other than in cash, then Landlord's share of such non-cash consideration shall be in such form as is reasonably satisfactory to Landlord.

10. **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 "**City Indemnitee**") against and from any and all claims, losses, damages, liabilities, costs and expenses (including attorneys' fees and costs actually incurred and paid by Landlord) (collectively "**Claims**") to the extent arising from Tenant's use of the Premises or Common Areas or Building, or from the conduct of its business or any activity, work or other things done or suffered by Tenant in or about the Premises, or Common Areas or Building excluding, however, acts and omissions by any City Indemnitee or any of City's contractors, other tenants, guests or invitees. If any action or proceeding is brought against any City Indemnitee by reason of any Claim, Tenant, upon notice from any City Indemnitee, shall defend such City Indemnitee at Tenant's expense, by counsel reasonably satisfactory to City. Tenant shall give prompt notice to City in case of casualty or any accident on the Premises. If City sells the Building, then commencing on the date of the sale, the subsequent owner of the Building (and its successors-in-interest) shall indemnify, defend and hold Tenant harmless from and against Claims to the extent arising from the negligence or willful misconduct of the subsequent owner (or its applicable successor-in-interest) during its period of ownership.

11. **INSURANCE.**

11.1 **Tenant's Insurance.** Tenant shall, at all times during the Term, at its own cost and expense, procure and continue in force the following insurance coverage: (a) Commercial General Liability Insurance with a combined single limit for bodily injury and property damage of not less than Two Million Dollars (\$2,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the annual aggregate, including contractual coverage covering the insuring and indemnification provisions of this Lease; (b) a policy of standard fire, extended coverage and special extended coverage insurance (all risks), including a vandalism and malicious mischief endorsement, in an amount equal to the full replacement value of all trade fixtures, furniture, equipment and other personal property installed by or at the expense of Tenant; and (c) Worker's Compensation coverage as required by Law.

11.2 **City's Insurance.** City shall, at its own cost and expense, procure and maintain at all times during the Term the following insurance coverage: (a) Commercial General Liability Insurance with a combined single limit for bodily injury and property damages of not less than Two Million Dollars (\$2,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the annual aggregate, including contractual coverage covering the insuring and indemnification provisions of this Lease; and (b) fire and extended coverage insurance and comprehensive liability insurance for the benefit of City and Tenant covering the Project in such types and amounts as are typically maintained from time to time by City for office buildings owned by City. The City may elect to self-insure to meet all insurance requirements.

11.3 **Form of Policies.** The Commercial General Liability Insurance policy of Tenant shall name City, as additional insured with an appropriate endorsement to each policy, which endorsement also shall provide that any cancellation or modification of such policy shall

require thirty (30) days notice to the additional insured. All such insurance policies shall be with companies having a rating of not less than A-VIII in Best's Insurance Guide. Each of Tenant and City shall furnish to the other, from the insurance companies, or cause the insurance companies to furnish, certificates of the required coverage. All such policies shall be endorsed to provide that the policy is primary and that any insurance carried by the other party is excess and not contributing with any insurance requirement hereunder. Tenant shall, at least twenty (20) days prior to the expiration of such policies, furnish the City renewals or binders. Tenant agrees that if it does not take out and maintain such insurance or furnish renewals or binders in a timely manner, City may (but shall not be required to) procure said insurance on Tenant's behalf and charge the other the cost thereof, which amount shall be payable by the other upon demand with interest at the rate of ten percent (10%) from the date such sums are extended.

11.4 Waiver of Subrogation. City and Tenant each agree to require their respective insurers issuing the insurance described in this Section 11 to waive any rights of subrogation that such companies may have against the other party. Tenant hereby waives any right that Tenant may have against City and City hereby waives any right that City may have against Tenant as a result of any loss or damage to the extent such loss or damage is insurable under such policies and/or would otherwise be insurable except that the City has chosen to self-insure.

12. PREMISES UTILITIES; SERVICES AND ACCESS

12.1 Hours. Tenant shall have access to the Premises, twenty four (24) hours a day, seven (7) days a week, subject to events beyond City's control, emergencies and necessary repairs. City shall cause HVAC services to be provided to the Premises between the hours of 7 a.m. and 7 p.m. Monday to Friday (but only on Business Days), and upon reasonable prior request, 9 a.m. to 1 p.m. on Saturday, without charge to Tenant; however, Tenant shall have the right to install DDC controls for after-hours HVAC. Tenant shall pay to City, as additional rent, within ten (10) days after written demand from time to time, the City's normal Building charges (currently \$25 per zone per hour) for providing HVAC service provided at Tenant's request during hours other than 7 a.m. to 7 p.m. on Business Days and 9 a.m. to 1 p.m. on Saturdays. As used in this Lease "**Business Day**" is any Monday through Friday other than holidays. Holidays shall mean solely the following days: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

12.2 No City Liability. City shall not be liable in damages or otherwise for any failure or interruption of Utilities or services unless such failure or interruption is caused by the gross negligence or willful misconduct of City or its employees or agents, and no such failure or interruption shall entitle Tenant to terminate this Lease, or to an abatement of or offset against any sums payable to City under this Lease, except that Monthly Rent shall be abated if the interruption is not caused by Tenant, its employees, agents, contractors or invitees, is not covered by Tenant's business interruption insurance, and continues for more than five (5) business days after Tenant notifies Landlord in writing of the interruption. In the event of any such failure or interruption in Utilities or services, City shall promptly upon telephonic or other notice from Tenant, at City's cost and expense (except for interruptions caused by Tenant or its employees, agents, contractors or invitees), take all actions commercially reasonable to restore such Utility or service as soon as commercially reasonable.

13. **SIGNS; DIRECTORY BOARD.** City shall, at City's expense, furnish Tenant with space for one name on the Building directory board. Tenant shall have the right to install an exterior sign that conforms to the parameters set forth in Exhibit "F", including the location of the exterior sign, at Tenant's cost, and Landlord hereby consents and approves to, Tenant installing such exterior Building sign at such location. Landlord shall have the right to reasonably approve any and all aspects of the exterior sign not expressly addressed by Exhibit "F".

14. **COMPLIANCE WITH LAWS.** Tenant, at its expense, shall comply promptly with all applicable laws pertaining to Tenant's use or occupancy of the Premises or pertaining to improvements made by Tenant, including laws pertaining to non-structural improvements required by law, the location and maintenance of trade fixtures, equipment and other personal property; the conduct of Tenant's employees; and the preparation, storage, and service of food and drink by Tenant but excluding laws requiring structural changes, changes to Building utility systems or Common Areas.

15. **RIGHT OF ACCESS.** The City and City's officers, employees, and agents shall at all reasonable times, upon no less than twenty-four (24) hours prior written or telephonic notice to Tenant except in an emergency, 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 Building or to the Premises or to make repairs necessary to ensure continuous operation of the Building. City shall have the right to enter the Premises and post "For Lease" or "For Rent" signs in any windows of the Premises after delivery of any notice of termination. In conducting its activities on the Premises as allowed in this section City shall use good faith efforts to attempt to minimize material inconvenience, annoyance, or disturbance to Tenant. If City enters the Premises without prior notice to Tenant (*i.e.*, in the event of an "emergency"), City shall give Tenant written notice as soon as reasonably practicable thereafter describing the emergency.

16. **TAXES.** Tenant shall pay or cause to be paid, before delinquency, any and all taxes levied and assessed which become payable, or which become a lien upon the Premises or the Property, during the term hereof, upon or against: (a) improvements made by Tenant; (b) any equipment, furniture, fixtures and other personal property located in or on the Premises; and (c) Tenant's interest in the Premises arising as a result of this Lease, including without limitation, the possessory interest evidenced by this Lease (*i.e.*, possessory interest taxes).

