



**REPORT TO THE
REDEVELOPMENT AGENCY
AND CITY COUNCIL
of the City of Sacramento**

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

Staff Report
February 24, 2009

**Honorable Mayor and Members of the City Council
Honorable Chair and Members of the Board**

Title: Lease Agreement: Greyhound Terminal at 420 Richards Boulevard

Location/Council District: District 1, River District

Recommendation: Adopt 1) a City **Resolution** adopting the Mitigated Negative Declaration and the Mitigation Monitoring Plan for a proposed Greyhound Lines, Inc. Terminal at 420 Richards Boulevard; and 2) a City Resolution a) authorizing the City Manager to enter into a Lease with Greyhound Lines, Inc. for the terminal; b) approving the allocation of \$4 million of Sheraton Hotel sale proceeds for the construction of the terminal; and c) authorizing the City Manager to enter into a Memorandum of Understanding (MOU) with the Downtown Sacramento Revitalization Corporation; and 3) a **Redevelopment Agency Resolution** authorizing the Executive Director to enter into an Agreement with Greyhound Lines, Inc. for the expenditure of \$50,000 in Merged Downtown Tax Increment funds to allow Greyhound's relocation from the existing L Street Terminal to a City-owned facility at 420 Richards Boulevard.

Contact: Rachel Hazlewood, Senior Project Manager, 808-8645, Leslie Fritzsche, Downtown Development Manager, 808-5450

Presenters: Rachel Hazlewood

Department: Economic Development

Division: Downtown Development, River District

Organization No: 18001021

Description/Analysis

Issue: It has long been a priority of the City to move the Greyhound terminal from its existing impacted Downtown location. The existing Downtown terminal at 703 L Street is inadequate and inefficient for Greyhound Lines,

Inc. (Greyhound) operations, contributes to traffic congestion along L Street due to the lack of customer parking, provides an attractive nuisance for crime and loitering, is an incompatible land use with existing and planned development, and contributes to the overall blighting conditions existing in the immediate area. On May 20, 2008, City Council approved business terms for the lease of excess, vacant land owned by the City at 420 Richards Boulevard for an interim location for the Greyhound terminal until the Sacramento Intermodal Transportation Facility ("Intermodal") is ready for occupancy.

Staff is seeking adoption of the Mitigated Negative Declaration ("MND") and the Mitigation Monitoring Plan for the proposed Greyhound Bus Terminal at 420 Richards Boulevard. The MND and Initial Study for the development of the new terminal have been prepared and were sent to the City Council for reference and are attached to this report as Attachment 4. Additionally, the Mitigation Monitoring Plan is attached as Exhibit A to the CEQA Resolution, Attachment 5.

Staff is also seeking approval of the funds to construct the new terminal. At the May 20, 2008 meeting, City Council approved \$2 million in "High Priority Projects" CIP funds for site and public improvements and to construct Sequoia Pacific Boulevard between Richards Boulevard and Bannon Street. Construction of the new Greyhound terminal at 420 Richards Boulevard is estimated to cost up to \$4 million. This amount is based on an estimate provided by the City's Department of General Services for other construction projects completed over the last two years. Sheraton sale proceeds that were earmarked for income-generating Downtown redevelopment projects have been identified to pay for the terminal construction costs. In keeping with that direction, a portion of Greyhound's rent will fund Downtown, River District and Railyards redevelopment activities over the term of the 20 year lease through the Downtown Sacramento Revitalization Corporation.

The new terminal lease term is for 20 years. The lease allows for its early termination when the Intermodal is available for occupancy. Greyhound approved the lease at its January 21, 2009 Real Estate Board meeting. The occupancy date for Greyhound will be no later than April 1, 2012 when its current lease at 703 L Street expires. However, relocation may occur sooner if Greyhound's current landlord exercises its right to an early termination of that lease.

The City's Department of General Services will manage the design and construction of the new terminal. Once the facility is completed, the Downtown Sacramento Revitalization Corporation (the "Revit Corp") will serve as the City's property manager, collecting rent, overseeing Greyhound's ongoing operations, enforcing the lease provisions, and reinvesting a portion of the rent payments for redevelopment projects in accordance with the Revit Corp's articles of incorporation and bylaws.

The Revit Corp was created in 2004 with the express purpose of assisting the

City and Redevelopment Agency with revitalization of the Merged Downtown, Richards and Railyards redevelopment areas. The Revit Corp has the authority to own, acquire, develop, finance, manage and lease projects in the three redevelopment areas. The Revit Corp is a 501c(3) nonprofit corporation with two Council members on its five member board. Staff seeks approval for the City to enter into the MOU with the Revit Corp to set out the business terms for the parties for inclusion in the future agreements for property management and reinvestment of the rental income for redevelopment projects.

Greyhound's existing lease with DBP Realty Partners, L.P. ("DBP") contains a provision providing DBP with the right to construct a new, privately-owned terminal for Greyhound. However, staff was unable to reach agreement with DBP on terms for the new Greyhound terminal at 420 Richards Boulevard. The existing DBP/Greyhound lease provides that if the terminal is publicly owned a fee of \$50,000 must be paid to DBP within ten days of execution of such lease. This amount is proposed to be paid by the Redevelopment Agency from Merged Downtown tax increment funds to facilitate relocation of Greyhound and the elimination of the blighting conditions at its current location and will be disbursed pursuant to an Agreement with Greyhound once the City lease is executed.

Policy Considerations: The new terminal at 420 Richards Boulevard will be located on property in the Discovery Centre Planned Unit Development ("Discovery Centre PUD"). The bus terminal use will necessitate an amendment to the Discovery Centre PUD, Guidelines and Schematic Plan, as well as issuance of a special permit to allow for this use. The lease is conditioned on issuance of such planning approvals. The Richards Boulevard Area Plan, the current community plan for the River District, supports the development of transit improvements in the River District. The River District Redevelopment Plan supports activities of private enterprises and public agencies which redevelop land in accordance with the Redevelopment Plan.

Relocating the Greyhound Terminal from Downtown will support the Merged Downtown Redevelopment Plan goal of eliminating blighting conditions, incompatible land uses, strengthening commercial functions in the Downtown and providing an environment that supports economic growth. The relocation will address development constraints caused by the Greyhound Terminal on nearby proposed redevelopment projects, including the 700/800 Block K Street Project.

The City Council has adopted a vision for the future of Sacramento, which is: "Sacramento will be linked to the rest of the region by an extensive, efficient and safe network of roadways, bridges, mass transit, bikeways, pedestrian trails, and sidewalks."

Sustainability Considerations: The new terminal will facilitate and improve inter-city transit services. It will also result in shorter idling times for buses due to traffic congestion and inefficient access at the Downtown terminal.

Environmental Considerations: The lease commits the City to develop an approximately 13,100 square foot building and ancillary parking and street improvements on approximately 1.74 acres to house the Greyhound bus terminal operations, subject to obtaining the necessary entitlements to modify the Discovery Centre PUD.

The City's Environmental Planning Services has determined that the project as proposed may have potentially significant impacts to the environment. In compliance with Section 15070(b)1 of the California Environmental Quality Act ("CEQA") Guidelines, mitigation measures have been identified that are incorporated into project plans to reduce impacts to a less-than-significant level. These mitigation measures address potential biological resources and cultural resources. The mitigation measures are listed in the attached Mitigation Monitoring Plan.

The Mitigated Negative Declaration was available for public review during the period of July 3, 2008 through July 23, 2008 and is provided as Attachment 4. At the time of preparation of this staff report, five comments were received in response to the MND. The comment letters are included as Attachment 6 to this staff report. A summary of the comment letters is provided in the Background section of this Staff Report.

The written comments did not raise new environmental issues or present substantial evidence that would identify new impacts or require recirculation of the MND. The Initial Study that documents the findings for the Mitigated Negative Declaration has been revised to make technical corrections. Additions to the text are shown in underline, and deletions are shown in ~~strikethrough~~.

The proposed action to relocate Greyhound from its current location is in furtherance of the Merged Downtown Redevelopment Plan and is within the scope of the activities analyzed in the Environmental Impact Report ("EIR") for the adoption of the November 2004 Merged Downtown Redevelopment Plan Amendment. No substantive changes to the activities as described in these environmental documents are proposed and the mitigation measures applicable to the proposed action remain unchanged. Therefore, no further environmental review is required per CEQA Guidelines Section 15168 because there is no new information of substantial importance nor substantial changes with respect to the circumstances under which the action will be undertaken that would require preparation of a new environmental document.

Rationale for Recommendation: As Downtown Sacramento has grown, the negative impacts of the L Street Greyhound Terminal have increased.

Buses, taxis, and passenger loading negatively impact daily traffic congestion. There is no off-street parking or drop-off areas and the layout of the L Street Terminal is not conducive to modern, environmental design techniques which minimize the attractive nuisance a bus terminal can cause due to public loitering. Locating the terminal at 420 Richards Boulevard will provide for improved bus, taxi and passenger loading and circulation. Additionally, the new Terminal will use design and security techniques to ensure safety for passengers and the surrounding users. Greyhound favors the Richards Boulevard site due to its ready access to Interstates 5 and 80, lower operating and building maintenance costs and improved site design.

In order to ensure uninterrupted service Greyhound must secure a location for a new facility and commence planning for construction several years prior to the termination of its existing lease. Over the last 15 years, Greyhound has reviewed numerous site options for a new terminal location and each, for various reasons, has been ruled infeasible or inadequate. It remains the City's long-term goal to consolidate public transit providers into the Intermodal. However, due to the complexity of that project timing because of funding requirements, the Intermodal will not be ready for occupancy by Greyhound before its existing lease expires in 2012.

The lease for the new terminal at 420 Richards Boulevard will provide Greyhound with the assurance it needs that it has secured an acceptable location and that the terminal will be constructed before its existing lease expires. The agreement of Greyhound to relocate its operations provides the City with the assurance that an existing blighting condition will be removed from the Downtown core. While the City had offered Greyhound's existing landlord, DBP, the opportunity to develop the new terminal at Richards Boulevard consistent with the business terms previously approved by the Council, the lease agreement with Greyhound eliminates the need to fund the buy-out of the existing L Street lease of approximately \$2 million.

Payment of the \$50,000 owed to DBP under Greyhound's existing lease will negate DBP's right to build the new terminal and will allow the City to bid the construction of the new facility, potentially resulting in cost savings. Rather than hiring an outside consultant, the construction management services will be provided by the City's General Services Department and the funds will be retained by the City.

Financial Considerations: The City will construct the Terminal and make the required site improvements. The total cost to construct the Terminal, extend Sequoia Pacific between Richards Boulevard and Bannon Street, and make site improvements is estimated at \$6 million. In a previous action on May 20, 2008, City Council approved \$2 million in High Priority CIP funds for site and roadway improvements for the 420 Richards Boulevard project. The balance of the funds to construct the new terminal will come from the proceeds from the sale of the Sheraton Hotel that were earmarked for income generating Downtown redevelopment projects.

After completion of construction of the new terminal, the ongoing lease oversight and property management functions will be overseen by the Revit Corp pursuant to the terms of the MOU and the subsequent property management agreement.

The lease payments are set at \$32,000 per month and adjusted by 3% every three years. As detailed in the MOU between the City and the Revit Corp, the rent proceeds will be distributed as follows: 15% of each payment will be retained by the Revit Corp for property management services; 5% will be set-aside into a capital reserve account; 40% will be paid to the City in consideration for use of the property; and 40% will be retained by the Revit Corp for investment in redevelopment activities.

Using \$50,000 in Merged Downtown Tax Increment funds to fund Greyhound's obligation to DBP to allow for its relocation to a publicly owned new terminal supports the Redevelopment Area Implementation Plan goal to eliminate blight in the Downtown area by eliminating incompatible land uses, strengthening commercial functions in the downtown and providing an environment that supports economic growth.

Emerging Small Business Development (ESBD): Small and emerging Enterprises requirements will apply to the construction of the new terminal.

Respectfully Submitted by: Rachel Hazlewood
Rachel Hazlewood
Senior Project Manager

Approved by: Rachel Hazlewood
for Leslie Fritzsche
Downtown Development Manager
on behalf of the Redevelopment Agency
of the City of Sacramento

Recommendation Approved:

Ray Kerridge
Ray Kerridge
City Manager

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Attachment 1**Background**

The City of Sacramento has long desired to relocate the Sacramento Greyhound Terminal from its current L Street facility to a location outside of the Downtown business district, preferably as part of the Sacramento Intermodal Transportation Facility ("Intermodal"). The existing terminal contributes to traffic congestion, provides an attractive nuisance for crime and loitering, and contributes to the overall blighting conditions existing in the immediate area. Greyhound has expressed its willingness to consider sites outside of the Downtown business district as long as they have easy access to Interstate 5 and 80, affordable rent and a long term lease.

The Intermodal remains the City's preferred long-term location for Greyhound; however, the Intermodal will not be developed by April 1, 2012, the date when Greyhound's existing Downtown lease expires, due to the need to secure substantial federal funding. With the redevelopment of the core area of Downtown, the need to relocate Greyhound from their existing location in the near term has become more critical.

Over the last 15 years, Greyhound has reviewed numerous site options for a new location and each, for various reasons, has been ruled infeasible or inadequate. In December 2006, the City purchased 300 Richards Boulevard, which included several adjacent vacant parcels, including the 420 Richards Boulevard site. City staff approached Greyhound to determine if the Richards Boulevard site was feasible for their needs until the Intermodal is ready for occupancy. Greyhound's review determined that the site would adequately accommodate their operations.

The Sacramento Terminal serves as a hub for Greyhound and a large portion of their passengers transfer from north/south routes to east/west routes and vice versa and others are dropped off at the station. For the balance of Greyhound's passengers who rely on public transportation, access is an important consideration for Greyhound to relocation to the Richards Boulevard site. The Richards site, located within the River District, is currently served by three Regional Transit ("RT") bus routes which connect to bus and light rail services to the greater Sacramento area.^a In addition, RT is expediting the development of the first phase of the Downtown-Natomas-Airport project to extend its light rail system along North 7th Street to Richards Boulevard and then terminating at 5th Street. This new light rail extension is expected to be completed by 2010 and the station platform will be approximately two blocks from the new Greyhound bus terminal.

The vacant parcels that are proposed for the Greyhound Terminal are on the far

a : Bus number 11 connects Natomas with Downtown and runs every half hour during business hours; bus 15 connects Rio Linda with Downtown and runs every half hour between 6:00 a.m. to 8:00 p.m. and hourly on the weekends; and bus 33 runs every half hour during business hours and connects the River District east to west during peak hours.

eastern portion of the property and lie adjacent to the existing office building which is occupied by the City's Development Services and Police Departments. The site is triangular in shape and has access to Richards Boulevard to the north and Bannon Street to the south (please see Attachment 2). The property is vacant and unimproved. The draft site plan is attached as Attachment 3.

Total costs for construction of the Greyhound Terminal, site improvements and roadway improvements are estimated at \$6 million. On May 20, 2008, City Council committed \$2 million for required site work including grading, utilities, sidewalks, curbs and gutters and the extension of the driveway off of Richards Boulevard to Bannon Street. The balance of the necessary funds will come from Sheraton sale proceeds earmarked for Downtown redevelopment projects. A portion of the Greyhound lease payments will be provided to the City and a portion used to fund future Downtown, River District and Railyards redevelopment projects.

The City's lease with Greyhound requires the City to assume responsibility for the design and construction of the new terminal to allow for occupancy prior to the expiration or termination of Greyhound's existing Downtown lease with DBP. The lease can be terminated with two years notice by DBP, otherwise it expires on March 31, 2012. The City anticipates it will take up to two years to complete the new terminal's construction. The occupancy term would extend for 20 years and rent will be set at \$32,000 per month and include increases of 3% every three years. The Lease will be triple net, meaning Greyhound will pay for all ongoing expenses for the site including taxes, insurance, building and property maintenance and security.

Greyhound's existing lease with DBP contains a provision providing DBP with the right to construct a new terminal for Greyhound. That right is waived if the terminal is publicly owned and a fee of \$50,000 must be paid to DBP within ten days of execution of the lease. This amount would be paid from Merged Downtown tax increment funds to facilitate Greyhound's relocation.

The Mitigated Negative Declaration was previously transmitted and the Mitigation Monitoring Plan for the 420 Richards Boulevard site improvement is attached to this staff report. As detailed in the Environmental Considerations section and in compliance with Section 15070(b)1 of the CEQA Guidelines, mitigation measures have been identified and incorporated into project plans to reduce impacts to a less-than-significant level. These mitigation measures address potential biological resources and cultural resources. Below is a summary of the Comment Letters which were received:

Regional Transit commented on several aspects of the project design and facilities. The comments relate to planning, and not environmental issues and did not require revisions to the MND.

The Sacramento Regional County Sanitation District commented that the project site is outside its service area and that sewer service would be

provided by the City.

The River District Property and Business Improvement District ("River District PBID") submitted its written comments that identified both planning and environmental concerns. Site design issues, including the driveway design and cell phone waiting area, will be addressed as part of the planning process.

The River District PBID also commented on the potential for odors from the buses to affect neighboring properties. The project site is not located near sensitive receptors, and the circulation pattern would rely primarily on Richards Boulevard for bus access, thus minimizing impacts to residential areas. The impact would be less than significant, as determined in the MND.

The River District PBID commented on noise concerns. Loudspeakers would be utilized as part of the Greyhound operation, and the impacts were discussed in the MND. The project site is bordered on the east by a large warehouse building, which would provide substantial noise attenuation for any activities, including any future residential development, further east on Richards Boulevard, including development at the Township 9 site.

The River District PBID questioned the level of impacts that would be generated by new bus traffic. The bus traffic that would be anticipated at the site was analyzed in the MND, and based on the thresholds of significance was determined to be less than significant. The comment did not identify any new facts for consideration as part of the analysis, and the conclusion stated in the MND is confirmed.

An email was also received from Bud Applegate, adjacent property owner, who addressed concerns about fencing and traffic. The new terminal plans will include fencing and landscaping and the lease addresses maintenance of such improvements. Also, site design issues will be addressed as part of the planning process. As stated above, traffic concerns were discussed in the MND and found to be less than significant.

Below is a summary of the business terms of the Lease.

Greyhound L Street Lease

- Agency will pay \$50,000 to fund Greyhound's payment to DBP for waiver of any other relocation expenses for new Greyhound Terminal. (Section 3.04)

Greyhound Concessionaires

- Greyhound concessionaires subject to City's approval. (Sections 7.04 and 9.02)
- City can revoke its approval of Greyhound concessionaires if trash, loitering, excess traffic or other problems arise. (Sections 7.04 and 7.06)
- No alcohol sales allowed. (Section 7.06)

Security Services/Improvements

- Greyhound is responsible for providing security patrol services during its hours of operation, and to install cameras, additional lighting, gates or other improvements to prevent loitering and nuisances, trespass and other unlawful conduct. (Section 7.05)
- No loitering, nuisance or trespass by Greyhound's patrons allowed. (Section 7.06)

Lease Term, Rent and Maintenance

- The occupancy term of the lease is 20 years. (Section 2.02b)
- Rent is due on the date Greyhound commences operations at 420 Richards Boulevard. (Sections 3.01 and 3.02)
- Base Rent commences at occupancy at \$32,000. (Sections 3.01 and 3.02)
- Rent shall increase by 3% every 3 years. (Section 3.02)
- Greyhound will pay all taxes, utilities, assessments. (Sections 4.01 to 4.09)
- Greyhound will fund all property maintenance. (Sections 7.09 and 7.10)

Site Improvements

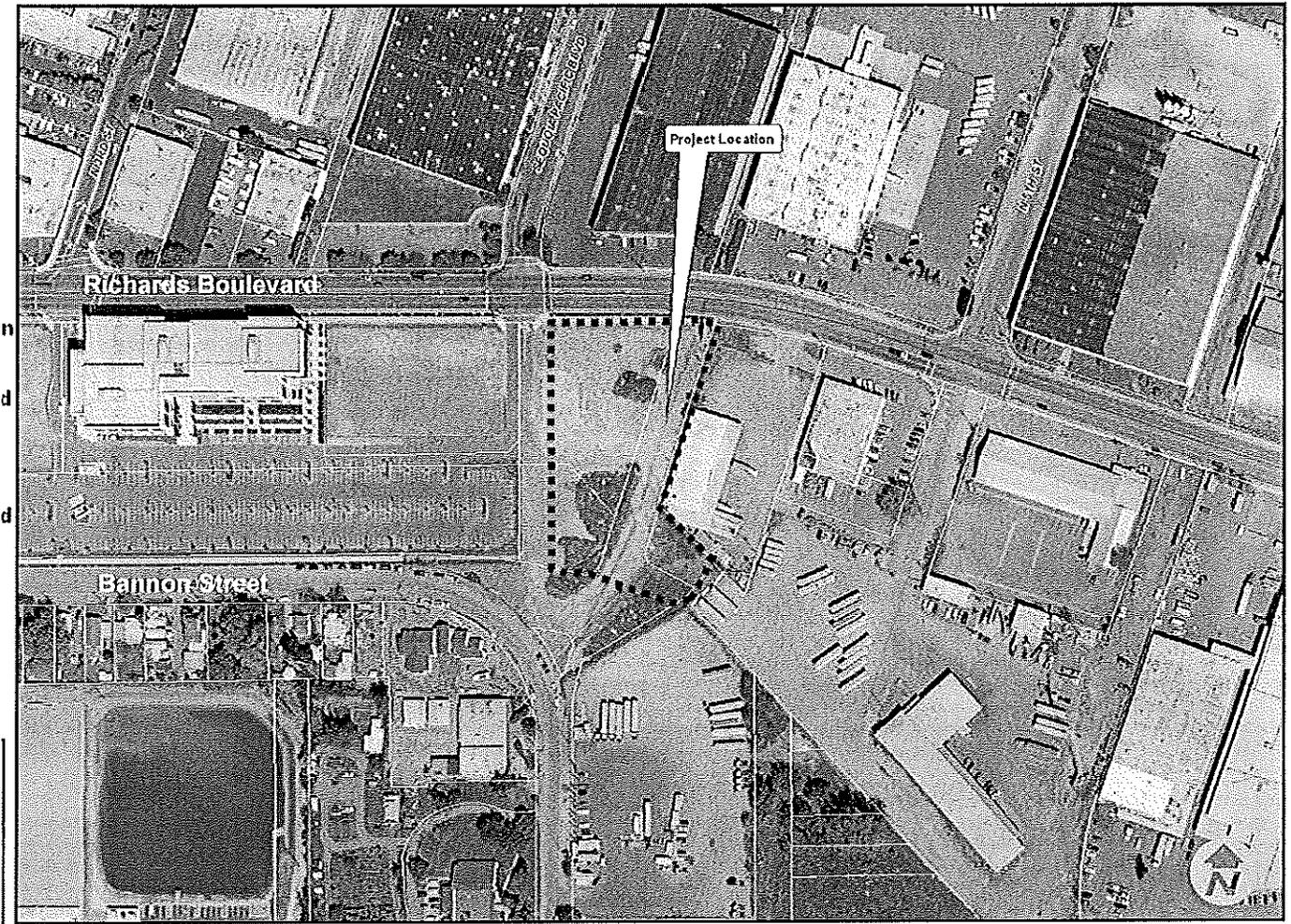
- Landlord (City) will be responsible for construction and financing of the Terminal Building, parking lots, landscaping, lighting and fencing, and owns all improvements. (Sections 5.01 and 7.01)
- City prepares plans and specifications and obtains planning entitlements. (Sections 5.01, 5.02 and 5.04)
- City can, in its sole discretion, decide to install a modular structure instead of a permanent building, but if this were to occur rent would be adjusted downward. (Sections 5.01(c) and 3.02(a))
- City has right to assign Lease to another entity to allow for financing and construction of the improvements. (Sections 6.02, 6.03 and 9.03)
- City can continue to use and may improve the western driveway/access road from Richards Boulevard to Bannon Street as the extension of Sequoia Pacific Boulevard. (Section 5.05)
- Greyhound will be responsible for making all tenant improvements within the building and signage. (Sections 5.07 and 7.03)
- Greyhound has to maintain improvements in "first class" condition, promptly repair damages to buildings, fences and irrigation systems, and undertaking preventive maintenance. (Sections 7.09 and 7.10)
- Tenant owns all its furniture, fixtures and equipment. (Sections 5.07 and 7.02)

