

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Financial Services

AGENDA DATE: Regular Agenda
February 15, 2011

CONTACT PERSON NAME AND PHONE NUMBER: Liza Ramirez-Tobias (915) 541-4074

DISTRICT(S) AFFECTED: District 8, Rep. O'Rourke

SUBJECT:

A resolution to authorize the City Manager to sign a lease between Paso del Norte Investment Property, L.P. and the City of El Paso for the El Paso Fire Department's administrative use at 425 N. Kansas, El Paso, Texas, for a term of sixty months in an increasing annual rental amount set to begin at TWO HUNDRED THIRTY THOUSAND NINE HUNDRED FORTY AND NO/100 (\$230,940.00).

BACKGROUND / DISCUSSION:

City is consolidating its services within the Downtown area for efficiency and effectiveness, where feasible. This will also enhance the effort, both public and private, to revitalize the Downtown area. After several site visit to various properties in the Downtown area, the site at 425 N. Kansas was selected. This lease will be for approximately 19,295 square feet of office space with Paso del Norte Investment Property to house the Fire Administration staff. The initial term of the lease is for five years, with two five (5) year extensions, at the initial rate of \$230,940.00 and annual increases for the subsequent years. The annual amount will include 71 parking spaces, maintenance, janitorial, all utilities (except telephone/internet), and improvements as per attached plans.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

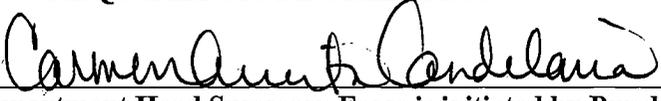
Fire Department

BOARD / COMMISSION ACTION:

CARE recommends approval

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a lease between Paso del Norte Investment Property, L.P. and the City of El Paso for the El Paso Fire Department's administrative use at 425 N. Kansas, El Paso, Texas, for a term of sixty months in an increasing annual rental amount set to begin at TWO HUNDRED THIRTY THOUSAND NINE HUNDRED FORTY AND NO/100 (\$230,940.00).

ADOPTED this _____ day of _____, 2011.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

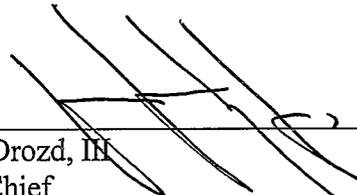
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Otto Drozd, III
Fire Chief



Liza Ramirez-Tobias
Capital Assets Manager

GROSS LEASE

THIS LEASE (the "Lease"), made to be effective as of _____ (the "Effective Date"), by and between Paso del Norte Investment Property, L.P., a Texas limited partnership (hereinafter "Landlord") and the City of El Paso, a Texas municipal corporation (hereinafter "Tenant").

In consideration of the rents, covenants and agreements herein set forth, Landlord and Tenant enter into the following agreement:

1. Lease of Premises. Landlord hereby Leases to Tenant, and Tenant hereby rents from Landlord, Floors 2 and 3, each consisting of approximately 8,275 square feet, and an approximately 2,745 square foot portion of the Fifth Floor of the building (the "Building") located at 425 N. Kansas, El Paso, Texas, all as shown on Exhibits "A-1," "A-2," and "A-3" attached hereto (the "Premises").

2. Term. The term of this Lease shall be for sixty (60) months, commencing on _____ (the "Commencement Date") and ending on the date that is sixty (60) months thereafter. If the Lease Term commences on a date other than the first day of a calendar month, the first Lease Year shall include the remainder of the calendar month in which the Commencement Date occurs, plus the next succeeding 12 full calendar months; thereafter a Lease Year shall consist of successive periods of twelve calendar months.

3. Rent. Tenant shall pay rent to the Landlord for the Premises as follows:

Lease Year	Annual Rent	Monthly Rent
1-5	\$ 230,940.00	\$19,245.00
6	\$ 233,249.40	\$19,437.45
7	\$ 235,581.89	\$19,631.82
8	\$ 237,937.71	\$19,828.14
9	\$ 240,317.09	\$20,026.42
10	\$ 242,720.26	\$20,226.68
11	\$ 245,147.46	\$20,428.95
12	\$ 247,598.83	\$20,633.23
13	\$ 250,074.93	\$20,839.57
14	\$ 252,575.68	\$21,047.97
15	\$ 255,101.43	\$21,258.45

Beginning on the Commencement Date, said monthly rent shall be paid in advance on the first day of each month of the term, with proration to occur for any partial month if the Commencement Date is other than on the first day of a calendar month. Which will be computed as a 30 day month and a 360 day year. All rentals to be paid by Tenant to Landlord shall be in lawful money of the United States of America and shall be paid without deduction or offset, prior notice or demand, on or before the first day of each and every month during the term hereof, and at such place or places as may be designated from time to time by Landlord. Tenant's obligation to pay rent under this Lease is an independent covenant and no act or circumstance, regardless of whether such act or circumstance constitutes a breach of this Lease by Landlord, shall release Tenant of its obligation to pay rent as required by this Lease.

All payments by Tenant under this Lease are payable only out of current City of El Paso revenues. In the event that funds relating to this Agreement do not become available, such as by City Council not appropriating the funds, Tenant shall have no obligation to pay or perform any services related herein to Landlord for Tenant's fiscal year during which time such funding is not available or appropriated. Should Tenant experience a funding unavailability, either party may choose to terminate the Agreement subject to the terms of this Lease.

4. Security Deposit. Intentionally Omitted.

5. Late Charges. If any installment of rent is not paid after it is due, Tenant shall pay a late charge in an amount equal to the rates described in the Texas Prompt Payment Act contained in Chapter 2251 of the Texas Government Code. Any rental and/or other payments due hereunder to Landlord marked "Insufficient Funds" will entitle Landlord to collect an additional \$40.00 from Tenant for each such payment.

6. Quiet Enjoyment. Landlord covenants and agrees that upon Tenant's paying rent and performing all of the covenants and conditions set forth in this Lease, Tenant shall, subject to all zoning ordinances and other laws and regulations governing or regulating the use of the Premises, easements, rights-of-way, and prescriptive rights, and all presently recorded instruments which affect the Premises, peaceably and quietly have, hold and enjoy the Premises for the term provided in this Lease.

7. Conduct of Business of Tenant.

7.1 Use of Premises. The Premises shall be occupied and used by Tenant for general administrative duties associated with the El Paso Fire Department, and for no other purpose, without the prior written consent of Landlord. Landlord and Tenant recognize, understand and agree that Landlord has entered into this Lease with the express understanding that Tenant shall use the Premises at all times during the term of this Lease, including any applicable Renewal Terms, solely for the use permitted by this Section 7.1 and no other, in a manner consistent with this Lease and applicable law.

7.2 Prompt Occupancy and Use. Prior to the Effective Date, landlord agrees to install a sprinkler system, replace all existing carpet, replace all missing light bulbs, add door handles to all doors, make necessary modifications to floor plans as per exhibits, paint all walls and treat or varnish all wood, in areas identified in exhibits "A-1", "A-2", and "A-3".

