

MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

CITY OF LOS ANGELES
DEPARTMENT OF GENERAL SERVICES
c/o Office of the City Attorney
Rockard J. Delgadillo, City Attorney
R. Bruce Coplen, Deputy City Attorney
Real Property/Environment Division
1800 City Hall East
200 North Main Street
Los Angeles, California 90012

Free recording in accordance with California
Government Code section 6103

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made as of the date of attestation by the City Clerk of the City of Los Angeles of page 2 of this Memorandum, by and between the CITY OF LOS ANGELES, a municipal corporation, as Landlord ("City") and 9517 GLASCOW, LLC and S. GREVILLEA, LLC, California Limited Liability Companies ("Tenant"), who agree as follows:

1. **Term And Premises.**

City leases to Tenant, and Tenant leases from City, the real property located in the City of Los Angeles, County of Los Angeles, State of California, described as:

Lot __, Tract No. __, as per map recorded in Book __, pages __ and __, of Maps, in the office of the County Recorder of Los Angeles County, excepting therefrom those portions within public streets and subject to all easements of record,

commonly known as 820 W. Washington Boulevard, Venice, CA 90291, for a term of sixty (60) months, with one sixty (60) month option to extend, commencing on or about the date of this Memorandum, on the provisions of the lease between the parties, which lease ("Lease") is dated on the same date as this Memorandum. These provisions are incorporated into this Memorandum by reference.

2. **Provisions Binding On Tenant.**

The provisions of the Lease to be performed by Tenant, whether affirmative or negative in nature, are intended to and shall bind Tenant and its successors and assigns at any time, and shall inure to the benefit of City and its successors and assigns.

MEMORANDUM OF LEASE

EXHIBIT C

Page 1 of 2

3. **Provisions Binding on City.**

The provisions of the Lease to binding on City, whether affirmative or negative in nature, are intended to and shall bind City and its successors and assigns at any time, and shall inure to the benefit of Tenant and its successors and assigns.

4. **Purpose of Memorandum.**

This Memorandum is prepared for the purpose of recordation, and it in no way modifies the provisions of the Lease.


5. **Reference to Lease for All Purposes.**

Reference is hereby made to the entire Lease for any and all purposes. A true copy of the Lease is on file with the City Clerk of the City of Los Angeles, whose office is Room 615, City Hall East, 200 North Main Street, Los Angeles, California 90012.

APPROVED AS TO FORM AND LEGALITY:

ROCKARD J. DELGADILLO, City Attorney

By: _____



R. BRUCE COPLEN
Deputy City Attorney

DATE: _____

CITY:

CITY OF LOS ANGELES, a municipal corporation,
acting by and through its Department of General
Services

By: _____


JON KIRK MUKRI
General Manager
Department of General Services

DATE: _____

03-18-2002

ATTEST:

J. MICHAEL CAREY, City Clerk

By: _____

DATE: _____


Deputy

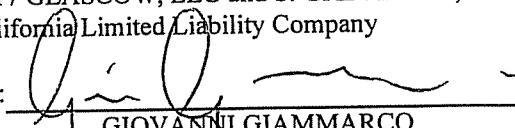
3-19-02



TENANT:

9517 GLASCOW, LLC and S. GREVILLEA, LLC,
California Limited Liability Company

By: _____


GIOVANNI GIAMMARCO
Managing Member

By: _____

DATE: _____

Council File No.:00-0148

Council Approval Date: February 16, 2000, May 3, 2001

Land No.: A-147

SSCHE03-68353_1/WASH820.LM1
(08/03/2001)

MEMORANDUM OF LEASE

EXHIBIT C

Page 2 of 2

LAND NO. A-147
APN 4229-017-900

GROUND LEASE AGREEMENT SUMMARY

C-102750

For information purposes only - not part of Ground Lease

LAND NO.: A-147
CF NO.: 00-0148
Council Approval Date: February 16, 2000, May 3, 2001

CITY ATTORNEY
SIGNATURE: October 24, 2001

PREMISES' ADDRESS: 820 W. Washington Boulevard
Venice, CA 90291

LANDLORD: CITY OF LOS ANGELES
City Attorney/R. Bruce Coplen
Department of General Services/Irene Saltzman

TENANT: 9517 GLASCOW, LLC and S. GREVILLEA, LLC
c/o NRG Management, 520 Washington Blvd., #558, Marina Del Rey, CA 90292
Telephone: (310) 822-5395 Fax: (310) 823-7213

TERM: Sixty (60) months with a sixty (60) month option to extend
Commencement Date: Date of Execution

RENT: \$1,000.00 per month

FORM: GENERIC.115 (8/01/00)

GROUND LEASE AGREEMENT

BETWEEN CITY OF LOS ANGELES AND
9517 GLASGOW, LLC AND S. GREVILLEA, LLC
820 W. WASHINGTON BOULEVARD, VENICE 90291

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GROUND LEASE AGREEMENT
BETWEEN CITY OF LOS ANGELES AND
9517 GLASCOW, LLC AND S. GREVILLEA, LLC
820 W. WASHINGTON BOULEVARD, VENICE 90291

ARTICLE 1. BASIC LEASE PROVISIONS

1.1. **Date And Parties.** This Ground Lease Agreement ("Lease") is dated, for reference purposes only, 3/19/02, between CITY OF LOS ANGELES ("City"), as Landlord, and 9517 GLASCOW, LLC and S. GREVILLEA, LLC ("Tenant"). Landlord is a municipal corporation, organized under the laws of the State of California, acting through its Department of General Services, Asset Management Division, Suite 201, City Hall South, 111 East First Street, Los Angeles, California 90012. Tenants are California Limited Liability Companies, with principal offices at c/o NRG Management, 520 Washington Blvd., #558, Marina Del Rey, CA 90292.

1.2. **Lease Agreement.** City is the owner of the Property, described in Section 1.3. City leases to Tenant and Tenant leases from City for the Term hereinafter set forth that Property described in Section 1.3, subject to the provisions and conditions of this Lease.

1.3. **Premises.** The subject premises are identified as the real property in the City of Los Angeles, County of Los Angeles, State of California, commonly known as 820 W. Washington Boulevard, Venice 90291 ("Property"), per the legal description and plot plan which is attached to this Lease as Exhibit A and by this reference incorporated into this Lease. Property is presently paved but otherwise unimproved, and is leased on an "as is" basis, with no obligation on the part of City to modify or alter the Property.

1.4. **Acceptance Of Property.** Tenant represents that Tenant has inspected and examined the Property and accepts the condition of the Property "as is" as of the date Tenant executes this Lease.

1.5. **Capacity Of City As Landlord.** Except where clearly and expressly provided otherwise in this Lease, the capacity of the City of Los Angeles in this Lease shall be as the landlord only, and all obligations or restrictions, if any, imposed by this Lease on City shall be limited to that capacity and shall not relate to or otherwise affect any activity of the City of Los Angeles in its governmental capacity, including, but not limited to, enacting laws, inspecting structures, reviewing and issuing permits, and all other legislative, administrative, or enforcement functions of the City of Los Angeles pursuant to federal, state, or local law. Nothing in this Section or this Lease shall be construed as abrogating or limiting any immunities or exemptions which the City of Los Angeles is entitled under the law.

1.6. **General Manager.** The defined term "General Manager" shall mean the General Manager of the Department of General Services of the City of Los Angeles, or such successor position as the City Council of the City of Los Angeles may designate. The defined term "General Manager" shall also include any person designated by the General Manager to act on behalf of the General Manager, either generally or for specified activities under this Lease.

1.7. **Execution Date.** The defined term "Execution Date" shall mean the date the Office of the City Clerk of Los Angeles attests this Lease on page 11.

ARTICLE 2. NOTICES

2.1. **Notices.** All notices and demands which may or are to be required or permitted to be given by either party to the other hereunder shall be in writing. All notices and demands shall be personally delivered (including by means of professional messenger service), sent by United States mail, postage prepaid, return receipt requested, or transmitted by telecopier (e.g., Fax)

or electronic mail (upon mutual agreement of participating parties), in which case the receiving party shall immediately confirm receipt of such telecopied or e-mailed notice. All notices are effective upon receipt. For the purposes of such notices, the addresses for the parties are set forth in Paragraph 2.2 below. Either party may from time to time designate another person or place in a notice.

2.2. **Notices - Where Sent.** All notices given under this Lease which are mailed or telecopied shall be addressed to the respective parties as follows:

To City:

CITY OF LOS ANGELES
c/o Department of General Services
Asset Management Division
Suite 201, City Hall South
111 East First Street
Los Angeles, California 90012
Telecopier: (213) 847-5891

with a copy of any notice to:

Office of the Los Angeles City Attorney
Real Property/Environment Division
1800 City Hall East, 200 North Main Street
Los Angeles, California 90012
Telecopier: (213) 847-0399

To Tenant:

9517 GLASCOW, LLC and S. GREVILLEA, LLC
c/o NRG Management
520 Washington Blvd., #558
Marina Del Rey, CA 90292
Telecopier: (310) 823-7213

ARTICLE 3. TERM

3.1. **Term.** The Term of this Lease shall be for approximately sixty (60) months, commencing on the Date of Execution and terminating on the last day of the month sixty (60) months thereafter, unless terminated earlier under the provisions of this Lease, including, but not limited to, early termination under Sections 3.2, 3.3, 6.2 (page 4), or Paragraph 7.3.5 (page 5). Tenant shall have one (1) extension option of sixty (60) months for the Premises ("**Extension Option**"). Tenant shall be required to give City at least six (6) months' advance notice of its election to exercise such Extension Option prior to the expiration of the original Term of the Lease. The Base Rent for the Extension Option shall be the same as the Base Rent during the Term. Tenant shall not have any extension right if then in default under the Lease with any applicable cure period having expired. This Extension Option shall not be personal to Tenant and may be exercised by any assignee of the Lease permitted under the provisions of the Lease. The Extension Option shall be applicable to all space leased by Tenant pursuant to this Lease.

3.2. **Insurance Approval.** Notwithstanding the provisions of Section 3.1, Tenant shall not take possession or otherwise use the Property until Tenant has obtained all insurance required in Article 7 and such insurance has been approved by the City Attorney of Los Angeles.

3.3. **Early Termination.** Notwithstanding the provisions of Section 3.1, this Lease may be terminated by either party at any time upon not less than ninety (90) days prior written notice to the other party.

3.4. **Holdover.** If Tenant, with City's express or implied consent, remains in possession of the Property after the expiration or termination of this Lease, or after the date in any notice given by City to Tenant terminating this Lease, such possession by Tenant shall be deemed to a tenancy at sufferance.

3.5. **Removal At Termination.** Upon termination of this Lease, City may, in its sole discretion, require Tenant to remove all buildings, fixtures or improvements, of every kind and nature whatsoever installed by Tenant. All buildings, fixtures, or improvements shall remain the property of Tenant, which may remove the same at the termination of this Lease; provided, however, that such removal shall be done in such a manner as not to injure or damage the Property. If Tenant fails to remove said fixtures or improvements within sixty (60) days after any termination of this Lease, City, at its option, may (i) remove the

1 same, in which event Tenant shall pay to City, upon demand, the reasonable cost of such removal, plus the cost of transportation
2 and disposition thereof; or (ii) elect to become the owner of all or any specified portion of the fixtures and improvements, in
3 which case such fixtures and improvements shall become the property of City and thereafter remain upon the Property and be
4 surrendered by Tenant.

5 **ARTICLE 4. USE AND CONSIDERATION**

6 4.1. **Base Rent Payments.** Tenant shall pay to City as Base Rent the amounts set forth in Section 4.2 below, without
7 prior notice or demand, in advance on or before the first day of each month of the Term hereof. If the Lease Commencement
8 Date or the termination date for this Lease occurs on a day other than the first day of a calendar month, the monthly rent for
9 such fractional month shall be appropriately prorated by multiplying the monthly Base Rent by a fraction, the numerator of
10 which is the number of days of the partial month included in the Term and the denominator of which is the total number of days
11 in the full calendar month. All rent shall be paid to City at the address to which notices to City are given pursuant to Section 2.2
12 (page 2), or at such other place as City may from time to time designate in writing.