Relocation to Intermodal

- The parties can mutually terminate the lease to allow for relocation to the Intermodal and Greyhound's lease rate remains unchanged for up to five years. (Sections 3.02(b) and 10.05)
- City (or Agency) will pay up to \$100,000 for Greyhound's relocation costs to move to the Intermodal. (Section 3.04)

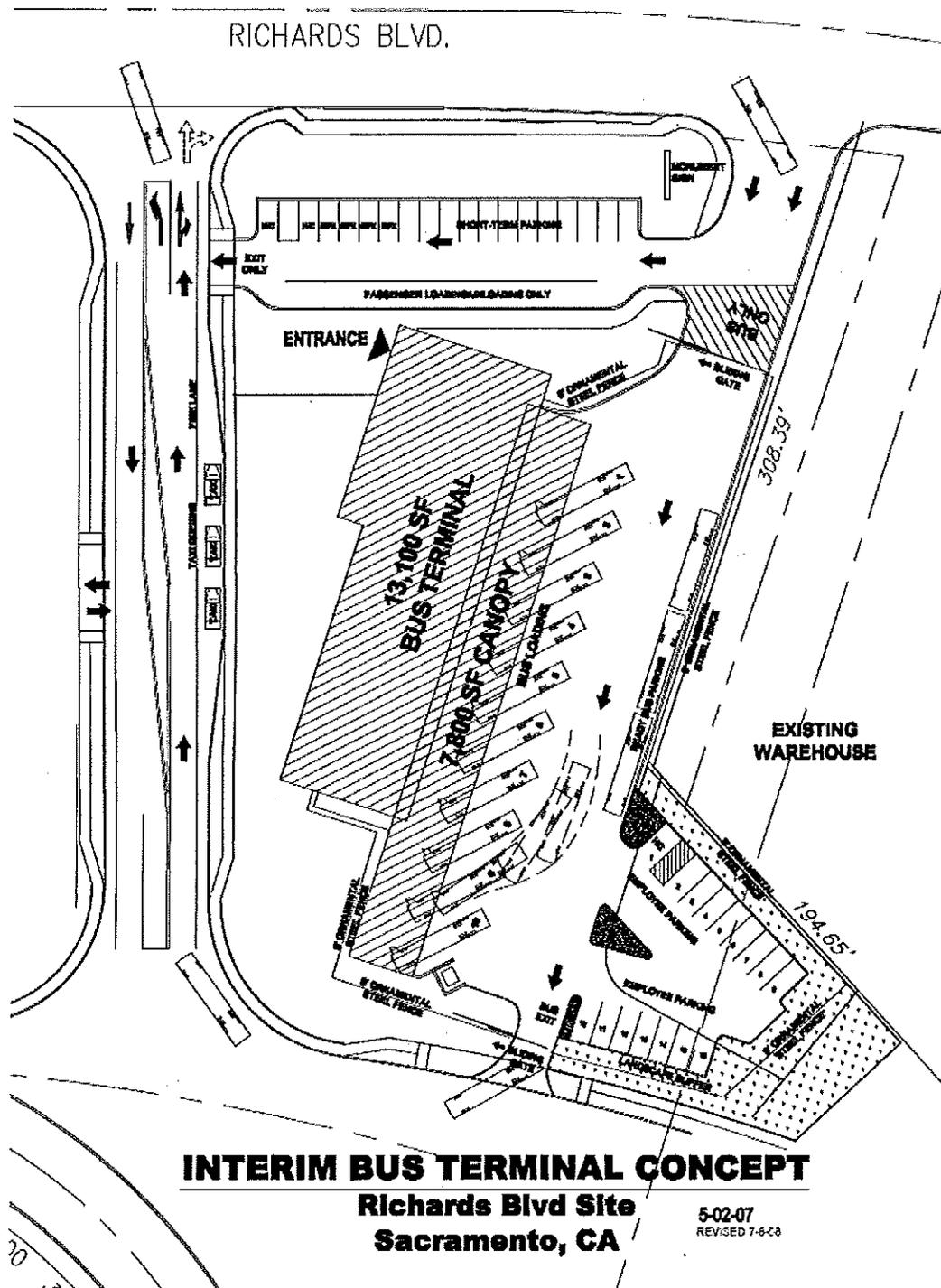
Attachment 2

Project Location



Attachment 3

Draft Site Plan



Attachment 4

Mitigated Negative Declaration and Initial Study

(Attached)

Attachment 5

RESOLUTION NO. 2009-

Adopted by the Sacramento City Council

**ADOPTING THE MITIGATED NEGATIVE DECLARATION AND
THE MITIGATION MONITORING PLAN FOR
THE GREYHOUND LINES, INC. TERMINAL PROJECT**

BACKGROUND

- A. On February 24, 2009, the City Council received and considered evidence concerning the Mitigated Negative Declaration for the Greyhound Lines, Inc. Terminal project.
- B. Notice of the intent to adopt the Mitigated Negative Declaration was provided and the review period extended from July 3 through July 23, 2008 in accordance with CEQA Guidelines Sections 15072 and 15073. In addition, the proposed action to adopt the Mitigated Negative Declaration was published 20 days prior to the February 24, 2009 meeting.
- C. The City Council has received and considered the Initial Study and Mitigated Negative Declaration and has reviewed the comments received in accordance CEQA Guidelines Section 15074.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY
COUNCIL RESOLVES AS FOLLOWS:**

Section 1. The City Council finds as follows:

- A. The Project Initial Study identified potentially significant effects of the Project. Revisions to the Project were made before the proposed Mitigated Negative Declaration and Initial Study were released for public review, which the City's Environmental Planning Services determined would avoid or reduce the potentially significant effects of the Project to a less than significant level, and, therefore, there was no substantial evidence that the Project as revised would have a significant effect on the environment. A Mitigated Negative Declaration (MND) for the Project was then completed, noticed and circulated in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental Procedures as follows:

- 1. On July 3, 2008 a Notice of Intent to Adopt the MND (NOI)

dated July 3, 2008 was circulated for public comments for 20 days. The NOI was sent to those public agencies that have jurisdiction by law with respect to the proposed project and to other interested parties and agencies, including property owners within 500 feet of the boundaries of the proposed project. The comments of such persons and agencies were sought. In response to the comments, technical corrections were made to the Initial Study.

2. On July 3, 2008, August 20, 2008, August 28, 2008, and February 3, 2009 the NOI was published in the Daily Recorder, a newspaper of general circulation, and the NOI was posted in the office of the Sacramento County Clerk.

Section 2. The City Council has reviewed and considered the information contained in the MND, including the Initial Study, the revisions incorporated into the Project, and the comments received during the public review process and the hearing on the Project. The City Council has determined that the MND constitutes an adequate, accurate, objective and complete review of the environmental effects of the proposed Project.

Section 3. Based on its review of the MND and on the basis of the whole record, the City Council finds that the MND reflects the City Council's independent judgment and analysis and that there is no substantial evidence that the Project will have a significant effect on the environment.

Section 4. The City Council adopts the MND for the Project.

Section 5. Pursuant to CEQA Section 21081.6 and CEQA Guidelines Section 15074, and in support of its approval of the Project, the City Council adopts a Mitigation Monitoring Plan to require all reasonably feasible mitigation measures be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Plan (Exhibit A).

Section 6. Upon approval of the Project, the City's Environmental Planning Services shall file or cause to be filed a Notice of Determination with the Sacramento County Clerk and, if the project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to Section 21152(a) of the Public Resources Code and Section 15075 of the State EIR Guidelines adopted pursuant thereto.

Section 7. Pursuant to Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

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Exhibit A: Mitigation Monitoring Plan

Exhibit A

**GREYHOUND INTERIM BUS TERMINAL PROJECT
MITIGATION MONITORING PLAN**

This Mitigation Monitoring Plan (MMP) has been required by and prepared for the Downtown Development Group, New City Hall, 915 I Street, 3rd Floor, Sacramento, CA 95814, pursuant to Public Resources Code of California, Statute, 21081.6.

SECTION I – PROJECT IDENTIFICATION

Project Name: Greyhound Bus Terminal Project

Owner/Developer/Applicant: City of Sacramento
Economic Development Department
Downtown Development Group
New City Hall, 915 I Street, 3rd Floor
Sacramento, California 95814
(916) 808-8645

Redevelopment Project Manager: Rachel Hazlewood
City of Sacramento
Economic Development Department
Downtown Development Group
New City Hall, 915 I Street, 3rd Floor
Sacramento, California 95814
(916) 808-8645

City of Sacramento Planner: Jason Hone
City of Sacramento
Development Services Department
300 Richards Blvd, 3rd Floor
Sacramento, CA 95811
Phone: (916) 808-5749
Fax: (916) 808-8370

Project Location: The project site is located at 420 Richards Boulevard in the Richards Boulevard Area Plan area of the City of Sacramento (City), Sacramento County (County). It is east of Interstate 5 (I-5), west of North 7th Street, on the south side of Richards Boulevard and north of Bannon Street (APNs: 001-0210-045 through -049, and -053).

Project Components: The proposed project consists of various entitlements to develop an approximately 13,100 square foot building in the Discovery Centre Planned Unit Development (PUD), on approximately 1.74 acres, to house the Greyhound bus terminal operations. The proposed facility will serve customer needs between closure of the current facility (northeast quadrant of 7th and L streets), and the ultimate relocation to the Sacramento Intermodal Transportation Facility (Intermodal) in the Railyards Specific Plan (RSP) area.

Requested Entitlements: Specific entitlements may include, but would not be limited to:

- Lot Line Merger to merge two parcels into one, totaling 1.74+ acres in the OB-PUD-SPD zone, and street/alley abandonment
- Amendment to PUD Guidelines to the Schematic Plan of the Discovery Centre PUD to allow for the use of the 1.74± acres as a bus terminal in the OB-PUD-SPD zone
- Plan Review and Special Permit to allow 13,100 sf terminal
- Design Review of the project in the Richards Boulevard Area Plan Design Review Area.

Greyhound Project
Mitigation Monitoring Program
Mitigation Agreement

PROJECT NAME / FILE NUMBER: Greyhound Bus Terminal Project

OWNER/DEVELOPER/APPLICANT: City of Sacramento
Economic Development Department
Downtown Development Group
New City Hall, 915 I Street, 3rd Floor
Sacramento, California 95814
(916) 808-8845

I, John Dangberg (owner/developer/applicant), agree to amend the Greyhound Bus Terminal project application to incorporate the attached mitigation measures as identified in the Initial Study for the project. I understand that by agreeing to these mitigation measures, all identified potentially significant environmental impacts should be reduced to below a level of significance, thereby enabling the Environmental Coordinator to prepare a Mitigated Negative Declaration of environmental impact for the above referenced project.

I also understand that the City of Sacramento will adopt a Mitigation Monitoring Plan (Plan) for this project. This Plan will be prepared by the Development Services Department, pursuant to the California Environmental Quality Act Guidelines Section 21081.6 and pursuant to Article III of the City's Local Administrative Procedures for the Preparation of Environmental Documents.

I acknowledge that the Greyhound Bus Terminal project, would be subject to this Plan at the time the Plan is adopted. This Plan will establish responsibilities for the monitoring of my project by various City Departments and by other public agencies under the terms of the agreed upon mitigation measures. I understand that the mitigation measures adopted for my project may require the expenditure of owner/developer funds where necessary to comply with the provisions of said mitigation measures.



Signature (Owner/Developer/Applicant)

Assistant City Manager

Title

8.19.08

Date

SECTION II – GENERAL INFORMATION

The Mitigation Monitoring Plan (MMP) includes mitigation for Seismicity, Soils, and Geology; Air Quality; and Cultural Resources. The intent of the Plan is to prescribe and enforce a means for properly and successfully implementing the mitigation measures as identified within the Mitigated Negative Declaration/Initial Study for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this Plan shall be funded by the owner/developer/applicant identified above; in this case, the City. This MMP is designed to aid the City in its implementation and monitoring of mitigation measures adopted for the proposed project.

The mitigation measures have been taken verbatim from the Mitigated Negative Declaration/Initial Study and are assigned the same number they have in the document. The MMP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions. The City will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMP. The City, along with other applicable local, state, or federal agencies, will be responsible for ensuring compliance.

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
Seismic MM-1: Seismic Impacts	<p>3. Seismicity, Soils, and Geology</p> <p>Seismic MM-1: Prior to construction, site-specific geotechnical evaluations shall be performed by an appropriately licensed professional engineer qualified to assess seismic conditions including probability associated with liquefaction, settlement, and lateral spreading using a maximum probable and credible earthquake. The evaluation shall identify specific geotechnical recommendations for development foundation design to mitigate for seismically induced hazards, as well as recommendations for adequate building design including excavation and fill requirements for any identified soil constraints.</p>	<p>Conduct preconstruction site-specific geotechnical evaluation by licensed professional engineer</p>	<p>Project Proponent Economic Development Department</p>	<p>Prior to approval of construction documents</p>	<p>City Development Services Department - Building Division</p>
Seismic MM-2: Erosion	<p>Seismic MM-2: A comprehensive erosion control plan shall be prepared by a registered civil engineer or a registered professional hydrologist prior to submittal of the final map to protect water resources from impacts due to siltation and sedimentation generated by project construction in the Planning Area. The plan shall be prepared in coordination with the Central Valley Regional Water Quality Control Board and the City of Sacramento to assure compliance with applicable NPDES permit requirements for construction activities. The plan shall include a combination of the following Best Management Practices (BMPs) or equally effective measures, or any other measures required by local codes and ordinances.</p> <p>a. If feasible project construction periods should be limited to the dry months of the year (May through October).</p>	<p>Comprehensive erosion control plan shall be prepared by a registered civil engineer or a registered professional hydrologist</p>	<p>Project Proponent Economic Development Department Central Valley Regional Water Quality Control Board</p>	<p>Prior to approval of construction documents</p>	<p>City Development Services Department - Building Division</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>Seismic MM-3: Erosion</p>	<p>b. If project construction does occur during the rainy season (November through April), sediment traps barriers covers or other methods shall be used to reduce erosion.</p> <p>c. Slopes both cut and fill shall not be steeper than those recommended by the detailed geotechnical report for the Planning Area see Mitigation Measure 4.11- 1(a).</p> <p>d. Sediment basins sediment traps or similar sediment control Best Management Practices (BMPs) shall be installed before extensive ground alteration operations begin.</p> <p>e. Temporary mulching seeding or other suitable stabilization measures shall be used to protect exposed areas during construction activities.</p> <p>f. Excavated materials shall not be deposited or stored where the material could be washed away by storm water runoff.</p> <p>Seismic MM-3: Use the following best management practices (BMPs) or equally effective measures:</p> <p>a. Develop and implement a program to safely store and handle cement materials, paints and solvents, fuels and lubricating oils, pesticides, and herbicides, and other hazardous materials.</p> <p>b. Develop and implement a hazardous materials spill prevention, control, and cleanup program.</p> <p>c. Or develop and implement other measures as determined by the Utilities Department.</p>	<p>Incorporate BMPs into contractor specifications</p>	<p>Project Proponent Economic Development Department Contractor</p>	<p>Before and during, project construction</p>	<p>City Development Services Department - Building Division</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>Seismic MM-4: Erosion</p>	<p>Seismic MM-4: A comprehensive runoff control plan shall be prepared by a registered civil engineer or registered professional hydrologist to protect water resources from impacts due to urban and landscape runoff generated by the project. The plan shall be prepared in coordination with the Central Valley Regional Water Quality Control Board and the City of Sacramento to assure compliance with applicable NPDES permit requirements for new developments. The plan shall include a combination of the following BMPs or equally effective measures:</p> <ol style="list-style-type: none"> Oil and grease separators shall be used to control roadway and parking lot contaminants. Streets and parking lots shall be cleaned and swept on a regular basis. Peak flow reduction and infiltration practices such as grass swales infiltration trenches and grass filter strips and detention and retention basins shall be incorporated. Landscape areas including borders and medians shall use low water-using plants wherever feasible. Plants of similar water use shall be grouped to reduce over-irrigation of low water-using plants. Mulch shall be used in all non-lawn landscaped areas to a minimum depth of two (2) inches. Mulch applied on top of the soil will improve the water-holding capacity and reduce runoff. 	<p>Comprehensive runoff control plan shall be prepared by a registered civil engineer or registered professional hydrologist</p>	<p>Project Proponent Economic Development Department Central Valley Regional Water Quality Control Board</p>	<p>Prior to approval of construction documents</p>	<p>City Development Services Department - Building Division</p>

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	<p>g. Existing trees and shrubs shall be preserved and protected where feasible because established plants are often adapted to low water-using conditions.</p> <p>h. Efficient irrigation systems shall be installed to minimize runoff and evaporation and maximize the water that will reach the plant roots such as drip irrigation soil moisture sensors and automatic irrigation systems.</p> <p>i. Seasonal, climatical, and dosage fertilizer application restrictions shall be followed as recommended by manufacturer.</p> <p>j. Slow release fertilizers shall be used.</p> <p>k. Where feasible landscape areas shall be limited to 4:1 slopes to reduce runoff unless such slopes form landscape berms, which are required to mitigate aesthetic and noise impacts.</p> <p>The use of plastic or other impervious materials to control weed growth in landscaped areas shall not be permitted.</p>				
5. Air Quality					
AQ MM-1: Project Operations	AQ MM-1: To ensure that construction mitigation is used, final approval shall not be given until the developer submits a construction dust mitigation plan satisfactory to the City. This plan should specify the methods of control that will be used to control dust and particulate matter demonstrate the availability of needed equipment and personnel and identify a responsible individual who if needed can authorize the implementation of additional	Prepare and submit construction dust mitigation plan. Incorporate measures into construction specifications.	Project Proponent Economic Development Department Contractor	Prior to approval of demolition, grading, and construction permits	City Development Services Department - Building Division

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	<p>measures.</p> <p>The construction dust mitigation plan should at a minimum include the following:</p> <ol style="list-style-type: none"> Suspend earthmoving or other dust producing activities during periods of high winds when dust control measures are unable to prevent visible dust plumes of a significant size. Provide equipment and staffing for watering of all exposed or disturbed soil surfaces at least twice daily including weekends and holidays. An appropriate dust palliative or suppressant added to water before application should be used. Water or cover stockpiles of debris soil sand or other materials that can be blown by the wind. Sweep the active construction area and adjacent streets of all mud and debris on a regular basis since this material can be pulverized and later re-suspended by vehicle traffic. Limit the speed of all construction vehicles to 15 miles per hour while on-site. All materials transported by truck will be covered or wetted down. All inactive portions of the site will be watered with an appropriate dust suppressant covered or seeded. Trucks shall maintain freeboard (i.e., the distance between the top of the load and the top of the truck bed sides). 				

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
	i. Truck wheel washers shall be installed before the roadway entrance at construction sites. j. Tarps shall be used on trucks carrying dirt. k. Dust hoods shall be used on drilling and blasting equipment.				
	AQ MM-2: To the extent feasible, the following measures are required during construction: a. Use low emission fuels for pile drivers such as methanol or low sulfur fuels. b. Use construction equipment that has catalytic converters for gasoline powered equipment. c. Prevent trucks from idling for more than two minutes. d. Discontinue operations during second stage smog alerts.	Incorporate measures into construction specifications.	Project Proponent Contractor	Prior to approval of demolition, grading, and construction permits	City Development Services Department - Building Division
14. Cultural Resources					
Cultural MM-1: Impact to paleontological, prehistoric-period, or historic-period resources	Cultural MM-1: In the event that any prehistoric subsurface archeological features or deposits, including locally darkened soil ("midden"), that could conceal cultural deposits, animal bone, obsidian and/or mortars are discovered during construction related earth-moving activities, all work within 50 meters of the resources shall be halted, and the City shall consult with a qualified archeologist to assess the significance of the find. Archeological test excavations shall be conducted by a qualified archeologist to aid in determining the nature and integrity of the find. If the find is determined to be significant by the qualified archeologist, representatives of	Mitigation measures shall be used and monitored during construction activities. Incorporate measures into construction specifications.	Project Proponent Contractor Preservation Director	During construction	City Development Services Department - Building Division Preservation Director

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
Cultural MM-2: Impact to paleontological, prehistoric-period, or historic-period resources	<p>the City and the qualified archeologist shall coordinate to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis and professional museum curation. In addition, a report shall be prepared by the qualified archeologist according to current professional standards.</p> <p>Cultural MM-2: If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives.</p> <p>If Native American archeological, ethnographic, or spiritual resources are involved, all identification and treatment shall be conducted by qualified archeologists, who are certified by the Society of Professional Archeologists (SOPA) and/or meet the federal standards as stated in the Code of Federal Regulations (36 CFR 61), and Native American representatives, who are approved by the local Native American community as scholars of the cultural traditions.</p> <p>In the event that no such Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be consulted. If historic archeological sites are involved, all identified treatment is to be carried out by qualified historical archeologists, who shall meet either Register of Professional Archeologists (RPA), or 36 CFR 61 requirements.</p>	Mitigation measures shall be used and monitored during construction activities. Incorporate measures into construction specifications.	Project Proponent Contractor Preservation Director	During construction	City Development Services Department - Building Division Preservation Director

Impact	Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party
<p>Cultural MM-3: Impact to paleontological, prehistoric-period, or historic-period resources</p>	<p>Cultural MM-3: If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.</p>	<p>Mitigation measures shall be used and monitored during construction activities. Incorporate measures into construction specifications.</p>	<p>Project Proponent Contractor Preservation Director County Coroner</p>	<p>During construction</p>	<p>City Development Services Department - Building Division Preservation Director</p>

Attachment 6

MND COMMENT LETTERS



Sacramento Regional Transit District
A Public Transportation Agency
and Equal Opportunity Employer

Mailing Address:
P.O. Box 2119
Sacramento, CA 95831-0119

Administrative Office:
1401 20th Street
Sacramento, CA 95816
(916) 321-2900
TTY: (916) 321-2900
Fax: (916) 321-2900

Light Rail Office:
2700 Arden Way
Sacramento, CA 95818
(916) 648-8400

Public Transit Bureau

www.rtd.net

July 22, 2008

Rachel Hazlewood
City of Sacramento, Downtown Development Group
New City hall, 915 I Street, 3rd Floor
Sacramento, CA 95814

NAME OF DEVELOPMENT: Greyhound Bus Terminal

TYPE OF DOCUMENT: Draft Mitigated Negative Declaration

The Greyhound Bus Terminal project proposes temporary use of the site as a 13,100 square foot bus terminal. The site is located on 1.74 acres in the OB-PUD-SPD zone in the Discovery Center PUD at 420 Richards Boulevard in the River District of the Central City.

Bus route 11 provides 30-60 minutes weekday service from Downtown to Natomas; route 15 provides 30-60 minute service seven days a week from Downtown to North Sacramento; and Neighborhood Ride route 33 provides 20 minute weekday service adjacent to the site, all with connectivity to light rail. Regional Transit's (RT) Downtown/Natomas/Airport (DNA) light rail extension is planned to be built from Downtown through the Richards Boulevard area with an optional station at Sequoia Pacific Boulevard and Richards Boulevard and another proposed station on the corner of North 7th Street and Richards Boulevard, both less than 1/8 mile from the site.