Other than as set forth above, Tenant's acceptance of occupancy from Landlord shall constitute acknowledgment by Tenant that Tenant has inspected the Premises and that same are suitable for Tenant's intended use thereof as stated above. Tenant recognizes and agrees except as otherwise expressly provided herein that Landlord is making no warranties, expressed or implied, regarding the Premises, including, without limitation, the condition thereof, or the present or future suitability of the Premises for any particular use. Tenant accepts the Premises "AS IS, WHERE IS" with all faults. Tenant will occupy the Premises upon the Commencement Date and thereafter continuously operate during regular business hours as adopted by the City of El Paso and or determined by the El Paso Fire Department at no additional expense in El Paso

County, and conduct in one hundred percent (100%) of the Premises the business permitted under Section 7.1 hereof.

TENANT AGREES AND UNDERSTANDS THAT LANDLORD IS MAKING NO WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE PRESENT OF FUTURE SUITABILITY OF THE PREMISES FOR ANY PARTICULAR USE. WITHOUT LIMITATION ON THE FOREGOING, TENANT EXPRESSLY WAIVES ANY AND ALL SUCH WARRANTIES, INCLUDING SPECIFICALLY, BUT WITHOUT LIMITATION, THE WARRANTY OF SUITABILITY.

7.3 Compliance with Laws. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities pertaining to the use or occupancy of the Premises and with any recorded covenants, conditions and restrictions, regardless of when they become effective, including, without limitation, all applicable federal, state and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials (as defined in Paragraph 34.3 of this Lease), waste disposal, air emissions and other environmental, health and safety related, zoning and land use matters, and with any directive or order of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to the use or occupation of the Premises. Tenant shall not use, or permit the Premises or any part thereof to be used in any manner which will increase the existing rate of insurance upon the Premises or cause a cancellation of any insurance policy. Without limitation on the foregoing, Tenant agrees to supply and maintain at its own expense any fire extinguishers, or other fire prevention equipment (excluding fire sprinklers and fire alarms) required by law, rules, orders, ordinances, and regulations of any city, county, or state in which the Premises are located and/or required by any underwriters association, bureau, or any other similar body having jurisdiction involving the Premises.

8. Parking. Beginning on the Commencement Date, Tenant shall pay for parking, as additional rent, simultaneously with each payment of monthly rent, per the following schedule:

- (i) \$0.00 per space, per month, for 69 spaces located at 420 Campbell and 400 E. Franklin parking lot across the street from the Premises to be distributed between said lots in coordination with Landlord, as per exhibit "A-4"; plus
- (ii) \$0.00 per space, per month, for 2 spaces located in the parking lot adjacent to the Building, both of which will be covered spaces.

9. Maintenance of Premises.

9.1 Maintenance by Landlord. Landlord shall maintain all structural portions, including windows, of the Premises and the Building, together with all hydraulic and mechanical components of the same as well as the Heating Ventilation and Air Conditioning (HVAC) system.

9.1 Maintenance by Tenant. Tenant shall, during the term of this Lease, maintain the Premises in a condition fit for its intended use, reasonable wear and tear excepted. Without limitation on the foregoing, Tenant shall, in general, throughout the lease term take good care of the Premises and keep the Premises free from waste or nuisance and shall deliver up the Premises upon termination of this Lease in the same repair condition as when this Lease commenced,

reasonable wear and tear excepted, and damage by fire, earthquake, act of God, unavoidable casualty, or the elements alone excepted, and shall deliver all keys for, and all combinations on locks, safes and vaults in the Premises to Landlord.

10. Janitorial Services. Landlord shall furnish any janitorial services to the Premises.

11. Pest Control Service. Landlord shall furnish pest control service as needed in the reasonable judgment of Landlord. Tenant shall report in writing any issues with rodents, bugs and pests at the Premises to Landlord so that Landlord can be on notice of such problem.

12. Refuse Collection Service. Landlord shall furnish refuse collection service including any and all necessary dumpsters or garbage cans for Tenant's use. Such refuse collection service shall comport with any local and state regulations and laws.

13. Utilities. Landlord shall provide electricity, water, sewer, heating and air conditioning service to the Premises. Tenant will make its own arrangements to acquire all other utilities such as telephone and/or internet service (including but not limited to hookup or connection fees or charges).

14. Alterations and Fixtures.

14.1 Alterations by Tenant. Tenant shall not make any structural alterations, additions or changes to the Premises without Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. If Landlord grants consent to any requested alterations, the alterations shall be performed in a good and workmanlike manner in accordance with all applicable legal requirements and any restrictions which may be imposed by Landlord as a condition of its consent.

14.2 Alterations by Landlord. Landlord agrees to make the changes to the Premises described in Section 7.2 above to this Lease, and such changes shall be complete prior to Tenant occupying the Premises and prior to Tenant's rent payment obligation commencing. For all other Landlord repairs, Landlord shall notify Tenant ninety (90) days prior to commencing any repairs, alterations, improvements or additions at the Premises and shall notify Tenant if such work will increase or reduce the square footage of the Premises at issue under the present Lease. Landlord shall not make any changes to the Premises which materially impair the size or dimensions of the Premises without prior written consent of the Tenant which consent shall not be unreasonably withheld. Rent shall not abate during such entry unless Tenant is unable to utilize the Premises as described in Section 7.1 above. Tenant's rent obligation shall not increase regardless of any change to the square footage of the Premises as a result of the referenced work. However, if Tenant's square footage of the Premises is reduced from that set forth in this Lease, Tenant shall have the option to terminate this Lease with sixty (60) days notice to Landlord.

14.2.1 Reasonable Time to Complete. Any such repairs, alterations, improvements or additions undertaken or contracted by Landlord at the Premises shall be completed within a reasonable period of time as determined by industry standards, or else

028

Landlord must provide space in the building where the Premises is located to accommodate Tenant until such time as said repairs, alterations, improvements or additions are complete.

14.2.2 Temporary Space. Such temporary space shall be let to Tenant at a rent no higher than Tenant would pay for Premises, and the rent shall be prorated in an amount equal to the percentage of reduced square footage if the space available to Tenant after Landlord repairs, alterations, improvements or additions, is smaller than Premises. Landlord shall be responsible for the cost of moving Tenant to the temporary space. Landlord shall also be responsible for the cost to remove Tenant improvements from the Premises and install them in the temporary location and then for removing Tenant improvements from the temporary location and for reinstalling them back into the Premises.

14.3 Removal and Restoration by Tenant. All alterations, changes and additions and all improvements, including Leasehold improvements made by Tenant, or made by Landlord on Tenant's behalf (all such items collectively referred to as "Tenant's Additions"), whether or not paid for wholly or in part by Landlord, shall remain Tenant's property for the term of this Lease. Upon the expiration or early termination of this Lease for whatever reason, Tenant shall have one-hundred and eighty (180) days after expiration of this Lease in which to remove such improvements, provided that any occupancy by Tenant for the purposes of removal shall be subject to rent due and during which time Tenant shall continue to be bound by the terms and conditions of this Lease. However, such continued occupancy shall not be deemed to operate as a renewal or extension of the term nor create any new tenancy of the Premises. If Tenant fails to so remove said improvements as provided herein, Landlord may remove same at Tenant's expense or said items shall be considered abandoned. Tenant shall repair any damage caused by Tenant's removal of Tenant's property, trade fixtures and removable improvements.