13 4.2. **Base Rent Amount.** For the Term of this Lease, the Base Rent amount shall be ONE THOUSAND DOLLARS
14 AND ZERO CENTS per month ("Base Rent").

15 4.3. **Use.** The Property shall be used for the operation of a parking lot for customers and employees and purposes
16 incidental thereto, and for no other purposes whatsoever without the written consent of the City. City does not require good cause
17 to refuse such consent.

18 4.4. **Reservation Of Mineral Rights And Air Rights.** City hereby reserves all right, title, and interest in any and all
19 gas, oil, minerals, and water beneath the Property, below a plane five hundred (500) feet below the surface of the Property, but
20 without the right to use the surface of the Property, or any area above a plane five hundred (500) feet below the surface of the
21 Property, for the extraction of such gas, oil, minerals, and water. City also reserves all right, title, and interest in any and all air
22 rights above the Property; provided, however, that any use of air rights by City shall not interfere with the public's and Tenant's
23 ingress and egress to the Property.

24 4.5. **Communications Sites.** City shall retain the exclusive right without compensation to Tenant to place, or to grant
25 a license for others to place, one or more cellular or other communications equipment systems anywhere upon the Property.
26 City shall consult with Tenant with respect to the location and appearance of such equipment, but the final determination shall
27 be made by City in its sole and absolute discretion; provided that any equipment shall not interfere with the public's and Tenant's
28 ingress and egress to or use of the Property. Nothing in this Section shall be construed to limit or prohibit Tenant's use of the
29 Property for Tenant's communications equipment for Tenant's personal use (to the extent it is consistent with uses of the
30 Property under this Lease as contemplated by the parties), and City shall require that any subsequently installed cellular or other
31 communications equipment systems be installed and operated in a manner which does not interfere with Tenant's equipment.
32 All such equipment shall be installed and operated in compliance with all applicable laws and regulations. City shall have the
33 sole and exclusive right to collect and use any revenue or fees generated from the placement of such equipment. All costs related
34 to the installation, maintenance, or operation of such equipment shall be the responsibility of City or City's licensee, including
35 without limitation electrical power and other necessary utilities. City or City's licensee shall be financially responsible for and
36 shall immediately commence and diligently pursue to completion any repair of damage to the Property or the areas adjoining
37 the Property, or any contents thereof, caused by the installation, maintenance, or operation of such equipment. City or City's
38 licensee shall have access to the Property upon twenty-four (24) hours notice to Tenant for installation or maintenance purposes.
39 In the event of an emergency requiring immediate access to the Property, Tenant shall make every effort to accommodate the
40 needs of City or City's licensee.

41 4.6. **Alcoholic Beverages.** The dispensing or consumption of beer, wine, or other intoxicating liquors shall not be
42 permitted at any time anywhere upon the Property.

4.7. **Effect Of Inspections Or Approvals.** Wherever in this Lease inspections or approvals are required from City in its role as Landlord under this Lease, including from the General Manager, such inspections or approvals are additional to, and are not in lieu of, any inspections or approvals otherwise required under any applicable ordinance, regulation, or statute. Such inspections or approvals by City are discretionary acts and shall not impose any liability on City to third persons nor to Tenant, and, in addition, shall not obligate City for any costs or expenses related to the construction, improvement, or maintenance of any building or other structure at the Property.

4.8. **Subsequent Changes.** Any changes, alterations, modifications, repairs or improvements as may be needed or desirable upon the Property shall be at the sole cost and expense of Tenant and subject to the prior written approval of City. The plans and specifications for any subsequent addition, alterations or major repairs shall be approved by the Department of Building and Safety and the General Manager of the Department of General Services prior to the beginning of construction.

4.9. **Notice Of Nonresponsibility.** Fourteen (14) days prior to doing any further work after initial occupancy Tenant shall give written notice to City of its intent to do such work, and City may post and record a Notice of Nonresponsibility as specified in California Civil Code section 3094.

ARTICLE 5. MAINTENANCE AND UTILITIES

5.1. **Maintenance.** Tenant, at Tenant's sole cost and expense, agrees to keep and maintain the Property in good condition together with any improvements placed thereon.

5.2. **No Repair Obligation By City.** City shall have no obligation to maintain, repair, remodel or replace the Property or any improvement, appliance or fixture thereon, and Tenant agrees that it shall be responsible for all such repairs, and Tenant agrees that it shall be responsible for correction of any and all deficiencies in any building, appliances or fixtures thereon. In the event the Property becomes untenantable, Tenant's sole remedies shall be to either correct the deficiencies at its own expense or to relocate from the Property, and Tenant waives any other remedy, whether in damages or in specific performance.

5.3. **Utilities.** Tenant shall furnish, at Tenant's sole cost and expense, all utility services including gas, water, heat, electricity and power as are required with respect to the Property during the Term of this Lease.

ARTICLE 6. DEFAULT

6.1. **Default.** The occurrence of any of the following shall constitute a default by Tenant:

6.1.1. **Abandonment.** Abandonment and vacation of the Property (failure to occupy and operate on the Property for thirty (30) consecutive days shall be deemed an abandonment and vacation);

6.1.2. **Failure To Perform.** Failure to perform any provision of this Lease if the failure to perform is not cured within three (3) days after notice has been given to Tenant. If the failure to perform cannot reasonably be cured within three (3) days, Tenant shall not be in default of this Lease if Tenant commences to cure such failure within the three (3) day period and diligently and in good faith continues to cure the failure. The language of the previous sentence notwithstanding, failure to cure within thirty (30) days, or such additional period as City may, in its sole discretion, grant, shall constitute a default by Tenant; or

6.1.3. **Failure To Maintain Insurance.** If insurance required under this Lease is not obtained, canceled, lapsed, or reduced below minimums required under this Lease, such default shall governed by Paragraph 7.3.5 (page 5) of this Lease.

6.2. **City's Remedy.** In the event of any default under this Lease by Tenant, City may at any time thereafter, without limiting City in the exercise of any other right or remedy which City may have by reason of such default, give Tenant written notice of its intention to terminate this Lease on the date of such notice or on any later date specified in such notice (except for failure to maintain insurance, which is governed by Paragraph 7.3.5, page 5). On the date specified in such notice, Tenant's right

1 to possession of the Property shall cease, Tenant shall immediately surrender possession of the Property to City, and the Lease
2 will be terminated as if the expiration of the term fixed in such notice were the end of the Term of this Lease.

3 6.3. **Waivers.** No delay or omission in the exercise of any right or remedy of City on any default by Tenant shall impair
4 such a right or remedy or be construed as a waiver. City's consent to or approval of any act by Tenant requiring City's consent
5 or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act by Tenant.
6 Any waiver by City of any default must be in writing and shall not be waiver of any other default concerning the same or any
7 other provision of the Lease.

8 **ARTICLE 7. INSURANCE AND INDEMNIFICATION**

9 7.1. **Indemnity.** Except for the active negligence or willful misconduct of City, Tenant undertakes and agrees to defend,
10 indemnify and hold harmless City and any and all of City's boards, officers, agents, and employees from and against all suits
11 and causes of action, claims, losses, demands and expenses, including, but not limited to attorney's fees and cost of litigation,
12 damage or liability of any nature whatsoever, that may arise out of or in connection with this Lease or the use of the Property
13 by Tenant, its agents, employees or any other person using or attending any project or program on the Property.

14 7.2. **Parking at Own Risk.** Tenant agrees to post the Property with clearly visible signs indicating that parking is at the
15 sole risk of the patron and that City will not be responsible for any damage or loss resulting from such parking privileges.

16 7.3. **Insurance.** Prior to the occupancy of the Property, Tenant shall furnish the City with evidence of insurance from
17 insurers (i) reasonably acceptable to City, and (ii) approved to write surplus lines in the State of California or licensed to do
18 business in the State of California, on a form reasonably acceptable to the Los Angeles City Attorney for the following
19 coverages and minimum limits of insurance which shall be maintained by Tenant at its sole cost and expense throughout the
20 Term of this Lease for the Property, and any building or other structure on the Property:

21 7.3.1. **General Liability Insurance.** During the Term of this Lease, Tenant agrees to provide and maintain
22 general liability insurance in an amount not less than One Million Dollars (\$1,000,000) Combined Single Limit per
23 occurrence. Evidence of such insurance shall be on City's General Liability Special Endorsement form and should provide
24 coverage for Property and operations, contractual, personal injury and fire legal liability.

25 7.3.2. **Workers' Compensation.** By signing this Lease, Tenant hereby certifies that it is aware of the provisions
26 of Sections 3700 et seq. of the California Labor Code which require every employer to be insured against liability for
27 Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will
28 comply with such provisions at all such times as they may apply during the Term of this Lease. A Waiver of Subrogation
29 in favor of City is required.

30 7.3.3. **Additional Insureds.** Tenant agrees that City, its boards, officers, agents and employees shall be included
31 as additional insureds in all General Liability insurance required herein.

32 7.3.4. **Notice Of Change In Insurance.** All insurance policies required under this Lease shall expressly provide
33 that such insurance shall not be canceled or materially reduced in coverage or limits except after thirty (30) days written
34 notice by receipted delivery has been given to City Attorney, Bonds and Insurance Section, Suite 1400, 201 North
35 Figueroa Street, Los Angeles, California 90012.

36 7.3.5. **Default.** If insurance is not obtained prior to the commencement of program operations on the Project in
37 violation of Section 3.2 (page 2), or if insurance is canceled, lapsed, or reduced below minimums required in this Article,
38 this Lease shall automatically terminate, effective the date of such failure, subject to revival by City, and Tenant agrees
39 to cease all operations and activities on the Property upon failure to keep the insurance in force. If the cancellation, lapse,
40 or reduction below required minimums were not due to fault of Tenant, this Lease shall automatically revive upon the same
41 provisions and conditions at such time as Tenant supplies City with acceptable proof that required insurance coverage has

1 resumed. Otherwise, revival of the Lease shall be at the reasonable discretion of City, which may impose such additional
2 requirements as may be considered prudent to protect the interests of City and the public.

3 7.3.6. **Adjustment Of Insurance Levels.** City reserves the right at any time during the Term of this Lease,
4 applying generally accepted Risk Management principles, to change the amounts and types of insurance required hereunder
5 by giving Tenant ninety (90) days written notice provided that such amounts and/or types shall be reasonably available
6 to Tenant at commercially reasonable premiums.

7 **ARTICLE 8. COMPLIANCE WITH STATUTES AND REGULATIONS**

8 8.1. **Compliance With Statutes And Regulations.** Tenant warrants and certifies that in the performance of this Lease,
9 it shall comply with all applicable statutes, rules, regulations and orders of the United States, the State of California, and the
10 County and the City of Los Angeles, including laws and regulations pertaining to labor, wages, hours, and other conditions of
11 employment and City's anti-discrimination provisions and Affirmative Action Plan. Tenant must comply with all new or revised
12 laws, regulations and/or procedures that apply to the performance of this Lease. These conditions shall be made an integral part
13 of any subcontract arising out of this Lease.

14 8.2. **Americans With Disabilities Act.** Tenant shall construct all improvements and operate from the Property in a
15 manner which is in compliance with the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.) and any and all
16 other applicable federal, state, and local laws regarding accessibility for persons with disabilities (collectively "the ADA"). City
17 shall have no obligation or responsibility to make or install any improvements to the Property or any improvements on the
18 Property or any street curbs abutting the Property where such improvements are required for compliance under the ADA, but,
19 instead, such obligation and responsibility shall be Tenant's.

20 8.3. **Right of Entry.** City and General Manager, their authorized representatives, agents and employees shall have the
21 right at their sole expense to enter upon the Property at any reasonable times within operating hours for the purposes of
22 inspection and observation of Tenant's operations. City shall endeavor to conduct such inspections and observations in a manner
23 calculated to minimize disruption to the use and enjoyment of the Property by Tenant, its employees, and patrons. Said
24 inspections may be made by persons identified to Tenant as City employees or by independent contractors engaged by the City.
25 Inspection of areas not open to the general public shall be made available with reasonable prior notice (except in the case of
26 emergency, where no notice is required with respect to the facility).