Regional Transit (RT) staff has reviewed the Draft Mitigated Negative Declaration and has the following comments (that we would also like to see as conditions on the project):

- A bus shelter pad shall be provided for the Richards Boulevard bus stop located on the project site for ADA compliance (currently there is grass separating the sidewalk from the street). Please contact Robert Hendrix, RT Facilities (916) 649-2759 for more information.
- Regional Transit information shall be displayed in a prominent location in the bus terminal for employees and customers. Please contact Devra Selenis, Marketing Department at (916) 556-0112 for more information.
- Connectivity of pedestrian ways and amenities such as pavers, vertical curbs, tree shading, lighting and trellises shall be provided to encourage walking from the bus terminal to nearby transit stops.
- Project construction shall not disrupt RT service or pedestrian access to transit stops.
- Provide bicycle parking facilities for employees and customers per Sacramento City's Code.

Rachel Hazlewood

- 2 -

July 23, 2008

- Employers should offer employees subsidized RT transit passes at 50% or greater discount.

Thank you for the opportunity to comment. Please send any subsequent documents and hearing notices that pertain to this project as they become available. If you have further questions regarding these recommendations, please contact me at (916) 556-0513 or tcnfield@saort.com.

Sincerely,



Tracy Canfield
Planner

- c: RoseMary Covington, AGM Planning and Transit Service Development, RT
Paul Marx, Planning Director, RT
Fred Arnold, Director of Real Estate, RT
Don Smith, Senior Planner, RT
Robert Hendrix, Facilities Supervisor, RT
Devra Selenis, Public Information Manager, RT



Wastewater Treatment

July 25, 2008
E225.000

10865 Armstrong Avenue
Barker, CA 95688
Tel: (916) 876-8600
Fax: (916) 876-6166
Website: www.srbsd.com

Rachel Hazlewood
City of Sacramento
Downtown Development Group
New City Hall
915 I Street, 3rd Floor
Sacramento, CA 95814

Application: Notice of Availability/Intent to Approve a Draft
Mitigated Negative Declaration for the Greyhound Bus
Terminal Project
APN: 001-0210-045 through -049 and -053

Board of Directors
Representing:

- County of Sacramento
- County of Yolo
- City of Citrus Heights
- City of Elk Grove
- City of Folsom
- City of Rancho Cordova
- City of Sacramento
- City of Wood Sacramento

- Mary K. Snyder
District Engineer
- Juan R. Dean
Plant Manager
- Wendell H. Rido
District Manager
- Marcia Maurer
City of Folsom Chair

Dear Ms. Hazlewood:

Both the Sacramento Area Sewer District (District, formerly CSD-1) and the Sacramento Regional County Sanitation District (SRCSD) have reviewed the Notice of Availability/Intent to Approve a Draft Mitigated Negative Declaration for the subject project.

It is noted that the project proposes to relocate the Sacramento Greyhound Terminal from its current I. Street facility to a location 1.2 miles north within the City center but outside of the Downtown Business District. The proposed project consists of various entitlements to develop an approximately 13,100 square foot building in the Discovery Center PUD, on approximately 1.74 acres, to house the Greyhound bus terminal operations. The project is located at 420 Richards Boulevard, east of Interstate 5, west of North 7th Street, on the south side of Richards Boulevard and north of Hannan Street.

The subject property is outside the boundary of the District but within the Urban Service Boundary and SRCSD shown on the Sacramento County General Plan. City Utilities Department approval will be required for sewage service.

If you have any questions regarding these comments please call Amandeep Singh at 876-6296 or myself at 876-6094.

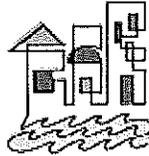
Sincerely,

Salam A. Khan, P.E.
Sacramento Area Sewer District
Development Services

SK/CJ:alm
cc: Tils
SRCSD Development Services

H:\217\mod\1256.001

Sacramento Regional County Sanitation District



THE RIVER DISTRICT

July 24, 2008

Ms. Rachel Hazlewood, Project Manager
City of Sacramento, Downtown Development Group
915 I Street, 3rd Floor
Sacramento, CA 95814

Dear Rachel,

Based on the information included in the Greyhound Bus Terminal Mitigated Negative Declaration & Initial Study dated June, 2008, we respectfully submit the following comments:

1. Figure 3 indicates a driveway-type connection at Sequoia Pacific and Bercut. This connection should be constructed to match the width/dimensions of the street that parallels the Bus Terminal (three lanes). In addition, the intersection should be designed as a more squared-off intersection (see drawing attached). Text indicates that this will be a driveway/secondary emergency access. Again, this should be designed and constructed as a city street.
2. A designated off-site cell phone waiting area will be provided. The report fails to identify the location of the proposed site. The River District would strongly object to forcing any parking issues/problems into the neighborhood, generating problems with people "hanging out" to wait for or prey on Greyhound patrons in a location other than the terminal site. The site should include adequate parking for Greyhound employees, customers and patrons allowing for better control and policing of undesirable activities.
3. Loudspeaker announcements will be focused inside and in the bus bay area facing east. While current uses to the east include warehouse and trucking, residential development in Township 9 and anticipated additional mixed-use development between North 5th and North 7th should be considered. Additional sound barriers should be considered.
4. The project does not include any action that would generate foul odors. We suggest that diesel emissions from the normal activity of operating a major bus terminal would generate foul odors and mitigation measures should be considered.
5. This project involves the construction of a major bus terminal in the area. Inherent to its operation is the addition of a significant number of new bus trips. We question whether there is a "less than significant impact" in increased number of vehicle trips.
6. The report indicates a less than significant impact on parking. In reviewing the Draft Site Plan, it appears that there are 35 parking spaces proposed with a statement that this exceeds the 30-space supply provided in the current facility. The report does not provide data for the number of employees nor does it take into consideration that the current location is accessible to a number of existing public parking facilities. In another area of the report, it is suggested that an off-site waiting area would be designated. The number of parking spaces required for the project should be carefully studied and adequate parking should be provided on site (including the cell phone waiting area).
7. The report indicates a less than significant impact on noise levels. The terminal building is proposed as a buffer for loudspeaker noise traveling to the southeast. We suggest that the

1515 North C Street • Sacramento, CA 95811 • 916.321.5599

terminal may provide a buffer for noise traveling to the west and southwest. New residential development at Township 9 and anticipated development east of the site would be negatively impacted by the loudspeaker noise and the noise of normal bus operation.

We appreciate the opportunity to comment on the Greyhound Bus Terminal Mitigated Negative Declaration & Initial Study. If I can answer any questions, please feel free to contact me.

Sincerely,

Patty Kleinknecht
Executive Director

7/10/2008 2:06 PM >>>

Rachel, Thanks for the book. There are two site plans-- one in the book page 9 Figure 3 and one in the Appendices B-10 fig 1.3 Which one is correct....????

What kind of fencing--it states steel on the site plan.

Calavada Meats & I both have a concern on the fencing since we boarder the property.

In the book page 9 site plan there is a large area under the word Draft Bus Terminal --- will they landscape this , it appears outside the fence, even better would be to run the fence around that area & landscape it.

By the way that is a driveway to North B/Bannon not a street extension...!!!! My idea was that if you took the barriers down, the rail yards could flow thru that point immediately, not the case in this drawing.

Please let me know.

Thanks

Bud Applegate
Senior Vice President
Colliers International
1610 Arden Way, Suite 240
Sacramento, CA 95815

916 929 5999 - Tel
916 563 3003 - Direct
916 802 5200 - Mobile
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Attachment 7

RESOLUTION NO. 2009-

Adopted by the City of Sacramento

**APPROVE LEASE AGREEMENT WITH GREYHOUND LINES, INC. FOR
420 RICHARDS BOULEVARD**

BACKGROUND

- A. The Greyhound Bus Terminal is located at 703 L Street in Downtown Sacramento, which over the years has become one of the busiest and most congested streets in Sacramento.
- B. The design of the existing Terminal does not permit efficient or safe bus, taxi and passenger loading and circulation, creates an attractive nuisance for crime and loitering in the immediate area, and contributes to the overall blighting conditions existing in Downtown.
- C. The City and Greyhound desire to enter into a lease to relocate the Greyhound Terminal to City-owned property at 420 Richards Boulevard, which terminal will be constructed by the City and occupied by Greyhound for 20 years or until the Sacramento Intermodal Transportation Facility is ready for occupancy by Greyhound.
- D. On May 20, 2008, the City Council approved \$2 million for required roadway and site work for 420 Richards Boulevard including grading, utilities, sidewalks, curbs and gutters and the extension of Sequoia Pacific Boulevard from Richards Boulevard to Bannon Street to improve circulation.
- E. The balance of the funds necessary to construct the terminal will come from the proceeds from the sale of the Sheraton that were earmarked for Downtown redevelopment projects.
- F. By separate resolution, the City Council has approved the Mitigated Negative Declaration for the Greyhound Bus Terminal Project.
- G. Under Section 3.68.110 of the City Code, the City Council may waive the requirements for competitive bidding for lease of City property based on making findings regarding special circumstances.
- H. The Downtown Sacramento Revitalization Corporation was established to alleviate the burdens of the City and Agency by assisting with the revitalization of the Richards, Railyards and Merged Downtown redevelopment areas.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. After due consideration of the facts presented, the findings, including the foregoing recitals and the environmental findings regarding this action, as stated in this Resolution are approved and adopted.
- Section 2. The City Council finds that the special circumstances of this transaction make the use of the bid procedure for lease of City property at 420 Richards Boulevard inappropriate because (i) the City will be responsible for undertaking development of the Project, and (ii) the City is only willing to lease this property for interim use as a Greyhound bus terminal until Greyhound's operations can be relocated to the future Intermodal facility.
- Section 3. The City Manager is authorized to enter into the Lease Agreement for 420 Richards Boulevard Greyhound Terminal (Lease Agreement) with Greyhound Lines, Inc. for the construction and operation of a bus terminal to be located at 420 Richards Boulevard substantially in the form attached as Exhibit A.
- Section 4. The City Manager is authorized to make technical corrections and revisions to the Lease Agreement as long as such changes are consistent with the substantive provisions as described in the accompanying staff report, subject to review and approval by the City Attorney.
- Section 5. The City Manager is authorized to enter into the Memorandum of Understanding with the Downtown Sacramento Revitalization Corporation memorializing the Parties' intent to enter into future agreements for the property management of 420 Richards Boulevard and the reinvestment of funds generated by Greyhound's rent.

Table of Contents:

- Exhibit A Lease Agreement
- Exhibit B Memorandum of Understanding

Exhibit A

LEASE AGREEMENT

FOR

**420 RICHARDS BOULEVARD
GREYHOUND TERMINAL**

Between

CITY OF SACRAMENTO

and

GREYHOUND LINES, INC.

Approved on:

**420 RICHARDS BOULEVARD
GREYHOUND TERMINAL LEASE**

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**420 RICHARDS BOULEVARD
GREYHOUND TERMINAL LEASE**

This Lease ("LEASE"), is made and entered into as of this ___ day of _____, 2009 ("Effective Date"), by and between the CITY OF SACRAMENTO, a California municipal corporation ("LANDLORD"), and GREYHOUND LINES, INC., a Delaware corporation ("TENANT"). LANDLORD and TENANT hereinafter may be referred to collectively as the "Parties" or in the singular as "Party," as the context requires.

BACKGROUND

This LEASE is entered into on the basis of the following facts, understandings and intention of the Parties. This Background is intended to explain the purpose for some of the terms of this LEASE; however, the LEASE is expressed below with particularity and the Parties intend that their specific rights and obligations be determined by those provisions and not by the terms in this Background. In the event of an ambiguity, this Background may be used as an aid in interpretation of the intentions of the Parties.

A. **Definitions.** This Background uses certain capitalized terms that are defined below and in Article I of this LEASE. The Parties intend to refer to those definitions when a capitalized term is used but is not defined in this Background.

B. **L Street Lease.** On April 1, 1997, TENANT entered into a 15 year lease agreement for the 703 L Street terminal ("L Street Lease") with DBP Realty Partners ("DBP"), which is set to expire on March 31, 2012. Under the terms of the L Street Lease, as of April 1, 2007, DBP has the unilateral right to exercise an early termination of the lease by providing a two year notice. Because it will take almost two years to design, obtain planning and building entitlements, secure financing, and complete construction of a new terminal, TENANT needs to enter into a new lease in the near term to avoid interruption of its services when the L Street Lease expires.

C. **Right of First Refusal.** Under the terms of the L Street Lease, by entering into this LEASE, TENANT is obligated to pay DBP the sum of \$50,000 under the Right of First Refusal Agreement, set out as Addendum B of that lease. Under the terms of this LEASE, LANDLORD or Agency will compensate TENANT for this obligation in consideration for TENANT's execution of this LEASE.

D. **Intermodal Facility.** LANDLORD desires that TENANT relocate its bus terminal from 703 L Street to the Premises on an interim basis until TENANT's operations can be accommodated at LANDLORD's future Sacramento Intermodal Transportation Facility ("SITF" or "Intermodal Facility"). The SITF is to be located on I Street, between 3rd and 5th Streets, as part of an expansion of the existing Sacramento Valley Station, which supports Amtrak, Capitol Corridor and Regional Transit passenger rail, light rail and intercity bus services. Planning, design and environmental review of the SITF is currently underway, but due to the significant cost and need to secure federal funding for its construction, the timing on when the SITF will be developed and when TENANT could relocate to the SITF is uncertain. LANDLORD is willing to commit that if TENANT relocates to the SITF during the Term of this LEASE, certain rent provisions and relocation compensation would be provided as set out in Sections 3.02 and 3.04.

AGREEMENT

NOW, THEREFORE, based on the Background, the mutual promises and covenants of the Parties contained in this LEASE, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I
DEFINITIONS AND EXHIBITS

For purposes of this LEASE and all Exhibits, the capitalized terms shall have the meanings set forth below or in the Background, unless the context otherwise requires or if the capitalized term is defined in a particular section. Words not defined in this LEASE shall be given their common and ordinary meaning. The word "shall" is always mandatory.

The documents which are attached to this LEASE and labeled as exhibits (Exhibits) and which are referred to in this LEASE may be incorporated into this LEASE if the reference to the Exhibit expressly provides that it is incorporated herein.

1.01 "Agency" shall mean the Redevelopment Agency of the City of Sacramento.

1.02 "Assignee" shall mean the entity which may be selected by LANDLORD to assume its obligations to TENANT under this LEASE.

1.03 "Effective Date" shall mean the date first set out above, which is the last date that both LANDLORD and TENANT have signed this LEASE, as indicated by the dates on the signature page, following approval of this LEASE by the governing boards of LANDLORD and TENANT.

1.04 "Event of Default" shall have the meaning set forth in Section 10.01.

1.05 "Environmental Contamination" shall mean the presence of one or more Hazardous Materials in or on the Premises or otherwise in the ground, air, water or other parts of the environment that is not allowed by Environmental Laws or which is not in compliance with Environmental Laws or this LEASE.

1.06 "Environmental Laws" shall mean any statute, law, rule, regulation, ordinance, code, policy or rule of common law of any Governmental Entity now in effect and in each case as amended to date and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, relating to the environment, human health or Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. ' 9601 et seq.); the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. ' 6901 et seq.); the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. ' 1251 et seq.); the Toxic Substances Control Act (TSCA) (15 U.S.C. ' 2601 et seq.); the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. ' 1801 et seq.); the Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. ' 136 et seq.); the Superfund Amendments and Reauthorization Act (SARA) (42 U.S.C. ' 6901 et seq.); the Clean Air Act (42 U.S.C. ' 7401 et seq.); the Safe Drinking Water Act (42 U.S.C. ' 300f et seq.); the Solid Waste Disposal Act (42 U.S.C. ' 6901 et seq.); the Emergency Planning and Community Right to Know Act (42 U.S.C. ' 11001 et seq.); the Occupational Safety and Health Act (OSHA) (29 U.S.C. ' ' 655 and 657); the

California Underground Storage of Hazardous Substance Act (Health & Saf. Code, ' 25280 et seq.); the California Hazardous Waste Control Act (Health & Saf. Code, ' 25100 et seq.); the California Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code, ' 24249.5 et seq.); and the Porter-Cologne Water Quality Act (Water Code, ' 13000 et seq.), together with any amendments of these statutes and regulations promulgated under them (whether enacted or promulgated before, on, or after the Effective Date).

1.07 "Environmental Liabilities" shall mean any and all administrative, regulatory, or judicial actions, suits, allegations, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations, liabilities, losses, costs (including remedial, investigative and/or monitoring costs), settlements, assessments, penalties, interest, legal, accounting and consultant fees and costs of court relating in any way to any Hazardous Materials or Environmental Laws incurred by or asserted against LANDLORD based on or caused by acts or omissions of TENANT and its agents, employees, directors, officers, shareholders, contractors, invitees, licensees, representatives, successors or assigns, including, without limitation: (a) any and all claims by any Governmental Entity for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any applicable Environmental Laws, and (b) any and all claims, brought under common law or statute, by any party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief resulting from Hazardous Materials or arising from alleged injury or threat of injury to health, property, safety, or the environment.

1.08 "Force Majeure" shall mean any flood, tornado, other acts of God, fire, shortages of labor or materials, strikes, riot, war, or other similar or dissimilar conditions or events beyond the reasonable control of the Party claiming such occurrence.

1.09 "Governmental Entity" shall mean the City of Sacramento and any court or any federal, state, or local legislative body or governmental municipality, department, commission, board, bureau, agency or authority.

1.10 "Hazardous Materials" shall mean: (a) any petroleum or petroleum products, radioactive materials, asbestos, urea formaldehyde foam insulation, transformers or other equipment that contains dielectric fluid containing levels of polychlorinated biphenyls (PCBs), and radon gas; (b) any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants," or "pollutants," or words of similar import, under any applicable Environmental Laws; and (c) any other chemical, material or substance which is in any way regulated by any Governmental Entity.

1.11 "Improvements" shall mean all improvements to the Property by LANDLORD as required or permitted under this LEASE during the Term, but do not include the extension of Sequoia Pacific Boulevard as a public street.

1.12 "Lenders" shall mean each and all of the lenders providing the Loans to LANDLORD or its Assignee for the Improvements as set forth in Section 6.02.

1.13 "Loan Documents" shall mean any documents between LANDLORD or its Assignee and Lenders with regard to the Improvements.

1.14 "Loan(s)" shall mean the proceeds of the loans from Lenders which are used by

LANDLORD or its Assignee to construct the Improvements and provide long term financing for the Improvements, as further described in Section 6.02.

1.15 "Memorandum of Lease" shall mean the memorandum that summarizes the terms of this LEASE as of the date TENANT commences occupancy of the Premises, which shall be recorded in the official records of the County of Sacramento as specified in Section 2.02(d), a copy of which is to be attached to this LEASE as **Exhibit "C"**.

1.16 "Mortgage Liens" shall mean all LANDLORD approved mortgages, deeds of trust, liens, security interests, pledges, conditional sale contracts, claims, rights of first refusal, options, charges, liabilities, obligations, easements, rights-of-way, limitations, reservations, restrictions and other encumbrances of any kind that may be placed against the leasehold estate by Lenders as provided in Section 6.02.

1.17 "Notice of Intent to Occupy" shall mean the written notice issued by TENANT as described in Section 5.01(d).

1.18 "Permits" shall mean all permits, licenses, registrations, franchises, concessions, orders, certificates, consents, accreditations, authorizations and approvals of any Governmental Entity to undertake the Improvements and for TENANT to occupy and operate its business at the Premises.

1.19 "Person" shall mean an individual, partnership, joint venture, limited liability company, corporation, bank, trust, unincorporated organization or a Governmental Entity.

1.20 "Plans" shall mean the construction drawings and specifications for the Improvements to be undertaken by LANDLORD under this LEASE as referenced in Section 5.01(a).

1.21 "Premises" shall mean all of the following: the Property in its condition as of the Occupancy Term as defined in Section 2.02(b), all rights and easements appurtenant to the Property, and all Improvements LANDLORD and/or its Assignee will undertake to the Property under the terms of this LEASE. For purposes of identification, the Premises is depicted on the site map attached as **Exhibit "B"**. Unless expressly provided otherwise, "Premises" does not mean TENANT's FF&E or TENANT's Improvements that are placed on the Property or on the Improvements (including, without limitation, within the Terminal Building) by TENANT, regardless of whether TENANT's FF&E or TENANT's Improvements are considered affixed to, and part of, the Property or the Improvements.

1.22 "Project" shall mean the development of the Property as a bus terminal in a manner functionally equivalent to the 703 L Street terminal and suitable for the operations of TENANT as depicted in **Exhibit "B"** and in accordance with the Plans and the terms of this LEASE.

1.23 "Property" means the parcel of land of approximately 1.93 gross acres encompassing Assessor Parcel Nos. 001-0210-045 through 049, and -053, as more particularly described in **Exhibit "A"** and generally known as 420 Richards Boulevard.

1.24 "Rent" shall mean the Base Rent as defined in Section 3.01 and adjusted in Section 3.02, the amount of which on the commencement of the Occupancy Term shall be Thirty Two Thousand (\$32,000) per month, plus any and all other sums payable by TENANT either to LANDLORD or on behalf of LANDLORD pursuant to the terms of this LEASE.

1.25 “Rent Commencement Date” shall mean the date of the commencement of the Occupancy Term as defined in Section 2.02(b).

1.26 “Replacement Cost” shall mean the amount required to rebuild or replace (including cost of debris removal) all of the Improvements to be located on the Premises during the Term of this LEASE as if all of such Improvements had been destroyed as a result of a casualty.

1.27 “Taxes” shall mean all real or personal property or other special or general taxes, assessments, fees, levies, duties (including customs duties and similar charges), deductions or other charges of any nature whatsoever (including interest and penalties) imposed by any law, rule or regulation as assessed against or applied to the Premises and TENANT’s FF&E and TENANT’s Improvements.

1.28 “TENANT’s Furniture, Fixtures and Equipment (FF&E)” shall mean the personal property of TENANT that is placed in or affixed on the Premises by TENANT during the Lease Term for operation of the permitted use of the Premises.

1.29 “TENANT’s Improvements” shall mean the improvements to the Premises as permitted by LANDLORD as defined in Section 5.07.

1.30 “Term” shall mean the period from the Effective Date and to the Termination Date, unless sooner terminated based on mutual agreement of the Parties as provided in Section 10.05 or cancelled for breach as provided in Sections 10.01 and 10.04.

1.31 “Terminal Building” shall mean the building of approximately 13,100 square feet and including an attached approximate 7,800 square foot canopy, to be constructed by LANDLORD or its Assignee under the terms of this LEASE on the Property and which is improved in accordance with the Plans to allow for TENANT’s commencement of operations. The design of the Terminal Building is subject to TENANT’s prior approval of the Plans as set out in Section 5.01.

1.32 “Termination Date” shall mean twenty (20) years from the commencement of the Occupancy Term, unless sooner terminated based on mutual agreement of the Parties as provided in Section 10.05 or cancelled for breach as provided in Sections 10.01 and 10.04.

1.33 “SITF” shall mean the Sacramento Intermodal Transportation Facility as more particularly described in the Background.

ARTICLE II

LEASE OF PREMISES AND TERM OF LEASE

2.01 LEASE OF PREMISES. LANDLORD hereby leases the Premises to TENANT, and TENANT hereby leases the Premises from LANDLORD, on the terms and conditions set forth in this LEASE. The Parties intend that this LEASE be interpreted as a “triple net” lease.