14.4 Tenant Shall Discharge All Liens. Tenant shall promptly pay all contractors and materialmen, and not permit to suffer any lien to attach to the Premises or any part thereof. Landlord shall have the right to require Tenant to furnish a bond or other indemnity satisfactory to Landlord prior to the commencement of any work by Tenant on the Premises, or if any lien attaches or is claimed, to require such a bond or indemnity in addition to all other remedies. Tenant shall discharge any such lien within ten (10) days of the filing thereof.

15. Signs, Awnings and Canopies. Tenant will not place or permit on any exterior portion of the Premises or in any window or on any interior wall of the Premises visible from the exterior, any sign, awning, canopy, advertising matter, decoration, lettering or other thing of any kind without Landlord's prior written consent, which consent will not be unreasonably withheld. Without limitation on the foregoing, Tenant's signage shall comply in all respects with the laws, rules, ordinances, regulations and/or statutes promulgated by the City of El Paso and/or other governmental or quasi-governmental agencies with jurisdiction over the Premises.

16. Taxes. Real Estate Taxes. Landlord has the sole right to render the property of which the Premises are a part to any appropriate taxing authorities.

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17. Insurance.

17.1 Landlord's Obligations. Landlord shall procure and maintain at the Landlord's expense during the term of this Lease, such all risk property and general liability insurance coverage on the Premises as Landlord, in Landlord's sole discretion, deems appropriate.

17.2 Tenant's Obligations. Tenant may self-insure for some or all insurance obligations. Tenant shall deliver a certificate of self-insurance to Landlord.

17.3 Mutual Waiver of Subrogation Rights. Landlord and Tenant and all parties claiming under them mutually release and discharge each other and their respective officers, directors, partners, employees and agents, from all claims and liabilities arising from or caused by any casualty or hazard to the extent covered by valid and collectible insurance on the Premises; provided that such release shall not operate in any case where the effect is to invalidate such insurance coverage. This release shall apply even if the loss or damage shall be caused by the fault or negligence of a party hereto or for any person for which such party is responsible.

17.4 Waiver. Landlord, its officers, directors, partners, agents and employees, shall not be liable for, and Tenant waives all claims for damage (except claims caused by or resulting from the gross negligence or willful misconduct of Landlord, its officers, directors, partners, agents or employees and except for damage resulting from the items for which Landlord is responsible under section 9.1 above), including but not limited to consequential damages, to person, property or otherwise, sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon any part of the Premises, including but not limited to, claims for damage resulting from: (a) any equipment or appurtenances becoming out of repair; (b) broken glass; (c) the bursting, leaking or running of any tank, tub, or washstand upon the Premises; (d) damage to or loss by theft or otherwise of property of Tenant or others; (e) acts or omissions of persons in the Premises, occupants of nearby properties, or any other persons; (f) any fire or casualty; and (m) any act of public enemy, criminal conduct, insurrection or war. All property of Tenant kept in the Premises shall be so kept at Tenant's risk only.

18. Right of Entry. Landlord, its agents and employees, shall have the right to enter the Premises from time to time at reasonable times to examine, to show them to prospective purchasers and other persons, and to make necessary repairs, alterations, improvements or additions. Landlord shall make reasonable efforts to notify Tenant of the need to enter upon the Premises prior to entering upon the Premises. During the last six (6) months of the term of this Lease, Landlord may exhibit the Premises to prospective Tenants and maintain upon the Premises notices deemed advisable by Landlord. During any apparent emergency upon the Premises, Landlord, its agents and employees, shall first contact Tenant to notify Tenant of the emergency with such notice as is reasonable under the circumstances and allow Tenant the opportunity to resolve the emergency. Only if Tenant is not available to resolve such emergency after notification by Landlord, may Landlord enter forcibly without liability and without in any manner affecting Tenant's obligations under this Lease as long as such entry is for the purpose of addressing the emergency upon the Premises.

19. Subordination and Attornment. Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust, or other lien presently existing on the Premises, and to any renewals and extensions thereof; but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust, or other lien to this Lease. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust, or other lien hereafter placed on the Premises, and Tenant agrees on demand to execute such further instruments subordinating this Lease as Landlord may request, provided such subordination shall be on the express condition that this Lease shall be recognized by the mortgagee, and that the rights of Tenant shall remain in full force and effect during the term of this Lease so long as Tenant shall continue to perform all of the covenants and conditions of this Lease. Tenant covenants and agrees that upon foreclosure of any deed of trust, mortgage or other instrument of security and the sale of the Premises pursuant to any such document, to attorn to any purchaser at such a sale and to recognize such purchaser as the Landlord under this Lease. The agreement of Tenant to attorn to any purchaser pursuant to such a foreclosure sale or trustee's sale in the preceding sentence shall survive any such sale.

20. Estoppel Certificate. Tenant shall at any time, upon the request of Landlord, execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if modified stating the nature of such modification and certifying that the Lease as modified is in full force and effect), the dates to which the rent and other charges are paid in advance, if any, and acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed. The parties hereto agree that any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Premises. Tenant's failure to deliver such statement within 30 thirty days after Landlord's request for the same shall be conclusive upon Tenant that: (i) this Lease is in full force and effect; (ii) there are no uncured defaults in Landlord's performance, and (iii) not more than one month's rent or other charge has been paid in advance.

21. Damage and Destruction. Landlord shall not be responsible for loss or damage to Tenant's fixtures, equipment or other property so installed or placed by Tenant on the Premises, except where such damage is due to Landlord's willful failure to make repairs required to be made under this Lease. Partial Damage-Insured: In the event improvements on the Premises are damaged by any casualty covered under an insurance policy maintained by Landlord, then Landlord shall repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. For purposes of this provision, minor repairs shall be completed within thirty (30) days and major repairs shall be completed within ninety (90) days of the damage. Total Destruction: If during the term of this lease, the demised Premises shall be damaged or destroyed from any cause, whether or not covered by insurance under this Lease, so as to render un-tenantable more than fifty percent (50%) of the leased floor area, Tenant reserves the right to automatically terminate the Lease as of the date of such total destruction.

22. Eminent Domain.

028

22.1 Definitions. The following definitions apply in construing the provisions of this Agreement relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

22.1.1 "Taking" means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending.

22.1.2 "Total taking" means the taking of the fee title to all of the Premises and improvements thereon.

22.1.3 "Substantial taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:

22.1.3.1 The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Lessee;

22.1.3.2 The conduct of Tenant's business on the Premises would be substantially prevented or impaired;

22.1.3.3 The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the rent and after performance of all covenants and conditions required of Tenant under this Agreement.

22.1.4 "Partial taking" means the taking of a fee title that is not either a total or substantial taking.

22.1.5 "Improvements" includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.

22.1.6 "Notice of intended taking" means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an existing intention of taking as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Agreement. The notice is considered to have been received when a party to this Agreement receives from the condemning agency or entity a notice of intent to take in writing containing a description or map reasonably defining the extent of the taking.

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22.1.7 "Award" means compensation paid for the taking, whether pursuant to judgment, or by agreement, or otherwise.

22.1.8 "Date of Taking" means the date that Tenant is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

22.2 Notice of Condemnation. The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

22.2.1 Notice of intended taking;

22.2.2 Service of any legal process relating to condemnation of the Premises or improvements; or

22.2.3 Notice in connection with any proceedings or negotiations with respect to such a condemnation.

22.3 Rights of Parties During Condemnation Proceeding. Landlord and Tenant shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Agreement relating to the condemnation.