17. **RULES AND REGULATIONS.** Tenant shall comply with the rules and regulations attached hereto as Exhibit "E" and amendments thereto provided by City to Tenant from time to time (which may include rules and regulations regarding parking). City shall not be responsible to Tenant for the nonperformance of any rules and regulations by any other lessees or occupants of the Building. Landlord shall not enforce the rules and regulations against Tenant in a discriminatory manner without rational basis or adopt rules and regulations that discriminate

against Tenant without rational basis. Additionally, no rules and regulations shall increase Tenant's monetary obligations or materially reduce Tenant's rights under this Lease.

18. TENANT'S DEFAULT.

18.1 Event of Default. Any of the following events shall constitute an "Event of Default" by Tenant under this Lease:

18.1.1 Tenant fails to make any payment of money called for by any provision of this Lease (whether to City or any third party) when due, where such failure continues for a period of five (5) Business Days (as defined in Section 12.3) following written notice from City to Tenant; or

18.1.2 Tenant fails to perform fully and when due any of its other covenants, conditions or obligations under this Lease and within thirty (30) days following receipt of written notice from City specifying the nature of such failure of Tenant, Tenant: (a) does not commence taking all necessary and appropriate actions to remedy such failure; or (b) does not thereafter diligently and continuously pursue all such remedial actions until such failure is remedied; or

18.1.3 Tenant dissolves; or

18.1.4 Tenant makes a general assignment for the benefit of creditors or a voluntary or involuntary petition is filed by or against Tenant under any law for the purpose of adjudicating Tenant a bankrupt, or for extending time for payment, adjustment or satisfaction of Tenant's liabilities, or for reorganization, dissolution or arrangement on account of or to prevent bankruptcy or insolvency, unless such assignment or proceeding, and all consequent orders, adjudications, custodies and supervisions are dismissed, vacated or otherwise permanently stayed or terminated within ninety (90) days after such assignment, filing or other initial event.

18.2 City Remedies Upon Tenant Default. Upon the occurrence of any Event of Default by Tenant, and without giving any additional notice not otherwise required hereunder or by law, City may (unless the Event of Default has been expressly waived by City in writing) exercise the following rights and remedies in addition to all other rights and remedies provided by law or equity, either cumulatively or in the alternative:

18.2.1 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: (i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental that Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate City for all actual damages caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of timings would be likely to result therefrom. If any notice required under Section 18.1 was not

previously given, a notice to pay rent or quit, or to perform or quit given to Tenant under the unlawful detainer statute shall also be deemed to constitute the notice required by Section 18.1. In such case, any applicable grace period required by Section 18.1 and the unlawful detainer statute shall run concurrently, and the failure of Tenant to cure the Event of Default within the greater of the two such grace periods shall constitute both an unlawful detainer and an Event of Default entitling City to the remedies provided for in this Lease and/or by said statute. **TENANT HEREBY EXPRESSLY WAIVES ANY DEFENSE TO AN UNLAWFUL DETAINER ACTION BASED ON "HARDSHIP" AND ANY SIMILAR DEFENSE.**

18.2.2 Maintain this Lease and Tenant's right to possession of the Premises in effect and continue to enforce all of City's rights and remedies hereunder, including the remedy described in California Civil Code Section 1951.4 (granting a City the right to continue a lease in effect after a tenant's breach and abandonment and to recover all rent as it becomes due if the tenant has the right to sublet or assign, subject only to reasonable limitations) provided that upon City's election of such remedy, City may not unreasonably withhold its consent to any assignment or subletting. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon initiative of City to protect City's interest under this Lease shall not constitute a termination of this Lease or Tenant's right to possession unless written notice of termination is given by City to Tenant.

18.2.3 Pursue any other remedy now or hereafter available under the laws or judicial decisions of the State of California. The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the Term or by reason of Tenant's occupancy of the Premises.

18.2.4 If Tenant fails to perform any affirmative duty or obligation under this Lease within ten (10) days after written notice (or in case of an emergency, without notice), the City may, at its option, perform such duty or obligation on Tenant's behalf. The costs and expenses of any such performance by City shall be due and payable by Tenant within thirty (30) days after City's written demand therefore.

18.2.5 If any check given to City by Tenant shall not be honored by the bank upon which it is drawn, City, at its option, may require that all future payments by Tenant to City be made by bank cashier's check.

18.2.6 The remedies given to City in this Section shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law and elsewhere provided in this Lease.

19. **DEFAULT BY CITY.** City shall not be in default unless City fails to perform obligations required of City within thirty (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 thirty (30) days are required for performance then City shall not be in default if City commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

20. **WAIVER.** The waiver by City of any breach of Tenant of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Tenant either of the same or a different provision of this Lease. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Tenant other than default in the payment of the particular rental payment so accepted, regardless of City's knowledge of the preceding breach at the time of accepting the rent, nor shall acceptance of rent or any other payment after termination constitute a reinstatement, extension or renewal of the Term or revocation of any notice or other act by City. No waiver, benefit, privilege or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel or otherwise.

21. **DAMAGE; RECONSTRUCTION.** Within thirty (30) days after the date City learns of the necessity for any repairs to the Premises, the Building or the Project as a result of damage, City shall notify Tenant of City's estimated assessment of the period of time in which the repairs will be completed ("**Damage Repair Estimate**"). If any part of the Project is damaged by fire or other insured casualty (and/or would be insured if the City self-insures) and the Damage Repair Estimate indicates that repairs can be completed within one hundred eighty (180) days, City shall repair the damage, except Tenant shall be responsible for any damage to Tenant's trade fixtures, furniture, equipment and other personal property required to be covered by Tenant's insurance pursuant to Section 11.1(b). Until City's repairs are completed; rent shall be abated in proportion to the part of the Premises which is unusable by Tenant in the conduct of its business. If the Damage Repair Estimate indicates that repairs cannot be completed within one hundred eighty (180) days, City may, at its option, either: (i) make such repairs in a reasonable time and in such event this Lease shall continue in effect, rent shall be abated; or (ii) elect not to effect such repairs and instead terminate this Lease, by notifying Tenant in writing of such termination within thirty (30) days after City learns of the necessity for repairs as a result of damage, such notice to include a termination date giving Tenant sixty (60) days to vacate the Premises. If City does not elect to terminate this Lease pursuant to City's termination right as provided above, and the Damage Repair Estimate indicates that repairs cannot be completed within one hundred eighty (180) days, Tenant may elect, not later than thirty (30) days after Tenant's receipt of the Damage Repair Estimate, to terminate this Lease by written notice to City effective as of the date specified in Tenant's notice. Except as expressly provided in this Section, there shall be no abatement of rent and no liability of City by reason of any injury to or interference with Tenant's business or property arising from any damage or destruction, or the making of any repairs, alterations or improvements to repair such damage, in or to any portion of the Project, the Building or the Premises or in or to fixtures, appurtenances and equipment therein. Tenant understands that City will not carry insurance of any kind on Tenant's trade fixtures, furniture, equipment and other personal property required to be covered by Tenant's insurance pursuant to Section 11.1(b), and that City shall not be obligated to repair any damage thereto or replace the same. Tenant acknowledges that, except as expressly provided in this Section, Tenant shall have no right to any proceeds of insurance carried by City relating to property damage. With respect to any damage which City is obligated to repair or elects to repair, Tenant, as a material inducement to City entering into this Lease, irrevocably waives and releases its rights under the provisions of Sections 1932 and 1933 of the California Civil Code.