27 8.4. **Operating Permits and Licenses.** Tenant shall be required to obtain, at its sole expense, any and all permits or
28 licenses that may be required in connection with its operations including, but not limited to, tax permits, business licenses, health
29 permits, etc.

30 **ARTICLE 9. HAZARDOUS MATERIALS**

31 9.1. **Hazardous Materials.** As used in this Lease, the defined term "Hazardous Materials" shall mean any hazardous
32 or toxic substances, materials, or wastes that are or become regulated by the United States, the State of California, or any local
33 government authority having jurisdiction over the Property. Without limiting any of the obligations described above, Tenant
34 shall not use or permit the Property or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport
35 or dispose of, transfer, produce or process Hazardous Materials without City's prior written consent, which may be denied at
36 City's sole discretion, and then, in any of the foregoing cases, only in compliance with all laws and regulations with respect to
37 Hazardous Materials (the "Environmental Regulations") (including, without limitation, the Comprehensive Environmental
38 Response, Compensation, and Liability Act, as amended (42 U.S.C. § 9601, et seq.) (together with the regulations promulgated
39 thereunder, "CERCLA"), the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901, et seq.) (together with
40 the regulations promulgated thereunder, "RCRA"), the Emergency Planning and Community Right-To-Know Act, as amended
41 (together with the regulations promulgated thereunder, "Title III") (42 U.S.C. § 11011, et seq.) and any so-called "Superfund"
42 or "Superlien" law), nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any
43 subtenant, the storage, transportation, disposal or use of Hazardous Materials or the release or threat of release of Hazardous
44 Materials on, from or beneath the Property or onto any other property. Upon the occurrence of any such release or threat of

1 release of Hazardous Materials, Tenant shall promptly notify City and thereafter commence and perform, without cost to City,
2 all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove
3 all Hazardous Materials so released, on, from or beneath the Property or other property, in strict compliance with all
4 Environmental Regulations.

5 9.2. **Hazardous Materials Notification.** California Health and Safety Code section 25359.7(a) requires any owner of
6 nonresidential real property who knows, or has reasonable cause to believe, that any release of Hazardous Material has come
7 to be located on or beneath that real property, prior to the lease or rental of that real property or when the presence of such
8 release is actually known, to give written notice of that condition to the lessee or renter. California Health and Safety Code
9 section 25359.7(b) requires any tenant of real property who knows, or has reasonable cause to believe, that any release of
10 Hazardous Material has come to be located on or beneath that real property to give written notice of such condition to the
11 owners. City and Tenant shall comply with the requirements of section 25359.7 and any successor statute thereto and with all
12 other statutes, laws, ordinances, rules, regulations and orders of governmental authorities with respect to Hazardous Materials.

13 **ARTICLE 10. RECEIVERSHIP OR BANKRUPTCY**

14 10.1. **Receivership Or Bankruptcy.** In the event Tenant shall be adjudicated a bankrupt or become involved in any
15 proceedings under the bankruptcy laws of the United States, or if the leasehold interest created hereby, or any improvements
16 constructed pursuant to this Lease, shall be transferred by operation of law, including but not limited to, enforcement of a
17 judgment, this Lease shall automatically terminate.

18 **ARTICLE 11. ASSIGNMENT, TRANSFER, OR SUBLEASE**

19 11.1. **Assignment, Transfer, Or Sublease.** Tenant shall not assign or transfer this Lease or any interest therein, or sublet
20 the whole or any part of the Property, without first having obtained the written consent of City, and any purported assignee,
21 transferee, or sublessee without such consent shall be void and of no force and effect. City may, with or without good cause,
22 give or refuse consent to assignment, sublease, or other transfer in its sole discretion.

23 **ARTICLE 12. NO RELOCATION ASSISTANCE**

24 12.1. **No Relocation Assistance.** Tenant acknowledges that it is occupying property of a public agency on a temporary
25 basis. Tenant also acknowledges that upon termination of this Lease, whether by expiration or otherwise, Tenant shall not be
26 entitled to receive any relocation assistance or benefits which may be provided under any law, including, but not limited to, the
27 Uniform Relocation Acts of the United States or of the State of California.

28 **ARTICLE 13. EMINENT DOMAIN**

29 13.1. **Eminent Domain.** Should the Property be taken for public use under the power of eminent domain or by negotiated
30 sale and purchase in lieu thereof, Tenant shall not be entitled to any portion of the award in condemnation or price for the land
31 which is the subject of this Lease, and the entire award or price shall belong to City. This Lease shall immediately terminate
32 upon acquisition of said property for public use. If a portion only of the Property is taken and the remainder is suitable for
33 continued use under the provisions of this Lease, the Lease shall not terminate but the entire award including severance damages
34 to land and building shall belong to City except such funds as are needed and actually used to repair, reconstruct or to "cure"
35 any such damages. Tenant shall be entitled to the portion of the award or purchase price applicable to fixtures and improvements
36 which Tenant is entitled to remove upon the termination of this Lease.

37 **ARTICLE 14. ORDINANCE MANDATED PROVISIONS**

38 14.1. **Child Support Assignment Orders.** This Lease is subject to Section 10.10, Article 1, Chapter 1, Division 10 of
39 the Los Angeles Administrative Code related to Child Support Assignment Orders, a copy of which is attached hereto beginning
40 on page B-1 in Exhibit B and by this reference incorporated herein. Pursuant to this Section, Tenant (and any subcontractor
41 of Tenant providing services to City under this Lease) shall (1) fully comply with all State and Federal employment reporting

requirements for Tenant's or Tenant's subcontractor's employees applicable to Child Support Assignment Orders; (.2) certify that the principal owner(s) of Tenant and applicable subcontractors are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (.3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230, et seq.; and (.4) maintain such compliance throughout the Term of this Lease. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of Tenant or an applicable subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of Tenant or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Lease subjecting this Lease to termination where such failure shall continue for more than ninety (90) days after notice of such failure to Tenant by City (in lieu of any time for cure provided in Section 6.1 (page 4)).

14.2. **Service Contract Worker Retention Ordinance.** This Lease is subject to the Service Contract Worker Retention Ordinance ("SCWRO") (Section 10.36, et seq. of the Los Angeles Administrative Code), a copy of which is attached hereto starting on page B-2 in Exhibit B. The SCWRO requires that, unless specific exemptions apply, all employers (as defined) under contracts that are primarily for the furnishing of services to or for the City of Los Angeles and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three (3) months shall provide retention by a successor contractor for a ninety-day (90-day) transition period of the employees who have been employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO. Under the provisions of Section 10.36.3(c) of the Los Angeles Administrative Code, CITY has the authority, under appropriate circumstances, to terminate this Lease and otherwise pursue legal remedies that may be available if CITY determines that the subject contractor violated the provisions of the SCWRO.

14.3. **Living Wage Ordinance.**

14.3.1. **General Provisions: Living Wage Policy.** This Lease is subject to the Living Wage Ordinance ("LWO") (Section 10.37, et seq. of the Los Angeles Administrative Code), a copy of which is attached hereto starting on page B-8 in Exhibit B. The LWO requires that, unless specific exemptions apply, any employees of tenants or licensees of City property who render services on the leased or licensed premises are covered by the LWO if any of the following applies: (1) the services are rendered on premises at least of portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (3) the designated administrative agency of the City of Los Angeles has determined in writing that coverage would further the proprietary interests of the City of Los Angeles. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year (July 1, 2000, levels: \$7.72 per hour with health benefits of at least \$1.25 per hour or otherwise \$8.97 per hour). The LWO also requires that employees be provided with at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten (10) additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. Tenant shall permit access to work sites for authorized City representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the City. Whether or not subject to the LWO, Tenant shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to section 10.37.6(c), Tenant agrees to comply with federal law prohibiting retaliation for union organizing.

14.3.2. **Living Wage Coverage Determination.** The Department of General Services has made the initial determination that this Lease, as a proprietary lease or a proprietary license, is subject to the LWO and the Living Wage Coverage Determination Form reflecting that determination is attached to this Lease on page B-6 in Exhibit B. Tenant, although subject to the LWO, may be exempt from most of the requirements of the LWO if Tenant qualifies for such exemption under the provisions of the LWO. Determinations as to whether an employer or employee is exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. In some circumstances, applications for exemption must be renewed

periodically (e.g., every two (2) years for proprietary lessees or licenses claiming exemption due to annual gross revenues of less than \$200,000 and with less than seven (7) employees (section 10.37.1(i)). To the extent Tenant claims non-coverage or exemption from the provisions of the LWO, the burden shall be on Tenant to prove such non-coverage or exemption, and, where applicable, renew such exemption.

14.3.3. **Compliance; Termination Provisions And Other Remedies: Living Wage Policy.** If Tenant is not initially exempt from the LWO, Tenant shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the Execution Date of this Lease, and shall execute the Declaration of Compliance Form attached to this Lease on page B-7 in Exhibit B contemporaneously with the execution of this Lease. If Tenant is initially exempt from the LWO, but later no longer qualifies for any exemption, Tenant shall, at such time as Tenant is no longer exempt, comply with the provisions of the LWO and execute the then currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Lease and City shall be entitled to terminate this Lease and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if City determines that Tenant violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided in Section 6.1 (page 4) of this Lease. Nothing in this Lease shall be construed to extend the time periods or limit the remedies provided in the LWO.

14.4. **Non-Discrimination.**

14.4.1. **Non-Discrimination In Use Of Premises.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Premises or any part of the Premises or any operations or activities conducted on the Premises or any part of the Premises, nor shall Tenant or any person claiming under or through Tenant establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, subtenants, or vendees of the Premises. Any sublease or assignment which may be permitted under this Lease shall also be subject to the non-discrimination clauses contained in this Section 14.4.

14.4.2. **Non-Discrimination In Employment** Tenant agrees and obligates itself in the performance of this Lease not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition.

14.4.3. **Equal Employment Practices.** This Lease is a contract with or on behalf of the City of Los Angeles for which the consideration is \$1000.00 or more. Accordingly, during the performance of this Lease, Tenant further agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("**Equal Employment Practices**"), a copy of which is attached hereto beginning on page B-17 in Exhibit B and by this reference incorporated herein. By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of Tenant to comply with the Equal Employment Practices provisions of this Lease may be deemed to be a material breach of this Lease. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to Tenant. Upon a finding duly made that Tenant has failed to comply with the Equal Employment Practices provisions of this Lease, this Lease may be forthwith terminated.

14.4.4. **Equal Benefits Provisions.** This Lease is subject to Section 10.8.2.1, Article 1, Chapter 1, Division 10 of the Los Angeles Administrative Code ("**Equal Benefits Provisions**") related to equal benefits to employees, a copy of which is attached hereto beginning on page B-14 in Exhibit B and by this reference incorporated herein. Tenant agrees to comply with the provisions of Section 10.8.2.1. By way of specification but not limitation, pursuant to Section 10.8.2.1.c of the Los Angeles Administrative Code, the failure of Tenant to comply with the Equal Employment Practices provisions of this Lease may be deemed to be a material breach of this Lease. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to

1 Tenant. Upon a finding duly made that Tenant has failed to comply with the Equal Employment Practices provisions of
2 this Lease, this Lease may be forthwith terminated.