22.4 Taking of Leasehold. Upon a total taking, Tenant's obligation to pay rent and other charges hereunder together with Tenant's interest in the leasehold shall terminate on the Date of Taking. Upon a substantial taking, Tenant may, by notice to Landlord within ninety (90) days after Tenant receives notice of the intended taking, elect to treat the taking as a total taking. If Tenant does not so notify Landlord, the taking shall be deemed a partial taking. Upon a partial taking, this Agreement shall remain in full force and effect covering the balance of the Premises not so taken, except that the rent payable hereunder shall be reduced in the same ratio as the percentage of the area of the Premises taken bears to the total area of the Premises.

22.5 Total Taking. All of Tenant's obligations under the Agreement shall terminate as of the Date of Taking. Upon a total taking, all sums awarded for any Tenant-owned improvements and the leasehold estate shall be disbursed to Tenant. All sums awarded for the Premises, as unencumbered by the Tenant-owned improvements, but subject to the Agreement, shall be disbursed to Landlord.

22.6 Partial Taking. Upon a partial taking, all awards shall be disbursed as follows:

22.6.1 To the cost of restoring the improvements on the Premises; and

0123

22.6.2 The balance, if any, to Landlord and Tenant as follows: Tenant shall receive all sums awarded for Tenant-owned improvements and the leasehold estate. Landlord shall receive all sums awarded for the Premises as unencumbered by the improvements but subject to the Agreement.

22.7 Obligations of Tenant Under Partial Taking. Promptly after any such partial taking, Tenant, at its expense, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Tenant's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a partial taking in the last year of the initial term or any renewal term, Tenant shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Landlord if its intention to that effect.

23. Termination.

23.1 Tenant's Right to Terminate. Upon the default of Landlord of any of its obligations herein, Tenant shall have the right to terminate this Lease, upon thirty (30) days written notice issued to Landlord as provided in this Lease. If Landlord fails to correct the default within thirty (30) days, all of Tenant's obligations and this Lease cease immediately. If the default is not possible to be corrected within thirty (30) days by Landlord, Landlord shall immediately notify Tenant in writing what additional amount of time Landlord shall require. If Tenant cannot wait for the additional amount of time requested because Tenant is unable to use the Premises for the purpose described in Section 7.1 above, it shall declare the Lease immediately terminated. Tenant reserves the right to terminate the lease for convenience with ninety (90) days written notice to Landlord.

23.2 Landlord's Right to Terminate. Landlord may terminate in accordance with Section 26 in this Lease.

24. Assignment and Subletting. Tenant shall not assign this Lease or any interest therein, whether voluntarily, by operation of law, or otherwise, and shall not sublet the Premises or any part thereof except by written permission and consent of Landlord being first had and obtained. Consent of Landlord to any such assignment or subletting shall not be unreasonably withheld if: (i) at the time of such assignment or subletting Tenant is not in default in the performance and observance of any of the covenants and conditions of this Lease; (ii) the assignee or subtenant of Tenant shall expressly assume in writing all of Tenant's obligations hereunder; (iii) Tenant shall provide proof to Landlord that the assignee or subtenant has a financial condition which is satisfactory to Landlord and Landlord's lender; (iv) the Premises continue to be used solely for the purpose set forth in Paragraph 7.1; and (v) the assignee or subtenant is, in Landlord's opinion, capable of operating such business. In connection with any such assignment or sublease, the assignee or subtenant of Tenant shall pay to Landlord any legal and administrative costs incurred by Landlord in approving such assignment or subletting, not to exceed \$1,000.00. Any such sublease, even with the approval of Landlord, shall not relieve Tenant from liability for payment of all forms of rental and other charges herein provided or from the obligations to keep and be bound by the terms, conditions and covenants of this Lease, unless the sublessor has met all such obligations of Tenant in which case the Tenant shall be relieved of such liability. The acceptance

023

of rent from any other person shall not be deemed to be a waiver of any of the provisions of this Lease, or a consent to the assignment or subletting of the Premises. Consent to any assignment or subletting shall not be deemed a consent to any future assignment or subletting. Finally, in the event of any assignment or subletting it is understood and agreed that all rentals paid to Tenant by an assignee or sublessee shall be received by Tenant in trust for Landlord, to be forwarded immediately to Landlord without reduction of any kind, and upon election by Landlord such rentals shall be paid directly to Landlord. Tenant shall provide a copy of any executed sublease or assignment to Landlord within ten (10) days of execution thereof.

25. Landlord's Performance for Account to Tenant. If the Tenant shall continue in default in the performance of any of the covenants or agreements herein contained after the time limit for the curing thereof, then Landlord may perform the same for the account of Tenant. Any amount paid or expense liability incurred by Landlord in the performance of any such matter for the account of Tenant shall be deemed to be additional rent and the same may, at the option of Landlord, be added to any rent then due or thereafter falling due hereunder.

26. Default by Tenant.

26.1 Events of Default. The following shall be considered for all purposes to be events of default under and a breach of this Lease: (a) any failure of Tenant to pay any rent or other amount when due hereunder as long as Landlord has provided Tenant with thirty (30) days written notice that the rent was not received when due; (b) any failure by Tenant to perform or observe any other of the terms, provisions, conditions and covenants of this Lease for more than sixty (60) days after written notice of such failure; (c) Landlord determining that Tenant has submitted any false report required to be furnished hereunder; (d) Tenant shall become bankrupt or insolvent, or file or have filed against it a petition in bankruptcy or for reorganization or arrangement or for the appointment of a receiver or trustee of all or a portion of Tenant's property, or Tenant makes an assignment for the benefit of creditors; or (e) this Lease, Tenant's interest herein or in the Premises, any improvements thereon, or any property of Tenant is executed upon or attached.

26.2 Landlord's Remedies. Upon the occurrence of any event of default specified in this Lease, and after the 30 day notification period Landlord may have for such default, shall have the right to pursue any one or more of the following remedies: (a) thereupon or at any time thereafter, change the locks of the Premises in accordance with Section 26.3; (b) terminate this Lease in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying said Premises or any part thereof only in accordance with the provisions of Texas law,; and, in either event, Landlord may recover from Tenant the amount of all loss and damage which Landlord may suffer by reason of such termination, including, without limitation, all costs of retaking the Premises, and the total rent and charges provided for in this Lease for the remainder of the Term of this Lease (i.e., the duration of this Lease had it not been terminated); (c) without terminating this Lease, enter upon and take possession of the Premises, and expel or remove Tenant and any other person who may be occupying said Premises, or any part thereof, by force if necessary, without notice or the need to resort to legal process and without being deemed guilty of trespass or becoming liable for any

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loss or damage occasioned thereby; and (d) sue for rent as it comes due from time to time in one or more actions. Landlord may relet the Premises or any part thereof for such term or terms (which may extend beyond the term of this Lease) and at such rentals and upon such other terms and conditions as Landlord in its sole discretion deems advisable. Upon any such reletting all rentals received by Landlord therefrom shall be applied: first, to rent due hereunder; second, to pay any costs and expenses of reletting, including brokers' and attorneys' fees and costs of repairs; third,; and fourth, the residue, if any, shall be held by Landlord and applied in payment of future rent as it becomes due hereunder. If rentals received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord within ten (10) days from the date of invoice. In no event shall Tenant be entitled to any excess rent obtained by reletting the Premises over and above the rent reserved herein.