22. **EMINENT DOMAIN.** If the whole of the Premises or the Project or so much thereof as to render the balance unusable by Tenant shall be taken under power of eminent

domain by any governmental authority other than City, or is sold, transferred or conveyed in lieu thereof, this Lease shall automatically terminate as of the date of such condemnation, or as of the date possession is taken by the condemning authority, at City's option. In the event of such termination, City shall have the right to all condemnation awards and damages; provided, however, that nothing contained herein shall be deemed to prevent Tenant from making a claim for, or give City any interest in or any right to require Tenant to assign to Landlord, any award made to Tenant for relocation expenses, the taking of personal property and trade fixtures belonging to Tenant and removable by Tenant at the expiration of the Term hereof as provided hereunder or for the interruption of, or damage to, Tenant's business. In the event of a partial taking described in this Section, or a sale, transfer or conveyance in lieu thereof, which does not result in a termination of this Lease, the rent shall be apportioned according to the ratio that the part of the Premises remaining useable by Tenant bears to the total area of the Premises. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure.

23. PAYMENTS AND NOTICES. All 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 (separately) to the City Clerk of City and to the Chief Financial Officer and Real Estate & Property Manager of City 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, with proof of such delivery, with a copy sent by overnight delivery service or certified mail, return receipt requested to Daniel N. Reisman, Esquire, Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16th Street, 22nd Floor, Philadelphia, PA 19102.

24. 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 every one of their successors, assigns, and legal representatives; 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 9 of this Lease.

25. HOLDING OVER. If Tenant, with City's prior written 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 tenancy at will (or as otherwise expressly agreed by City in its written consent), terminable upon notice given at any time by either Party, at a monthly rental equal to the greater of the rent previously in effect or the fair rental value of the Premises, as determined by City in its good faith discretion. All provisions of this Lease except those pertaining to rent and term shall apply to the tenancy.

26. NOTICE PRIOR TO EXPIRATION; SURRENDER. At the expiration or termination of the Term, Tenant shall surrender the Premises to the City in the same condition as received, reasonable wear and tear excepted, with all of Tenant's machinery, equipment, building signage and other trade fixtures having been removed. Tenant shall repair all damage to the Premises and Building caused by such removal.

27. GENERAL PROVISIONS.

27.1 Time. Time is of the essence of this Lease and each and all of its provisions.

27.2 Prior Agreements. This Lease contain 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 other than this Lease pertaining to any such matters shall be effective for any purpose.

27.3 Inability to Perform. This Lease and the obligations of Tenant hereunder shall not be affected or impaired because City is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of strike, labor troubles, acts of nature, or any cause, other than financial inability, beyond the reasonable control of City.

27.4 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 provisions shall remain in full force and effect.

27.5 Amendments In Writing. No provision of this Lease may be amended or supplemented except by an agreement in writing signed by City and Tenant or their successors in interest.

27.6 Attorneys' Fees. In any action to enforce the terms of this Lease, including any suit by City for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorneys' fees and costs incurred by such party in such suit and such attorneys' fees and costs shall be deemed to have accrued prior to the commencement of such action and shall be paid whether or not such action is prosecuted to judgment.

27.7 Quiet Possession. Upon Tenant's paying Rent and other sums provided herein and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire Term hereof, subject to all of the provisions of this Lease.

27.8 City's Approvals. Except as expressly provided to the contrary herein, 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. The City Manager of City may give approvals and consents on behalf of City provided they are in writing, or may refer the matter to the City council for approval.

27.9 Brokers. Each of City and Tenant represents and warrants to the other that it has not had any dealings with realtors, brokers or agents in connection with the negotiation of this Lease except for Industry Partners, which will be paid a brokerage commission by Landlord in accordance with a separate written agreement between Landlord and Industry Partners after such separate agreement is approved and executed by the Landlord. Landlord acknowledges and

agrees that Tenant, its affiliates, principals, employees and independent contractors, are or may become licensed real estate brokers and salespersons in the State of California and other states, but are not acting in such capacity relating to this lease transaction.

27.10 Recordable Memorandum of Lease. Concurrently with Tenant's execution of this Lease, Tenant shall execute and acknowledge a short form memorandum of this Lease for recording purposes in the form attached hereto as Exhibit "D" and shall deliver it to the escrow for the sale of the Project by Tenant to City.

27.11 Counterparts. This Lease 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.

27.12 Late Charges. If any payment to be made by Tenant is not paid within ten (10) business days after written notice that it is past due, Tenant shall pay City four percent (4%) of the amount due as liquidated damages. Tenant acknowledges, stipulates and agrees that such late payment of any sums due will cause the City to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to determine. Such costs include, without limitation, processing and accounting charges, and cash-flow/budgeting costs, as well as other material adverse effects and damages. Therefore, the parties have agreed upon the late charge described above as liquidated damages for such costs, effects and damages.

27.13 Limitation of Landlord's Liability. City's liabilities under this Lease shall be limited to City's interest in the Project (including the Building of which the Premises are a part and the land on which such Building is situated) as well as the rents, issues, profits and other income Landlord actually receives from the operation of the Building after the liability of Landlord arises and is finally determined, and Tenant will have no claim against Landlord or any of Landlord's other personal assets for satisfaction of any judgment with respect to this Lease.

Executed as of the date first written above.

CITY:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
WILLIAM W. BRIEN, M.D.
Mayor

ATTEST:

BYRON POPE,
City Clerk

(SEAL)

Approved as to content:

JEFFREY KOLIN,
City Manager

SCOTT MILLER,
Director of Administrative Services/CFO

Approved as to form:

LAURENCE S. WIENER,
City Attorney

TENANT:

THE W. MCDEVITT COMPANY, INC.,
a Pennsylvania corporation

By: _____
Wade McDevitt
President & CEO

EXHIBIT "A"

DESCRIPTION OF PREMISES

[Attached.]