3 14.5. **Tax Registration Certificates And Tax Payments.** This Section is applicable where Tenant is engaged in business
4 within the City of Los Angeles and Tenant is required to obtain a Tax Registration Certificate ("TRC") pursuant to one or more
5 of the following articles (collectively "**Tax Ordinances**") of Chapter II of the Los Angeles Municipal Code: Article 1 (Business
6 Tax Ordinance) [section 21.00, et seq.], Article 1.3 (Commercial Tenant's Occupancy Tax) [section 21.3.1, et seq.], Article 1.7
7 (Transient Occupancy Tax) [section 21.7.1, et seq.], Article 1.11 (Payroll Expense Tax) [section 21.11.1, et seq.], or Article 1.15
8 (Parking Occupancy Tax) [section 21.15.1, et seq.]. Prior to the execution of this Lease, or the effective date of any extension
9 of the Term or renewal of this Lease, Tenant shall provide to the Department of General Services proof satisfactory to the
10 General Manager of the Department of General Services that Tenant has the required TRCs and that Tenant is not then currently
11 delinquent in any tax payment required under the Tax Ordinances. City may terminate this Lease upon thirty (30) days' prior
12 written notice to Tenant if City determines that Tenant failed to have the required TRCs or was delinquent in any tax payments
13 required under the Tax Ordinances at the time of entering into, extending the Term of, or renewing this Lease. City may also
14 terminate this Lease upon ninety (90) days prior written notice to Tenant at any time during the Term of this Lease if Tenant
15 fails to maintain required TRCs or becomes delinquent in tax payments required under the Tax Ordinances and Tenant fails to
16 cure such deficiencies within the ninety (90) day period (in lieu of any time for cure provided in Section 6.1 (page 4)).

17 14.6. **Ordinance Language Governs.** Exhibit B is provided as a convenience to the parties only; in the event of a
18 discrepancy between Exhibit B and the applicable ordinance language, as amended, the language of the ordinance shall govern.

19 **ARTICLE 15. MISCELLANEOUS PROVISIONS**

20 15.1. **Complete Agreement.** This Lease contains the full and complete agreement between the two parties. No verbal
21 agreement or conversation prior to the execution of this Lease with any officer or employee of either party shall affect or modify
22 any of the provisions and conditions of this Lease.

23 15.2. **Memorandum Of Lease.** A Memorandum of Lease, substantially in the form as that attached to this Lease as
24 Exhibit C, shall be completed and executed by both parties concurrently with the execution of this Lease. City may record such
25 Memorandum of Lease.

26 15.3. **Possessory Interest Tax.** By executing this Lease and accepting the benefits thereof, a property interest may be
27 created known as "possessory interest" and such property interest will be subject to property taxation. Tenant, as the party in
28 whom the possessory interest is vested, may be subject to the payment of the property taxes levied upon such interest. If Tenant
29 is entitled to the welfare exemption or other property tax exemption, such possessory interest should be included in the
30 application therefor.

31 15.4. **Quiet Enjoyment.** If Tenant is not in default as provided herein, Tenant shall and may peaceably and quietly have,
32 hold, and enjoy the Property with necessary ingress and egress in accordance with the provisions hereof.

33 15.5. **Sole Discretion.** In those instances in this Lease where it is provided that City may approve a request in City's "sole
34 discretion" or words of like import, the parties expressly agree that City has the absolute unfettered discretion to grant or
35 withhold approval, either arbitrarily or otherwise, and with or without reason, and neither Tenant nor any other party or tribunal
36 shall have any right or power to inquire into or review the granting or withholding of such approval or the reasons or lack of
37 reasons therefor.

LAND NO. A-147
APN 4229-017-900

IN WITNESS WHEREOF, the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Department of General Services, Landlord herein, and 9517 GLASCOW, LLC and S. GREVILLEA, LLC, California Limited Liability Companies, Tenant herein, have caused this Lease to be executed as of the date of the last signatory hereto. The last signatory shall cause such date to be entered in the space provided in Section 1.1 of this Lease if that space is blank, although such date shall be deemed to be the execution date of this Lease in any case.

APPROVED AS TO FORM AND LEGALITY:

ROCKARD J. DELGADILLO, City Attorney

By: _____

R. BRUCE COLEN
Deputy City Attorney

DATE: October 24, 2001

TENANT:

9517 GLASCOW, LLC and S. GREVILLEA, LLC,
California Limited Liability Companies

By: _____

GIOVANNI GIAMMARCO
Managing Member

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting
by and through its Department of General Services

By: _____

DATE: 2/25/02

By: _____

JON KIRK MUKRI
General Manager
Department of General Services

DATE: 03-18-2002

ATTEST:

J. MICHAEL CAREY, City Clerk

By: _____

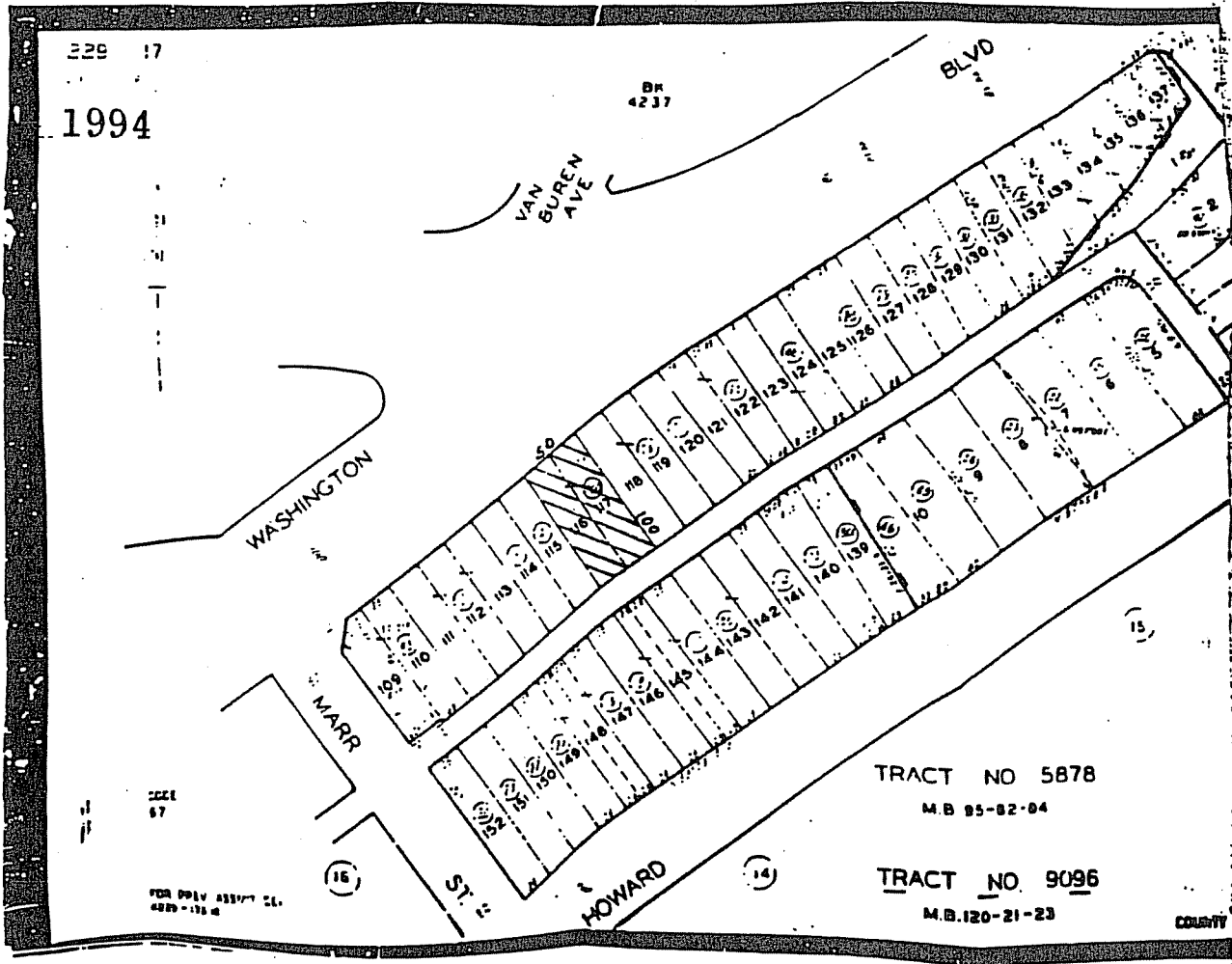
Deputy

DATE: 3-19-02



Council File No.:00-0148
Council Approval Date: February 16, 2000, May 3, 2001
October 24, 2001

EXHIBIT A: LEGAL DESCRIPTION AND PLOT PLAN



Premises are that certain real property situated in the State of California, County of Los Angeles, which is described as follows:

Lot 116-117 Tract No. 5878, as per map recorded in Book 95, pages 82 and 84, of Maps, in the office of the County Recorder of Los Angeles County, excepting therefrom those portions within public streets and subject to all easements of record.

EXHIBIT B: CITY ORDINANCES

CHILD SUPPORT ASSIGNMENT ORDERS ORDINANCE
Los Angeles Administrative Code
(Applicable portions)

Sec. 10.10 Child Support Assignment Orders.

a. Definitions.

1. **Awarding Authority** means a subordinate or component entity or person of the City (such as a City department or Board of Commissioners) that has the authority to enter into a contract or agreement for the provision of goods or services on behalf of the City of Los Angeles.

2. **Contract** means any agreement, franchise, lease or concession including an agreement for any occasional professional or technical personal services, the performance of any work or service, the provision of any materials or supplies, or the rendering of any service to the City of Los Angeles or to the public which is let, awarded, or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

3. **Contractor** means any person, firm, corporation, partnership or any combination thereof which submits a bid or proposal or enters a contract with any awarding authority of the City of Los Angeles.

4. **Subcontractor** means any person, firm, corporation, partnership or any combination thereof who enters into a contract with a contractor to perform or provide a portion of any contract with the City.

5. **Principal Owner** means any person who owns an interest of 10 percent or more in a contractor or subcontractor as defined herein.

b. **Mandatory Contract Provisions.**

Every contract that is let, awarded or entered into with or on behalf of the City of Los Angeles shall contain a provision obligating the contractor or subcontractor to fully comply with all applicable State and Federal employment reporting requirements for the contractor or subcontractor's employees. The contractor or subcontractor will also be required to certify that the principal owner(s) thereof are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor or subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of

Assignments in accordance with California Family Code Section 5230 et seq. and that the contractor or subcontractor will maintain such compliance throughout the term of the contract.

Failure of a contractor or subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under the contract. Failure of the contractor or subcontractor or principal owner thereof to cure the default within 90 days of notice of such default by the City shall subject the contract to termination.

c. **Notice to Bidders.**

Each awarding authority shall be responsible for giving notice of the provisions of this ordinance to those who bid on, or submit proposals for, prospective contracts with the City.

d. **Current Contractor Compliance.**

Within 30 days of the operative date of this ordinance, the City, through its operating departments, shall serve upon existing contractors a written request that they and their subcontractors (if any) comply with all applicable State and Federal employment reporting requirements for the contractor and subcontractor's employees, that they certify that the principal owner(s) of the contractor and any subcontractor are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally, that the contractor and subcontractor will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code Sec. 5230 et seq. and that the contractor and subcontractor will maintain such compliance throughout the term of the contract.

ARTICLE HISTORY

Added by Ord. No. 172,401, eff. 2-13-99

SERVICE CONTRACT WORKER RETENTION ORDINANCE

LOS ANGELES ADMINISTRATIVE CODE

ARTICLE 10 SERVICE CONTRACT WORKER RETENTION

Article added by Ord. No. 170,784, Eff. 1-13-96; amended by Ord. No. 171,004, Eff. 5-18-96; amended by Ord. No. 172,337, Eff. 1-14-99; amended by Ord. No. 172,843, Eff. 11-4-99.

Sec. 10.36 Findings and Statement of Policy.

The City awards many contracts to private firms to provide services to the public and to City government. The City also provides financial assistance and funding to others for the purpose of economic development or job growth. At the conclusion of the terms of a service contract with the City or with those receiving financial assistance from the City, competition results in the awarding of a service contract to what may be a different contractor. These new contracts often involve anticipated changes in different managerial skills, new technology or techniques, new themes or presentations, or lower costs.

The City expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Despite desired changes through the process of entering into new contracts, it is the experience of the City that reasons for change do not necessarily include a need to replace workers presently performing services who already have useful knowledge about the workplace where the services are performed.

Incumbent workers have already invaluable knowledge and experience with the work schedules, practices, and clients. The benefits of replacing these workers without such experiences decreases efficiency and results in a disservice to City and City financed or assisted projects.