2.02 TERM OF LEASE. The Term of this LEASE includes all of the following periods:

- (a) **Initial Term.** The “Initial Term” of this LEASE consists of the “construction

phase” and begins on the Effective Date and ends after the date when LANDLORD, acting as a Governmental Entity, has issued a certificate of occupancy for the Terminal Building and TENANT commences possession and occupancy of the Premises. During the Initial Term, TENANT shall not occupy the Premises other than to undertake TENANT’s Improvements to the Premises and installation of TENANT’s FF&E to make it suitable for commencement of TENANT’s operations. During the Initial Term, no Rent shall be due and TENANT’s only obligation under this LEASE is to cooperate with LANDLORD in the planning and design of the Improvements and undertaking the necessary TENANT’s Improvements and installation of TENANT’s FF&E as needed to allow for its occupancy by the time specified in subsection 2.02(c), below.

(b) **Occupancy Term.** The “Occupancy Term” of this LEASE begins at the end of the Initial Term on the date that TENANT commences occupation of the Premises for TENANT’s operations. The Occupancy Term shall extend for a period of twenty (20) years and end on the Termination Date. If the commencement date of the Occupancy Term occurs on a day other than the first day of the calendar month, the twenty (20) year period shall be measured from the first day of the calendar month next following the date TENANT commences occupation of the Premises.

(c) **TENANT’s Possession.** If the Improvements have been completed and the Premises are ready for occupancy, then TENANT must commence occupation of the Premises for operation of TENANT’s business no later than the earlier date that either: (i) TENANT’s current L Street Lease expires, (ii) the date the L Street Lease terminates if DBP exercises its right to early termination of that lease, or (iii) the date that TENANT and DBP mutually agree to terminate the L Street Lease. LANDLORD shall provide written consent for an extension of time for TENANT to commence occupancy of the Premises based on good cause. Failure of TENANT to occupy the Premises under the terms of this LEASE shall be an Event of Default under Section 10.01.

(d) **Memorandum of Lease.** Within thirty (30) days after the Occupancy Term commences, LANDLORD shall prepare, the Parties shall execute, and LANDLORD shall record the Memorandum of Lease to establish the specified dates of the Occupancy Term and the amount of Rent, among other matters.

ARTICLE III **RENT AND RELOCATION EXPENSES**

3.01 BASE RENT. TENANT shall pay to LANDLORD at 915 I Street, Sacramento, California 95814, Attention: Economic Development Department, or such other entity or place as LANDLORD may designate in writing, fixed Base Rent (the amount of which as hereinafter defined) without prior demand, deduction, or setoff, with the first payment due on the commencement date of the Occupancy Term (“Rent Commencement Date”) and on the first day of every month thereafter until this LEASE expires or is sooner terminated for convenience or cancelled for breach. If the date of the commencement of the Occupancy Term is not the first day of the calendar month, or if the LEASE ends on a date other than the last day of a calendar month, the amount of Base Rent owed for that month shall be prorated based on a thirty (30) calendar day month.

3.02 RENT SCHEDULE. The amount of Base Rent at the commencement of the Occupancy Term shall be Thirty Two Thousand Dollars (\$32,000). The amount of Base Rent shall be

adjusted on the first day of the month following the third anniversary of the Rent Commencement Date and on each three years thereafter (each such anniversary referred to as an "Adjustment Date"). The amount of Base Rent shall be increased by three percent (3%) of the amount of Base Rent owed immediately preceding the Adjustment Date, and all such adjustments shall be compounded and rounded up to whole dollars. In summary, the amount of Base Rent owed during the Occupancy Term of this LEASE is as follows:

Year 1-3	\$32,000	Year 10-12	\$34,968	Year 19-20	\$38,211
Year 4-6	\$32,960	Year 13-15	\$36,017		
Year 7-9	\$33,949	Year 16-18	\$37,098		

(a) **Adjusted Rent Schedule for Modular Terminal Building.** If the LANDLORD decides to construct the Terminal Building using a modular structure in lieu of a permanent building as provided in Section 5.01(c), the foregoing Base Rent schedule shall be revised and set out in an amendment to this LEASE. The total construction cost savings, based on the difference between the estimated construction costs for a permanent Terminal Building versus the actual construction costs to purchase and install a modular structure, shall be deducted from the foregoing Base Rent schedule by allocating the cost difference over the Occupancy Term on a monthly basis.

(b) **SITF Relocation.** If the Parties mutually agree to terminate this LEASE for their convenience to allow for TENANT to relocate to the SITF prior to the Termination Date as set out in Section 10.05, LANDLORD shall be obligated to maintain the same rent schedule set out above for comparable space under the SITF lease for five (5) years, or the period of time until year 20 of the Occupancy Term, whichever is less, so that TENANT does not incur liability for rent at the SITF which is higher than the amount of rent it would have owed if this LEASE was not terminated. TENANT's occupancy at the SITF will be subject to a separate lease agreement.

3.03 LATE PAYMENTS. If any installment of Base Rent or any payment by TENANT due under this LEASE is not received within five (5) calendar days after the date when due, TENANT will immediately pay to LANDLORD a late charge equal to three percent (3%) of the delinquent amount. LANDLORD and TENANT agree that this late charge represents a reasonable estimate of the costs and expenses LANDLORD will incur and is fair and compensation to LANDLORD for its loss suffered by reason of late payment by TENANT.

3.04 RELOCATION EXPENSES. In consideration for TENANT's execution of this LEASE, LANDLORD, or Agency on behalf of LANDLORD, shall pay TENANT the amount of Fifty Thousand Dollars (\$50,000) to compensate TENANT for its obligation to make payment to DBP under the First Right of Refusal provision in the L Street Lease. TENANT shall provide LANDLORD or Agency with an invoice verifying that the First Right of Refusal payment has been made to DBP, and payment to TENANT shall be made within thirty (30) calendar days after receipt of the invoice. LANDLORD and Agency shall not be obligated to make any other payment to TENANT for its cost to relocate to the Premises under this LEASE.

If the Parties agree to terminate this LEASE to allow for relocation of TENANT to the SITF, then LANDLORD, or Agency on behalf of LANDLORD, shall pay TENANT for its relocation costs in an amount not to exceed One Hundred Thousand Dollars (\$100,000). TENANT shall provide LANDLORD or Agency with an itemized invoice that specifies the actual relocation expenses incurred and payment shall be made within thirty (30) calendar days after receipt of the invoice, or thirty (30) calendar days after TENANT commences occupancy at the SITF, whichever date is

later. LANDLORD and Agency shall not be obligated to make any other payment to TENANT for its cost to relocate to the SITF under the terms of this LEASE.

ARTICLE IV
PAYMENT OF UTILITIES, TAXES AND ASSESSMENTS

4.01 UTILITIES. TENANT shall pay when due all fees and charges for water, sanitary sewer, storm drainage, natural gas, electricity, telephone and the disposal of garbage, refuse and rubbish and all other utilities, services and conveniences used on the Premises during the Term of this LEASE. TENANT shall also insure the integrity and accuracy of facilities that are installed by TENANT as a requirement of service by utility providers (meters, conduits, boxes, valves, switches, pads, etc.) for the duration required by the utility provider.

4.02 TAXES, ASSESSMENTS AND SERVICE CHARGES. As a Government Entity, LANDLORD is not obligated to pay property taxes and certain types of assessments as the owner of the Property. However, this LEASE may constitute a possessory interest in property that is subject to taxation. In that event, TENANT shall be responsible to pay the taxes and assessments as described below.

(a) **TENANT's Obligation to Pay Taxes.** As a part of the consideration for the execution and delivery of this LEASE and the amount of the Base Rent, TENANT covenants to pay and shall pay, without abatement, deduction, or offset and before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all personal property taxes, property taxes (whether or not denominated as possessory interest taxes), and all assessments, special taxes, license and permit fees, or other property related, and all other governmental charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, as well as assessments for sidewalks, streets, sewers, water, or any other public improvements and any other improvements or benefits (all of which taxes, assessments, special taxes or other property related charges or service fees, and all other governmental charges may be hereinafter referred to as "Impositions"), which shall be made, assessed, levied, imposed upon or become due and payable in connection with, or become a lien upon, the Property and/or the Improvements, or become payable, during the Term of this LEASE that are assessed on or against the Property, the Premises, the Improvements, TENANT's Improvements, TENANT's FF&E or the leasehold estate created by this LEASE. Without limiting the generality of the previous sentence, TENANT's duty to pay the Impositions under this Section 4.02 includes the payment of any possessory interest tax levied or assessed by any Governmental Entity on or against TENANT's possessory interest under this LEASE or in the Premises or Improvements.

(b) **Installments.** If by law, any such Imposition may, at the option of the TENANT, be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), TENANT may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and shall only pay such installments as may become due during the Term of this LEASE as the same respectively becomes due and before any fine, penalty, interest or cost may be added thereto, for the nonpayment of any such installment and interest.

(c) **Proration.** Any Imposition relating to a fiscal period of the taxing authority, a part of which period is included in the Term of this LEASE and a part of which is included in a period of time before commencement of the Occupancy Term or after the Termination Date, shall

(whether or not such Imposition shall be assessed, levied, imposed or become a lien upon the Property and/or the Improvements, or shall become payable during the Term of this LEASE) be adjusted between LANDLORD and TENANT as of the date the Occupancy Term commences or the Terminate Date, so that TENANT shall pay only that portion which relates to the period of time that TENANT occupied the Premises.

4.03 SEPARATE ASSESSMENT OF LEASED PREMISES. If the Premises are assessed and taxed as part of other property LANDLORD owns, then LANDLORD shall try in good faith to have the taxing authorities tax and assess the Premises, while this LEASE is in effect, as a separate parcel distinct from the LANDLORD's other property. LANDLORD shall cooperate with TENANT's efforts to obtain separate tax assessments and tax bills by timely executing any documents the taxing authorities reasonably require in connection with TENANT's application.

4.04 EVIDENCE OF PAYMENT. TENANT shall, within thirty (30) days after the written request of LANDLORD, but no sooner than sixty (60) days after the date on which the Imposition is payable, furnish to LANDLORD the official receipts from the appropriate taxing authority, or other evidence satisfactory to LANDLORD, evidencing the payment of such Imposition.

4.05 PAYMENT BY LANDLORD. In the event of TENANT's failure to pay any such Imposition when due, LANDLORD shall have the right to pay the same and charge that amount to TENANT as additional Rent. LANDLORD shall promptly send to TENANT: (a) copies of any notices for any taxes, assessments or charges, if such notices have been received by LANDLORD, and (b) evidence of any such payment of Impositions made by LANDLORD, which are the responsibility of the TENANT pursuant to the terms of this LEASE.

4.06 CONTEST RIGHTS. TENANT shall have the right to contest the amount or validity, or to seek a refund, in whole or in part, of any Imposition by appropriate proceedings; provided, however, that this provision shall not be deemed or construed in any way as relieving, modifying or extending TENANT's covenants to pay any such Imposition at the time and the manner as provided in this Article IV, unless TENANT shall have deposited with LANDLORD or a bank or a trust company designated by LANDLORD, as security for the payment of such Imposition, money or a corporate surety bond or other security acceptable to LANDLORD in the amount so contested and unpaid, together with the estimated amount of all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Property and/or Improvements or any part thereof pursuant to said proceedings, whereupon TENANT may postpone or defer payment of such Imposition.

(a) **Proceedings.** Upon the termination of such proceedings, TENANT shall pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees, interest, penalties or other liabilities in connection therewith, and upon such payment LANDLORD shall return, or cause such bank or trust company to return, the amount above referred to without interest. If, at any time during the continuance of such proceedings, LANDLORD shall deem the amount deposited is insufficient, TENANT shall, upon demand, deposit with LANDLORD or such bank or trust company such additional sums as LANDLORD may reasonably request, and upon such failure of TENANT to do so, the amount theretofore deposited may be applied by LANDLORD or such bank or trust company to the payment, removal and discharge of such Imposition and the interest and penalties in connection therewith any costs, fees or other liabilities accruing in any such proceedings, and the balance, if any, shall be returned to TENANT.

(b) **Indemnity.** LANDLORD agrees not to unreasonably withhold its consent in joining in any such proceedings or permit the same to be brought in its name. LANDLORD shall not ultimately be subject to any liability for the payment of any cost or expenses in connection with any such proceeding, and TENANT agrees to indemnify, save and hold harmless LANDLORD for any such costs or expenses.

(c) **Refund.** TENANT shall be entitled promptly to any refund of any Imposition and penalties or interest therein, which may have been paid by TENANT or which have been paid by LANDLORD and for which the LANDLORD has been fully reimbursed.

4.07 OTHER TAXES. Except as may be provided to the contrary in Section 4.02, nothing in this LEASE shall require TENANT to pay any franchise, corporate, estate, inheritance, succession, capital levy, stamp tax or transfer tax of LANDLORD acting as a Government Entity. LANDLORD shall not be required to pay any income, excess profits or revenue tax or any other tax, assessment, charge or levy upon the rental of the Premises, or and other similar charges that may be owed by TENANT, due to the amount of the Base Rent, LANDLORD's contribution toward the costs for the Improvements, relocation payments received by TENANT from LANDLORD or Agency, or any other financial terms of this LEASE.

4.08 TAX HOLD HARMLESS CLAUSE. TENANT shall indemnify, defend (with attorneys reasonably acceptable to LANDLORD), protect, and hold harmless LANDLORD and LANDLORD's Property, including the Premises and the Improvements located on the Property on or after the Effective Date, from and against all Impositions, liabilities, claims, demands, damages, fines, interest, penalties, judgments, settlements, and other costs that arise from any taxes, assessments, or other charges TENANT is required to pay under this Article IV.

4.09 ASSESSMENT DISTRICTS, SPECIAL TAX DISTRICTS, OR OTHER SIMILAR FINANCIAL MECHANISMS. If during the Term LANDLORD, acting in its capacity as a Government Entity, determines that an assessment district, a special tax district, a business improvement district, a developer fee, or other similar financing mechanism, whether or not associated with a bond issue, is required for implementation of a city policy adopted by the Sacramento City Council, TENANT waives its right to disapprove, protest, or otherwise vote against (and agrees to affirmatively support) the district, fee or other financing mechanism. TENANT's waiver does not extend to its sublessees, but this waiver shall be included in all sublease agreements entered into after the Effective Date.

ARTICLE V

IMPROVEMENT OF THE PREMISES

5.01 LANDLORD'S Construction of Improvements.

(a) **Plans.** After the Effective Date, the Parties shall work cooperatively and in good faith to develop a site plan, Terminal Building design plan, and related infrastructure and improvement plans and specifications (collectively "Plans") for development of the Property for the Project. LANDLORD shall prepare the Plans and the Plans are subject to TENANT's approval, which shall not be unreasonably withheld and which shall be approved or denied within thirty (30) calendar days from the receipt thereof. If TENANT and LANDLORD are unable to mutually agree to approve the Plans, then either Party may terminate this LEASE for its convenience without liability to the other Party.

(b) **Budget.** LANDLORD has established a budget of \$5.5 million for the costs of the Improvements based on \$1 million in site improvements (grading and utilities), \$1 million for Sequoia Pacific Boulevard street extension improvements, and \$3.5 million for the Terminal Building and associated development such as parking lots and driveways assuming that the Terminal Building will be a permanent structure.

(c) **Terminal Building.** LANDLORD reserves the right, in its sole discretion, to install a modular building in lieu of a permanent structure for financial or other reasons. As set out in Section 3.02 (a), the amount of Base Rent shall be adjusted over the LEASE Occupancy Term to account for the difference in construction cost estimate between a permanent structure and associated development costs, as set out in section 5.01(b) above, and the actual costs of a modular building and associated development costs.

(d) **Permits.** After completion and approval of the Plans, LANDLORD will proceed to obtain the necessary planning and building entitlements and select a developer or contractor to construct the Improvements.

(d) **Schedule.** Commencement of construction of LANDLORD's Improvements shall be based on the construction schedule prepared by the developer or contractor selected by LANDLORD. The construction schedule shall allow for completion of LANDLORD's Improvements, as evidenced by issuance of the certificate of occupancy, by no later than sixty (60) calendar days prior to the date TENANT commits in writing to commence occupancy of the Premises for TENANT's operations ("Notice of Intent to Occupy"). LANDLORD and TENANT shall review the construction schedule and mutually concur on the date to issue the construction contractor a notice to proceed to allow for completion of the LANDLORD's Improvements sixty (60) calendar days prior to the date specified in TENANT's Notice of Intent to Occupy. In no event shall LANDLORD complete construction of LANDLORD's Improvements later than (a) twenty-four (24) months from the date of TENANT's written notice of the early termination of the L Street Lease, or (b) the expiration date of the L Street Lease, which is March 31, 2012; whichever date is earlier.

(e) **Delays.** If for reasons beyond its control, LANDLORD is unable to complete the Improvements within either the twenty-four (24) month period or March 31, 2012 date as referenced in subsection (d), above, LANDLORD shall be obligated, at TENANT's election, to either:

(1) Compensate TENANT for its damages caused by such delay in the amount of the difference in rent actually paid by TENANT as compared to the Base Rent during the delay period. The "delay period" is the number of days between the date when TENANT was to commence operations at the Premises and the actual date of occupancy. Such compensation shall be in the form of rent abatement after TENANT commences occupancy of the Premises until the full sum of the delay damages has been paid; or

(2) Make a good faith effort to provide TENANT with an interim terminal facility, either on the Property or at another location owned or controlled by LANDLORD, to insure that TENANT's services to its patrons within the City of Sacramento are not interrupted. The rent for such interim facility shall not exceed the Base Rent. If LANDLORD is unable to provide TENANT with an interim facility for all or part of the

delay period, LANDLORD shall be obligated to provide TENANT with a rent abatement as set out in subsection (e)(1), above.

(f) **Compliance with Laws.** LANDLORD represents and warrants to TENANT that upon issuance of the certificate of occupancy, the Premises shall be in compliance with all applicable zoning requirements, ordinances and regulations, and all applicable laws affecting the Premises and/or required for TENANT's proposed use of the Premises, including, without limitation, compliance with the Americans with Disabilities Act (or other laws affecting handicap access) and any environmental impact or traffic studies or requirements.

5.02 LANDLORD'S APPROVAL OF PERMITS. LANDLORD, as a Government Entity, retains the right, among other things, in connection with its review of the Project for zoning and building entitlements ("Permits"), to: (i) consider the environmental impacts of the Project, (ii) adopt measures to mitigate potentially significant impacts, (iii) impose conditions that may modify the Project which would require changes to Plans, and (iv) elect not to approve the Project and the permits and not to proceed with any further actions to implement this LEASE. Notwithstanding LANDLORD's approval of this LEASE, LANDLORD has not made any pre-commitments to approve the Project or the Permits, or the schedule as to when such Permits may be approved. LANDLORD, acting as a Governmental Entity in evaluating the application for the Permits, will be acting in its capacity as a municipal land use regulatory authority and shall have no obligation whatsoever to exercise its discretion in any particular manner, and LANDLORD reserves its full discretion in that regard. This LEASE shall not be construed as a development agreement within the meaning of Government Code Section 65864 *et seq.*

5.03 Intentionally Omitted.

5.04 SCOPE OF LANDLORD'S IMPROVEMENTS. The required Improvements to be constructed by LANDLORD shall be functionally equivalent to the 703 L Street terminal and in accordance with the approved Plans and the terms of this LEASE. The scope of the improvements to be constructed by LANDLORD include, without limitation, (a) the Terminal Building; (b) asphalt pavement and striping for bus loading bays and parking facilities to accommodate passenger vehicles, TENANT's buses, and queued taxis; a second driveway entrance for buses only on Richards Boulevard along the east side of the Property; and a driveway exit access for buses only at the southern portion of the Property to connect to Bannon Street as depicted in **Exhibit "B"**; (c) fencing along the Property boundary where fencing may not currently exist with materials that match the existing fencing; and (d) landscaping and lighting.

5.05 SEQUOIA PACIFIC BOULEVARD EXTENSION. LANDLORD intends to undertake construction of the extension of Sequoia Pacific Boulevard, which may include improvement of the signalized intersection at Richards Boulevard and Sequoia Pacific Boulevard, at the time that the Improvements are constructed if: (i) such construction phasing is feasible and cost-effective, and (ii) construction of this street will not delay the construction schedule for completion of the Improvements. If the extension of Sequoia Pacific Boulevard must be constructed after completion of the Improvements, LANDLORD reserves the right, acting in its capacity as a Government Entity, to undertake improvement of that portion of the Property as a public street, subject to providing TENANT with vehicular access to the Terminal Building during construction, which may include use of the bus-only access driveway by TENANT's patrons during construction, and repairing any physical damage to any of the Improvements or to the Premises that are not located within the street right of way. LANDLORD shall coordinate with TENANT

regarding the scope and schedule of construction and alteration of the Improvements to accommodate the street construction and to minimize disruption to TENANT's operation.

5.06 UTILITIES. LANDLORD shall install (or cause to be installed) in, on, and within the Property and the Terminal Building all facilities necessary to supply water, sewer, gas, electricity, telephone, cable television, and other utility services required for TENANT's operations and maintenance of the Improvements.

5.07 TENANT's IMPROVEMENTS AND FF&E. TENANT shall be solely responsible for making any improvements within the Terminal Building which are not included in the Plans to accommodate TENANT's operations ("TENANT's Improvements") and installing or providing TENANT's FF&E. TENANT shall retain ownership of TENANT's Improvements and FF&E which are undertaken and funded by TENANT during the Term of this LEASE.

LANDLORD shall provide TENANT with reasonable access and entry into the Premises prior to the date of issuance of the certificate of occupancy to allow TENANT and its contractors to commence construction of TENANT's Improvements and installation of TENANT's FF&E, as long as such access and entry will not interfere with or delay completion of the work of LANDLORD's contractors. During the Initial Term, all TENANT's Improvements to be constructed and all TENANT's FF&E that will be permanently affixed to the Premises shall be subject to LANDLORD's prior approval, which shall not unreasonably be withheld. Any TENANT's Improvements and TENANT's FF&E that are constructed or permanently affixed after commencement of the Occupancy Term shall comply with the provisions in Section 7.11.

TENANT shall indemnify, defend (with attorneys reasonably acceptable to LANDLORD), protect, and hold harmless LANDLORD and LANDLORD's Property, including the Premises and the TENANT's Improvements and FF&E located on the Premises on or after the Effective Date, from and against all liabilities, claims, demands, damages, fines, interest, penalties, judgments, settlements, and other costs that arise from any wages, costs, penalties, or other charges that TENANT and its contractors and subcontractors are required to comply with or pay for construction of TENANT's Improvements and installation of TENANT's FF&E, including, without limitation, payment of prevailing wages and payment for labor and materials supplied by contractors and subcontractors of TENANT.

Prior to undertaking construction of any TENANT's Improvements and installation of TENANT's FF&E, TENANT must procure insurance in an amount not less than the Replacement Cost of the permanent and affixed improvements providing protection against any peril included within the classification of Fire and Extended Coverage, sprinkler damage, vandalism, malicious mischief and such other additional perils as is covered in an "all risks" standard insurance policy. The insurance policy shall comply with the provisions of Sections 8.02 and 8.04 and TENANT may self-insure for such coverage as provided in Section 8.01.

5.08 WARRANTIES AND REPRESENTATIONS OF PARTIES. The Parties have made to each other the following warranties and representations, which shall not be construed as covenants.

(a) **LANDLORD.** As of the Effective Date, LANDLORD warrants and represents that:

(1) LANDLORD is authorized to enter into and perform the obligations of this LEASE, including without limitation, to lease the Property in accordance with the terms hereof.