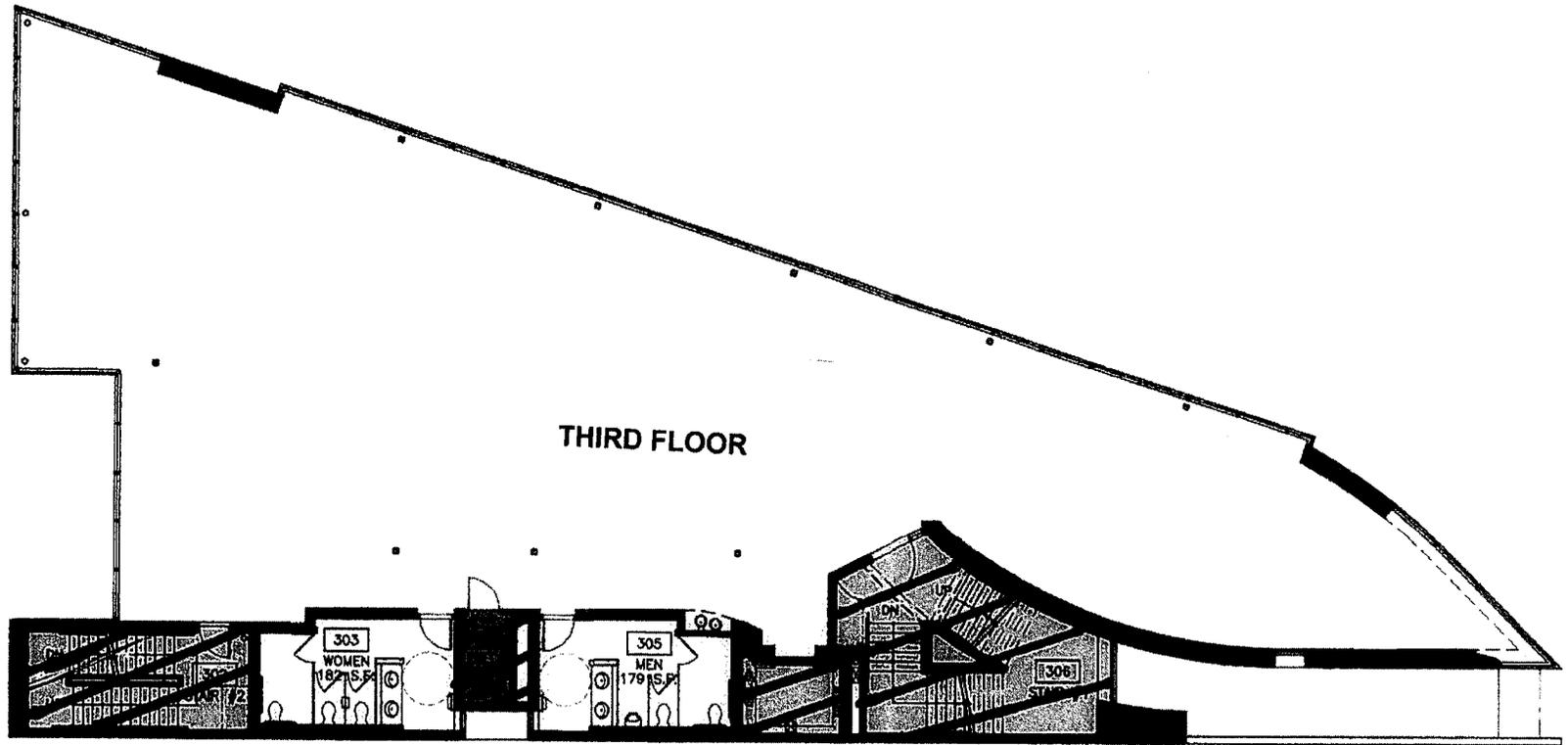


EXHIBIT "B"

DESCRIPTION OF TENANT SHELL AND CORE UTILITIES AND FINISHES

1. The HVAC system is based upon the following office assumptions:
 - The lighting allowance is 1.2 watts/sf.
 - The occupancy is 1 person/100sf.
 - The power assumption is 1.5 watts/sf.
 - Up to (3) 5-Ton water source heat pumps are allowed in each level. No extra capacity is allowed unless with proper justification. Split systems are not allowed as the building has after hour condenser water system.

2. There is a central condenser water system located on the roof that will serve the future tenant's water source heat pump units. Air distribution for the tenant spaces will be provided for each space under the future TI scope by the respective tenants. In addition, there is central fresh air supply and exhaust systems, including roof top supply and exhaust fans and distribution branch ducts to each floor to allow hook up of tenant's heat pumps. Tenant shall distribute ducts from floor main through leased space.

3. The HVAC condenser water system can be lowered to 30% of the capacity so that after hours use is available. Typical building hours of operation are 8am to 6pm. Outside of these hours tenant shall make specific arrangements for the provision of air conditioning at tenants cost.

4. The electrical system is based upon the following office assumptions:
 - The lighting allowance is 1.0 VA/sf.
 - The pc power is 2.5 VA/sf.
 - Convenience power is 1.0 VA/sf.
 - Electrical power is provided to an electrical room sub-panel on each floor. Tenant to provide power distribution to the tenancy. Tenant spaces will be individually metered and each tenant will have a SCE meter located at the ground floor loading area.

5. The exterior perimeter is "Low E" vision glass from 36 inches above the floor to a height of 11 feet. The lower glass panels are translucent frosted glass. The northeast corner glazing is floor to ceiling "Low E" vision glass.

6. Corridor and demising walls are steel studs and drywall, and insulated.

7. Principal demising door is a single door from stair. Other doors that may be required for exiting or convenience shall be by tenant and shall meet the building standard specifications.

8. Height from the floor to the underside of the floor above, excluding beams and utilities are 13'-7" at 2nd floor and 13'-1" at 3rd floor.

9. The space heating system will be provided via the future TI water source heat pumps. Domestic hot water is provided by the shell building, and the water heater, with 150,000

BTU/Hr input capacity, to serve the entire building, is located on the roof. Piping for both domestic hot water and space heating system runs down from the roof and is stubbed out at each floor for tenant continuation

10. Common toilets are provided on each floor near the elevators, and the restroom(s) on the third floor will be completed.
11. The building is required to be sprinklered. Distribution from sprinkler mains is by tenant.
12. All tenant improvements shall be performed in accordance the "Tenant Design and Construction Guidelines" (below)
13. All construction plans require Landlord's approval.

TENANT DESIGN & CONSTRUCTION GUIDELINES

This development has been design and built to meet the standards set forth in the City of Beverly Hills Green Building Ordinance criteria based on 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN). As part of our sustainability commitment, we have recognized that energy conservation, sensitive site development, use of recycled materials and implementing new sources of energy efficiency are the responsibility of our developments and aim to provide the highest quality office environment.

The following guidelines **require** tenant compliance and have been developed to comply with the City of Beverly Hills Green Building Ordinance and to continue our efforts to provide an environmentally sensitive development with the health of the tenant and the environment at the center of our mission.

For additional information regarding program details for the City of Beverly Hills Green Building Program see the City of Beverly Hills Ordinance No. 08-02-2555 at http://www.beverlyhills.org/services/building/green_building_program/default.asp

EXHIBIT "C"

TENANT IMPROVEMENTS AND TENANT IMPROVEMENT ALLOWANCE

A. GENERAL

Except for the payment of the Tenant Improvement Allowance (described in Section E1 below) by Landlord, the preparation of all design and working drawings and specifications relating to completion of the Premises for occupancy by Tenant and the letting of contracts relating to the Tenant Improvements and the supervision and completion of the Tenant Improvements and payment therefor shall be the responsibility of Tenant, and comply with Exhibit "B".

All Landlord approvals under this Lease and its exhibits must be obtained in writing from the City Manager of Landlord or his or her designee who is designated in writing by the City Manager. No approval by Landlord under the Lease and its exhibits shall relieve Tenant of the obligation to obtain any other required governmental permits or approvals (including such permits or approvals from the City of Beverly Hills). Tenant must obtain such permits or approvals for its work from the applicable building department of the City of Beverly Hills and other authorities having jurisdiction therefore. Tenant must submit evidence of these approvals to Landlord before commencing the Tenant Improvement work. Tenant shall be responsible for payment of all fees and charges incurred in obtaining said permits and approvals for the Tenant Improvements and for obtaining a certificate of occupancy for the Premises prior to commencing business in the Premises.

Tenant shall ensure that all the provisions and conditions contained or imposed in Exhibit "B" and in this Exhibit "C" are observed and performed by all designers, contractors, subcontractors and consultants engaged by Tenant.

B. PLANS AND SPECIFICATIONS FOR THE TENANT IMPROVEMENTS

So that the Tenant Improvements may proceed without delay and in an efficient manner, the following provisions shall apply:

1. Preliminary Work. Tenant acknowledges receipt of a copy of the base Building drawings. All designers or engineers employed by Tenant shall be familiar with the plans for the Building made available to Tenant and with Exhibit "B" to the extent necessary to complete the required architectural, mechanical and electrical working drawings and specifications.