Retaining existing service workers when a change in contractors occurs reduces the likelihood of labor disputes and disruptions. The reduction of the likelihood of labor disputes and disruptions results in the assured continuity of services to citizens who receive services provided by the City or by City financed or assisted projects.

It is unacceptable that contracting decisions involving the expenditure of City funds should have any potential effect of creating unemployment and the consequential need for social services. The City, as a principal provider of social support services, has an interest in the stability of employment under contracts with the City or by those receiving financial assistance from the City. The retention of existing workers benefits that interest.

SECTION HISTORY

Article and Section Added by Ord. No. 170,784, Eff. 1-13-96. Article and Section Amended by: Ord. No. 171,004, Eff. 5-18-96.

Sec. 10.36.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Awarding authority" means that subordinate or component entity or person of the City (such as a department) or of the financial assistance recipient that awards or is otherwise responsible for the administration of a service contract or, if none, then the City or the City financial assistance recipient.

(b) "City" means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds, but excludes the Community Redevelopment Agency of the City of Los Angeles.

(c) "City financial assistance recipient" means any person that receives from the City in any twelve-month period discrete financial assistance for economic development or job growth expressly articulated and identified by the City totaling at least one hundred thousand dollars (\$100,000); provided, however, that corporations organized under Section § 501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. § 501(c)(3), with annual operating budgets of less than five million dollars (\$5,000,000) or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for the purposes of this article. A loan shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees. Service contracts for economic development or job growth shall be deemed such assistance once the \$100,000 threshold is reached.

(d) "Contractor" means any person that enters into a service contract with the City or a City financial assistance recipient.

(e) "Employee" means any person employed as a service employee of a contractor or subcontractor earning less than fifteen dollars (\$15.00) per hour in salary or wage

WORKER RETENTION ORDINANCE

EXHIBIT B

Page B-2 of B-19

LAAC SEC. 10.36 - WORKER RETENTION

LAND NO. A-147
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whose primary place of employment is in the City on or under the authority of a service contract and including but not limited to: hotel employees, restaurant, food service or banquet employees; janitorial employees; security guards; parking attendants; nonprofessional health care employees; gardeners; waste management employees; and clerical employees; and does not include a person who is (1) a managerial, supervisory, or confidential employees, or (2) required to possess an occupational license.

(f) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.

(g) "Service contract" means a contract let to a contractor by the City or a City financial assistance recipient primarily for the furnishing of services to or for the City or financial assistance recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of twenty-five thousand dollars (\$25,000) and a contract term of at least three months.

(h) "Subcontractor" means any person not an employee that enters into a contract with a contractor to assist the contractor in performing a service contract and that employs employees for such purpose.

(i) "Successor service contract" means a service contract where the services to be performed are substantially similar to a service contract that has been recently terminated.

SECTION HISTORY

*Added by Ord. No. 170,784, Eff. 1-13-96. Amended by:
Ord. No. 171,004, Eff. 5-18-96. Subsec. (c) Amended by:
Ord. No. 172,843, Eff. 11-4-99.*

Sec. 10.36.2. Transition Employment Period.

(a) Where an awarding authority has given notice that a service contract has been terminated, or where a service contractor has given notice of such termination, upon receiving or giving such notice, as the case may be, the terminated contractor shall within ten (10) days thereafter provide to the successor contractor the name, address, date of hire, and employment occupation classification of each employee in employment, of itself or subcontractors, at the time of contract termination. If the terminated contractor has not learned the identity of the successor contractor, if any, by the time that notice was given of contract termination, the terminated contractor shall obtain such information from the awarding authority. If a successor service contract has not been awarded by the end of the ten (10)-day period, the employment information referred to earlier in this subsection shall be provided to the awarding authority at such time. Where a subcontract of a service contract has been terminated prior to the termination of the service contract, the terminated subcontractor shall for purposes of this article be deemed a terminated contractor.

(1) Where a service contract or contracts are being let where the same or similar services were rendered by under multiple service contracts, the City or City financial aid recipient shall pool the employees, ordered by seniority within job classification, under such prior contracts.

(2) Where the use of subcontractors has occurred under the terminated contract or where the use of subcontractors is to be permitted under the successor contract, or where both circumstances arise, the City or City financial assistance recipient shall pool, when applicable, the employees, ordered by seniority within job classification, under such prior contracts or subcontracts where required by and in accordance with rules authorized by this article.

(b) A successor contractor shall retain, for a ninety (90)-day transition employment period, employees who have been employed by the terminated contractor or its subcontractors, if any, for the preceding twelve (12) months or longer. Where pooling of employees has occurred, the successor contractor shall draw from such pools in accordance with rules established under this article. During such ninety (90)-day period, employees so hired shall be employed under the terms and conditions established by the successor contractor (or subcontractor) or as required by law.

(c) If at anytime the successor contractor determines that fewer employees are required to perform the new service contract than were required by the terminated contractor (and subcontractors, if any), the successor contractor shall retain employees by seniority within job classification.

(d) During such ninety (90)-day period, the successor contractor (or subcontractor, where applicable) shall maintain a preferential hiring list of eligible covered employees not retained by the successor contractor (or subcontractor) from which the successor contractor (or subcontractor) shall hire additional employees.

(e) Except as provided in Subsection (c) of this section, during such ninety (90)-day period the successor contractor (or subcontractor, where applicable) shall not discharge without cause an employee retained pursuant to this article. "Cause" for this purpose shall include, but not be limited to, the employee's conduct while in the employ of the terminated contractor or subcontractor that contributed to any decision to terminate the contract or subcontract for fraud or poor performance.

(f) At the end of such ninety (90)-day period, the successor contractor (or subcontractor, where applicable) shall perform a written performance evaluation for each employee retained pursuant to this article. If the employee's performance during such ninety (90)-day period is satisfactory, the successor contractor (or subcontractor) shall offer the employee continued employment under the terms and conditions established by the successor contractor (or subcontractor) or as required by law. During such ninety (90)-day period, the successor contractor shall maintain a preferential hiring list of eligible covered employees not

WORKER RETENTION ORDINANCE

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retained by the successor contractor from which the successor contractor shall hire additional employees.

(g) If the City or a City financial assistance recipient enters into a service contract for the performance of work that prior to the service contract was performed by the City's or the recipient's own service employees, the City or the recipient, as the case may be, shall be deemed to be a "terminated contractor" within the meaning of this section and the contractor under the service contract shall be deemed to be a "successor contractor" within the meaning of this section and Section 10.36.3.

SECTION HISTORY

*Added by Ord. No. 170,784, Eff. 1-13-96. Amended by:
Ord. No. 171,004, Eff. 5-18-96; Subsec. (g) Added, Ord.
No. 172,349, Eff. 1-29-99.*

Sec. 10.36.3. Enforcement.

(a) An employee who has been discharged in violation of this article by a successor contractor or its subcontractor may bring an action in the Municipal Court or Superior Court of the State of California, as appropriate, against the successor contractor and, where applicable, its subcontractor, and may be awarded:

(1) Back pay for each day during which the violation continues, which shall be calculated at a rate of compensation not less than the higher of:

(A) The average regular rate of pay received by the employee during the last 3 years of the employee's employment in the same occupation classification; or

(B) The final regular rate received by the employee.

(2) Costs of benefits the successor contractor would have incurred for the employee under the successor contractor's (or subcontractor's, where applicable) benefit plan.

(b) If the employee is the prevailing party in any such legal action, the court shall award reasonable attorney's fees and costs as part of the costs recoverable.

(c) Compliance with this article shall be required in all City contracts to which it applies, and such contracts shall provide that violation of this article shall entitle the City to terminate the contract and otherwise pursue legal remedies that may be available.

(d) Notwithstanding any provision of this Code or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

SECTION HISTORY

*Added by Ord. No. 170,784, Eff. 1-13-96. Amended by:
Ord. No. 171,004, Eff. 5-18-96.*

Sec. 10.36.4. Exemption for Successor Contractor or Subcontractor's Prior Employees.

An awarding authority shall upon application by a contractor or subcontractor exempt from the requirements of

this article a person employed by the contractor or subcontractor continuously for at least twelve (12) months prior to the commencement of the successor service contract or subcontract who is proposed to work on such contract or subcontract as an employee in a capacity similar to such prior employment, where the application demonstrates that (a) the person would otherwise be laid off work and (b) his or her retention would appear to be helpful to the contractor or subcontractor in performing the successor contract or subcontract. Once a person so exempted commences work under a service contract or subcontract, he or she shall be deemed an employee as defined in Section 10.36.1(e) of this Code.

SECTION HISTORY

*Added by Ord. No. 170,784, Eff. 1-13-96. Amended by:
Ord. No. 171,004, Eff. 5-18-96.*

Sec. 10.36.5. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an employee's right to bring legal action for wrongful termination.

SECTION HISTORY

*Added by Ord. No. 170,784, Eff. 1-13-96. Amended by:
Ord. No. 171,004, Eff. 5-18-96.*

Sec. 10.36.6. Expenditures Covered by this Article.

This article shall apply to the expenditure, whether through service contracts let by the City or by its financial assistance recipients, of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds. City financial assistance recipients shall apply this article to expenditure of non-City funds for service contracts to be performed in the City by complying themselves with § 10.36.2(g) and by contractually requiring their service contractors to comply with this article. Such requirement shall be imposed by the recipient until the City financial assistance has been fully expended.

SECTION HISTORY

*Added by Ord. No. 171,004, Eff. 5-18-96. Amended by:
Ord. No. 172,337, Eff. 1-14-99. ; Amended by: Ord.
No. 172,843, Eff. 11-4-99.*

Sec. 10.36.7. Timing of Application of Ordinances Adding and then Amending this Article.

The provisions of this article as set forth in City Ordinance No. 171,004 shall apply to contracts consummated and financial assistance provided after May 18, 1996 (the effective date of City Ordinance No. 171,004). As for contracts consummated and financial assistance provided after the original version of this article took effect on January 13, 1996 (by City Ordinance No. 170,784) and through May 18, 1996, the City directs its appointing authorities and urges others affected to use their best efforts

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to work cooperatively so as to allow application City Ordinance No. 171,004 rather than City Ordinance No. 170,784 to service contracts let during such period. No abrogation of contract or other rights created by City Ordinance No. 170,784, absent consent to do so, shall be effected by the retroactive application of City Ordinance No. 171,004.

SECTION HISTORY

*Added by Ord. No. 170,784, Eff. 1-13-96. Amended by:
Ord. No. 171,004, Eff. 5-18-96; Ord. No. 172,337, Eff.
1-14-99.*

Sec. 10.36.8. Promulgation of Implementing Rules.

The City Council shall by resolution designate a department or office, which shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article.

SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.

Sec. 10.36.9. Severability.

If any severable provision or provisions of this article or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of the article that can be given effect notwithstanding such invalidity.

SECTION HISTORY

Added by Ord. No. 171,004, Eff. 5-18-96.

**LIVING WAGE ORDINANCE
DEPARTMENTAL DETERMINATION OF COVERAGE
UNDER THE LIVING WAGE ORDINANCE**

This form must be completed by the department and attached to the proposed contract, lease, license, or Authority for Expenditure that includes a Letter of Agreement, in the review process (e.g., CAO Budget Analyst, City Attorney, etc.). If the contract/agreement is "subject" to the LWO, a signed Declaration of Compliance must also be attached; or, if the contract/agreement is "not covered" or "exempt," an Exemption form approved by the CAO. Upon contract execution, these documents must be provided to the CAO, Living Wage Section and the City Controller (see exceptions below). Payment to the contractor will not be processed unless the required documents are on file.