(2) To its best actual knowledge, and without a search of all LANDLORD records, LANDLORD is not subject to any contract or agreement which would prevent the consummation of this LEASE, or cause it to be in default under such contract or agreement.

(3) To its best actual knowledge, and without a search of official court or other tribunal records, there is no action, suit, or proceedings (including but not limited to eminent domain proceedings) which have been instituted or threatened, which would materially affect the Property or the right to construct improvements thereon, at law or in equity, or before any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality.

(4) To its best actual knowledge, and without having conducted or having any obligation to conduct any formal, informal, or other investigation, there is no Hazardous Substance located upon the Property, or which has been generated, manufactured, stored, disposed of or used on the Property.

(b) **TENANT.** As of the Effective Date, TENANT warrants and represents that:

(1) TENANT is authorized to enter into and perform the obligations of this LEASE, including without limitation, to lease the Property in accordance with the terms hereof.

(2) To its best actual knowledge, and without a search of all TENANT's records, TENANT is not subject to any contract or agreement which would prevent the consummation of this LEASE, or cause it to be in default under such contract or agreement.

(3) To its best actual knowledge, and without a search of official court or other tribunal records, there is no action, suit, or proceedings (including but not limited to eminent domain proceedings) which have been instituted or threatened, which would materially affect TENANT's ability to perform its obligations hereunder or construct the Improvements for the Project, at law or in equity, or before any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality.

ARTICLE VI
FINANCING IMPROVEMENTS; SUBORDINATION AND MORTGAGE LIENS

6.01 STATUS OF TITLE OF PROPERTY. LANDLORD holds fee title to the Property. Title to the leasehold estate created by this LEASE is subject to all exceptions, easements, rights, rights of way, and other matters of record existing as of the Effective Date. Title to the leasehold estate is subject to, and subordinate to, all easements, rights of entry, rights of way, and other rights and interests that may be subsequently be required by a Governmental Entity other than LANDLORD or a public utility as a condition for approving construction of the Improvements. The leasehold estate created by this LEASE is subject to, and subordinate to, LANDLORD's right, acting in its capacity as a Government Entity, to subdivide and remove from the encumbrance of the Property created by this LEASE, the western portion of the Property for the purpose of improving it as a public street during the Term of this LEASE as described in Section 5.05.

6.02 LANDLORD'S RIGHT TO ENCUMBER. As noted elsewhere herein, LANDLORD reserves the unilateral right to assign all or some of its rights and obligations under this LEASE

to another entity as Assignee, and such entity would obtain the necessary construction and permanent financing to undertake construction of the Improvements in accordance with the approved Plans in reliance on TENANT's obligation to pay Base Rent under this LEASE. TENANT shall cooperate with LANDLORD and/or its Assignee in providing information reasonably required by a prospective lender regarding TENANT's finances and ability to pay Rent during the Term of this LEASE.

While this LEASE is in effect, LANDLORD and/or its Assignee may encumber any part of its interests under this LEASE without TENANT's approval, to a Lender for the purpose of securing repayment of any Loan to fund the Improvements as evidenced by a deed of trust, mortgage, or other security instrument (a "Leasehold Encumbrance"). A Leasehold Encumbrance may not constitute a lien or encumbrance on LANDLORD's fee interest in the Property. Except as otherwise provided in this LEASE, each Leasehold Encumbrance will be subject to all reserved rights of LANDLORD, all covenants, conditions, and restrictions set forth in this LEASE, and to all of LANDLORD's rights, title, and interest in the Property and the Premises. LANDLORD will give TENANT prior written notice of any proposed Leasehold Encumbrance affecting TENANT's interest under this LEASE, together with a copy of the deed of trust, mortgage, or other security interest evidencing the Leasehold Encumbrance.

6.03 FINANCING; SUBORDINATION. It is the intention of the Parties that LANDLORD's interest in this LEASE will be subordinated by LANDLORD to a Leasehold Encumbrance upon the terms and conditions specified herein, under an Institutional Leasehold Mortgage. It is also the intention of the Parties that the LANDLORD's fee title interest in the Property cannot lawfully be and shall not be subordinated to any such financing.

6.04 NOTICE TO LENDERS. If a Lender who holds a Leasehold Encumbrance provides LANDLORD with written notice of the its name and address, then LANDLORD shall provide the Lender with a copy of each notice or written communication LANDLORD gives to TENANT in connection with this LEASE, including, without limitation, any notice of breach and any notice regarding any matter on which LANDLORD may claim a breach, or any notice of termination. Such LANDLORD notice or written communication will be effective only if a copy of the notice was also provided to the Lender. LANDLORD may satisfy its obligation under this Section 6.04 by placing the copy of the notice or communication in an envelope addressed to the Lender (at the last mailing address the Lender provided to LANDLORD in writing) and by depositing the envelope in the U.S. Mail with first-class postage prepaid.

6.05 NO MODIFICATION WITHOUT LENDER'S CONSENT. So long as any Leasehold Encumbrance is in effect, TENANT and LANDLORD shall not modify or cancel this LEASE in a manner that would materially affect Lender's interests without the Lender's prior written consent. This Section 6.05 does not apply to LANDLORD's right to exercise an early termination of this LEASE under Section 10.05.

6.06 RIGHT OF LENDER TO REALIZE ON SECURITY. A Lender with a Leasehold Encumbrance is entitled while this LEASE is in effect and during the existence of the Leasehold Encumbrance to do the following:

- (a) Perform any act required of TENANT under this LEASE, and the Lender's performance will prevent a forfeiture of TENANT's rights under this LEASE.
- (b) Realize on the security afforded by the leasehold estate by foreclosure proceedings,

by accepting an assignment in lieu of foreclosure, or by any other remedy afforded in law or in equity or by the security instrument evidencing the Leasehold Encumbrance (the "Security Instrument"); and

(i) transfer, convey, or assign LANDLORD's title to the leasehold estate to any purchaser at any foreclosure sale (whether the foreclosure sale is conducted under court order or under a power of sale contained in the Security Instrument) or to an assignee under an assignment in lieu of foreclosure; and

(ii) acquire and succeed to LANDLORD's interest under this LEASE by virtue of any foreclosure sale (whether the sale is conducted under a court order or under a power of sale contained in the Security Instrument) or by virtue of an assignment in lieu of foreclosure.

The Lender or any person or entity acquiring the leasehold estate will be obligated to perform TENANT's obligations under this LEASE only during the time the Lender, entity, or person owns the leasehold estate or possesses the Premises.

6.07 RIGHT OF LENDER TO CURE BREACH. So long as a Leasehold Encumbrance is in effect, LANDLORD shall not terminate this LEASE because of TENANT's breach unless LANDLORD first gives the Lender written notice of the breach and affords the Lender an opportunity, after service of the notice, to do one of the following:

(a) For a breach that can be cured by paying money to LANDLORD or some other person, cure the breach within thirty (30) calendar days after TENANT's opportunity to cure has expired.

(b) For a breach that must be cured by something other than the payment of money, cure the breach within forty-five (45) calendar days after TENANT's opportunity to cure has expired.

(c) For a breach that must be cured by something other than the payment of money, if the cure cannot be performed within forty-five (45) calendar days after TENANT's opportunity to cure has expired, cure the breach in any reasonable time that may be required, but only if the Lender (i) commences work on the cure within the forty-five (45) calendar days after TENANT's opportunity to cure has expired, and (ii) diligently prosecutes the work to completion.

6.08 FORECLOSURE IN LIEU OF CURING BREACH. Notwithstanding any other provision of this LEASE, the Lender under a Leasehold Encumbrance may forestall termination of this LEASE for TENANT's breach by commencing proceedings to foreclose the Leasehold Encumbrance. The proceedings may be for foreclosure by court order or for foreclosure under a power of sale contained in the Security Instrument. But the proceedings will not forestall LANDLORD's termination of this LEASE for the TENANT's breach unless:

(a) They are commenced within 60 days after service on the Lender of notice under Section 6.04;

(b) They are diligently pursued to completion in the manner required by law; and

(c) The Lender keeps and performs all of the terms, covenants, and conditions of this LEASE that require TENANT to pay or expend money until the proceedings are complete or are discharged by redemption, satisfaction, payment, or conveyance of the leasehold estate to the

Lender.

6.09 ASSIGNMENT WITHOUT CONSENT ON FORECLOSURE. Transfer of the leasehold estate under this LEASE to any of the following does not require TENANT's prior consent as long as the purchaser or assignee provides its written agreement to LANDLORD to be bound by all provisions of this LEASE.

(a) A purchaser at a foreclosure sale of the Leasehold Encumbrance, whether the sale is conducted under a court order or under a power of sale in the Security Instrument. The Lender under the Leasehold Encumbrance must give LANDLORD written notice of the purchase, including the name and address of the purchaser and the effective date of the purchase.

(b) An assignee of the leasehold estate by Lender under an assignment in lieu of foreclosure. The Lender under the Leasehold Encumbrance must give LANDLORD written notice of the assignment, including the name and address of the assignee and the effective date of the assignment.

(c) An assignee of the leasehold estate by Lender under an assignment in lieu of foreclosure. The Lender must deliver to LANDLORD written notice of the assignment, including the name and address of the assignee and the effective date of the assignment.

6.10 NEW LEASE TO LENDER. Notwithstanding any other provision of this LEASE, if LANDLORD terminates this LEASE because of TENANT's breach, then LANDLORD may enter into a new lease of the Premises with the Lender under a Leasehold Encumbrance if all of the following conditions are satisfied:

(a) Within 60 days after LANDLORD serves the Lender with notice under Section 6.04, the Lender has served LANDLORD with a written request for the new lease.

(b) The term of the new lease ends on the same date this LEASE would have expired had this LEASE not been terminated.

(c) The new lease provides for payment of Rent at the same rate that would have been payable under this LEASE had it not been terminated and the new lease contains the same terms, covenants, conditions, and provisions that are in this LEASE (except those that have already been fulfilled or no longer apply).

(d) On LANDLORD's execution of the new lease, the Lender pays all sums that would have been due at the time under this LEASE but for its termination; in addition, the Lender remedies (or agrees in writing to remedy) all of TENANT's other breaches of this Lease to the extent they can be remedied.

(e) On LANDLORD's execution of the new lease, the Lender pays all reasonable costs and expenses, including attorneys' fees and court costs, LANDLORD incurred in terminating this LEASE, recovering possession of the Premises from TENANT, curing any defaults of TENANT, and preparing the new lease.

(f) The Lender may assign the new lease without LANDLORD's prior consent. However, an assignee of the Lender may only assign the new lease with LANDLORD's prior written consent, which LANDLORD shall not withhold, delay, or condition unreasonably.

6.11 NO MERGER OF LEASEHOLD AND FEE ESTATES. So long as any Leasehold Encumbrance exists, the leasehold estate created by this LEASE and LANDLORD's fee estate in the Property and in the Premises will not merge, even if both estates are acquired or become vested in the same person or entity, unless the Lender and LANDLORD consents otherwise in writing.

6.12 LENDER AS ASSIGNEE OF LEASE. A Lender will not be liable to LANDLORD as an assignee of this LEASE unless the Lender acquires all of TENANT's rights under this LEASE and assumes all of TENANT's obligations under this LEASE through foreclosure, an assignment in lieu of foreclosure, or some other action or remedy provided by law or by the Security Instrument.

6.13 LENDER INCLUDES SUBSEQUENT SECURITY HOLDERS. The term "Lender" as used herein means not only the institutional lender that lent LANDLORD or its Assignee money and is named as beneficiary, mortgagee, secured party, or security holder in the Security Instrument, but also all subsequent purchasers or assignees of the leasehold estate from Lender.

6.14 TWO OR MORE LENDERS. If two or more Lenders each exercise their rights under this LEASE and a conflict arises that renders compliance with all Lender requests impossible, then the Lender whose Leasehold Encumbrance would have senior priority in a foreclosure will prevail.

6.15 PUBLIC FINANCING SUBORDINATION. LANDLORD acquired the Property with the proceeds of bonds and the security for repayment includes the Property. In the future, LANDLORD may include the Property as part of an asset for public financing. TENANT covenants and agrees with LANDLORD that this LEASE is subject and subordinate to any public financing methodology utilizing the Property and LANDLORD's contribution for the costs of a portion of the Improvements as an asset for security or lease/leaseback purposes, or any mortgage, deed of trust, and/or security agreement which may now or hereafter encumber the Property and the Premises or any interest of LANDLORD therein, and to any advances made on the security thereof and to any and all increases, renewals, modifications, consolidations, replacements and extensions thereof. This clause shall be self-operative and no further instrument of subordination need be required by any owner or holder of any such lease, mortgage, deed of trust or security agreement in confirmation of such subordination; however, at LANDLORD's request TENANT shall execute promptly any appropriate certificate or instrument that LANDLORD may request; provided, however, that no such subordination certificate or instrument shall (a) impose any additional legal or financial obligations upon TENANT, or (b) affect the provisions of this LEASE and the rights of TENANT hereunder regarding casualty losses, condemnation awards and insurance proceeds, and (c) the lender or mortgagee, LANDLORD and TENANT shall enter into a separate Non-Disturbance and Attornment agreement in the form attached hereto as Exhibit "E". LANDLORD's interest in the Improvements shall be subordinate to that of any Lender in accordance with the provisions of Section 6.03.

6.16 LANDLORD'S OBLIGATION TO REPAY LOANS UPON EARLY TERMINATION. If LANDLORD exercises its right to terminate this LEASE prior to the Termination Date as set out in Section 10.05, then LANDLORD shall assume the obligation to repay the Loans based on the amount then owing as of the Termination Date.

6.17 ATTORNMENT AND NON-DISTURBANCE.

(a) **Priority of Leasehold.** LANDLORD represents and warrants to TENANT that the Premises is now and will, subject to the encumbrance, financing and subordination provisions in Sections 6.01, 6.02, 6.03 and 6.15, remain free and clear of all mortgages, deeds of trust, liens and encumbrances which could adversely affect TENANT's leasehold estate.

(b) **Self-Executing.** The agreements contained in this Section 6.17 shall be effective, without the execution of any further documents; provided, however, that, upon written request from LANDLORD or a Lender in connection with a sale, financing or refinancing of the Premises or Improvements, TENANT and LANDLORD shall execute such further writings as may be reasonably required to separately document any such subordination or non-subordination, attornment and/or non-disturbance agreement as is provided for herein and enter into a Non-Disturbance and Attornment agreement in the form attached hereto as **Exhibit "E"**.

ARTICLE VII OWNERSHIP, OPERATION AND MAINTENANCE OF PREMISES

7.01 OWNERSHIP OF IMPROVEMENTS. The Terminal Building and related Improvements shall be owned by LANDLORD during the Term and at the expiration of this LEASE without any compensation owing to TENANT. At the expiration, termination or cancellation of this LEASE as permitted herein, TENANT shall surrender the Terminal Building and all Improvements on the Property and the Premises undertaken by LANDLORD free of all liens and encumbrances.

7.02 REMOVAL OF IMPROVEMENTS AND FIXTURES. TENANT shall not remove any permanent improvements or fixtures installed by TENANT or create waste, destroy or modify the Improvements constructed by LANDLORD (or its Assignee) except as approved by LANDLORD in advance in writing, or as otherwise permitted in this LEASE. TENANT is entitled (but not obligated) to remove TENANT's Improvements and TENANT's FF&E installed at the Premises at any time without first obtaining LANDLORD's consent, so long as TENANT repairs any damage caused to the Premises or to the Terminal Building by such removal. After surrender of the Property and the Premises to LANDLORD at the expiration, termination or cancellation of this LEASE, TENANT shall have no right, title or interest in the Property, the Premises or the Improvements thereon.

7.03 SIGNAGE. TENANT shall have the right to display two (2) signs on the Premises, one facing Richards Boulevard and one facing Bannon Street. Any such sign shall only advertise TENANT's operations and must comply with all applicable laws and restrictions of LANDLORD, acting in its capacity as a Governmental Entity. TENANT shall be solely responsible for obtaining any required Permit or governmental approvals for the signs. In addition, TENANT may erect directional signs for the purpose of wayfinding the passenger parking and loading areas, controlling access to bus only entry points and exits within the Premises, and informational signs regarding prohibiting loitering, trespassing and nuisance activities.

7.04 USE RESTRICTED TO TENANT'S OPERATIONS. TENANT covenants to LANDLORD that TENANT shall only permit and occupy the Premises during the Term of this LEASE for TENANT's intercity bus operations. Except as provided in Section 9.02, any occupation of the Premises by any sublessee of TENANT without LANDLORD's prior written consent is a breach of this LEASE and LANDLORD may declare such occupation to be an Event of Default. LANDLORD may, but is not obligated to, approve one or more sublessees of TENANT if the goods or services offered by such sublessee are designated to provide ancillary services for

TENANT's operations and/or ancillary services for the convenience of TENANT's patrons, such as food and beverages.

TENANT shall submit to LANDLORD the proposed sublease prior to its execution for LANDLORD's written approval. LANDLORD reserves the right to impose reasonable conditions on the operations of such sublessee to be included as conditions of that sublease. In addition, LANDLORD may at any time revoke its approval of that sublease if the operations of such sublessee creates: (a) trash that is not properly discarded within the Premises and is not regularly removed so as to create unsightly or unsanitary conditions; (b) significant foot or car traffic into the Premises by persons who are not TENANT's patrons; (c) loitering within the Premises; or (d) other conditions that are expressly prohibited in this LEASE. Failure of TENANT to take all necessary actions to remove that sublessee after LANDLORD's written notice of revocation of its approval of that sublease shall be an Event of Default.

7.05 SECURITY SERVICES AND MEASURES.

(a) **Security Guard.** TENANT shall be solely responsible to contract for security patrol services for the Premises to prevent vandalism, trespassing, and other illegal conduct and to prevent loitering and nuisance activities. At a minimum, TENANT shall contract for one properly licensed security guard to be on the Premises at all times.

(b) **Security Cameras.** TENANT shall install and monitor security cameras. LANDLORD's Improvements will include the conduits and electrical connections for installation of the security cameras.

(c) **Lighting.** The Plans for the LANDLORD's Improvements will include proper lighting during evening hours, so that all portions of the Premises are visible from Richards Boulevard and Bannon Street.

(d) **Fencing and Gates.** LANDLORD shall provide perimeter fencing of the Premises as specified in Section 5.04. The TENANT improvements shall include security gates to control access during TENANT's operations and to prevent access during non-business hours.

(e) **Consultation.** The Parties shall consult with the police department in developing the Plans to determine if other security measures should also be considered.

(f) **Additional Measures.** At the request of either Party during the Term of this LEASE, the Parties shall meet and confer to evaluate whether there are other additional security measures that the Parties mutually agree should be implemented, which may be constructed by LANDLORD as part of LANDLORD's Improvements or by TENANT as part of TENANT's FF&E or TENANT's Improvements to control the improper activities.

(e) **LANDLORD's Surveillance.** Notwithstanding that LANDLORD may use the driveway (and future Sequoia Pacific Boulevard extension) along the western portion of the Premises for access by its police officers and other employees for entry to LANDLORD's building at 300 Richards Boulevard as provided herein; LANDLORD shall have no duty or obligation to TENANT (or to TENANT's sublessees) to provide security patrol services to protect the Premises with LANDLORD's police officers, or its employees, agents, contractors or subcontractors.

7.06 PROHIBITION OF LOITERING, NUSIANCE, TRESSPASSING AND UNLAWFUL

CONDUCT. TENANT's use of the Premises as permitted under this LEASE does not constitute a nuisance per se. TENANT shall not use or allow any sublessee to use of any of the Improvements, the Premises, or the Property, or any part thereof, that would constitute a nuisance in fact by permitting or creating (i) offensive odors and loud sounds, (ii) a dangerous or noxious trade or business, (iii) an unlawful use, or (iv) a use that is not permitted under the Permits issued by LANDLORD in its capacity as a Governmental Entity.

TENANT, shall use reasonable care to prevent its patrons and sublessees from committing or maintaining any nuisance or unlawful conduct on or about the Premises. TENANT, at its sole expense, shall to take all reasonable and appropriate actions to prevent any patrons of TENANT or a sublessee from loitering or engaging in any nuisance or unlawful conduct on or about the Premises. Loitering means allowing persons without tickets for TENANT's bus services or persons who are not waiting for a bus to arrive to remain on the Premises. Without limiting the other provisions of this LEASE, in no event shall TENANT, or any of its sublessees, be allowed to sell alcoholic beverages at the Premises at any time.

TENANT shall maintain all of the fencing and gates that enclose the Property and all other security improvements installed by LANDLORD or TENANT to prevent patrons of TENANT and patrons of its sublessees from trespassing on to LANDLORD's adjacent property at 300 Richards Boulevard or on any other property that abuts, surrounds or lies adjacent to the Premises. In addition, TENANT will install gates at the driveway entrances to prevent access into the Premises during the evening hours when TENANT's business is closed. No other sublessee of TENANT may operate within the Premises during the hours when TENANT's business is closed.

7.07 PROHIBITION AGAINST DISCRIMINATION OR SEGREGATION. TENANT hereby covenants for itself, its officers, directors, employees, agents, contractors, subcontractors, assignees, its sublessees, and all persons claiming under or through TENANT or its sublessees, and this LEASE is made and accepted upon subject to, compliance with the following provision of Section 51 of California Civil Code, the Unruh Civil Rights Act:

"All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."

7.08 LANDLORD'S RIGHT TO ENTER. TENANT shall permit LANDLORD, the authorized representatives of LANDLORD, its Assignee, Lender, and the holder of any Leasehold Mortgage to enter the Premises at all reasonable times during usual business hours of TENANT or upon twenty-four (24) hours advance notice for the purpose of inspecting the same, determining compliance by TENANT and its sublessees with the terms of this LEASE, curing any defaults of TENANT that LANDLORD or Lender elects to cure as permitted herein, to remove any improvements or property placed within the Premises in violation of this LEASE, or exhibiting the Premises to prospective purchasers of the Property or prospective tenants. TENANT shall insure that LANDLORD has the same rights of inspection within all portions of the Terminal Building, which may be under the control of a sublessee.

(a) **Western Driveway.** LANDLORD shall also have access rights to use the existing western driveway and the planned interior access road that will connect Richards Boulevard to Bannon Street during the Term of this LEASE by its employees, agents, contractors and

subcontractors to access LANDLORD's property at 300 Richards Boulevard. This western driveway/roadway is to be the public entrance into the Premises and is the planned alignment for the extension of Sequoia Pacific Boulevard as referenced in Section 5.05. This western driveway/roadway will be removed as part of the Premises once it becomes a public street.

(b) **Eastern Driveway.** Along the eastern boundary of the Premises is an existing sewer line that is located within the planned bus-only access driveway and interior roadway that will connect Richards Boulevard to Bannon Street. LANDLORD reserves the right to access this sewer line for inspection, repair and replacement (collectively "maintenance") during the Term of this LEASE. LANDLORD shall coordinate with TENANT regarding the scope and schedule of such maintenance activities to minimize disruption to TENANT's operations.

7.09 TENANT'S MAINTENANCE OF THE PREMISES. Throughout the Term of this LEASE, TENANT shall, at TENANT's sole cost and expense, maintain the Premises and all of the Improvements (including utility facilities) in first class condition and repair, ordinary wear and tear excepted, and in accordance with the terms of any Loans, insurance policies, and all applicable federal, state and local laws, ordinances and regulations of: (i) governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, (ii) insurance underwriting boards or insurance inspection bureaus having or claiming jurisdiction, and (iii) all insurance companies insuring all or any part of the Improvements.