2. Approval of Preliminary Space Plans and Specifications. Within thirty (30) days after the execution of this Lease, Tenant shall provide Landlord with preliminary plans and specifications for the Tenant Improvements and Landlord shall approve or disapprove of them in writing within seven (7) business days which approval shall not be unreasonably withheld or conditioned.

3. Submission of Final Plans and Specifications. Within sixty (60) days after Landlord's approval of Tenant's preliminary plans and specifications (or conditional approval), Tenant shall submit three (3) printed sets of final plans and specifications, finish material samples and such other information as may be reasonably necessary for the Tenant Improvements to be approved by Landlord. Tenant's final plans shall include a schedule and other documentation reasonably acceptable to Landlord identifying all trade fixtures and equipment (along with the costs thereof) that Tenant proposes to be reimbursed from the Tenant Improvement Allowance.

4. Approval of Final Plans and Specifications; Later Changes. Landlord within seven (7) business days following receipt of the final plans and specifications shall notify Tenant in writing of (i) its approval of Tenant's final plans and specifications, (ii) approval with conditions (which shall be stated in a reasonably clear matter), or (iii) disapprove the final plans and specifications and return them to Tenant with requested revisions (which disapproval shall not be unreasonable). If Landlord disapproves the final plans and specifications, Tenant may resubmit the final plans and specifications to Landlord at any time, and Landlord shall approve or disapprove in writing the resubmitted final plans and specifications within five (5) business days after Landlord receives such resubmitted final plans and specifications, which approval shall not be unreasonably withheld or conditioned, and such procedure shall be repeated until the final plans and specifications are approved.

5. Change Orders. In the event Tenant desires to materially change the approved final plans and specifications, Tenant shall deliver notice of the same to Landlord setting forth in detail the changes Tenant desires to make to the approved final plans and specifications. Landlord shall, within five (5) business days after Landlord receives a written notice from Tenant of such notice of a change order, approve the change or disapprove the change in writing together with notice specifying the reasons for disapproval which approval shall not be unreasonably withheld or conditioned; provided, however, that Landlord will not have the right to disapprove changes that would constitute Minor Alterations provided they comply with law and no prior written notice of such Minor Alterations shall be required.

6. Working Drawings and Specifications. Each set of working drawings and specifications shall be of uniform size to a minimum scale of 1/8" to each foot and shall include, but not be limited to, the following:

- (1) floor plans;
- (2) reflected ceiling plans (including planned access points for equipment service);
- (3) specifications, identification and colors of materials for all plans and work;
- (4) interior elevations and finish schedule;
- (5) engineered plans and specifications for all electrical, mechanical, and plumbing work, including details and performance information relating to all

fixtures, equipment and any under-floor services, including conduit runs to be recessed or buried in the floor; and

(6) roof plan (if applicable).

C. GENERAL REQUIREMENTS

1. Architect, General Contractor and Subcontractor Approval. Tenant shall competitively bid the Tenant Improvements with no less than three (3) reputable, licensed and bonded general contractors. Landlord shall have the right to approve, which approval shall not be unreasonably withheld, conditioned or delayed, the architect and all contractors and subcontractors designing or performing construction of the Tenant Improvements and who will be working in the Building. All contractors and subcontractors who will perform such work must have in force: (i) workers' compensation insurance in the amount required by law; (ii) such other employer's and comprehensive general liability insurance in accordance with the standards set forth in the Lease (but with a liability limit of not less than Two Million Dollars (\$2,000,000.00) for contractors and One Million Dollars (\$1,000,000) for subcontractors), (iii) One Million Dollars (\$1,000,000.00) of automobile liability insurance, and (iv) such other insurance as Landlord reasonably deems necessary to supplement the insurance coverage provided for in the Lease and which is consistent with requirements of Comparable Buildings for comparable construction projects.

2. Workmanship, Materials and Design and Construction Guidelines Compliance. All of the Tenant Improvements required by Tenant to complete the Premises for occupancy:

a) shall be carried out with good workmanship and with first class materials consistent with those in use at the Building, which shall all be of a high quality and shall be conforming to the commercially reasonable standards of practice, and shall conform with applicable Laws.

b) shall be constructed or performed in compliance with the Tenant Design and Construction Guidelines attached hereto at the end of Exhibit "B".

3. Proof of Insurance. Before commencing Tenant Improvements, Tenant shall furnish written proof to Landlord that the insurance required under Section C1 above has been obtained and is in force. Landlord shall be named as an additional insured in such insurance.

4. Access and Rules. Unless other arrangements are proposed to and approved by Landlord in advance, Tenant's contractors shall access the Premises through the Building stairs, only, in order to execute Tenant Improvements (and the delivery of materials for which elevator access shall be arranged with Landlord in advance), subject to compliance with all non-discriminatory rules, regulations and stipulations which Landlord may make from time to time. If Tenant desires after-hours access for its contractors, such access must be scheduled with Landlord in advance. These rules, regulations and stipulations may include, but shall not be limited to, matters relating to:

- a) the handling and storage of material and equipment;
- b) hours of work and coordination of activity so long as Tenant is provided reasonable access during normal construction hours (or other hours, if arranged with Landlord in advance);
- c) scheduling of work;
- d) deliveries; and
- e) clean-up of work and the disposition of refuse.

5. Refuse Removal. Tenant shall at all times keep the Premises and all other areas clear of all waste materials and refuse caused by itself, its suppliers, contractors or by their work. Tenant shall remove all waste materials and refuse directly from the Premises and shall deposit them in places or in receptacles provided by Tenant at Tenant's sole cost and expense specifically for the disposal of waste materials and refuse in connection with the Tenant Improvements (which receptacles shall be located at a place reasonably designated by Landlord). In no event shall Tenant's construction debris be placed in with the rubbish and trash of other tenants. Landlord may require Tenant to clean up on a daily basis, and after reasonable prior notice, shall be entitled to clean up at Tenant's expense if Tenant fails to comply with Landlord's reasonable requirements in this respect.

At the completion of Tenant Improvements, Tenant shall remove all waste material and refuse from the Premises and deposit them in places or in receptacles provided by Tenant. The final clean-up shall include the cleaning of all lighting fixtures, millwork units, windows, stairwells, common areas and space which may be affected by the Tenant Improvement work.

6. Damage by Tenant. Subject to the waiver of subrogation contained in the Lease, any damage caused by Tenant's contractor or subcontractors constructing the Tenant Improvements to the Building structure or the Building Systems or to any property of Landlord or of other tenants shall be repaired by Tenant to the reasonable satisfaction of Landlord.

7. Failure to Perform Work. If Tenant's contractor performs any work which does not substantially conform with the approved plans and specifications, then Landlord, after ten (10) business days' prior written notice to Tenant and Tenant's contractor, may without prejudice to any right or remedy Landlord may have, complete the work, remedy the defaults or make good any such deficiencies and Tenant shall reimburse Landlord for such costs, as additional rent, within thirty (30) days after written demand, or the same shall be deducted from the Tenant Improvement Allowance.

8. Security. Tenant shall be entirely responsible for the security of the Premises during construction and Landlord shall not be liable for any loss or damage suffered by Tenant or its contractors.

9. Fire Protection. Tenant shall maintain and keep on the Premises at all times during construction and the term of the Lease, a suitable portable fire extinguisher for Class A,

B and C fires and shall comply with any additional requirements and regulations imposed by the fire marshal and all other appropriate governmental agencies.

10. Performance of Construction. Tenant shall diligently complete the Tenant Improvements.

11. Preparation of “As-built” Plans. Within sixty (60) days after the completion of the Tenant Improvements, Tenant shall deliver to Landlord both a “hard” copy and a copy on CAD diskette of the “as-built” plans and specifications (including all working drawings) for the Tenant Improvements.