Landlord and Tenant agree that Landlord will have satisfied its duty to mitigate and will have used objectively reasonable efforts to relet the Premises if Landlord does the following within ninety (90) days after Tenant abandons the Premises;

- a. Place a "For Rent" or "For Lease" sign at the Premises;
- b. Make the Premises available to area brokers, even if any such brokers are affiliates of Landlord; and
- c. Show the Premises to qualified prospective tenants who request to see it.

In no event will Landlord have any duty to lease the Premises before Landlord leases other vacant spaces in the building in which the Premises is located or other property owned by Landlord nor shall Landlord have any duty to lease to and Landlord will not be considered to be acting in contravention of its obligation to mitigate damages in refusing to lease to any party if: (i) the prospective lessee requires any alterations which are unacceptable to Landlord

26.3 Lockout Provisions. Upon the occurrence of any default by Tenant under the Lease, and only after Landlord provides written notice to the Tenant and fully complies with Texas law, including but not limited to Chapter 93 of the Texas Property Code, Landlord shall be entitled to change the locks at the Premises. Tenant agrees that entry may be gained for that purpose through use of a duplicate or master key or any other means, only after the Landlord provides written notice to the Tenant disclosing the reason for such action or any other information, and that Landlord shall not be obligated to provide a key to the changed lock to Tenant unless Tenant shall have first:

- (1) brought current all payments due to Landlord under this Lease;
- (2) fully cured and remedied to Landlord's satisfaction all other defaults of Tenant under this Lease; or
- (3) given Landlord security and assurances satisfactory to Landlord that Tenant intends to and is able to meet and comply with its future obligations under this Lease, both monetary and nonmonetary.

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The provisions of this Paragraph 26.3 are explicitly not intended to override and supersede any conflicting provisions of the Texas Property Code (including, without limitation, Chapter 93 thereof, and any amendments or successor statutes thereto), and of any other law. Landlord agrees that Tenant shall have available to it all protections and remedies under the Texas Property Code.

27. Intentionally Omitted.

28. Intentionally Omitted.

29. Waiver of Rights of Redemption. To the extent permitted by law, Tenant waives any and all rights of redemption granted by or under any present or future laws if Tenant is evicted or dispossessed for any cause, or if Landlord obtains possession of the Premises due to Tenant's default hereunder or otherwise.

30. Tenant's Remedies if Default by Landlord - Limitations on Liability. Landlord shall in no event be charged with default in any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after written notice to Landlord by Tenant, specifically describing such failure. All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter. The term "Landlord" in this Lease shall mean only the owner, for the time being of the Premises and in the event of the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing. Any liability of Landlord under this Lease shall be limited solely to its interest in the building in which the Premises is located, and in no event shall any personal liability be asserted against Landlord in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord.

31. Application of Payments Received from Tenant. Landlord shall have the right to apply any payments made by Tenant to the satisfaction of any debt or obligation of Tenant to Landlord according to the instructions of Tenant as to application of any such sum, whether such instructions be endorsed upon Tenant's check or otherwise, unless otherwise agreed upon by both parties in writing. The acceptance by Landlord of a check or checks drawn by a party other than Tenant shall not be deemed an approval of any assignment or sublease of this Lease by Tenant. Landlord's acceptance of a partial payment on account will not constitute an accord and satisfaction or a waiver of Landlord's right to the balance of the rent due and owing for the month.

32. Notices. All notices required to be given hereunder shall be in writing, and shall be served upon the party to be notified or upon its agents, or shall be mailed by certified or registered mail, postage prepaid, to the appropriate address shown below:

Landlord:

Paso del Norte Investment

Tenant:

City of El Paso

ORA

Property, L.P.

425 N. Kansas, 7th Floor
El Paso, Texas 79901
Attention: OSVALDO RODRIGUEZ

2 Civic Center Plaza
El Paso, Texas 79901
Attention: Capital Assets

City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901
Attention: Fire Department

Any notice mailed in the manner set forth in this Paragraph shall be deemed received by the party to whom it is addressed when deposited in such manner with the United States Postal Service. Either party shall have the right to change its principal office by notifying the other party of such change in accordance with this Paragraph.

33. Sale of Premises by Landlord. In the event of any sale of the Premises by Landlord, Landlord shall be and is hereby entirely freed and relieved of all liability under any and all of its covenants and obligations contained in or derived from this Lease arising out of any act, occurrence or omission occurring after the consummation of such sale; and the purchaser, at such sale or any subsequent sale of the Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser, to have assumed and agreed to carry out any and all of the covenants and obligations of the Landlord under this Lease. Furthermore, in the event of a sale or conveyance by Landlord of the Premises, or the property of which the Premises are a part, this Lease shall not be affected by any such sale, and Tenant agrees to attorn to the purchaser thereof.

34. Waiver. No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such a right or remedy or be construed as a waiver. The receipt and acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular rent payment involved. Except for default by Landlord or early termination by Tenant, no act or conduct of Landlord, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the term. Only a written notice from Landlord to Tenant shall constitute an acceptance of the surrender of the Premises and accomplish a termination of the Lease. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant. Any waiver by Landlord or any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the Lease.

35. Holding Over and Successors.

35.1 Holding Over. If Tenant holds over or occupies the Premises after the termination or expiration of this Lease or demand by Landlord to vacate (it being agreed there shall be no such holding over or occupancy without Landlord's written consent), Tenant shall pay Landlord for each month of such holding over a sum equal to two hundred percent (1100%) of the monthly rent applicable hereunder at the expiration of the term or termination of the Lease, prorated for the number of days of such holding over. If Tenant holds over with or without Landlord's written consent, Tenant shall occupy the Premises as a tenant-at-sufferance and all other terms and provisions of this Lease shall be applicable to the period of such occupancy. Tenant agrees that Landlord may institute a forcible detainer or a forcible entry and detainer action against Tenant without serving any demand for possession, demand to vacate, notice of termination or similar demand of notice upon Tenant.

35.2 Successors. All rights and liabilities herein given or imposed upon the respective parties hereto shall bind and inure to the several respective heirs, successors, administrators, executors and assigns of the parties and if Tenant is more than one person, they shall be bound jointly and severally by this Lease. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment was approved by Landlord in writing.

36. Additional Provisions. Provided that no Event of Default has occurred during the Term of this Lease and is still existing at the time of Tenant's exercise of its right in this paragraph 36, Tenant shall have the right to extend the term of the Lease for two (2) additional periods of sixty (60) months each from the expiration of the initial term (or first renewal term, as applicable), provided, however, that written notice is given the Landlord of such intention to extend the Lease one hundred eighty (180) days prior to the applicable expiration date and further provided that all provisions of the Lease (other than rental as shall be modified as provided in Section 3 hereof) shall continue in full force and effect for the period of such extension.

37. Brokers and Finders. Tenant represent and warrant to the other that Tenant has not engaged a broker or finder in connection with this Lease, and that no claims for brokerage commissions or finders' fees will arise in connection with the execution of this Lease.