(a) **HVAC Systems.** TENANT shall maintain, repair and/or replace (when necessary) the heating, ventilating and air-conditioning equipment serving the premises ("HVAC System") and shall contract with an HVAC System service company for the regular servicing of the HVAC System (not less frequently than quarterly).

(b) **Fencing, Lighting and Landscaping.** TENANT shall promptly repair any damage to the Improvements, including, without limitation, the Terminal Building, fencing and gates, lighting fixtures, and TENANT shall promptly replace any dead plants and repair any damage to the landscaping irrigation system.

(c) **Janitorial.** TENANT shall contract for daily janitorial services to keep the Terminal Building and the Premises in a sanitary and clean condition and cause trash receptacles to be emptied daily or more frequently as needed to prevent trash and debris to collect within the Terminal Building or in the Premises.

(d) **Pest Control.** If any event of pest or vermin infestation is found in the Terminal Building or other parts of the Premises, then TENANT shall immediately contract with a bonded, professional pest-and-sanitation control operator to immediately remedy such infestation.

7.10 PREVENTATIVE MAINTENANCE. In addition to the routine maintenance and repair required to comply with the foregoing Section 7.09, TENANT shall also perform the following preventative and programmed capital maintenance activities during the LEASE Occupancy Term.

(a) **Terminal Building.** Exterior and interior painting and window covering replacement at least every ten (10) years, but excluding the final year of the LEASE.

(b) **Parking Lots and Driveways.** Repair and resurface all parking areas, driveways and walkways at least every five (5) years, but excluding the final year of the LEASE.

(c) **Landscaping.** Replacement of all deteriorated or worn landscaping annually and replacement of the irrigation systems at least every ten (10) years, but excluding the final year of the LEASE.

(d) **Fencing.** Replacement of all deteriorated or worn portions of perimeter fencing annually and replacement of gates at least every five (5) years, but excluding the final year of this LEASE.

Upon the written request of TENANT, the LANDLORD, at its sole and absolute discretion, may grant a waiver or deferral of any program maintenance requirements if the Property and Improvements are in first class condition. TENANT shall keep such records of maintenance and repair as are necessary to demonstrate performance of the foregoing program maintenance requirements. Although LANDLORD has reserved the right to use the driveway and interior access road connecting Richards Boulevard to Bannon Street along the western portion of the Premises for access to its adjacent property at 300 Richards Boulevard, LANDLORD shall have no liability to TENANT to pay for maintenance of that driveway and access road.

7.11 ALTERATION TO PREMISES. After commencement of the Occupancy Term, TENANT shall not make any addition, renovation, alteration, reconstruction or change (collectively "Alterations") that involve (i) structural changes or additions to or the excavation of any part of the Premises, (ii) affect the exterior or the interior walls, floor slab or roof of the Terminal Building or the fire sprinkler systems, or (iii) requires any penetration of the roof, demising walls or floor slab of the Terminal Building, without first obtaining the written approval of LANDLORD.

TENANT must provide LANDLORD with not less than twenty (20) days prior written notice of the commencement of any Alterations of the Premises, and LANDLORD shall have the right to record, and to enter the Premises and to post, customary notices of nonresponsibility with respect thereto. Within thirty (30) calendar days after completion of any Alterations, TENANT shall deliver to LANDLORD a set of "as built" plans depicting the Alterations as actually constructed or installed. If TENANT makes any permitted Alterations which would cost in excess of Fifty Thousand Dollars (\$50,000), TENANT must carry "Builder's All Risk" insurance in an amount reasonably necessary to cover the Replacement Costs of the Alterations and any potential loss or damage that could occur to the Premises during construction of the Alterations.

Any Alterations to the Premises or the utility systems or HVAC System that are required by reason of any present or future law, ordinance, rule, regulation or order of any Government Entity having jurisdiction over the Premises or of any insurance company insuring the Premises, and regardless of whether or not such Alteration pertains to the nature, construction or structure of the Premises or to the use made thereof by TENANT, will be at the sole cost of TENANT regardless of whether the work is performed by LANDLORD or by TENANT.

ARTICLE VIII

INSURANCE, DAMAGE TO IMPROVEMENTS, INDEMNIFICATION

8.01 INSURANCE DURING OPERATIONS. Prior to TENANT's entry and occupancy of the Premises, whether to undertake construction of the TENANT's Improvements or installation of TENANT's FF&E to commence operations; TENANT shall, at TENANT's sole cost and expense, obtain and keep in force and furnish to LANDLORD a certificate or certificates substantiating the fact that TENANT has taken out the insurance hereinafter set forth:

(a) **Term.** For the period of time from the date TENANT enters the Property and continuing through the Term of this LEASE, TENANT shall procure and maintain insurance coverages as required in this Section 8.01, in addition to other insurance coverages required herein.

(b) **Coverage Types.** The minimum insurance coverages shall be as follows:

(1) Commercial General Liability insurance, or equivalent, of an "occurrence" type. TENANT's commercial general liability insurance shall include Broad Form Property Damage, Personal Injury Liability Insurance (with the Employee's Exclusion deleted), Products Liability Insurance, Independent Contractor's Liability Insurance and Blanket Broad Form Contractual Liability Insurance. The policy or policies of insurance shall cover loss or damage to the Improvements to the Property including, without limitation, the Terminal Building, and all Improvements to the Property, and the personal property of TENANT contained in or on the Premises, and shall cover personal injuries, including death.

(2) Business Interruption or loss of income insurance in amounts sufficient to insure TENANT's business operations for a period of not less than one year.

(3) Workers Compensation coverage as required by law, including employer's liability coverage, with a limit of not less than Five Hundred Thousand Dollars (\$500,000) and waiver by TENANT's insurer of any right of subrogation against LANDLORD and its Assignee by reason of any payment under such coverage.

(c) **Amount.** The minimum amount of Commercial General Liability insurance coverage shall be not less than a combined single limit three million dollars (\$3,000,000) for one or more persons injured and property damage in each occurrence. LANDLORD may, from time to time during the Term, require such higher insurance limits or additional insurance coverage as LANDLORD may reasonably believe are warranted.

(d) **Blanket Policies.** TENANT's obligation to carry insurance as required in this Article VIII and elsewhere in this LEASE may be satisfied by coverage under a so-called blanket policy or policies of insurance; provided that the coverage afforded LANDLORD will not be reduced or diminished and the requirements set forth in this LEASE are otherwise satisfied by such blanket policy or policies.

(e) **Additional Insured.** The Commercial General Liability certificate of insurance shall also name LANDLORD as an additional insured and shall be primary over any insurance that may be carried by LANDLORD. This insurance shall directly protect LANDLORD as well as TENANT and its agents. The insurer shall assume the defense of LANDLORD, its officers, employees and agents from suits, actions, damages or claims of every type and description to which they may be subjected or put by reason of, or resulting from the occupancy of the Premises by TENANT, its sublessees and their agents, employees, patrons, contractors and subcontractors. The insurance policy shall expressly state that the above terms are in effect. The Business Interruption insurance and the Builder's Risk insurance referenced in Sections 5.07 and 7.11 will also name LANDLORD, its Assignee and Lenders as loss payees.

(f) **Self Insurance.** Subject to the consent of any Lender, TENANT may self-insure for all or a portion of the required insurance coverages set out in this LEASE, but only if TENANT maintains a minimum tangible net worth and a fully funded trust fund administered by the Federal Motor Carrier Safety Administration in the amounts specified by the Surface

Transportation Board to provide security for payment of claims. TENANT shall certify to LANDLORD in writing and provide such evidence as LANDLORD reasonably requests, on the date that insurance coverage is first required under this LEASE and annually thereafter, that TENANT has such minimum net worth and fully funded trust fund.

8.02 FIRE AND CASUALTY INSURANCE. For the period of time from the date TENANT enters the Property and continuing through the Term of this LEASE, TENANT shall also procure and, at no cost to LANDLORD, a fire-insurance policy insuring the Improvements (including boiler and machinery) for their full Replacement Cost (exclusive of the costs of excavations, foundations and footings), or the amount of insurance LANDLORD's (or its Assignee's) Lender may require, whichever is greater, providing protection against damage or destruction of the Improvements by fire and the perils commonly covered under the standard extended coverage endorsement to fire insurance policies issued on real property in Sacramento County. The policy required by this Section 8.02 must insure the Improvements against loss or destruction by windstorm, cyclone, tornado, hail, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, fire, smoke damage, and sprinkler leakage, even if these perils are not commonly covered under the standard extended-coverage endorsement. In addition, so long as any Leasehold Encumbrance exists, the policy must include a standard lender endorsement and TENANT's insurance shall include earthquake coverage if required by a Lender.

8.03 POLLUTION INSURANCE COVERAGES. For the period of time from the date TENANT enters the Property and continuing through the Term of this LEASE, TENANT shall also procure and, at no cost to LANDLORD, insurance coverage that insures against loss or liability caused by, or connected with, the use or possession of Hazardous Materials by TENANT during its possession and use of the Premises under this LEASE, in an amount not less than One million Dollars (\$1,000,000).

8.04 INSURERS AND POLICIES. All policies of insurance described in this Article VIII to be obtained by TENANT shall be issued in form acceptable to LANDLORD by insurance companies acceptable to LANDLORD and admitted to conduct casualty insurance business in the State of California and shall have deductibles in an amount no larger than is reasonable and customary in the location in which the Premises are located. Such insurance companies shall have a current Best's Key Rating of not less than an "A" (Policyholder's Rating) and "X" (Financial Size Category). Each such policy shall be issued in the names of TENANT and LANDLORD and any other party in interest from time to time designated by written notice by LANDLORD to TENANT, as their respective interests may appear, and shall provide that LANDLORD is a loss payee. Such policies shall be for the mutual and joint benefit and protection of TENANT, LANDLORD, and any such other party in interest.

(a) **Delivery.** Executed copies of each such policy of insurance or a certificate thereof shall be delivered to LANDLORD and any other parties in interest within ten (10) calendar days after the date of issuance and thereafter within thirty (30) calendar days prior to the expiration of each such policy. In addition, TENANT shall furnish LANDLORD a copy of the policy (policies) within ten (10) days from the date of LANDLORD's written request.

(b) **Cancellation.** Each certificate shall bear an endorsement precluding the cancellation, lapse or reduction in coverage of any policy covered by such certificate before the expiration of thirty (30) days after LANDLORD shall have received notification of such cancellation or reduction by registered mail.

(c) **Primary Insurance.** All such public liability, property damage and other casualty policies shall be written as primary policies which do not contribute to and are not in excess of coverage which LANDLORD may carry. All such public liability and property damage policies shall contain a provision that LANDLORD and any such other parties in interest, although named as an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to LANDLORD or any such other parties in interest, or to any of their respective servants, agents or employees by reason of the acts, omissions or negligence of TENANT or its sublessees.

(d) **Deductibles.** No insurance policy required to be maintained by TENANT under this LEASE may have a deductible greater than One Hundred Thousand Dollars (\$100,000) unless approved in writing by LANDLORD.

(e) **Failure to Maintain.** If TENANT fails to maintain the required insurance coverages and amounts, LANDLORD may take out insurance to cover damages of the above mentioned classes for which LANDLORD might be held liable on account of TENANT and its contractors and subcontractors failing to pay such damages, and recover the amount of the premiums for such insurance from TENANT as Rent or retain such amount from any monies due TENANT under this LEASE. Failure of LANDLORD to obtain such insurance shall in no way relieve TENANT from any of its responsibilities to procure and maintain such insurance under this LEASE and such failure will be an Event of Default.

8.05 WAIVER OF CLAIMS AND SUBROGATION. Anything to the contrary in this LEASE notwithstanding, neither LANDLORD nor its officers, directors, employees, agents or invitees shall be liable to TENANT, its sublessees or to any insurance company (by way of subrogation or otherwise) insuring TENANT or its sublessees for any loss or damage to any building, structure or other tangible, when such loss is caused by any of the perils that are or could be insured against under a standard policy of full Replacement Cost insurance for fire, theft and all risk coverage, or losses under workers' compensation laws and benefits (including, without limitation, consequential damages, business interruption or loss of profits in connection therewith), even though such loss or damage might have been occasioned by the negligence, gross negligence or willful misconduct of LANDLORD, its agents or employees. TENANT shall notify its respective insurance carriers of this provision and shall obtain all necessary endorsements to the insurance policies of TENANT and its sublessees to give effect to this waiver of subrogation.

8.06 DESTRUCTION OF IMPROVEMENTS; REPLACEMENT. TENANT covenants that in case of damage to or destruction of the Improvements by fire or any other cause, similar or dissimilar, insured or uninsured, it will promptly, at its sole cost and expense, restore, repair, replace or rebuild the Improvements as nearly as possible to the condition, quality and class it was in immediately prior to such damage or destruction, or with such changes or alterations as TENANT shall elect to make and as approved by LANDLORD. Such restoration, repairs, replacement or rebuilding shall be commenced promptly and prosecuted with reasonable diligence.

8.07 APPLICATION OF INSURANCE PROCEEDS. All insurance proceeds that become payable while this LEASE is in effect because of damage to, or destruction of, any of the Improvements will be paid to TENANT in trust and applied by TENANT to the cost of repairing and restoring the damaged or destroyed Improvements as required by Section 8.06. If insurance proceeds, if any, recovered in respect of any insured damage or destruction, less any cost of recovery, shall be insufficient to pay the Replacement Costs, TENANT covenants to pay

the deficiency. If, however, TENANT cancels this LEASE under Section 10.04, then all insurance proceeds collected by TENANT for the Improvements will be used by TENANT to satisfy any outstanding Leasehold Encumbrances with the remainder of the proceeds being turned over to LANDLORD, and LANDLORD may decide in its sole and absolute discretion whether to apply the proceeds to the repair and restoration of the Premises and the Improvements or to retain the proceeds for other uses.

8.08 ENVIRONMENTAL LAW COMPLIANCE AND INDEMNITY.

(a) **Prohibition.** TENANT shall not create, collect, store, treat, dispose of or cause to be released or otherwise discharged any Hazardous Materials on the Premises, except in such minute quantities as are found in everyday cleaning supplies. This prohibition includes, without limitation, the storage of any oil, gasoline or transmission fluid, or the maintenance of any buses or other vehicles, on the Premises. TENANT shall notify LANDLORD within twenty-four (24) hours after discovering or being informed of the presence of any Hazardous Materials on the Premises including, without limitation, the violation of any Environmental Laws.

(b) **Remediation.** Except to the extent caused by LANDLORD, prior to vacating the Premises TENANT shall clean up any Environmental Contamination occurring on the Premises during the Term of this LEASE and located on, under, or adjacent to the Property, wherever located, in accordance with the requirements of all Environmental Laws and to LANDLORD's satisfaction. After remediation, the Premises shall remain in its cleaned-up condition through the time TENANT vacates the Premises. Should TENANT not fulfill its obligations under this Section 8.08(b), TENANT shall reimburse LANDLORD for all such clean-up costs and shall indemnify LANDLORD for all such costs and all other Environmental Liabilities under Section 8.08(c) of this LEASE.

(c) **Indemnity.** Notwithstanding any other provision of this LEASE, TENANT shall defend, indemnify and hold harmless LANDLORD, its officers, directors, employees, representatives, agents, contractors, subcontractors, invitees, successors and assigns from and against any and all Environmental Liabilities (including strict liability), which may now or in the future (whether during or after the Term) be paid, incurred or suffered by or asserted against LANDLORD by any person or entity or Governmental Entity for, with respect to, or as a direct or indirect result of, (a) acts or omissions of TENANT, its officers, directors, employees, shareholders, representatives, agents, contractors, subcontractors or invitees on or in connection with the Premises; (b) acts or omissions of SUBLESSEE, its officers, directors, employees, shareholders, representatives, agents, contractors, subcontractors or invitees on or in connection with the Premises; and (c) any and all breaches of the covenants, representations and warranties set forth in this Section 8.08. The covenants and indemnifications contained in this Section 8.08 shall survive the expiration or other termination of this LEASE.

8.09 INDEMNIFICATION. Except for the claims, rights of recovery and causes of action that LANDLORD has expressly released and waived in this LEASE and to the extent it may lawfully do so, TENANT shall indemnify, defend and hold harmless LANDLORD and its officers, directors, employees, agents, contractors, subcontractors and invitees from all claims, demands, liabilities, losses, costs, damages, or expenses (including but not limited to attorneys' fees) resulting or arising from any and all injuries to, including death of, any person or damage to any property caused by (i) any act, omissions, or neglect of TENANT or its officers, directors, employees, shareholders, representatives, agents, contractors, subcontractors, invitees or guests, or any parties contracting with TENANT; (ii) any act, omissions, or neglect of TENANT or its officers, directors, employees, shareholders, representatives, agents, contractors,

subcontractors, invitees or guests, or any parties contracting with TENANT; and (iii) any other accident or injury on or relating to the Property or the Premises and any sidewalk or other area adjacent thereto. The covenants and indemnifications contained in this Section 8.09 shall survive the expiration or other termination of this LEASE. **THIS INDEMNITY SHALL COVER AND INCLUDE LOSSES ARISING OUT OF THE NEGLIGENCE AND STRICT LIABILITY OF LANDLORD AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS AND INVITEES, BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS AND INVITEES.**

ARTICLE IX ASSIGNMENT AND SUBLETTING

9.01 ASSIGNMENT BY TENANT.

(a) TENANT may not assign or otherwise transfer, mortgage, pledge or hypothecate this LEASE without LANDLORD's prior written consent, which consent shall not be unreasonably withheld.

(b) Each request for consent to an assignment shall be in writing, accompanied by financial information on the proposed assignee, and such other information as LANDLORD may request. In the event that LANDLORD does consent to a proposed assignment, LANDLORD shall be entitled to require satisfaction of reasonable conditions to its consent, which conditions shall relate to protection of LANDLORD's interests and security hereunder and its use and enjoyment of its adjacent property and improvements at 300 Richards Boulevard, and which may include an express assumption by an assignee or sublessee of all obligations of this LEASE.

(c) Any assignment without consent of LANDLORD shall be void and an Event of Default under this LEASE. In no event shall TENANT be released from liability hereunder upon any permitted assignment unless LANDLORD expressly releases TENANT under the terms of the assignment and assumption agreement. Any permitted assignment shall be subject to the written consent of the assignee to assume all obligations under this LEASE. No consent to an assignment or transfer shall be deemed a consent to any other future assignment or transfer.

(d) As used in this Section 9.01, the term "assignment" shall include any assignment by merger, dissolution or other operation of law or any other change in control of TENANT, including the change in ownership or control of 50% or more of the equitable ownership of TENANT or any entity having control of TENANT as of the date of this LEASE.

9.02 SUBLETTING BY TENANT.

(a) TENANT may not sublease the Premises or otherwise allow any third party to occupy the Premises or any part thereof without LANDLORD's prior written consent, which consent shall not be unreasonably withheld. The restrictions set out in Section 7.04 shall apply and LANDLORD may deny the proposed sublease for the reasons stated therein. The sublease attached as **Exhibit "D"** has been approved by LANDLORD.

(b) Notwithstanding the foregoing restriction on subleasing as set out in subsection (a) above, TENANT shall have the right without the prior written consent of LANDLORD to grant licenses and enter into with contractual agreements under its industry standard "Bus Terminal

License" agreement with agents, ground transportation operators, charter operators, package deliverers, telegraphic, monetary or other transmittal operators, vending operators, and other businesses related to the TENANT's operations if such activities by others are contained within the Terminal Building, are incidental to the primary use and occupancy of the Premises by TENANT, and are provided primarily for the comfort and convenience of TENANT's patrons. Any food services which are prepared on the Premises or which are served to patrons or the general public, and the sale of goods or services that do not fall under the foregoing "Bus Terminal License" exception, requires LANDLORD's written prior approval as a sublease.

(b) Each request for subletting shall be in writing, accompanied by financial information on the proposed tenant, information on the proposed use of the Premises, and such other information as LANDLORD may request. In the event that LANDLORD does consent to a proposed sublease, LANDLORD shall be entitled to require satisfaction of reasonable conditions to its consent, which conditions shall relate to protection of LANDLORD's interests and security hereunder and its use and enjoyment of its adjacent property and improvements at 300 Richards Boulevard, and which may include an express assumption by sublessee of the applicable provisions of this LEASE.

(c) Any sublease without consent of LANDLORD shall be void and an Event of Default under this LEASE. In no event shall TENANT be released from liability hereunder upon any permitted sublease. No consent to a sublease shall be deemed a consent to any other future sublease.

9.03 ASSIGNMENT BY LANDLORD. LANDLORD shall have the right to transfer and assign, in whole or in part, by operation of law or otherwise, its rights and obligations hereunder without TENANT's consent. LANDLORD shall also have the right to sell or transfer the Property without TENANT's consent, but such sale or transfer shall be subject to this LEASE if TENANT is not in default at the time of such sale or transfer.

ARTICLE X DEFAULT AND REMEDIES

10.01 DEFAULT BY TENANT. Each of the following shall be deemed an "Event of Default" by TENANT hereunder and a material breach of this LEASE:

(a) TENANT unreasonably refuses to approve the Plans or to commence occupancy of the Premises as required herein;

(b) TENANT fails to pay any installment of Base Rent or any other sums owed LANDLORD within five (5) days from the date of receipt of LANDLORD's written notice of nonpayment;

(c) TENANT fails to materially keep, perform, or observe any of the covenants, agreements, terms, or provisions contained in this LEASE that are to be kept or performed by TENANT other than with respect to payment of Rent, and TENANT shall fail to commence and take such steps as are necessary to remedy the same within thirty (30) calendar days after TENANT shall have been given a written notice specifying the same, or having so commenced, shall thereafter fail to proceed diligently and with continuity to remedy the same;

(d) TENANT discontinues its use of the Premises as a Greyhound bus terminal or

otherwise abandons the Premises by failing to occupy the Premises for a continuous thirty (30) day period;

(f) TENANT or any other person shall file a petition naming TENANT as debtor in any bankruptcy or other insolvency proceeding or shall file for the appointment of a liquidator or receiver for all or substantially all of TENANT's property or for TENANT's interest in this LEASE or TENANT shall admit in writing its inability to meet its obligations as they become due or make an assignment for the benefit of its creditors. In that event, this LEASE or any interest of TENANT in and to the Improvements, Premises or the Property shall not become an asset in any of such proceedings and, in any such events and in addition to any and all rights or remedies of LANDLORD under this LEASE or as otherwise provided by law, this LEASE shall be automatically terminated as of the date TENANT takes or is subjected to any of such actions, and LANDLORD shall be entitled to reenter the Property and the Premises and take possession thereof and remove all persons therefrom, and TENANT shall have no further claim thereon or hereunder.

10.02 LANDLORD'S REMEDIES. If an Event of Default occurs under this LEASE, LANDLORD shall be entitled to any and all remedies permitted by California Civil Code Sections 1951.2 and 1951.4, as those sections may be amended or renumbered from time to time. Those remedies are specifically set forth in subsections (a), (b) and (c) below, and the Parties agree that such remedies are not exclusive, and are cumulative in addition to any remedies now or later allowed by law.

(a) If TENANT breaches this LEASE, or if LANDLORD terminates TENANT's right to possession of the Premises due to an Event of Default, this LEASE shall terminate and LANDLORD shall be entitled to recover from TENANT:

(i) the amount of any payment LANDLORD is obligated to pay to any Lender to remove the Leasehold Encumbrance;

(ii) the worth at the time of the award of the unpaid Rent and other sums that had been earned or had accrued at the time of termination; and

(iii) any other amount necessary to compensate LANDLORD for all the detriment proximately caused by TENANT's failure to perform its obligations under this LEASE or which in the ordinary course of events would be likely to result therefrom.