D. Public Work; Prevailing Wage Requirement

Tenant acknowledges that the Tenant Improvements are a “public work” under Section 1720 of the California Labor Code and Tenant agrees that Tenant shall: (i) pay prevailing wages for all Tenant Improvement Work in accordance with Section 1720, et seq. of the California Labor Code; (ii) otherwise comply with the provisions of Sections 1773.8, 1775, 1776, 1777.5, 1777.6 and 1813 of the California Labor Code and all other applicable Laws and regulations with respect to prevailing wages; and (iii) obtain payment and performance bond(s) for the Tenant Improvement Work.

E. Tenant Improvement Allowance

1. Landlord shall contribute the sum of Three Hundred Ten Thousand Five Hundred and No/100 Dollars (\$310,500.00) for the actual costs of design and construction of the Tenant Improvements, including without limitation, payment of the fees and costs of the space planner, architect, engineer and other consultants in connection with the design and construction of the Tenant Improvements, actual costs of construction of the Tenant Improvements, and permitting costs, but not for Tenant’s moving expenses, furniture or fixtures (the “Tenant Improvement Allowance”). In no event shall any unused portion of the Tenant Improvement Allowance be paid to Tenant or credited against any obligation payable by Tenant under this Lease.

2. Subject to Section 3 below, Landlord shall pay to Tenant the Tenant Improvement Allowance for the actual costs of Tenant Improvements in monthly installments, within thirty (30) days after Tenant delivers written request to Landlord for payment describing the applicable Tenant Improvement Work completed by Tenant for which the funds are requested (together with any additional supporting documentation reasonably requested by Landlord), subject to the satisfaction of the following conditions:

a) All building permits for the Tenant Improvements have been issued by the applicable governmental authorities and copies of such building permits have been delivered to Landlord;

b) Tenant has submitted to Landlord (i) all invoices for that portion of the Tenant Improvements for which payment is requested; and (ii) appropriate conditional lien releases and waivers from any and all contractors and materialmen that provided services or

installed supplies to or for the account of Tenant (unconditional as to any work for which a disbursement of the Tenant Improvement Allowance was previously made); and

c) Tenant has completed that portion of the Tenant Improvements described on the invoices submitted for which the installment payment is requested; and

d) Tenant is not in default of any provisions of this Lease.

3. Landlord shall be entitled to retain ten percent (10%) of each requested installment for the hard costs of the Tenant Improvements (but not with respect to payments to the architect, project manager and other consultants).

4. Landlord shall pay a final payment of the Tenant Improvement Allowance equal to ten percent (10%) of the hard costs of the Tenant Improvements (*i.e.*, the retention described in Paragraph 3 above) within thirty (30) days after Landlord's receipt of Tenant's written request thereof, together with documentation sufficient (in Landlord's reasonable determination) to establish that items (a) through (f) below have been satisfied:

a) All required inspections of the Tenant Improvements by the applicable governmental agencies have taken place and the completed Tenant Improvements have passed all such inspections;

b) Tenant has completed the Tenant Improvements;

c) Tenant has received a temporary certificate of occupancy;

d) Tenant has submitted to Landlord (i) all invoices and proof of payment for all of the Tenant Improvements evidencing expenditures by Tenant of any amount equal to or greater than the amount of the Tenant Improvement Allowance; and (ii) appropriate final lien releases and waivers, conditioned only upon final payment of the applicable sum specified therein, from any and all contractors and materialmen which provided services or installed supplies to or for the account of Tenant with respect to the Tenant Improvements;

e) Tenant is not in default of any provisions of the Lease beyond applicable notice and cure periods.

f) Tenant has provided to Landlord two (2) sets of as-built plans and a disk with an electronic file of same.

5. Within thirty (30) days after Landlord's final payment of the Tenant Improvement Allowance, Tenant shall submit to Landlord final, unconditional lien releases and waivers from any and all contractors and materialmen which provided services or installed supplies to or for the account of Tenant with respect to the Tenant Improvements.

6. All items of the Tenant Improvements paid for with the Tenant Improvement Allowance shall be deemed Landlord's property.

7. Landlord will not charge Tenant any supervisory or administrative fees in connection with Landlord's work or Tenant's initial tenant improvement work, and Landlord will not charge any fee to review Tenant's plans and specifications (other than normal permit fees charged by Landlord in its governmental capacity).

F. NON-COMPLIANCE

1. Non-Compliance. If Tenant or Landlord does not comply with the provisions of the Lease or any other agreement relative to the construction or occupation of the Premises, including this Exhibit, the non-defaulting party, in addition to and not in lieu of any other rights or remedies, may (subject to applicable notice and cure provisions) declare and treat such noncompliance as a default or breach of covenant under this Lease and exercise any right available under the provisions of this Lease, including the right of termination.

2. Termination; Retention or Demolition of Tenant Improvements. In any event of termination pursuant to the above provision by Landlord, Landlord may further elect either to:

a) retain for its own use without payment therefor all or any of the Tenant Improvements which has been commenced, installed or completed to the date of such termination; or

b) forthwith demolish or remove all or any work and restore the Premises to the condition in which the same were prior to the commencement, installation or completion of all or such of the Tenant Improvements and recover the cost of so doing from Tenant.

EXHIBIT "D"

FORM OF MEMORANDUM OF LEASE

[Attached.]

RECORDING REQUESTED BY, AND
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 dated as of April 17, 2012, and is entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation ("**City**"), and THE W. MCDEVITT COMPANY, INC., a Pennsylvania corporation ("**Tenant**").

RECITALS

A. Tenant and City have entered into that certain "Lease between the City of Beverly Hills and The W. McDevitt Company, Inc. for Space at 9400 Santa Monica Boulevard" of 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 City, a portion (the "**Premises**") of that certain building ("**Building**") located on land in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 9400 Santa Monica Boulevard, Beverly Hills, California, more particularly described in Exhibit A attached hereto. The Premises are more particularly described in the Lease.

B. Tenant and City now desire to enter into and record this Memorandum as required under applicable California law.

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 City agree as follows:

1. Lease. City hereby leases and demises the Premises to Tenant, and Tenant hereby leases and accepts the Premises from City, on the terms and conditions in the Lease for ten (10) years commencing one hundred and twenty (120) days after the date that City notifies Tenant in writing that City is prepared to deliver possession of the Premises to Tenant, subject to earlier termination as provided in the Lease, and subject to one 91) option in favor of Tenant to extend

the term for five (5) years, and upon the rental rate(s) and the other terms and conditions set forth in the Lease, all of which are incorporated herein by this reference.

2. Purpose. This Memorandum is prepared for the purposes of recordation only and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the term or condition of the Lease shall prevail.

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

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

CITY:

THE CITY OF BEVERLY HILLS

TENANT:

THE W. MCDEVITT COMPANY, INC.,
a Pennsylvania corporation

By: _____
William W. Brien, M.D.,
Mayor

By: _____
Wade McDevitt
President & CEO

ATTEST:

_____ (SEAL)

By: _____
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 _____,

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 _____,

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

EXHIBIT A TO MEMORANDUM OF LEASE

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Los Angeles, and described as follows:

Lot 23 in Block 3 of 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.

APN: 4343-011-903

EXHIBIT "E"

RULES AND REGULATIONS

1. Except as may be specifically provided in the Lease to which these Rules and Regulations are attached, no sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside or inside of the Building (except within the Premises) without the prior written consent of Landlord. Tenant shall not place anything against or near exterior windows or doors which may appear unsightly from outside the Premises or which are visible from the exterior of the Premises (other than approved window coverings). Landlord shall have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule.