38. Environmental Issues.

38.1 No Hazardous Materials. Tenant shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees without the prior written consent of Landlord, which Landlord shall not unreasonably withhold provided Tenant demonstrates to Landlord's satisfactions that such Hazardous Material is necessary or useful to Tenant's business and will be used, kept and stored in a manner that complies with all Environmental laws (as such term is herein later defined).

38.2 Without limiting the foregoing, if the presence of any Hazardous Material on the Premises or neighboring properties caused or permitted by Tenant results in any contamination of the Premises or other property, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the Premises and/or other property to the condition existing prior to the introduction of any such Hazardous Material to the Premises, and/or other property, provided that Landlord's approval of such actions shall first be obtained. Tenant further agrees to defend

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Landlord in any administrative or judicial proceeding commence by private individuals or governmental entities seeking recovery of damages for personal injury or property damage, or recovery of civil penalties or fines arising out of, connected with, or relating to any breach by Tenant of its obligations under this Paragraph 38 or any contamination of the Premises or other properties resulting from the presence of Hazardous Materials on or about the Premises or neighboring properties caused or permitted by Tenant or its agents, employees, contractors or invitees. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

38.3 Hazardous Material. As used herein, the term "Hazardous Material" means any pollutant, toxic substance, regulated substance, hazardous waste, hazardous material, hazardous substance, oil, hydrocarbon, asbestos or similar item as defined in or pursuant to the Resources Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, as amended, the Safe Drinking Water Act, as amended, the Federal Water Pollution Control Act, as amended, the Texas Water Code, as amended, the Texas Solid Waste Disposal Act, as amended, or any other federal, state or local environmental or health and safety related, constitutional provisions, law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced or subsequently enacted (collectively the "Environmental Laws").

38.4 Notice of Certain Events. Tenant shall immediately advise Landlord in writing of (a) any governmental or regulatory actions instituted or threatened under any Environmental law affecting the Premises, (b) all claims made or threatened by any third party against Tenant or the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials,. Landlord may elect to join and participate in any settlements, remedial actions, legal proceedings or other actions initiated in connection with any claims under any Environmental Law

38.5 Environmental Review. In the event reasonable evidence exists of the occurrence of existence of the violation of any Environmental Law or the presence of any Hazardous Material on the Premises, Landlord (by its officers, employees and agents) at any time and from time to time may contract for the services of persons (the "Site Reviewers") to perform environmental site assessments ("Site Assessments") on the Premises for the purpose of determining whether there exists on the Premises any environmental condition which could reasonably be expected to result in any liability, cost or expense to the Environmental Laws relating to Hazardous Materials. The Site Reviewers are hereby authorized to enter upon the Premises for the purposes of conducting Site Assessments. The Site Reviewers are further authorized to perform both above and below the ground testing for environmental damage or the presence of Hazardous Materials on the Premises and such other tests on the Premises as may be necessary to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. Tenant agrees to supply to the Site Reviewers such historical and operational information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessment and will make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. The results of Site Assessments shall be furnished to Tenant upon request.

39. Miscellaneous.

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39.1 Partial Invalidity. If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

39.2 Captions. The various headings and numbers herein and the grouping of the provisions of this Lease into paragraphs are for the purpose of convenience only and shall not be considered a part hereof.

39.3 Gender; Number. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context otherwise requires.

39.4 Applicable Law. This Lease shall be governed by the laws of the State of Texas, with venue in El Paso County, Texas.

39.5 Time. Time is of the essence of this Lease.

39.6 Accord and Satisfaction. Landlord is entitled to accept, receive and cash or deposit any payment made by Tenant for any reason or purpose or in any amount whatsoever, and apply the same at Landlord's option to any obligation of Tenant and the same shall not constitute payment of any amount owed except that to which Landlord has applied the same. No endorsement or statement on any check or letter of Tenant shall be deemed an accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such check or payment shall be without prejudice to Landlord's right to recover any and all amounts owed by Tenant hereunder and the Landlord's right to pursue any other available remedy.

39.7 No Partnership. Landlord does not, in any way or for any purpose, become a partner, employer, principal, master, agent or joint venture of or with Tenant.

39.8 Force Majeure. If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, labor troubles, inability to procure material, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature, not the fault of the party delayed in performing work or doing acts required under this Lease, the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

39.9 Attorney's Fees. In the event of any litigation regarding this Lease, the losing party shall pay to the prevailing party reasonable attorney's fees.

39.10 Entire Agreement. There are no representations, covenants, warranties, promises, agreements, conditions or undertakings, oral or written, between Landlord and Tenant other than herein set forth. Except as otherwise provided herein, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless in writing and signed by them.

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Tenant: CITY OF EL PASO:

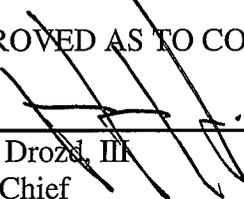
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

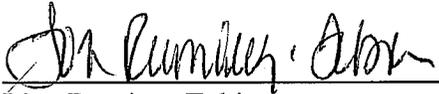


Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Otto Drozd, III
Fire Chief



Liza Ramirez-Tobias
Capital Assets Manager

ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

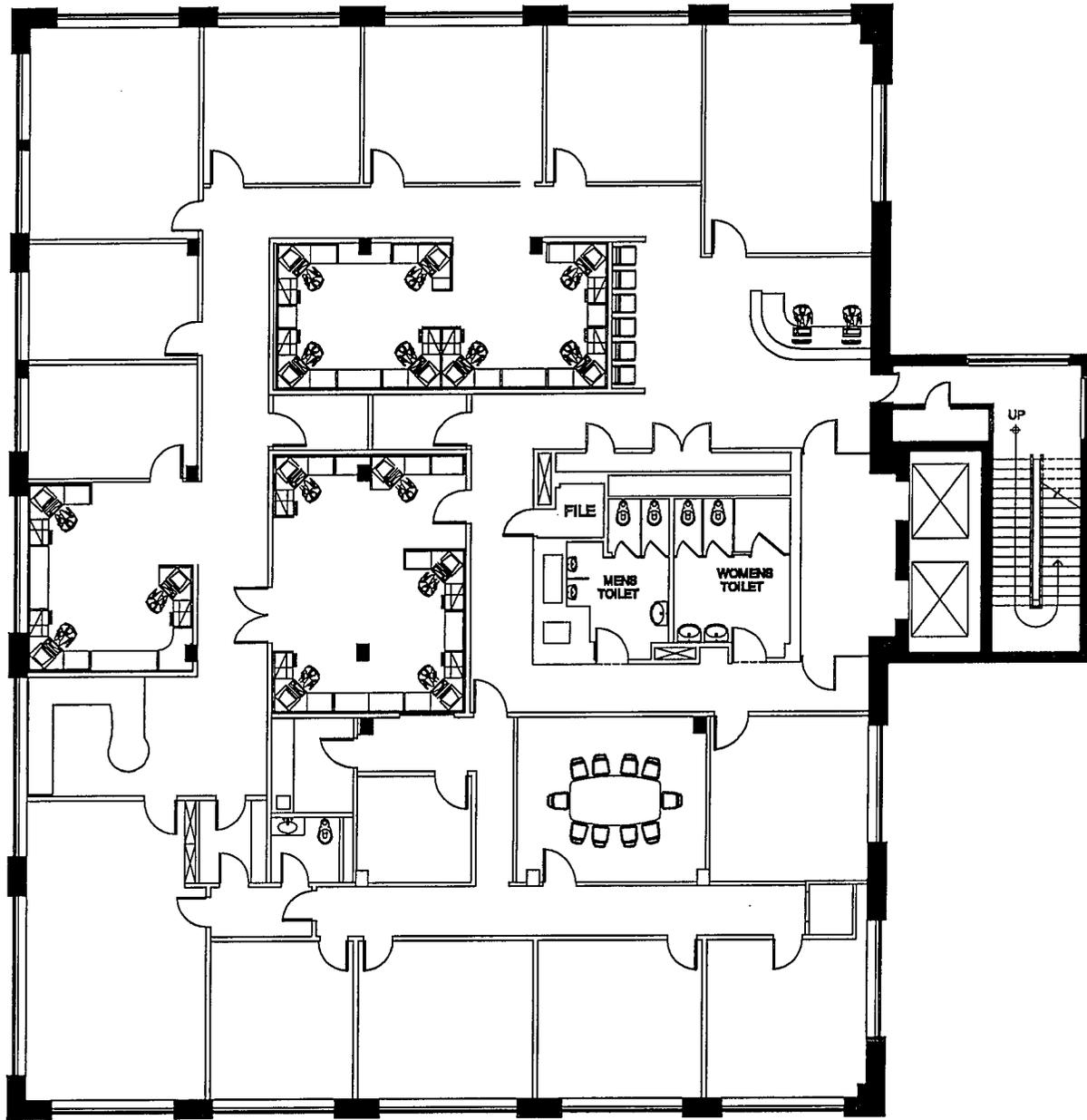
This instrument was acknowledged before me on this _____ day of _____, 20__, by Joyce A. Wilson as City Manager of the City of El Paso, Texas.