LANDLORD's efforts to mitigate the damages caused by TENANT's breach of this LEASE do not waive LANDLORD's right to recover damages as set forth herein. Termination of this LEASE pursuant to this Section 10.2 shall not affect LANDLORD's rights to indemnification as specified in this LEASE.

(b) Notwithstanding TENANT's default and/or the abandonment of the Premises, LANDLORD may elect to continue this LEASE in effect and enforce all of LANDLORD's rights and remedies hereunder, including without limitation the right to collect Rent as it becomes due, unless and until LANDLORD elects to terminate this LEASE. During the period that TENANT is in default, LANDLORD may enter the Premises and relet them, or any part of them, to third parties for TENANT's account.

(c) TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including without limitation brokers' commissions, expenses of

cleaning, repairing and repainting the Premises as required for the reletting and like costs, which may include replacement of flooring due to excessive wear, but excluding the costs of remodeling to suit a new tenant. Reletting may be for a period shorter or longer than the remainder of the Term. LANDLORD shall not be obligated to credit TENANT for the rent collected by LANDLORD if the Premises are relet due to the default of TENANT. No act by LANDLORD allowed by this subsection shall terminate this LEASE unless LANDLORD notifies TENANT that LANDLORD elects to terminate this LEASE. After TENANT's default and for as long as LANDLORD does not terminate TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's consent, TENANT shall have the right to assign or sublet its interest in this LEASE, subject to the provisions of Sections 9.01 and 9.02, but TENANT shall not be released from liability for its default.

(d) All agreements and provisions to be performed by TENANT under any of the terms of this LEASE shall be at TENANT's sole cost and expense. If TENANT shall fail to pay any sum of money, other than Base Rent, required to be paid by it hereunder or shall fail to cure any default and such failure shall continue for thirty (30) days after notice thereof by LANDLORD, then LANDLORD may, but shall not be obligated so to do, and without waiving or releasing TENANT from any obligations, make any such payment or perform any such act on TENANT's part. All sums so paid by LANDLORD and all costs incurred by LANDLORD in taking such action shall be deemed additional Rent hereunder and shall be paid to LANDLORD on demand, and LANDLORD shall have (in addition to all other rights and remedies of LANDLORD) the same rights and remedies in the event of the non-payment thereof by TENANT as in the case of default by TENANT in the payment of Base Rent.

10.03 CURE OF DEFAULTS OTHER THAN PAYMENT OF MONIES. Notwithstanding any other provisions of this Article X, LANDLORD agrees that if the default complained of, other than for the payment of monies, is of such a nature that the same cannot be rectified or cured within the thirty (30) calendar day period requiring such rectification or curing as specified in the written notice relating thereto, then such default shall be deemed to be rectified or cured if TENANT within such period of thirty (30) calendar days shall have commenced the rectification and curing thereof and shall continue thereafter with all due diligence to cause such rectification and curing and does so diligently complete the same.

10.04 LANDLORD DEFAULT. LANDLORD shall not be deemed to be in default in the performance of any obligation required to be performed by it under this LEASE until it has failed to perform such obligation within thirty (30) calendar days after receipt of written notice by TENANT specifying the nature of LANDLORD's default; provided, however, that if the nature of LANDLORD's obligation is such that more than thirty (30) calendar days are required for its performance, then LANDLORD shall not be deemed to be in default if it shall commence such performance within such thirty (30) calendar day period and thereafter diligently prosecute the same to completion.

10.05 EARLY TERMINATION OF LEASE. The Parties may mutually terminate this LEASE for convenience prior to the Termination Date to allow for TENANT to relocate to LANDLORD's Intermodal Facility. Execution of a lease between the Parties for the Intermodal Facility will constitute the mutual agreement to terminate this LEASE.

10.06 SUMMARY DISPOSSESSION. Upon the expiration of the Term of the LEASE and pursuant to any of the provisions of this Article X, to the extent authorized by California statute, LANDLORD may, without formal demand or notice of any kind, reenter the Premises by summary dispossession proceedings or any other action or proceeding authorized by law, or by force or otherwise and to remove TENANT, sublessees and any other tenant therefrom without

being liable for any damages therefor.

10.07 TENANT FIXTURES AND PERSONAL PROPERTY. In the event of TENANT's default, all of the permanently affixed TENANT FF&E and TENANT's Improvements, including, without limitation, any additions and alterations to the Premises undertaken by TENANT during Initial Term and/or Occupancy Term, and other personal property, whether placed on the Premises by TENANT or its sublessee, shall remain on the Premises and in that event, and continuing during the length of such default, LANDLORD shall have the right to take the exclusive possession of same and to use the same, rent or charge free, until all defaults are cured or, at its option, at any time during the LEASE Term, to require TENANT to forthwith remove the same. LANDLORD will, to the extent necessary, subordinate its liens rights as to the personal property and equipment, only, to the vendor's lien rights, if such exist. The foregoing shall not apply to TENANT's buses and other vehicles.

ARTICLE XI CONDEMNATION

11.01 TOTAL TAKING. If, while this LEASE is in effect, any public or quasi-public entity uses the power of eminent domain to take fee title to all of the Premises, or to take fee title to all of the Improvements, or to take TENANT's entire leasehold estate (a "Total Taking"), then this LEASE will terminate on the earlier of (i) the day legal title is vested in the entity exercising the power of eminent domain; or (ii) the day the entity exercising the power of eminent domain takes actual physical possession. Thereafter, both LANDLORD and TENANT will be released from all obligations under this LEASE except those specified by Section 11.03 or by the indemnity obligations specified to survive termination or expiration of this LEASE.

11.02 PARTIAL TAKING; REPLACEMENT IMPROVEMENTS. If, while this LEASE is in effect, a taking of the Premises or the Improvements occurs that is less than a Total Taking (a "Partial Taking"), then all compensation and damages payable for the Partial Taking and attributable to the Improvements will be made available to TENANT as reasonably needed to do the following:

- (a) Repair all or any portion of the Improvements not taken.
- (b) Replace the Improvements taken on the portion of the Premises not taken (the "Replacement Improvements"), if replacement is permitted by then-existing law. Plans and specifications for the Replacement Improvements must be compatible in architecture and construction quality with the Improvements not taken and must be approved in writing by LANDLORD before construction begins.

Notwithstanding the foregoing, TENANT may elect to terminate this LEASE for a Partial Taking if the portion of the Premises or the Improvements taken is so substantial that even with Replacement Improvements that TENANT's use of the Premises as described in Section 7.04 will be materially impaired. To terminate this LEASE under this Section 11.02, TENANT must serve LANDLORD with written notice of termination within sixty (60) calendar days after TENANT receives, from LANDLORD or the entity exercising the power of eminent domain, a written notice describing the extent and scope of the taking. The termination will be effective on the date the condemning authority takes physical possession of the portion of the Premises or the Improvements taken by eminent domain.

11.03 CONDEMNATION AWARD. Compensation awarded because of a taking by eminent domain will be allocated between LANDLORD and TENANT as follows:

(a) Compensation for any land that is part of the Premises will be paid to LANDLORD and be LANDLORD's sole property, free and clear of any claim of TENANT, its sublessees or any person claiming rights to the Premises through or under TENANT.

(b) When only a portion of the Premises is taken by eminent domain and TENANT is not entitled to or does not terminate this LEASE, compensation for any of the TENANT's Improvements and TENANT's FF&E that are taken will be applied in accordance with Section 11.02 toward the costs of repair of the Improvements and the Replacement Improvements.

(c) Any severance damages awarded because only a portion of the Premises is taken by eminent domain shall be LANDLORD's sole and separate property.

(d) Any damages awarded for relocation expenses, loss of business, or loss of goodwill will belong exclusively to TENANT.

11.04 VOLUNTARY CONVEYANCE IN LIEU OF EMINENT DOMAIN. LANDLORD's voluntary conveyance of title to a public or quasi-public entity of all or a portion of the Premises under threat by that entity to take it by eminent domain will be considered a taking of title to all or a portion of the Premises under the power of eminent domain for purposes of this Article XI.

11.05 PARTICIPATION IN CONDEMNATION PROCEEDINGS. TENANT and any Lender shall have the right to participate in any condemnation proceeding for the purpose of protecting their rights under this LEASE, and in this connection, specifically and without limitation to introduce evidence independently of LANDLORD to establish the value of or damage to the Improvements.

ARTICLE XII **MISCELLANEOUS**

12.01 AMENDMENTS. Any amendment or modification of this LEASE shall be effective only if set forth in a written document executed by a duly authorized officer of each of the Parties.

12.02 NON-WAIVER. Neither the acceptance by LANDLORD of any Rent or other payment hereunder, whether or not any default hereunder by TENANT is then known to LANDLORD, or any custom or practice followed in connection with this LEASE shall constitute a consent or waiver of any right or obligation by either Party. Failure by either Party to complain of any action or non-action on the part of the other Party or to declare the other in default, irrespective of how long such failure may continue, shall not be deemed to be a waiver of any rights hereunder. Except for the execution and delivery of a written agreement expressly accepting surrender of the Premises, no act taken or failed to be taken by either Party shall be deemed an acceptance or surrender of the Premises.

12.03 FORCE MAJEURE. Except as otherwise expressly provided in this LEASE, if the performance of any act required by this LEASE to be performed by either LANDLORD or TENANT is prevented or delayed because of a Force Majeure (defined in Section 1.08), then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused. This Section 12.03 does not

excuse TENANT from the obligation to pay Rent and other amounts owed promptly or the obligation of either Party to perform an act rendered difficult or impossible solely because of that Party's financial condition.

12.04 NOTICES. Any notice, request, instruction, demand or other communication to be given hereunder by either Party hereto to the other shall be given in writing and shall be delivered either by hand, by telecopy or similar facsimile means, or by registered or certified mail, postage prepaid, return receipt requested, as follows:

a) If to TENANT, addressed to:

Real Estate Department
Greyhound Lines, Inc.
350 N. St. Paul Street, Ste 1100
Dallas TX 75201

With copy to:

Legal Department
Greyhound Lines, Inc.
PO Box 660362
Dallas TX 75266-0362

(b) If to LANDLORD, addressed to:

Economic Development Department
Attn: Greyhound Lease Manager
City of Sacramento
915 I Street, 3rd Floor
Sacramento CA 95814

Notices shall be deemed given when received, if sent by telecopy or similar facsimile means, and when delivered and receipted for, if mailed or hand delivered. Any Party may change its address for these purposes by giving written notice of the change to the other Party in the manner provided in this Section 12.04. If sent by mail, a notice or other communication will be effective or will be considered to have been properly given 48 hours after it has been deposited in the United States Mail (certified mail and return receipt requested) and addressed as set forth above, with postage prepaid. The Parties shall not refuse or evade delivery of any notice. Notice personally served will be considered effective or to have been properly given upon delivery.

12.05 QUIET ENJOYMENT. LANDLORD covenants that if TENANT, on paying the Rent and performing and observing all of the covenants and agreements herein contained and provided to be performed by TENANT, TENANT shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Premises during the Term, and TENANT may exercise all of its rights hereunder, subject only to the provisions of this LEASE and all applicable legal requirements.

12.06 HOLDING OVER. If TENANT does not surrender possession of the Premises at the end of the Term, such action shall not extend the Term, TENANT shall be a tenant at sufferance, and during such time of occupancy TENANT shall pay to LANDLORD, as damages, an amount equal to one hundred percent (100%) of the amount of rent that TENANT paid or owed to

LANDLORD immediately prior to the end of the Term or immediately prior to the end of TENANT's lawful possession of the Premises.

12.07 ABANDONED PROPERTY. If TENANT and its sublessees do not remove all of TENANT's and sublessees' property from the Premises within thirty (30) calendar days of the end of the Term, or within thirty (30) calendar days following notice from LANDLORD following any eviction; should LANDLORD elect not to exercise any rights it may have to such property, such property shall be deemed to have been abandoned by TENANT and its sublessees and LANDLORD may either dispose of such property without liability to TENANT or its sublessees for conversion or damage or may store such property either at the Premises or elsewhere. TENANT shall be liable for LANDLORD's reasonable storage fees and for payment of any damages that may be owed to a sublessee due to the acts of LANDLORD under this Section 12.07.

12.08 LIMITATION OF LANDLORD'S LIABILITY. TENANT specifically agrees to look solely to LANDLORD's interest in the Premises for the recovery of any judgment against LANDLORD, it being agreed that LANDLORD, its officers, directors and employees shall never be personally liable for any such judgment, nor shall LANDLORD's General Fund or special funds be subject to attachment. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that TENANT might otherwise have to obtain injunctive relief against LANDLORD or LANDLORD's Assignee or successors in interest, or any suit or action in connection with enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by LANDLORD.

12.09 KEYS AND LOCKS. Upon termination of this LEASE, TENANT shall surrender to LANDLORD all keys to any locks on doors entering or within the Terminal Building, and give to LANDLORD the explanation of the combination of all locks for safes, safe cabinets and vault doors, if any, in the Premises.

12.10 SURRENDER. On the Termination Date, or upon the earlier termination or cancellation of this LEASE, TENANT shall peaceably and quietly surrender the Premises to LANDLORD, "broom clean", in good order, repair and condition at least equal to the condition at the time of issuance of the certificate of occupancy, excepting only reasonable wear and tear resulting from normal use, damage by forces beyond TENANT's reasonable control, and damage by fire or other casualty covered by the insurance required hereunder. If TENANT fails to do any of the foregoing, LANDLORD, in addition to other remedies available to it at law or in equity, may enter upon, reenter, possess and repossess the Premises itself, without breach of the peace, and may dispossess and remove TENANT, its sublessees, and all persons and property from the Premises, as is allowed by law. Such dispossession and removal of TENANT and its sublessees shall not constitute a waiver by LANDLORD of any claims by LANDLORD against TENANT, or by TENANT against LANDLORD. At LANDLORD's written request, TENANT shall execute and deliver to LANDLORD quitclaim deeds or other reasonable documents in a recordable form acceptable to LANDLORD that reflect the expiration or termination of TENANT's right, title and interest in this LEASE, the Premises and the Improvements.

12.11 LANDLORD'S LIEN. In addition to any statutory or constitutional landlord's lien, TENANT hereby expressly grants to LANDLORD, in consideration of the mutual benefits arising under this LEASE, a contractual lien and security interest to secure payment of all Rent as may, from time to time, be due under this LEASE, and to secure payment by TENANT of any loss or damages of LANDLORD arising out of any breach of any covenant, warranty, representation or condition contained herein, upon TENANT's Improvements and TENANT's FF&E contained in

the Premises, but excluding TENANT's buses and other vehicles.

12.12 RECORDING. Neither this LEASE, nor any memorandum thereof, shall be placed of record by TENANT without LANDLORD's express written approval. LANDLORD and TENANT shall execute, at the request of either at any time while this LEASE is in effect, a memorandum or "short form" of this LEASE for purposes of, and in a form suitable for, recordation. The memorandum or "short form" must describe the Parties and the Premises, specify the term of this LEASE, incorporate this LEASE by reference, and include any other provisions required by any Lender.

12.13 ESTOPPEL CERTIFICATES. Each Party, within ten (10) business days after receiving a written request from the other Party, shall execute and deliver to the requesting Party an Estoppel Certificate that does the following:

(a) Certifies that this LEASE is unmodified and in full effect (or, if this LEASE has been modified, that this LEASE is in full effect as modified);

(b) States the amount of Rent and dates to which the Rent has been paid in advance, if any;

(c) States, to the best knowledge of the Party providing the certificate, whether the other Party is in breach of the performance of any provision of this LEASE, specifying each breach; and

(d) Such other pertinent information as LANDLORD, TENANT, sublessee, or any Lender may request.

Prospective purchasers, lenders, and other similar lien holders of the Premises, and any assignee or subtenant of the Premises, may rely on such an Estoppel Certificate.

12.14 TIME OF ESSENCE. Time is of the essence of this LEASE.

12.15 RELATIONSHIP OF THE PARTIES. This LEASE does not create any relationship or association between LANDLORD and TENANT other than that of landlord and tenant. For example, and without limiting the previous sentence, this Lease does not create between LANDLORD and TENANT the relationship of principal and agent, nor does it create a partnership or joint venture.

12.16 NO THIRD PARTY BENEFICIARIES. This LEASE shall not be deemed to confer any rights upon any individual or entity, which is not a party hereto, and the Parties hereto expressly disclaim any such third-party benefit. In particular, a sublessee which is not a party to this LEASE shall have no right to enforce the terms of this LEASE against either Party.

12.17 ATTORNEYS' FEES. The party prevailing in any litigation concerning this LEASE, the Property, the Premises, or the Improvements will be entitled to an award by the court of reasonable attorneys' fees and litigation costs through final resolution on appeal in addition to any other relief that may be granted in the litigation.

12.18 BINDING ON SUCCESSORS AND ASSIGNS. This LEASE binds and inures to the benefit of the successors and assigns of the Parties. This Section 12.18 does not constitute LANDLORD's consent to any assignment of this LEASE or any interest in the LEASE.

12.19 SEVERABILITY. If any nonmaterial term, provision, covenant or condition of this LEASE is held by any court of competent jurisdiction to be invalid, void or unenforceable in any respect, the remainder of such term, provision, covenant or condition in every other respect and the remainder of the terms, provisions, covenants or conditions of this LEASE shall continue in full force and effect and shall in no way be affected, impaired or invalidated.

12.20 GOVERNING LAW. This LEASE has been executed in the State of California and shall be construed in accordance with and governed by the laws of the State of California and the laws of the United States applicable to transactions within the State of California.

12.21 INTERPRETATION AND VENUE. This LEASE is to be interpreted and applied in accordance with California law, except that the rule of interpretation in Civil Code section 1654 will not apply. The Background and Exhibits "A", "B" and "E" are part of this LEASE. Exhibit "C", the Memorandum of Lease and Exhibit "D", TENANT Sublease, are not a part of this LEASE. Any litigation concerning this LEASE must be brought and prosecuted in the Sacramento County Superior Court.

12.22 CONSTRUCTION OF LANGUAGE. In all cases the language in all parts of this LEASE shall be construed simply, according to its fair meaning and not strictly for or against LANDLORD or TENANT.

12.23 TITLES. The word titles underlying the article and section designations contained in this LEASE are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as any part of this instrument.

12.24 ENTIRE AGREEMENT. This Lease and the Exhibits hereto constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all other prior and contemporaneous agreements and understandings, both oral and written, of the Parties in connection therewith. No covenant or condition not expressed in this LEASE shall affect or be effective to interpret, change or restrict this LEASE.

12.25 AUTHORITY OF PERSONS SIGNING LEASE. Each person or entity signing this LEASE on behalf of LANDLORD or TENANT warrants and represents that he, she, or it is authorized to execute this LEASE and to bind LANDLORD or TENANT, as the case may be, to its provisions.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the LANDLORD and TENANT have executed this LEASE as of the dates set forth below.

LANDLORD:

CITY OF SACRAMENTO,
a Municipal Corporation

By: _____
City Manager

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

TENANT:
GREYHOUND LINES, INC.,
A Delaware Corporation

By: _____
Name:
Title:

Date: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

(To be attached)

EXHIBIT "B"

**PREMISES SITE PLAN AND
TERMINAL BUILDING SPECIFICATIONS**

(on file with the City Clerk's Office)

EXHIBIT "C"

MEMORANDUM OF LEASE

To be prepared and affixed at the commencement of the Occupancy Term

EXHIBIT "D"

GREYHOUND SUBLEASE

EXHIBIT "E"

to that certain Lease Agreement

by and between _____, as Landlord and
Greyhound Lines, Inc., as Tenant

Dated

Non-Disturbance and Attornment Agreement

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("AGREEMENT") IS MADE AND ENTERED INTO TO BE EFFECTIVE AS OF _____ BY, BETWEEN AMONG _____ ("MORTGAGEE"), _____ ("LANDLORD"), AND GREYHOUND LINES, INC., A DELAWARE CORPORATION ("TENANT").

WHEREAS, Mortgagee is the owner and holder of that certain promissory note dated _____, in the original principal sum of _____ Dollars (\$ _____), executed by Landlord and payable to the order of Mortgagee (the "Note"), secured by a Mortgage/Deed of Trust of even-date therewith (the "Mortgage");

WHEREAS, the Mortgage constitutes a lien or encumbrance on that certain real property more particularly described in Exhibit "A" attached hereby and incorporated herein;

WHEREAS, Tenant is the holder of a leasehold estate covering a portion of the Property (the "Demised Premises") as set forth in that certain lease between Landlord and Tenant dated (the "Lease");

WHEREAS, Tenant, Landlord and Mortgagee desire to confirm their understanding of their respective rights with respect to the Lease and the liens created by the Mortgage;

WHEREAS, as consideration for Landlord and Tenant entering into the Lease and the benefit to the Mortgagee arising from the value of the Lease, the parties desire to enter this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiencies of which are hereby acknowledged, and in order to induce Mortgagee to consent to the Lease, Landlord, Tenant and Mortgagee hereby and covenant as follows:

Non-Disturbance. Provided Tenant is not in default (beyond any period provided to Tenant in the Lease to cure and remedy such default) in the payment of rent or the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession and occupancy of the Demised Premises shall not be interfered with or disturbed by Mortgagee during the term of the Lease or any extension, renewal or amendment thereof duly exercised by Tenant and Tenant shall, from and after Mortgagee's acquisition of the interests of Landlord in the Property, have the same remedies against Mortgagee for the breach of the Lease that Tenant would have had under the Lease against Landlord if Mortgagee had not succeeded to such interests.

Attornment. If the interests of Landlord in the Property are acquired by Mortgagee by foreclosure,

deed-in-lieu of foreclosure, judicial action or any other method, (a) Tenant agrees to attorn to Mortgagee as the landlord and Tenant shall be under all of the terms, covenants, and conditions of the Lease for the balance of the ten-n thereof remaining including any extension or renewal options which are exercised in accordance with the terms of the Lease; and (b) the interests so acquired shall not merge with any other interests of Mortgagee in the Property if such merger would result in the termination of the Lease.

General Provisions. The provisions of this Agreement shall be effective and self-operative immediately upon Mortgagee succeeding to the interests of Landlord without the execution of any other instrument. This Agreement may not be modified orally or in any other manner except by an instrument in writing signed by the parties hereto, their respective heirs, successors and assigns. Upon recorded satisfaction or release of the Mortgage, this Agreement shall become null and void and of no further effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Landlord:

By: _____
Its: _____

Landlord:

STATE OF _____
COUNTY OF _____

On this ____ day of _____, 200____, personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that said person executed same for the purposes therein stated.

Notary Public
My Commission Expires:

Mortgagee:

By: _____
Its: _____

Mortgagee:

STATE OF _____

COUNTY OF _____

On this _____ day of _____ 200____, personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that said person executed same for the purposes therein stated.

Notary Public
My Commission Expires:

Tenant: GREYHOUND LINES, INC.

By: _____
Its: _____

Tenant:

STATE OF _____

COUNTY OF _____

On this _____ day of _____ 200____, personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that said person executed same for the purposes therein stated.

Notary Public
My Commission Expires:

Exhibit B**420 RICHARDS BOULEVARD GREYHOUND PROJECT
MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this ____ day of _____, 2009, ("Effective Date") by and between the **CITY OF SACRAMENTO**, a municipal corporation, ("CITY") and the **DOWNTOWN SACRAMENTO REVITALIZATION CORPORATION**, a public non-profit public benefit corporation, ("DSRC"). CITY and DSRC are individually referred to herein as "Party" and collectively as "Parties."