Department Department of General Services Dept. Rep. Irene Saltzman
Date August 18, 2000 Phone (213) 847-5925
Contractor 9517 GLASCOW, LLC and S. GREVILLEA, LLC,
California Limited Liability Companies Contract # _____

This is a: New Contract X Renewal Contract _____ Amended Contract _____ Successor Contract _____ Other(explain) _____

If this is a Successor Contract, with employees paid less than \$15 per hour, did the department comply with the Service Contract Worker Retention Ordinance? Yes _____ No _____

Contracts, Leases and Licenses Subject to the Living Wage Ordinance

	<u>LAAC</u>	<u>Covered</u>	<u>Not Covered</u>
Service contract (at least 3 months <u>and</u> over \$25,000)	10.37.1(j)	_____	_____ *
Proprietary leases or licenses	10.37.1(i)	<u>X</u>	_____ *
Other leases or licenses	10.37.1(i)	_____	_____ *
City financial assistance recipient (see below)	10.37.1(c)	_____	_____
Child care workers with non-profit organization	10.37.1(g)	_____	_____
Non-profit organization under IRS 501(c)(3) w/ chief executive officer salary <u>greater than</u> 8 times lowest paid worker	10.37.1(g)	_____	_____
Business Improvement Districts (BIDs), City or grant funds	Reg. 11	_____	_____

Contracts, Leases and Licenses Exempt from the Living Wage Ordinance

An Awarding Authority or Bidder Request for Non-Coverage or Exemption must be attached to all of the following contracts, leases, licenses or AFE's that the Awarding Department has determined to be exempt from coverage:

		<u>Exempt</u>	<u>Term</u>	<u>Amount</u>
Service contract (less than 3 months <u>or</u> \$25,000 or less)	10.37.1(j)	_____ ✦	_____	_____
Other governmental entity	10.37.1(g)	_____ ✦	_____	_____
Purchase or rental of goods, equipment, property	10.37.1(j)	_____ ✦	_____	_____
Construction contract	10.37.1(j)	_____ ✦	_____	_____
Occupational license required	10.37.1(f)	_____	_____	_____
Collective bargaining agreement w/ LWO supersession language	10.37.12	_____	_____	_____
Financial assistance recipient	10.37.1(c)	_____	_____	_____
Below \$1,000,000 in 12 months		_____	_____	_____
At least \$100,000 assistance/year (non-continuing)		_____	_____	_____
First year of operation		_____	_____	_____
Other than economic development or job growth		_____	_____	_____
Economic hardship		_____	_____	_____
(only applicable to employers of long-term unemployed, or provide training for preparation for permanent employment; requires Council approval)		_____	_____	_____
Non-profit organization under IRS 501(c)(3) w/ chief executive officer salary less than 8 times lowest paid worker	10.37.1(g)	_____	_____	_____
Proprietary lessee or licensee w/ less than \$200,000 gross revenue and no more than 7 employees	10.37.1(i)	_____	_____	_____
One person contractors, lessee, licensee, financial assistance recipient with no workers	10.37.1(f)	_____	_____	_____
Business Improvement Districts (BIDs), assessment monies	Reg. 11	_____	_____	_____

* Complete Exemption Form.

✦ No Exemption Form is required.

✦ This Form Does NOT need to be completed for these contracts.

Form CAO/LW-1 Rev. 7/22/99 CAO & Controller

LAAC SEC. 10.37 - LIVING WAGE**LAND NO. A-147
APN 4229-017-900**

CITY OF LOS ANGELES
Office of Administrative and Research Services
Contractor Enforcement Section
200 North Main Street, Room 606
Los Angeles, CA 90012
Phone: (213) 485-3514 - Fax: (213) 485-0672

DECLARATION OF COMPLIANCE**Service Contract Worker Retention Ordinance and the Living Wage Ordinance**

Los Angeles Administrative Code (LAAC) Sections 10.36 et seq. and 10.37 et seq. provide that all employers (except where specifically exempted) under contracts primarily for the furnishing of services to or for the City and that involve an expenditure in excess of \$25,000 and a contract term of at least three months; leases; licenses; or certain recipients of City financial assistance shall comply with all applicable provisions of the Ordinances.

During the performance of this agreement, the contractor, lessee, licensee, or City financial assistance recipient certifies that it shall comply and require each subcontractor hereunder to comply with the provisions of the above referenced Ordinances. The contractor shall provide to the City a list of all subcontractors and a list of all employees under the agreement (including employees of subcontractors) within 10 days after execution. The list of employees shall include the name, position classifications and rate of pay for each employee. An updated list shall be submitted upon demand and upon termination of the contract. A completed Declaration of Compliance from each subcontractor subject to the Living Wage Ordinance must be provided to the Office of Administrative Research Services within 90 days of execution of the subcontract. In case of a successor service contract, a successor contractor shall retain for a 90-day transition employment period employees who have been employed by the terminated contractor or its subcontractor, if any, for the preceding 12 months or longer, pursuant to Section 10.36.2.

The contractor, lessee, licensee, or City financial assistance recipient further agrees:

- (a) To pay covered employees a wage no less than the minimum initial compensation of \$7.72 per hour (adjusted July 1, 2000) with health benefits, as referred to in (c) below, or otherwise \$8.97 per hour (adjusted July 1, 2000), pursuant to Section 10.37.2(a). Such rates shall be adjusted annually and shall become effective July 1;
- (b) To provide at least 12 compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least 10 additional days per year of uncompensated time off pursuant to Section 10.37.2(b) and Regulation 4(e)(3);
- (c) Where so elected under (a) above, to pay at least \$1.25 per hour per employee toward the provision of health benefits for the employees and their dependents pursuant to Section 10.37.3;
- (d) To inform employees making less than \$12 per hour of their possible right to the federal Earned Income Tax Credit (EITC) and make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4;
- (e) To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City; and
- (f) Not to retaliate against any employee claiming non-compliance with the provisions of these Ordinances and to comply with federal law prohibiting retaliation for union organizing.

Failure to complete and submit this form to the Awarding Authority and to the Office of Administrative and Research Services may result in withholding of payments by the City Controller, or contract termination.

Check box only if applicable: ☐ I certify under penalty of perjury that I do not have any employees earning less than \$15 per hour working on this City agreement.

Company Name		Signature of Officer or Authorized Representative	
9517 Glasgow, LLC and S. Grevillea, LLC			
Company Address and Phone Number		Type or Print Name and Title	
c/o NRG Management, 520 Washington Blvd., #558, Marina Del Rey, CA 90292 (310) 822-5395			
Date	Contract Number	Awarding City Department	Type of Service
		Department of General Services	Lessee

Form OARS/LW-5 Rev. 7/6/00

DECLARATION OF COMPLIANCE

GROUND LEASE -
820 W. WASHINGTON BLVD.

EXHIBIT B
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SSCHE02-120873_1
WASH820.001

LOS ANGELES ADMINISTRATIVE CODE
ARTICLE 11 LIVING WAGE*Article added by Ord. No. 171,547, Eff. 5-5-97; amended by Ord. No. 172,337, Eff. 1-14-99.***Sec. 10.37. Legislative Findings.**

The City awards many contracts to private firms to provide services to the public and to City government. The City also provides financial assistance and funding to others for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and similar goals of the City. The City intends that the policies underlying this article serve to guide the expenditure of such funds to the extent allowed by the laws under which such grant programs are established.

Experience indicates that procurement by contract of services has all too often resulted in the payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. Such minimal compensation tends to inhibit the quantity and quality of services rendered by such employees, to the City and to the public. Underpaying employees in this way fosters high turnover, absenteeism, and lackluster performance. Conversely, adequate compensation promotes amelioration of these undesirable conditions. Through this article the City intends to require service contractors to provide a minimum level of compensation that will improve the level of services rendered to and for the City.

The inadequate compensation typically paid today also fails to provide service employees with resources sufficient to afford life in Los Angeles. It is unacceptable that contracting decisions involving the expenditure of City funds should foster conditions placing a burden on limited social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In requiring the payment of a higher minimum level of compensation, this article benefits that interest.

Nothing less than the living wage should be paid by the recipients of City financial assistance themselves. Whether they be engaged in manufacturing or some other line of business, the City does not wish to foster an economic climate where a lesser wage is all that is offered to the working poor. The same adverse social consequences from such inadequate compensation emanate just as readily from manufacturing, for example, as service industries. This article is meant to protect these employees as well.

The City holds a proprietary interest in the work performed by many employees employed by lessees and licensees of City property and by their service contractors

and subcontractors. In a very real sense, the success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by such businesses. Inadequate compensation of these employees adversely impacts the performance by the City's lessee or licensee and thereby does the same for the success of City operations. By the 1998 amendment to this article, recognition is given to the prominence of this interest at those facilities visited by the public on a frequent basis, including but not limited to, terminals at Los Angeles International Airport, Ports O'Call Village in San Pedro, and golf courses and recreation centers operated by the Department of Recreation and Parks. This article is meant to cover all such employees not expressly exempted.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the City. Primarily because of the latter concern and experience to date regarding the failure of some employers to honor their obligation to pay the living wage, the 1998 amendments introduce additional enforcement mechanisms to ensure compliance with this important obligation. Non-complying employers must now face the prospect of paying civil penalties, but only if they fail to cure non-compliance after having been given formal notice thereof. Where non-payment is the issue, employers who dispute determinations of non-compliance may avoid civil penalties as well by paying into a City holding account the monies in dispute. Employees should not fear retaliation, such as by losing their jobs, simply because they claim their right to the living wage, irrespective of the accuracy of the claim. The 1998 amendments strengthen the prohibition against retaliation to serve as a critical shield against such employer misconduct.

Sec. 10.37.1. Definitions.

The following definitions shall apply throughout this article:

(a) "Awarding authority" means that subordinate or component entity or person of the City (such as a department) or of the financial assistance recipient that awards or is otherwise responsible for the administration of a service contract or proprietary lease or license, or, where there is no such subordinate or component entity or person, then the City or the City financial assistance recipient.

(b) "City" means the City of Los Angeles and all awarding authorities thereof, including those City departments which exercise independent control over their expenditure of funds, but excludes the Community

LIVING WAGE ORDINANCE

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Redevelopment Agency of the City of Los Angeles ("CRA"). The CRA is urged, however, to adopt a policy similar to that set forth in this article.

(c) "City financial assistance recipient" means any person who receives from the City discrete financial assistance for economic development or job growth expressly articulated and identified by the City, as contrasted with generalized financial assistance such as through tax legislation, in accordance with the following monetary limitations. Assistance given in the amount of one million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this article for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance reaches the one-hundred thousand dollar (\$100,000) threshold.

Categories of such assistance include, but are not limited to, bond financing, planning assistance, tax increment financing exclusively by the City, and tax credits, and shall not include assistance provided by the Community Development Bank. City staff assistance shall not be regarded as financial assistance for purposes of this article. A loan shall not be regarded as financial assistance. The forgiveness of a loan shall be regarded as financial assistance. A loan shall be regarded as financial assistance to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. §§1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees.

A recipient shall be exempted from application of this article if (1) it is in its first year of existence, in which case the exemption shall last for one (1) year, (2) it employs fewer than five (5) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or (3) it obtains a waiver as provided herein. A recipient — who employs the long-term unemployed or provides trainee positions intended to prepare employees for permanent positions, and who claims that compliance with this article would cause an economic hardship — may apply in writing to the City department or office administering such assistance, which department or office which shall forward such application and its recommended action on it to the City Council. Waivers shall be effected by Council resolution.

(d) "Contractor" means any person that enters into (1) a service contract with the City, (2) a service contract with a proprietary lessee or licensee or sublessee or sublicensee, or (3) a contract with a City financial assistance recipient to assist the recipient in performing the work for which the assistance is being given. Vendors, such as service contractors, of City financial assistance recipients shall not be regarded as contractors except to the extent provided in subsection (f).

(e) "Designated administrative agency (DAA)" means that City department or office designated by Council resolution to bear administrative responsibilities under section 10.37.7. The City Clerk shall maintain a record of such designations.

(f) "Employee" means any person — who is not a managerial, supervisory, or confidential employee and who is not required to possess an occupational license — who is employed (1) as a service employee of a contractor or subcontractor on or under the authority of one or more service contracts and who expends any of his or her time thereon, including but not limited to: hotel employees, restaurant, food service or banquet employees; janitorial employees; security guards; parking attendants; nonprofessional health care employees; gardeners; waste management employees; and clerical employees; (2) as a service employee -- of a proprietary lessee or licensee, of a sublessee or sublicensee -- who works on the leased or licensed premises; (3) by a City financial assistance recipient who expends at least half of his or her time on the funded project, or (4) by a service contractor or subcontractor of a City financial assistance recipient and who expends at least half of his or her time on the premises of the City financial assistance recipient directly involved with the activities funded by the City.