Notary Public, State of Texas

My Commission Expires:

EXHIBIT "A-1"

2 ND. FLOOR

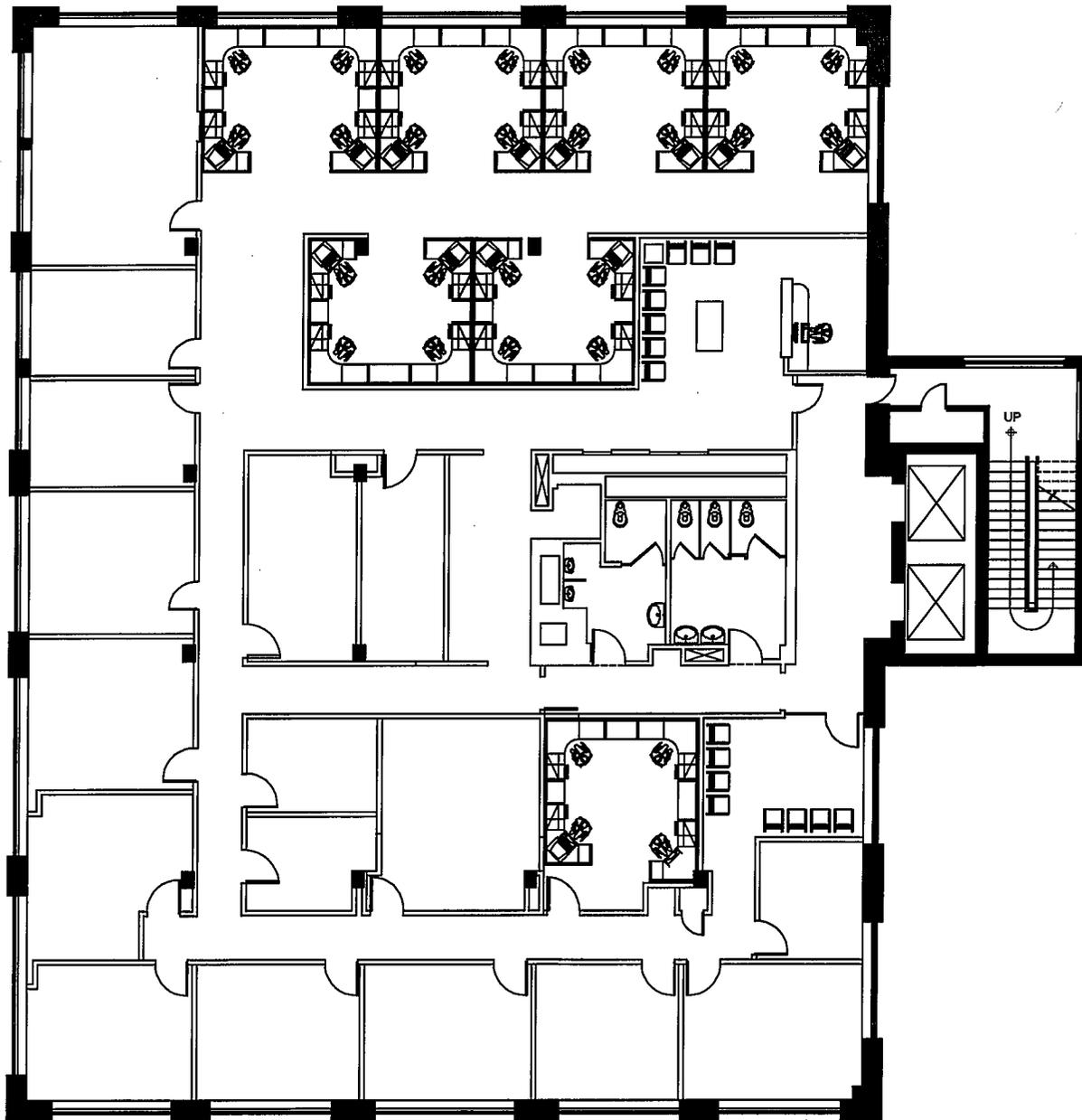


ARCHITECTURAL PLAN
2ND FLOOR OFFICES

AREA = 8,275 SQFT

EXHIBIT “A-2”