2. Tenant shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators, escalators or stairways of the Building. Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the reasonable judgment of Landlord would be prejudicial to the safety and interest of the Building. Without Landlord's written consent, neither Tenant nor any employee or invitee of Tenant shall go upon the roof of the Building or enter any other areas restricted by Landlord.

3. Upon the termination of its tenancy, Tenant shall deliver to Landlord all keys in Tenant's possession to all doors and locks in the Premises.

4. All contractors and technicians rendering any service to Tenant after completion of the Tenant Improvements shall be referred to Landlord for approval (which approval shall not be unreasonably withheld, conditioned or delayed) prior to performing any such service. This applies to all work performed in the Building, including but not limited to, installation of telephone and telegraph equipment and electrical devices and installations affecting floors, walls, woodwork, windows, ceilings and any other physical portion of the Building. None of Tenant's contractors or subcontractors shall be entitled to (1) display identification or other signage at the Building, or (2) park anywhere in the Parking Structure except in the area, if any, designated by Landlord.

5. Without limiting Landlord's approval rights of Tenant Improvements, Landlord also shall have the right to prescribe the weight, size and position of all heavy equipment, materials, furniture or other property brought into the Building. Heavy objects shall, if considered reasonably necessary by Landlord, stand on such platforms as reasonably determined by Landlord to be necessary to properly distribute the weight, which platforms shall be provided at Tenant's expense. The persons employed to move such equipment in or out of the Building must be approved by Landlord which approval shall not be unreasonably withheld, delayed or conditioned. Landlord will not be responsible for loss of, or damage to, any such equipment or other property from any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of Tenant.

6. Tenant shall not use or keep in the Premises any kerosene, gasoline or inflammable or combustible fluid or material other than those limited quantities necessary for office cleaning or office supplies. Tenant shall not use or permit to be used in the Premises any

foul or noxious gas or substance, or permit or allow the Premises to be occupied or used in a manner which allows noise, odors or vibrations to emanate from the Premises, nor shall Tenant bring into or keep in or about the Premises any birds or animals other than assist animals.

7. Tenant shall not use any method of heating or air conditioning other than that approved by Landlord.

8. Tenant agrees to use commercially reasonable efforts to cooperate with Landlord to assure the most effective operation of the Building's heating and air conditioning and to comply with any governmental energy-saving rules, laws or regulations. Tenant shall keep corridor doors closed.

9. Landlord reserves the right, exercisable upon thirty (30) days' prior written notice to Tenant, to change the name and/or street address of the Building.

10. Landlord reserves the right to exclude from the Building during hours other than Building hours of operation, any person unless that person is known to the person or employee in charge of the Building or has a pass or is properly identified. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Landlord shall not be liable for damages for any good faith error with regard to the admission to or exclusion from the Building of any person. Landlord reserves the right to prevent access to the Building in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action.

11. Tenant shall close and lock the doors of its Premises before Tenant and its employees leave the Premises.

12. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invitees, shall have caused it.

13. Tenant shall not install any radio or television antenna, loudspeaker or other devices on the roof(s) or exterior walls of the Building. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.

14. Tenant shall not affix any floor covering to the floor of the Premises in any manner except as reasonably approved by Landlord to the extent required by the provisions of the Lease pertaining to Tenant improvements or Alterations. Tenant shall repair any damage resulting from noncompliance with this rule.

15. Canvassing, soliciting and distribution of handbills or any other written material, and peddling in the Building or Common Areas (collectively, the "Project") are prohibited, and Tenant shall cooperate to prevent such activities.

16. Landlord reserves the right to exclude or expel from the Project any person who, in Landlord's reasonable judgment, is intoxicated or under the influence of liquor or drugs or who is in violation of any of these Rules and Regulations.

17. Tenant shall store all its trash and garbage within its Premises or in other facilities provided by Landlord. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with reasonable directions issued from time to time by Landlord.

18. Tenant shall comply with all reasonable safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

19. There shall be no smoking within the Building or immediately adjacent to Building entrances (except in areas, if any, expressly designated therefor by Landlord).

20. Upon written notice to Tenant, Landlord reserves the right to rescind any of these Rules and Regulations and to make future Rules and Regulations as, in its good faith judgment, may from time to time be needed for safety, comfort and security, for care and cleanliness of the Building and for the preservation of good order therein, which Rules and Regulations shall not be discriminatorily modified or enforced in a manner which shall materially interfere with the conduct of Tenant's permitted use from the Premises or Tenant's use of or access to the Premises or the Parking Structure. Tenant agrees to abide by all such Rules and Regulations herein above stated and any additional rules and regulations which are adopted and of which Tenant has received written notice.

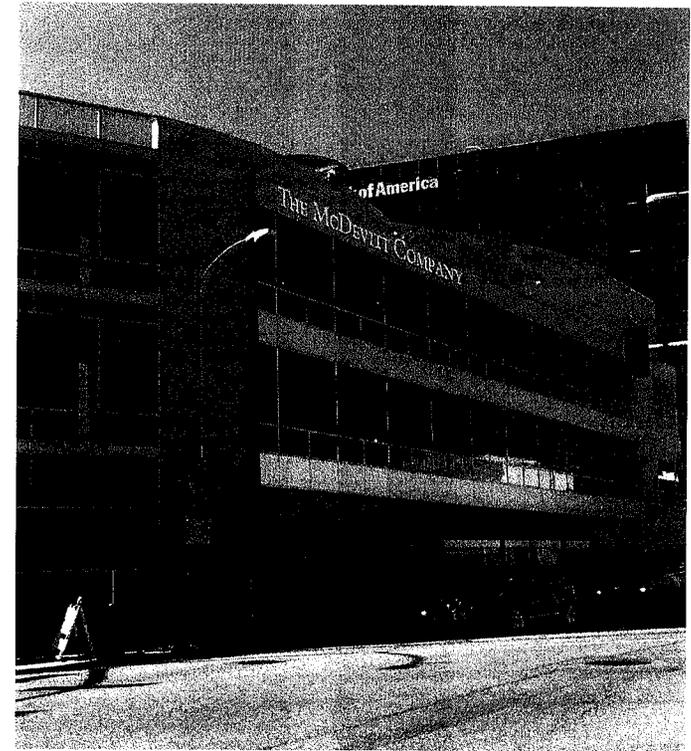
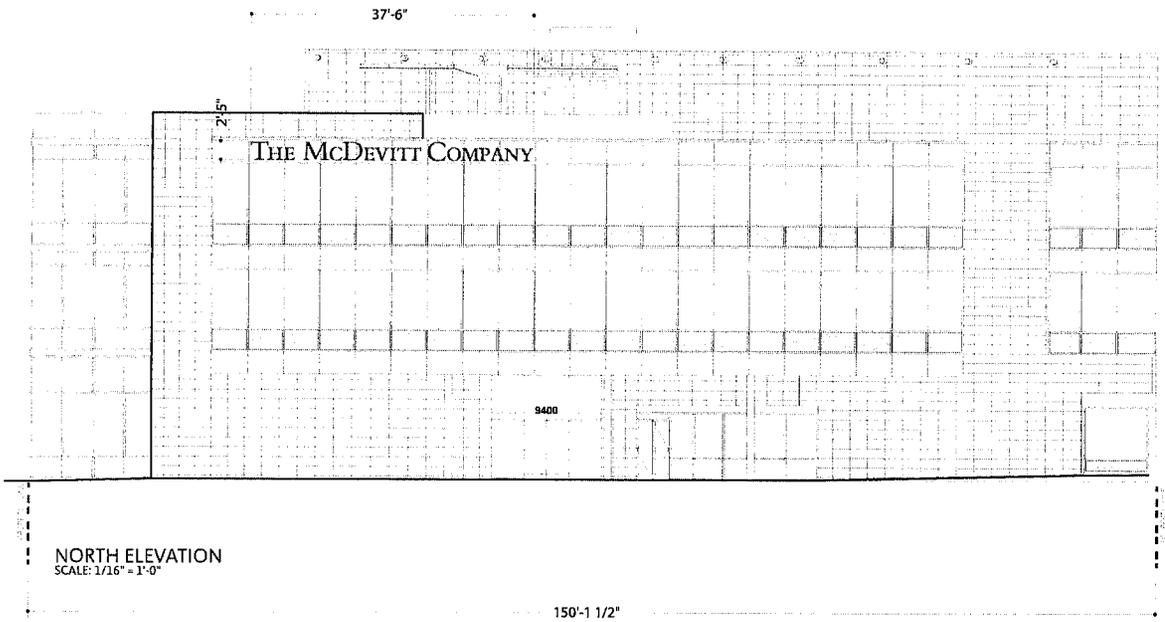
21. Tenant shall use commercially reasonable efforts to ensure the observance of all of the foregoing rules by Tenant's employees, agents, customers, invitees and guests.