(g) "Employer" means any person who is a City financial assistance recipient, contractor, subcontractor, proprietary lessee, proprietary sublessee, proprietary licensee, or proprietary sublicensee and who is required to have a business tax registration certificate by Los Angeles Municipal Code §§21.00-21.198 or successor ordinance or, if expressly exempted by the Code from such tax, would otherwise be subject to the tax but for such exemption; provided, however, that corporations organized under §501(c)(3) of the United States Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3), whose chief executive officer earns a salary which, when calculated on an hourly basis, is less than eight (8) times the lowest wage paid by the corporation, shall be exempted as to all employees other than child care workers.

(h) "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability

LIVING WAGE ORDINANCE

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WASH820.001

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company, trust, association, or other entity that may employ individuals or enter into contracts.

(i) "Proprietary lease or license" means a lease or license of City property on which services are rendered by employees of the proprietary lessee or licensee or sublessee or sublicensee, or of a contractor or subcontractor, but only where any of the following applies: (1) the services are rendered on premises at least a portion of which is visited by substantial members of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities), (2) any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (3) the DAA has determined in writing that coverage would further the proprietary interests of the City; provided, however, that a proprietary lessee or licensee having annual gross revenues of less than two-hundred thousand dollars (\$200,000) from business conducted on the premises and employing no more than seven (7) employees will be exempt from this article, except that for proprietary leases or licenses having a term of more than two (2) years, the exemption shall expire after two (2) years but shall be renewable in two-year increments upon meeting the requirements therefor at the time of the renewal application. To qualify for this exemption, the proprietary lessee or licensee must provide proof of its gross revenues and number of employees to the awarding authority of the proprietary lease or license as required by regulation. The determination of whether annual gross revenues are less than two-hundred thousand dollars (\$200,000) shall be based on the gross revenues for the last tax year prior to application or such other period as may be established by regulation. Such annual gross revenue ceiling of two-hundred thousand dollars (\$200,000) shall be adjusted annually at the same rate and at the same time as the living wage is adjusted under section 10.37.2(a). A proprietary lessee or licensee shall be deemed to be employing no more than seven (7) employees if its workforce worked an average of no more than one-thousand, two-hundred, and fourteen (1214) hours per month for at least three-fourths of the time period upon which the revenue limitation is measured. Proprietary "leases" and "licenses" shall be deemed to include subleases and sublicenses. Proprietary "lessees" and "licensees" shall be deemed to include their sublessees and sublicensees.

(j) "Service contract" means a contract let to a contractor by the City primarily for the furnishing of services to or for the City (as opposed to the purchase of goods or other property or the leasing or renting of property) and that involves an expenditure in excess of twenty-five thousand dollars (\$25,000) and a contract term of at least three (3) months; but only where any of the following applies: (1) at least some of the services rendered are rendered by employees whose work site is on property owned by the

City, (2) the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (3) the DAA has determined in writing that coverage would further the proprietary interests of the City.

(k) "Subcontractor" means any person not an employee that enters into a contract (and that employs employees for such purpose) with (1) a contractor or subcontractor to assist the contractor in performing a service contract or (2) a contractor or subcontractor of a proprietary lessee or licensee or sublessee or sublicensee to perform or assist in performing services on the leased or licensed premises. Vendors, such as service contractors or subcontractors, of City financial assistance recipients shall not be regarded as subcontractors except to the extent provided in subsection (f).

(l) "Willful violation" means that the employer knew of his, her, or its obligations under this article and deliberately failed or refused to comply with its provisions.

Sec. 10.37.2. Payment of Minimum Compensation to Employees.

(a) Wages.

Employers shall pay employees a wage of no less than the hourly rates set under the authority of this article. The initial rates were seven dollars and twenty-five cents (\$7.25) per hour with health benefits, as described in this article, or otherwise eight dollars and fifty cents (\$8.50) per hour. With the annual adjustment effective July 1, 1998, such rates were adjusted to seven dollars and thirty-nine cents (\$7.39) per hour with health benefits and eight dollars and sixty-four cents (\$8.64) without. Such rates shall continue to be adjusted annually to correspond with adjustments, if any, to retirement benefits paid to members of the City Employees Retirement System ("CERS"), made by the CERS Board of Administration under §4.1040. The City Administrative Office shall so advise the DAA of any such change by June 1 of each year and of the required new hourly rates, if any. On the basis of such report the DAA shall publish a bulletin announcing the adjusted rates, which shall take effect upon such publication.

(b) Compensated days off.

Employers shall provide at least twelve compensated days off per year for sick leave, vacation, or personal necessity at the employee's request. Employers shall also permit employees to take at least an additional ten days a year of uncompensated time to be used for sick leave for the illness of the employee or a member of his or her immediate family where the employee has exhausted his or her compensated days off for that year.

Sec. 10.37.3. Health Benefits.

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Health benefits required by this article shall consist of the payment of at least one dollar and twenty-five cents (\$1.25) per hour towards the provision of health care benefits for employees and their dependents. Proof of the provision of such benefits must be submitted to the awarding authority to qualify for the wage rate in section 10.37.2(a) for employees with health benefits.

Sec. 10.37.4. Notifying Employees of their Potential Right to the Federal Earned Income Credit.

Employers shall inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Credit ("EIC") under §32 of the Internal Revenue Code of 1954, 26 U.S.C. §32, and shall make available to employees forms informing them about the EIC and forms required to secure advance EIC payments from the employer.

Sec. 10.37.5. Retaliation Prohibited

Neither an employer, as defined in this article, nor any other person employing individuals shall discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with this article, for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce his or her rights under this article by any lawful means, or for otherwise asserting rights under this article.

Sec. 10.37.6. Enforcement.

(a) An employee claiming violation of this article may bring an action in the Municipal Court or Superior Court of the State of California, as appropriate, against an employer and may be awarded:

(1) For failure to pay wages required by this article -- back pay for each day during which the violation continued.

(2) For failure to pay medical benefits -- the differential between the wage required by this article without benefits and such wage with benefits, less amounts paid, if any, toward medical benefits.

(3) For retaliation -- reinstatement, back pay, or other equitable relief the court may deem appropriate.

(4) For willful violations, the amount of monies to be paid under (1) - (3) shall be trebled.

(b) The court shall award reasonable attorney's fees and costs to an employee who prevails in any such enforcement action and to an employer who so prevails if the employee's suit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies, and such contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the City to terminate the contract and otherwise pursue legal remedies that may be available. Such contracts shall also include a pledge that there shall be compliance with federal law proscribing retaliation for union organizing.

(d) An employee claiming violation of this article may report such claimed violation to the DAA which shall investigate such complaint. Whether based upon such a complaint or otherwise, where the DAA has determined that an employer has violated this article, the DAA shall issue a written notice to the employer that the violation is to be corrected within ten (10) days. In the event that the employer has not demonstrated to the DAA within such period that it has cured such violation, the DAA may then:

(1) Request the awarding authority to declare a material breach of the service contract, proprietary lease or license, or financial assistance agreement and exercise its contractual remedies thereunder, which are to include, but not be limited to, termination of the service contract, proprietary lease or license, or financial assistance agreement and the return of monies paid by the City for services not yet rendered.

(2) Request the City Council to debar the employer from future City contracts, leases, and licenses for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last. Such debarment shall be to the extent permitted by, and under whatever procedures may be required by, law.

(3) Request the City Attorney to bring a civil action against the employer seeking:

(i) Where applicable, payment of all unpaid wages or health premiums prescribed by this article; and/or

(ii) A fine payable to the City in the amount of up to one hundred dollars (\$100) for each violation for each day the violation remains uncured.

Where the alleged violation concerns non-payment of wages or health premiums, the employer will not be subject to debarment or civil penalties if it pays the monies in dispute into a holding account maintained by the City for such purpose. Such disputed monies shall be presented to a neutral arbitrator for binding arbitration. The arbitrator shall determine whether such monies shall be disbursed, in whole or in part, to the

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employer or to the employees in question. Regulations promulgated by the DAA shall establish the framework and procedures of such arbitration process. The cost of arbitration shall be borne by the City, unless the arbitrator determines that the employer's position in the matter is frivolous, in which event the arbitrator shall assess the employer for the full cost of the arbitration. Interest earned by the City on monies held in the holding account shall be added to the principal sum deposited, and the monies shall be disbursed in accordance with the arbitration award. A service charge for the cost of account maintenance and service may be deducted therefrom.

(e) Notwithstanding any provision of this Code or any other ordinance to the contrary, no criminal penalties shall attach for any violation of this article.

Sec. 10.37.7. Administration.

The City Council shall by resolution designate a department or office, which shall promulgate rules for implementation of this article and otherwise coordinate administration of the requirements of this article ("designated administrative agency" - DAA). The DAA shall monitor compliance, including the investigation of claimed violations, and shall promulgate implementing regulations consistent with this article. The DAA shall also issue determinations that persons are City financial assistance recipients, that particular contracts shall be regarded as "service contracts" for purposes of section 10.37.1(j), and that particular leases and licenses shall be regarded as "proprietary leases" or "proprietary licenses" for the purposes of section 10.27.1(j), when it receives an application for a determination of non-coverage or exemption as provided for in section 10.37.13. The DAA shall also establish employer reporting requirements on employee compensation and on notification about and usage of the federal Earned Income Credit referred to in §10.37.4. The DAA shall report on compliance to the City Council no less frequently than annually.

During the first, third, and seventh years of this article's operation since May 5, 1997, and every third year thereafter, the Chief Administrative Officer and the Chief Legislative Analyst shall conduct or commission an evaluation of this article's operation and effects. The evaluation shall specifically address at least the following matters: (a) how extensively affected employers are complying with the article; (b) how the article is affecting the workforce composition of affected employers; (c) how the article is affecting productivity and service quality of affected employers; (d) how the additional costs of the article have been distributed among workers, their employers, and the City. Within ninety days of the adoption of this article, these offices shall develop detailed plans for evaluation, including

a determination of what current and future data will be needed for effective evaluation.

Sec. 10.37.8. Exclusion of Service Contracts from Competitive Bidding Requirement.

Service contracts otherwise subject to competitive bid shall be let by competitive bid if they involve the expenditure of at least two million dollars (\$2,000,000). Charter §387 shall not be applicable to service contracts.

Sec. 10.37.9. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This article shall not be construed to limit an employee's right to bring legal action for violation of other minimum compensation laws.

Sec. 10.37.10. Expenditures Covered.

This article shall apply to the expenditure — whether through aid to City financial assistance recipients, service contracts let by the City, or service contracts let by its financial assistance recipients — of funds entirely within the City's control and to other funds, such as federal or state grant funds, where the application of this article is consonant with the laws authorizing the City to expend such other funds.

Sec. 10.37.11 Timing of Application.

(a) Original 1997 ordinance.

The provisions of this article as enacted by City ordinance no. 171,547, effective May 5, 1997, shall apply to (1) contracts consummated and financial assistance provided after such date, (2) contract amendments consummated after such date and before the effective date of the 1998 ordinance which themselves meet the requirements of former section 10.37.1(h) (definition of "service contract") or which extended contract duration, and (3) supplemental financial assistance provided after such date which itself met the requirements of section 10.37.1(c).

(b) 1998 amendment.

The provisions of this article as amended by the 1998 ordinance shall apply to (1) service contracts, proprietary leases or licenses, and financial assistance agreements consummated after the effective date of such ordinance and (2) amendments, consummated after the effective date of such ordinance, to service contracts, proprietary leases or licenses, and financial assistance agreements that provide additional monies or which extend term.

Sec. 10.37.12. Supersession by Collective Bargaining Agreement.

Parties subject to this article may by collective bargaining agreement provide that such agreement shall supersede the requirements of this article.

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Sec. 10.37.13. Liberal Interpretation of Coverage; Rebuttable Presumption of Coverage.