3RD. FLOOR

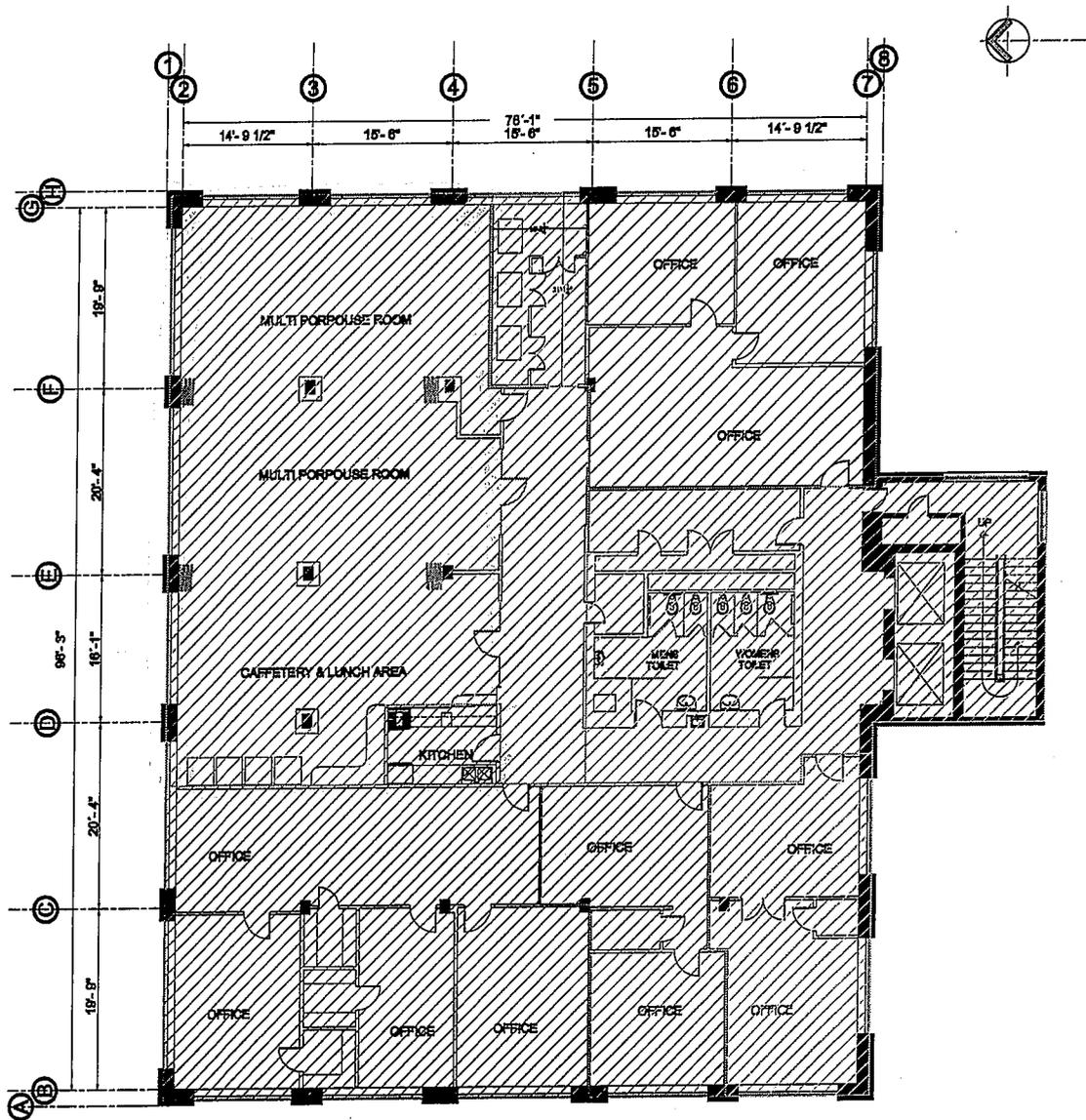


ARCHITECTURAL PLAN
3RD FLOOR OFFICES

AREA = 8,275 SQFT

EXHIBIT "A-3"

5TH. FLOOR



ARCHITECTURAL PLAN
5TH FLOOR OFFICES

PLANT OCUPANCY LAY OUT:

	COMMON AREA :	1,693 Sqft.		1,670 Sqft.
		1,036 Sqft.		560 Sqft.
		571 Sqft.		AVAILABLE AREA: 2,745 Sqft.

TOTAL LEASING AREA = 8,275 SQFT

EXHIBIT “A-4”

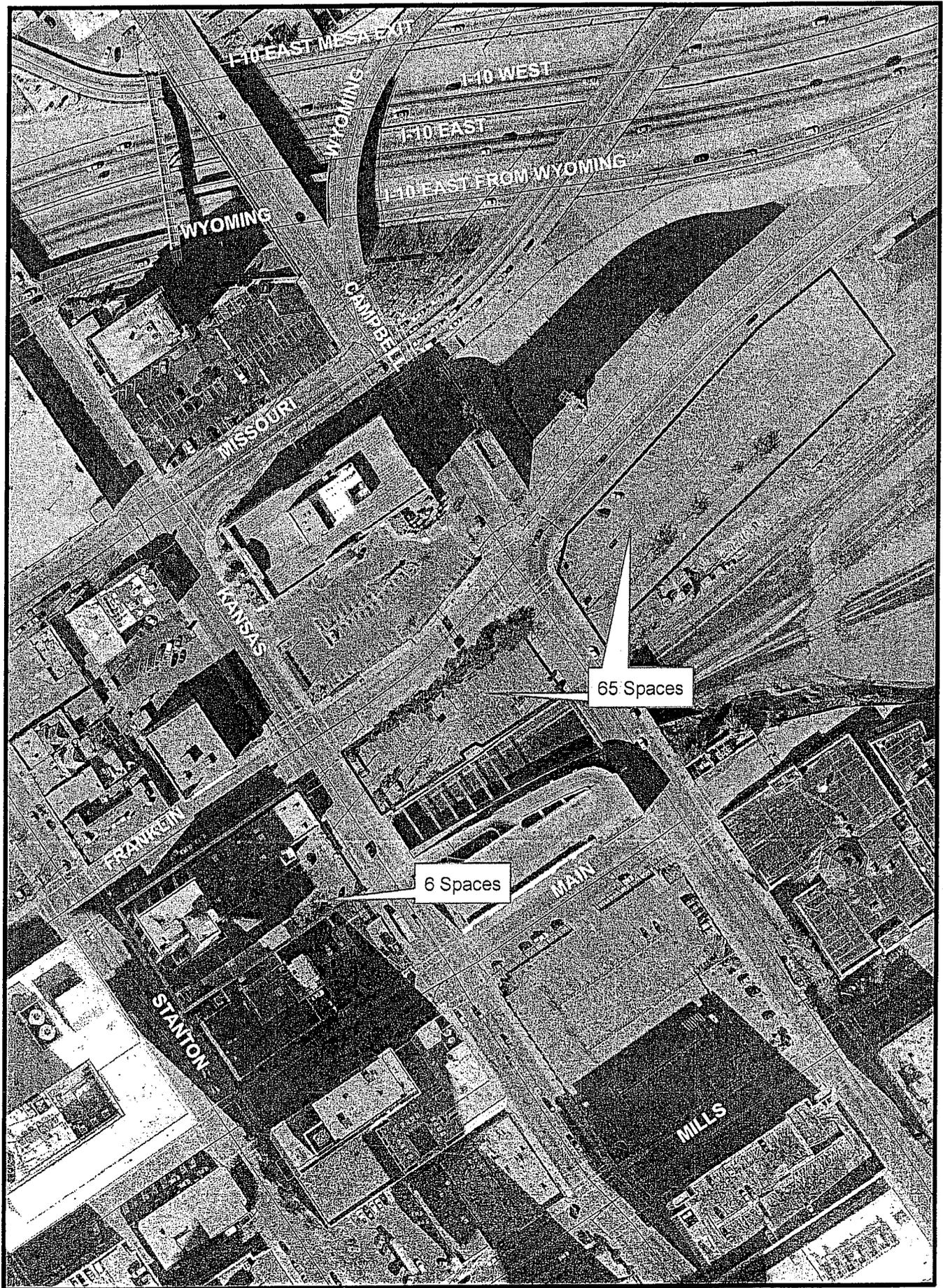


EXHIBIT A-4