22. Landlord reserves the right to charge, as additional Rent to Tenant, any extra reasonable costs incurred by Landlord as a result of the violation of these Rules and Regulations by Tenant or by Tenant's employees, agents, customers, invitees and guests.

EXHIBIT "F"
SIGN CRITERIA

Note: The City of Beverly Hills allows 1 square foot of signage for each lineal foot of public street frontage. In this case, the remaining 59 square feet of allowable signage to be divided amongst the other tenants.

PROPOSED SIGNAGE:
2'-5" X 37'-6" = 90.625 sq. ft.



PERSPECTIVE VIEW
SCALE: NOT TO SCALE

Attachment 2

RECORDING REQUESTED BY, AND
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 dated as of April 17, 2012, and is entered into by and between the CITY OF BEVERLY HILLS, a municipal corporation ("City"), and THE W. MCDEVITT COMPANY, INC., a Pennsylvania corporation ("Tenant").

RECITALS

A. Tenant and City have entered into that certain "Lease between the City of Beverly Hills and The W. McDevitt Company, Inc. for Space at 9400 Santa Monica Boulevard" of 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 City, a portion (the "**Premises**") of that certain building ("**Building**") located on land in the City of Beverly Hills, County of Los Angeles, State of California, commonly known as 9400 Santa Monica Boulevard, Beverly Hills, California, more particularly described in Exhibit A attached hereto. The Premises are more particularly described in the Lease.

B. Tenant and City now desire to enter into and record this Memorandum as required under applicable California law.

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 City agree as follows:

1. Lease. City hereby leases and demises the Premises to Tenant, and Tenant hereby leases and accepts the Premises from City, on the terms and conditions in the Lease for ten (10) years commencing one hundred and twenty (120) days after the date that City notifies Tenant in writing that City is prepared to deliver possession of the Premises to Tenant, subject to earlier termination as provided in the Lease, and subject to one 91) option in favor of Tenant to extend

the term for five (5) years, and upon the rental rate(s) and the other terms and conditions set forth in the Lease, all of which are incorporated herein by this reference.

2. Purpose. This Memorandum is prepared for the purposes of recordation only and in no way modifies the terms and conditions of the Lease. In the event any provision of this Memorandum is inconsistent with any term or condition of the Lease, the term or condition of the Lease shall prevail.

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

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

CITY:

THE CITY OF BEVERLY HILLS

TENANT:

THE W. MCDEVITT COMPANY, INC.,
a Pennsylvania corporation

By: _____
William W. Brien, M.D.,
Mayor

By: _____
Wade McDevitt
President & CEO

ATTEST:

_____ (SEAL)

By: _____
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 _____,

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 _____,

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.

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Signature of Notary Public

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APN: 4343-011-903

Attachment 3

COMMISSION AGREEMENT

This **COMMISSION AGREEMENT** (this "Agreement") is made and entered into effective as of March 14, 2012, by and between **CITY OF BEVERLY HILLS** ("Landlord"), and **Industry Partners, Inc.**, a California corporation ("Broker"), with reference to a contemplated Lease agreement for The McDevitt Company ("Tenant") at 9400 Santa Monica Blvd., Beverly Hills, CA ("Building").

In the event that a Lease agreement is executed between Tenant and Landlord for Premises in the above referenced Building, Landlord shall pay to Broker a commission pursuant to the following schedule:

Four percent (4%) of the total base gross rent below for months 1-60 of the Lease Term in which rent is to be paid, and two percent (2%) of the total base gross rent below for months 61-120 of the Lease Term in which rent is to be paid, which is as follows:

		\$/SF	Monthly	Annual	Commission
Months	1-12	\$4.00	\$20,700.00	\$124,200.00	
Months	13-24	\$4.00	\$20,700.00	\$248,400.00	
Months	25-36	\$4.12	\$21,321.00	\$255,852.00	
Months	37-48	\$4.12	\$21,321.00	\$255,852.00	
Months	49-60	\$4.24	\$21,960.63	\$263,527.56	\$45,913.26
Months	61-72	\$4.24	\$21,960.63	\$263,527.56	
Months	73-84	\$4.37	\$22,619.45	\$271,433.39	
Months	85-96	\$4.37	\$22,619.45	\$271,433.39	
Months	97-108	\$4.50	\$23,298.03	\$279,576.39	
Months	109-120	\$4.50	\$23,298.03	\$279,576.39	\$27,310.94
Lease Term Value:				\$2,513,378.67	

Total Commission: \$73,224.20

Fifty percent (50%) of this commission shall be due upon lease execution and delivery by both Landlord and Tenant, and fifty percent (50%) shall be paid upon Tenant's occupancy of the space. Landlord and Tenant each represent and warrant to the other that other than Industry Partners, no broker, agent, or finder negotiated or was instrumental in negotiating or consummating this lease on Tenant's behalf and that it knows of no broker, agent, or finder, other than the Broker, who is, or might be entitled to a commission or compensation in connection with the lease.

In the event of any such claims for additional brokers' or finders' fees or commissions in connection with the negotiation, execution or consummation of the lease, then Landlord shall indemnify save harmless and defend Tenant from and against such claims. Additionally, Tenant shall indemnify, save harmless and defend Landlord if such claims shall be based upon any statement, representation or agreement made by Tenant.

In the event that Landlord fails to make payments within the time limits called for herein, then from the date due until paid, the delinquent payment shall bear interest at the maximum legal rate within the State of California. In addition, should it be necessary to litigate or arbitrate hereunder, the prevailing party shall be entitled to all reasonable attorney's fees and court costs incurred in connection therewith.

This agreement (i) expresses the parties' entire agreement on the matters covered hereinabove; (ii) supersedes all prior understandings between them on such matters; (iii) shall be governed by the laws of California, (iv) shall be binding on their lawful successors, designees, and assigns; and (v) shall not be altered, supplemented, or terminated except in a writing signed by each party.

AGREED TO:

LANDLORD / CITY

BROKER

THE CITY OF BEVERLY HILLS

INDUSTRY PARTNERS, INC.

By: _____
William W. Brien, MD,
Mayor

By: _____
Jim Jacobsen,
Founder & President

ATTEST:

INDUSTRY PARTNERS, INC.

(SEAL)

By: _____
Brett Voris,
Vice President & Broker

By: _____
Byron Pope,
City Clerk