RECITALS

This MOU is entered into on the basis of the following facts, understandings and intention of the Parties. These Recitals are intended to paraphrase and summarize the MOU; however, the Parties intend that their specific rights and obligations be determined by the provisions in this MOU and the future implementing agreements and not by these Recitals. In the event of an ambiguity, these Recitals may be used as an aid in interpretation of the intentions of the Parties.

A. **Richards CITY Property.** CITY owns a vacant parcel of land located at 420 Richard Boulevard, which is surplus property acquired at the time CITY purchased the office building at 300 Richards Boulevard.

B. **Greyhound Lease.** At the time of approval of this MOU, CITY will enter into a lease with Greyhound Lines, Inc. ("Greyhound"), which provides that CITY will construct a new bus terminal for Greyhound at 420 Richards Boulevard ("Greyhound Terminal"). The building lease provides for Greyhound to make specified rent payments over the 20 year term and to occupy and maintain the premises in a manner to prevent nuisance activities and unsightly conditions. Under that lease, CITY may relocate Greyhound's operations to the new Sacramento Intermodal Transportation Facility prior to the lease expiration, subject to payment of relocation costs and retaining the same rent schedule for a specified period.

C. **Greyhound Project Budget.** CITY's budget for the new Greyhound Terminal is \$4 million, plus \$2 million for street and site improvements at 420 Richards Boulevard. Of this amount, \$4 million is to be funded from the proceeds of the sale of the Sheraton hotel. The City Council has stated a desire to set-aside a portion of the Sheraton proceeds to fund future income-generating redevelopment projects in the downtown area.

D. **Downtown Revitalization Corporation.** DSRC is a non-profit public benefit corporation established to assist CITY in revitalizing the River District, Railyards and Downtown Sacramento areas by owning and managing property, as well as by providing financial assistance for development projects and undertaking ancillary activities related to redevelopment and elimination of blight in these areas.

E. **Property Management.** After completion of construction of the new Greyhound Terminal, CITY desires to contract with DSRC to manage the terminal to provide the necessary oversight to ensure that Greyhound meets its obligations and to assume all of the CITY's obligations as landlord under the lease.

F. **Redevelopment Projects.** CITY also desires to allow DSRC to retain a portion of the Greyhound rent proceeds to invest in redevelopment projects and activities that would benefit the River District, Railyards and/or Downtown Sacramento areas. To facilitate subsidizing such redevelopment efforts with Greyhound rent proceeds, DSRC may need CITY to transfer a ground lease interest in the property at 420 Richards Boulevard to secure a loan to fund such projects.

G. **MOU Purpose.** The purpose of this MOU is to acknowledge CITY's and DSRC's desire to work cooperatively to develop the terms of the agreements: (i) for DSRC to serve as CITY's property manager for the Greyhound Terminal once CITY completes the improvements to 420 Richards Boulevard and Greyhound commences occupancy; and (ii) to permit DSRC to use a portion of the Greyhound rent proceeds to invest in future DSRC redevelopment activities. The provisions in this MOU set out business terms for CITY and DSRC to further negotiate and more precisely define their respective roles and obligations to oversee Greyhound's operations and undertake redevelopment activities with Greyhound rent proceeds.

AGREEMENT

NOW, THEREFORE, based on the Recitals, the mutual promises and covenants of the Parties contained in this MOU, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. GREYHOUND LEASE AGREEMENT.

The lease of CITY's 420 Richards Boulevard property between CITY and Greyhound dated _____, 2009 ("Greyhound Lease Agreement") is incorporated herein by this reference as if set forth in full. However, nothing in this MOU is intended or shall be construed to modify or amend the Greyhound Lease Agreement, to make DSRC a third party beneficiary of that agreement, or to permit DSRC to enforce any term or condition of that agreement. The Parties intend that the rights and obligations of CITY and DSRC, respectively, in regards to DSRC's oversight of Greyhound and enforcement of the Greyhound Lease Agreement shall be based on the terms of the property management agreement which the Parties' are to negotiate, prepare and approve based on the business terms set out in this MOU, as further described below.

2. GREYHOUND TERMINAL CONSTRUCTION.

CITY shall provide DSRC with information regarding the schedule for construction of the Greyhound Terminal and the anticipated occupancy date as agreed to by CITY and Greyhound in accordance with the terms of the Greyhound Lease Agreement. CITY shall provide DSRC with copies of the site plan and terminal building plan as approved by Greyhound, as well as the final construction drawings and construction contract for the Greyhound Terminal. As part of the terms of the property management agreement as described below, CITY will assign to DSRC the nonexclusive right to enforce the construction contract warranties and to oversee the warranty work to remedy any building or fixtures and equipment defects that may be alleged by Greyhound during the term of the Greyhound Lease Agreement.

3. GREYHOUND TERMINAL MANAGEMENT.

Subject to the terms of the property management agreement to be negotiated and subsequently approved by the Parties prior to Greyhound's occupancy of the Greyhound Terminal, the Parties intend that DSRC shall assume all of CITY's obligations as landlord under the Greyhound Lease Agreement. Such duties would include, without limitation, insuring that Greyhound: (i) makes its rent payments on time (DSRC shall promptly notify CITY of any late rent payment); (ii) properly maintains the premises and provides the specified security patrol services; (iii) maintains insurance coverages and assumes the defense of CITY under the indemnity obligations; and (iv) performs all of the other obligations under the Greyhound Lease Agreement.

DSRC shall regularly inspect the premises to ensure that any sublessees or vendors on the premises and all activities performed or approved by Greyhound have been properly authorized by CITY. CITY and DSRC acknowledge that some of the foregoing duties may be performed by CITY staff on behalf of, and at the direction of, DSRC and such delegated duties are to be specified in the property management agreement.

DSRC shall maintain its books and records in accordance with standard accounting practices and shall prepare an annual financial report regarding the amount of rent and other payments made by Greyhound to DSRC and all expenses paid by Greyhound to maintain the premises that are reported to DSRC. Such records and reports shall be provided to CITY promptly upon DSRC's receipt of a written request.

4. DSRC'S FINANCIAL AND LEGAL OBLIGATIONS.

Under the terms of the property management agreement, DSRC shall be obligated to maintain proper insurance coverages and to indemnify CITY for any liability caused by the improper or negligent acts or omissions of DSRC and its elective and appointive members of boards, commissions, officers, agents, consultants, contractors and employees in the performance of its obligations as CITY's property manager.

In the event of any alleged lease violations by Greyhound, DSRC shall confer with CITY regarding the actions to be taken by DSRC and/or CITY to enforce the terms of the Greyhound Lease Agreement. DSRC shall not declare that Greyhound is in default of its obligations under the Greyhound Lease Agreement or to commence an unlawful detainer enforcement action against Greyhound without the express written consent of CITY.

If Greyhound fails to pay rent or voluntarily or involuntarily files for bankruptcy protection, DSRC shall not be liable to CITY for such lost rent and related monetary damages. If CITY invokes its right to terminate the Greyhound Lease Agreement prior the expiration of that lease term to allow for Greyhound to occupy Sacramento Intermodal Transportation Facility, CITY shall be solely responsible to compensate Greyhound for its relocation costs. In addition, CITY shall be solely responsible to pay any monetary damages of Greyhound stemming from any dispute between CITY and Greyhound regarding the termination of the Greyhound Lease Agreement based on Greyhound's or CITY's default.

5. GREYHOUND'S RENT PAYMENTS.

Greyhound's rent payments shall be distributed as follows:

- (i) compensate DSRC fifteen percent (15%) for its property management services;
- (ii) set-aside five percent (5%) into a capital reserve account to cover the costs of equipment replacements, building modifications and upgrades, and other related expenses, with DSRC's expenditures from this account subject to CITY's prior approval;
- (iii) pay CITY forty percent (40%) in consideration for its costs to construct and lease the Greyhound Terminal; and
- (iv) retain forty percent (40%) for investment in redevelopment activities by DSRC.

DSRC shall make payment to CITY semi-annually within thirty (30) days from the end of each six month period. DSRC shall be entitled to retain any interest that may have accrued from the Greyhound rent deposits prior to the payment due date. Each payment shall be accompanied by a written statement that sets out all of the amounts paid by Greyhound and all of the authorized deductions under the terms of the property management agreement.

The property management agreement shall provide the right for CITY to terminate the agreement for CITY's convenience, subject to CITY's continued obligation to fund DSRC's redevelopment activities with the residual Greyhound rent proceeds during the term of the Greyhound Lease Agreement at 420 Richards Boulevard.

6. REDEVELOPMENT PROJECTS.

CITY will permit DSRC to invest the residual amount of the Greyhound rent proceeds for redevelopment activities within the River District, Railyards and Downtown Sacramento redevelopment project areas in accordance with DSRC's authority, as set out in its articles of incorporation.

The City may in its sole discretion grant the DSRC a ground lease of the 420 Richards Boulevard property (subordinate to the Greyhound Lease Agreement) and permitting a deed of trust to be recorded against CITY's property as security for a DSRC loan. The DSRC loan would pledge the residual Greyhound rent proceeds as the primary source of repayment and DSRC would pledge DSRC assets and other revenues to CITY as further security for repayment of the DSRC loan in the event Greyhound defaults under the Greyhound Lease Agreement, to minimize the risk of foreclosure of CITY's 420 Richards Boulevard property under the terms of the deed of trust.

If CITY grants DSRC a ground lease and permits recording of a deed of trust as described above, the term of the lease and the period for repayment of the DSRC loan shall be limited to no longer than 10 years to comply with the provisions of City Code Section 3.68.110(E). CITY's approval of such ground lease and recording of a deed of trust will be discretionary and such approval will be dependent in part on the schedule for relocation of Greyhound's operations to the Sacramento Intermodal Transportation Facility.

7. COVENANT OF GOOD FAITH AND COOPERATION.

CITY and DSRC agree that each of them shall at all times act in good faith and to cooperate with one another in order to carry out the terms of this MOU. Any information which is readily available and required by one Party from the other Party in order to carry out that Party's obligations under this MOU shall be provided to that Party within a reasonable period of time and at no cost.

8. NO JOINT VENTURE.

This MOU does not create a joint venture, partnership, or any other legal relationship of association among the Parties. Each Party is an independent legal entity and is not acting as an agent of the other Party in any respect. Notwithstanding that CITY employees may present this MOU to the DSRC board of directors for approval and that CITY officers serve on the DSRC board of directors; DSRC has a separate and independent board of directors and legal advisor, CITY officials that serve on the DSRC board do not constitute a majority of its members, and DSRC board's approval of this MOU is an independent and separate act from the City Council's approval of this MOU.

9. NO THIRD PARTY BENEFICIARIES.

Nothing contained herein is intended, nor shall this MOU be construed, as an agreement to benefit any third parties including, without limitation, Greyhound and the property owners and businesses within the River District, Railyards and Downtown Sacramento areas.

10. NOTICE.

All notices and other communications under this MOU shall be in writing and shall be deemed to have been duly given (i) on the date of delivery, if delivered personally to the party to whom notice is given, or if made by telecopy directed to the Party to whom notice is to be given at the telecopy number listed below, or (ii) at the earlier of actual receipt or the second business day following deposit in the United States mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A Party may change its person designated to receive notice, its telecopy number, or its address from time to time by giving notice to the other Parties in writing at the addresses provided below.

CITY: City of Sacramento
Economic Development Department
Attn: Rachel Hazlewood, Senior Project Manager
915 I Street, 3rd Floor
Sacramento CA 95814
(916) 808-8645

DSRC: Downtown Sacramento Revitalization Corporation
Attn: Denise Malvetti, Senior Project Manager
915 I Street, 3rd Floor
Sacramento CA 95814
(916) 808-7064

11. TERM.

This MOU shall be in effect until one or more of the following events occur: (i) either Party terminates the MOU by providing written notice to the other Party and specifying the termination date; (ii) the obligations under this MOU are completed; or (iii) the Parties enter into one or more agreements as contemplated in this MOU.

12. MODIFICATION.

Any amendment or modification of this MOU shall be effective only if set forth in a written document that has been approved by the governing board of each Party and executed by a duly authorized officer of each of the Parties.

13. ASSIGNMENT.

This MOU may not be assigned to another entity by either Party without the written consent of the other Party.

14. INDEMNIFICATION.

Each Party shall defend and indemnify the other Party and their respective elective and appointive members of boards, commissions, officers, agents, consultants, contractors and employees against any liability for damage or claims for damage for personal injury, including death, or property damage, arising out of or relating in any way to actions or activities of that Party pursuant to this MOU, but excluding any liability or claims that are based on an indemnified Party's gross negligence or willful misconduct.

15. DISPUTES.

Where a dispute exists between the Parties regarding their respective obligations and commitments under this MOU, such dispute shall be resolved by mediation, arbitration utilizing the commercial arbitration procedures of JAMS, or some other alternative dispute resolution procedure mutually agreed upon by the Parties.

No initiation of any legal proceedings shall be filed by either Party unless such action is filed within one hundred and eighty (180) days from the date of discovery by the aggrieved Party of the facts underlying the claim of default, and the date of discovery being that date that the facts became known or should have become known to the aggrieved Party based on the circumstances of the default. The Parties agree to submit any disputes arising under the MOU, which were not resolved through an alternative dispute resolution process, to a court of competent jurisdiction located in Sacramento, California. This MOU shall be construed and enforced in accordance with the laws of the State of California, the state in which the MOU is signed.

Notwithstanding any other provision of law or any provision of this MOU to the contrary, in no event shall either Party or their respective elective and appointive members of boards, commissions, and officers, agents, consultant, contractors and employees be liable in damages for any breach, default or violation of this MOU, it being specifically understood and agreed that the Parties' sole legal remedy for a breach, default or violation of this MOU shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this MOU.

16. WAIVER.

No waiver of any provision of this MOU shall be effective unless it is in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy in respect of any occurrence or event shall be deemed a waiver of any right or remedy in respect of any other

occurrence or event. Failure by either Party to complain of any action or non-action on the part of the other Party or to declare the other in default, irrespective of how long such failure may continue, shall not be deemed to be a waiver of any rights hereunder.

17. AMBIGUITIES.

This MOU shall be construed as a whole according to its fair language and common meaning to achieve its objectives and purposes. Captions on sections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain, and shall be disregarded in the construction and interpretation of this Agreement. The Parties have each carefully reviewed this MOU and have agreed to each term of this MOU. No ambiguity shall be presumed to be construed against either Party.

18. AUTHORITY.

Each of the signatories to this MOU represent that he or she is authorized to sign the MOU on behalf of such Party, all approvals and consents which must be obtained to bind such Party have been obtained, no further approvals, acts or consents are required to bind such Party to this MOU, and he or she is signing to guarantee the performance of such Party's obligations under this MOU.

19. ENTIRE AGREEMENT.

This MOU embodies the entire agreement of the Parties in relation to the matters contained herein, and no other understanding whether verbal, written or otherwise exists among the Parties.

[signature page follows]

IN WITNESS WHEREOF, the CITY and DSRC have executed this MOU as of the Effective Date.

**DOWNTOWN SACRAMENTO
REVITALIZATION CORPORATION**

CITY OF SACRAMENTO

By: _____
Its:
Title:

By: _____
John Dangberg
Assistant City Manager

Approved as to Form:

Approved as to Form:

By: _____

By: _____
Senior Deputy City Attorney

Attachment 8

RESOLUTION NO. 2009-_____

Adopted by the Redevelopment Agency
of the City of Sacramento

**AUTHORIZING THE EXPENDITURE OF \$50,000 IN MERGED DOWNTOWN TAX
INCREMENT FUNDS TO BE PAID TO GREYHOUND LINES, INC. TO ALLOW FOR
RELOCATION OF THE EXISTING L STREET TERMINAL TO A CITY OWNED
FACILITY AT 420 RICHARDS BOULEVARD**

BACKGROUND

- A. The Greyhound Bus Terminal, located at 703 L Street in the Merged Downtown Redevelopment Project Area, creates an attractive nuisance for crime and loitering in the immediate area, is incompatible with nearby land uses, including nearby proposed redevelopment projects, and contributes to the overall blighting conditions existing in Downtown.
- B. The City and Greyhound desire to enter into a lease to relocate the Greyhound Terminal to City-owned property at 420 Richards Boulevard for 20 years.
- C. Under terms of Greyhound's existing L Street lease, Greyhound's landlord, DBP Realty Partner, L.P. (DBP), has the first right of refusal to construct a new privately-owned terminal for Greyhound and that right is waived if Greyhound enters into an agreement for a new publicly owned terminal, in which case a fee of \$50,000 (relocation fee) is to be paid to DBP within ten days of execution of the lease.
- D. The Redevelopment Agency of the City of Sacramento (Agency) finds that relocation of the Greyhound Bus Terminal will benefit the Merged Downtown Redevelopment Project Area by eliminating an existing blighting condition and that reimbursement to Greyhound of its relocation fee with Merged Downtown Redevelopment tax increment funds is a proper expenditure under Community Redevelopment Law.
- E. The City has approved a Mitigated Negative Declaration (MND) and Mitigation Monitoring Plan (MMP) for the 420 Richards Boulevard Greyhound Terminal Project and the Agency has reviewed and considered the MND, including the comments received by the City on the MND, and the City Council's adoption of the MND and MMP.
- F. The proposed action to relocate Greyhound from its current location is in furtherance of the Merged Downtown Redevelopment Plan and is within the scope

of the activities analyzed in the Environmental Impact Report ("EIR") for the adoption of the November 2004 Merged Downtown Redevelopment Plan Amendment. No substantive changes to the activities as described in these environmental documents are proposed and the mitigation measures applicable the proposed action remain unchanged. Therefore, no further environmental review is required per CEQA Guidelines Section 15168 because there is no new information of substantial importance nor substantial changes with respect to the circumstances under which the action will be undertaken that would require preparation of a new environmental document.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE REDEVELOPMENT AGENCY RESOLVES AS FOLLOWS:

- Section 1. After due consideration of the facts presented, the findings, including the foregoing recitals and the environmental findings regarding this action, as stated in this Resolution are approved and adopted.
- Section 2. The City has prepared and approved a Mitigated Negative Declaration (MND) and Mitigation Monitoring Plan (MMP) for the 420 Richards Boulevard Greyhound Terminal Project. The Agency has reviewed and considered the MND, including the comments received by the City on the MND, and the City Council's adoption of the MND and MMP, and the Agency finds it sufficient and adequate and approves and adopts the MND in its entirety. No further environmental review is required for the proposed action to relocate Greyhound from its current location because that action is within the scope of the activities analyzed in the Merged Downtown Redevelopment Plan Amendment EIR.
- Section 3. The Executive Director or her designee is authorized to enter into the Reimbursement Agreement and pay \$50,000 in Merged Downtown Redevelopment Tax Increment to Greyhound to compensate Greyhound for its obligation to make payment to DBP Reality Partners under the first right of refusal provision in the terms of Greyhound's current lease. The payment shall be made pursuant to an agreement drafted by Agency Counsel and consistent with the terms of the City lease to relocate the Greyhound Terminal to City-owned property at 420 Richards Boulevard.

Table of Contents:

- Exhibit A Agreement for Relocation Costs

Exhibit A**AGREEMENT FOR PAYMENT OF COSTS RELATING TO THE RELOCATION OF THE EXISTING GREYHOUND L STREET BUS TERMINAL TO A PUBLICLY OWNED FACILITY AT 420 RICHARDS BOULEVARD**

This Agreement (the "Agreement") is executed as of February __, 2009, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body corporate and politic ("Agency") and GREYHOUND LINES, INC., a Delaware Corporation ("Greyhound").

- A. The Greyhound Bus Terminal, located at 703 L Street in the Merged Downtown Redevelopment Project Area, is incompatible with nearby land uses, including nearby proposed redevelopment projects along the 700, 800 and 1000 Blocks of K Street and makes redevelopment of such sites more difficult.
- B. The City of Sacramento and Greyhound desire to enter into a lease to relocate the Greyhound Terminal to City-owned property at 420 Richards Boulevard ("420 Richards Boulevard Lease").
- C. Under the terms of Greyhound's existing 703 L Street lease ("L Street Lease"), Greyhound's landlord, DBP Realty Partners, L.P. ("DBP"), has the right of first refusal to construct a new privately-owned terminal for Greyhound. That right is waived if Greyhound enters into an agreement for a new publicly owned terminal, in which case a fee of \$50,000 ("Relocation Fee") must be paid to DBP within ten days of execution of the lease.
- D. The Agency has found that relocation of the Greyhound Bus Terminal will benefit the Merged Downtown Redevelopment Project Area by eliminating an existing incompatible use and that payment of Greyhound's relocation fee with Merged Downtown Redevelopment tax increment funds is a proper expenditure under the Community Redevelopment Law.
- E. The Agency has authorized its Executive Director or her designee to pay \$50,000 in Merged Downtown Redevelopment Tax Increment on behalf of Greyhound to DBP to satisfy Greyhound's obligation under the right of first refusal provision in the terms of Greyhound's current lease on the following terms and conditions.

NOW, THEREFORE, in consideration of their mutual promises, the parties agree as follows:

1. RELOCATION FEE PAYMENT. Agency shall pay DBP the amount of Fifty Thousand Dollars (\$50,000) on behalf of Greyhound pursuant to the right of first refusal provision of the L Street Lease, subject to the following conditions:

- a. Greyhound has supplied written notification to DBP of its election to enter into the 420 Richards Boulevard Lease for a new terminal with the City of Sacramento.
- b. Greyhound has executed and is legally bound by the 420 Richards Boulevard Lease.
- c. The Agency payment to DBP shall be made within ten (10) calendar days of the full execution of the 420 Richards Boulevard Lease.
- d. The Agency shall provide Greyhound with evidence that the Relocation Fee has been paid to DBP.

2. RELEASE. Greyhound for itself, its agents, assigns and related entities, fully releases, acquits and discharges Agency and the officers, directors, employees, attorneys, accountants, other professionals, insurers and agents of Agency (collectively "Agents") and all entities related to Agency, including, but not limited to, the City of Sacramento (collectively "Entities"), from all rights, claims, demands, actions or causes of action which Greyhound now has or may have against Agency or Entities arising from this Agreement, or Greyhound's relocation to the 420 Richard Boulevard facility, including, but not limited to, any claim to relocation assistance, relocation benefits, moving expense payments, reestablishment expenses, leasehold interests or compensation for property or loss of goodwill.

3. GENERAL PROVISIONS.

(a) Any invoice, notice, request, instruction, demand or other communication to be given hereunder by either party hereto to the other shall be given in writing and shall be delivered either by hand, by telecopy or similar facsimile means, or by registered or certified mail, postage prepaid, return receipt requested, as follows:

(i) If to Greyhound, addressed to:
Real Estate Department
Greyhound Lines, Inc.
350 N. St. Paul Street, Ste 1100
Dallas TX 75201

(ii) If to Agency, addressed to:
Economic Development Department
City of Sacramento
915 I Street, 3rd Floor
Sacramento CA 95814

(b) In the event of a default hereunder and the necessity of litigation to enforce any provision of this Agreement, the nonprevailing party in any litigation shall pay, in addition to any

other damages awarded to the prevailing party therein, a reasonable sum as attorney's fees and costs as shall be established by the court.

(c) This Agreement constitutes the full Agreement by and between the parties and no other representations have been made regarding the contents of this Agreement.

(d) This Agreement shall not be amended, modified, or altered in any respect unless such amendment, modification or alteration has been reduced to writing and executed by the parties.

GREYHOUND LINES, INC., A DELAWARE CORPORATION:

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Name:
Title:

By: _____
John Dangberg
Designated Signatory

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Title:

Agency Counsel

V:\Legal\WORK\DOWNTOWN\Central Business District\Greyhound building