The definitions of "City financial assistance recipient" in section 10.37.1(c), of "proprietary lease or license" in section 10.37.1(i), and of "service contract" in section 10.37.1(j) shall be liberally interpreted so as to further the policy objectives of this article. All recipients of City financial assistance meeting the monetary thresholds of section 10.37.1(c), all City leases and licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services that are more than incidental, shall be presumed to meet the corresponding definition just mentioned, subject, however, to a determination by the DAA of non-coverage or exemption on any basis allowed by this article, including, but not limited to, non-coverage for failure to satisfy such definition. The DAA shall by regulation establish procedures for informing persons engaging in such transactions with the City of their opportunity to apply for a determination of non-coverage or exemption and procedures for making determinations on such applications.

Sec. 10.37.14. Severability.

If any provision of this article is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

NON-DISCRIMINATION IN EMPLOYMENT

LOS ANGELES ADMINISTRATIVE CODE Division 10, Chapter 1, Article 1

Sec. 10.8.1. Definitions.

The following definitions shall apply to the following terms used in this article:

"Awarding Authority" means any Board or Commission of the City of Los Angeles, or any authorized employee or officer of the City of Los Angeles, including the Purchasing Agent of the City of Los Angeles, who makes or enters into any contract or agreement for the provision of any goods or services of any kind or nature whatsoever for or on behalf of the City of Los Angeles.

"Contract" means any agreement, franchise, lease, or concession, including agreements for any occasional professional or technical personal services, for the performance of any work or service, the provision of any materials or supplies, or the rendition of any service to the City of Los Angeles or to the public, which is let, awarded or entered into with, or on behalf of, the City of Los Angeles or any awarding authority thereof.

"Contractor" means any person, firm, corporation, partnership, or any combination thereof, who submits a bid or proposal or enters into a contract with any awarding authority of the City of Los Angeles.

"Employment Practices" means any solicitation of, or advertisement for, employees, employment, change in grade or work assignment, assignment or change in place or location of work, layoff, suspension, or termination of employees, rate of pay or other form of compensation including vacation, sick and compensatory time, selection for training, including apprenticeship programs, any and all employee benefits and activities, promotion and upgrading, and any and all actions taken to discipline employees for infractions of work rules or employer requirements.

"Office of Contract Compliance" is that office of the Department of Public Works of the City of Los Angeles created by Article X of Chapter 13 of Division 22 of the Los Angeles Administrative Code.

"Subcontractor" means any person, firm or corporation or partnership, or any combination thereof who enters into a contract with a contractor to perform or provide a portion or part of any contract with the City.

SECTION HISTORY

Amended by: Ord.No. 147,030, Eff. 4-28-75; Definition, "Affirmative Action", Ord.No. 164,516, Eff. 4-13-89; Definition, "Affirmative Action", Ord.No. 168,244, Eff. 10-18-92; Ord.No. 173,186, Eff. 5-22-00.

Sec. 10.8.1.1. Summary of Thresholds.

The following thresholds will be used to determine the non-discrimination and affirmative action requirements set forth in this Chapter for each type of contract.

Non-discrimination Practices as outlined in Section 10.8.2 of this Code, apply to all contracts.

Equal Employment Practices as outlined in Section 10.8.3 of this Code, apply to all construction contracts of \$1,000 or more and all non-construction contracts of \$1,000 or more.

Affirmative Action Program as outlined in Sections 10.8.4. and 10.13 of this Code, applies to all Construction Contracts of \$5,000 or more and all non-Construction Contracts of \$100,000 or more.

SECTION HISTORY

Added by: Ord. No. 173,186, Eff. 5-22-2000.

Sec. 10.8.2. All Contracts: Non-discrimination Clause.

Notwithstanding any other provision of any ordinance of the City of Los Angeles to the contrary, every contract which is let, awarded, or entered into with or on behalf of the City of Los Angeles, shall contain by insertion therein a provision obligating the contractor in the performance of such contract not to discriminate in his or her employment practices against any employee or applicant for employment because of the applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All contractors who enter into such contracts with the City shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

SECTION HISTORY

Amended by: Ord. No. 147,030, Eff. 4-28-75; Ord. No. 164,516, Eff. 4-13-89; Ord. No. 168,244, Eff. 10-18-92; Ord. No. 172,910, Eff. 1-9-00; Ord. No. 173,186, Eff. 5-22-00.

Sec. 10.8.2.1 Equal Benefits Ordinance.

a. All Contracts: Equal Benefits Clause. No awarding authority of the City, shall execute or amend any contract with any contractor that discriminates in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits as well as any other benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, or an internal registry maintained by the contractor, subject to the provisions of this Section. In the event that the contractor's actual cost of providing a certain benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the contractor's actual cost of providing a certain benefit for the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the contractor shall not be deemed to discriminate in the provision of benefits if

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the contractor conditions providing such benefit upon the employee agreeing to pay the excess costs. In addition, the contractor shall not be deemed to discriminate in the provision of benefits if the contractor provides the employee with a cash equivalent to the direct expense to the employer of providing the benefit payment to a spouse or domestic partner, as applicable.

b. **Applicability.** The requirements of this Section shall apply to (i) any of a contractor's operations within the City of Los Angeles; and (ii) a contractor's operations on real property outside of the City of Los Angeles owned by the City or which the City has a right to occupy if the contractor's presence at that location is connected to a contract with the City; (iii) a contractor's operations elsewhere in the United States where the work is being performed for the City.

c. **Mandatory Provisions Pertaining to Equal Benefits.** Every contract with or on behalf of the City of Los Angeles for which the consideration is in excess of \$5,000 shall contain the following provisions which shall be designated as the Equal Benefits Provisions of such contract:

"A. During the performance of this contract, the contractor certifies and represents that the contractor will provide equal benefits to its employees with spouses and its employees with domestic partners.

1. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

"B. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices to the awarding authority or the City Administrative Officer, for the purpose of investigation to ascertain compliance with the Equal Benefits Provisions of this contract, and on their or either of their request to provide evidence that it has complied or will comply therewith.

"C. The failure of any contractor to comply with the Equal Benefits Provisions of this contract may be deemed to be a material breach hereof. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the City Administrative Officer. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

"D. Upon a finding duly made that the contractor has breached the Equal Benefits Provisions of this contract, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder pursuant to the provisions of Section 386 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until it shall establish and carry out a program in conformance with the provisions hereof.

"E. Notwithstanding any other provisions of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

"F. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

"G. The equal benefits requirements of this section shall not apply to collective bargaining agreements in effect prior to the effective date of Section 10.8.2.1 of the Los Angeles Administrative Code. Amendments, extensions or other modifications of such collective bargaining agreements, occurring subsequent to the effective date of that section, shall incorporate the equal benefits requirements of that section."

"H. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City."

d. **Enforcement.** In accordance with Division 22, Chapter 13, Article 10, of this Code, the City Administrative Officer is responsible for the enforcement of the equal benefits requirements, as referenced in this Section, or as otherwise required, of all City contracts. In enforcing this requirement, the City Administrative Officer will monitor, inspect, and investigate to insure that the contractor is acting in compliance with the equal benefits requirements of such City contracts. The City Administrative Officer shall promulgate rules and regulations and forms for the implementation of the Equal Benefits Provisions of this contract. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program. Each awarding authority shall cooperate to the fullest extent with the City Administrative Officer in their enforcement activities. The failure of any contractor to comply with the equal benefits provisions of a contract may be deemed to be a material breach of the contract.

e. **Non-applicability, Exceptions and Waivers.**

(1) The City Administrative Officer shall waive the requirements of this Section under the following circumstances:

A. Whenever the City Administrative Officer finds, upon the advice of the awarding authority, that there is only one prospective contractor willing to enter into a contract with the City for use of City property on the terms and conditions established by the City, or that the needed goods, services, construction services for a public work or improvement, or interest in or right to use real property are available only from a sole source, and the prospective contractor is not currently disqualified from doing business with the City, or from doing business with any governmental agency based on any contract compliance requirements;

B. If the awarding authority certifies in writing to the City Administrative Officer that the contract is necessary to respond to an emergency which endangers the public health or safety and no entity which complies with the requirements of

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this Section capable of responding to the emergency is immediately available; provided that such certification must be made prior to the final approval of the contract.

C. Where the City Attorney certifies in writing to the City Administrative Officer that the contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of this Section.

(2) This Section shall not apply where the prospective contractor is a public entity and the City Administrative Officer finds that goods, services, construction services for a public work or improvement or interest in or right to use real property of comparable quality or accessibility as are available under the proposed contract are not available from another source, or that the proposed contract is necessary to serve a substantial public interest;

(3) This Section shall not apply where the awarding authority finds that the requirements of this Section will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement, provided that the awarding authority has made a good faith attempt to change the terms or conditions of any such grant, subvention or agreement to authorize application of this Section.

(4) Upon the request of a potential contractor or upon the awarding authority's own initiative, after taking all reasonable measures to find an entity that complies with the law, and subject to the provisions of paragraph (5) below, the awarding authority may waive any or all of the requirements of this Section for any contract or bid package advertised and made available to the public, or any competitive or sealed bids received by the City as of the date of the enactment of this ordinance under the following circumstances:

A. Where the awarding authority determines that there are no qualified responsive bidders or prospective contractors who could be certified as being in compliance with the requirements of this Section and that the contract is for goods, a service or a project that is essential to the City or City residents; or

B. Where the awarding authority determines that transactions entered into pursuant to bulk purchasing arrangements through federal, state or regional entities which actually reduce the City's purchasing costs would be in the best interests of the City; or

C. Where the awarding authority determines that the requirements of this Section would result in the City's entering into a contract with an entity that was set up, or is being used, for the purpose of evading the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section.

(5) The waiver authority granted to awarding authorities in this Section shall be subject to the requirements that:

A. All proposed waivers must be submitted to the City Administrative Officer and the City Clerk. All proposed waivers must set forth the reasons the contracting officer is requesting the waiver, what steps were taken to find an entity that complies with this Section and why the waiver does not defeat the intent of this Section, which is to prohibit the City from entering into contracts with entities that discriminate based on the criteria set forth in this Section. Such waivers

shall be subject to the prior approval of the City Administrative Officer, which shall take action approving or denying a proposed waiver within 30 days of receiving a notification of a proposed waiver from a contracting officer. If after 30 days the City Administrative Officer has taken no action on the proposed waiver the waiver shall be deemed approved. The City Clerk shall notify all Council members of the proposed waiver.

B. For any contract subject to approval by the Council, the awarding authority shall state in the approving resolution or other action whether any waiver under this section has been or is proposed to be granted for that contract; and

C. The City Administrative Officer shall conduct quarterly comprehensive reviews of the use of the waiver authority by awarding authorities and shall make a report to the Council. Awarding authorities which have exercised their waiver authority under this Section in the previous quarter must appear before the Council Committee before which the matter is calendared and report on the use of such waiver authority. If the Council finds abuse of waiver authority by an awarding authority under this section, either as a result of a report of the City Administrative Officer or upon its own initiative, the Council may by resolution transfer that waiver authority for that awarding authority to the City Administrative Officer, to be exercised by the City Administrative Officer upon recommendation of the awarding authority under any or all of the circumstances enumerated in this section.

(6) Nothing in this section shall limit the right of the City to waive the provisions of this Article.

(7) This Section shall not apply to (i) the investment of trust moneys or agreements relating to the management of trust assets, (ii) City moneys invested in U.S. government securities or under pre-existing investment agreements, or (iii) the investment of City moneys where the Treasurer finds that:

A. No person, entity or financial institution doing business in the City which is in compliance with this Section is capable of performing the desired transaction(s); or

B. The City will incur a financial loss which in the opinion of the Treasurer would violate his or her fiduciary duties.

This subparagraph shall be subject to the requirement that City moneys shall be withdrawn or divested at the earliest possible maturity date if deposited or invested with a person, entity or financial institution other than the U.S. government which does not comply with this Section.

(8) The General Manager of the Department of Water and Power may waive the requirements of this Section where the contractor is providing wholesale or bulk water or power, the conveyance or transmission of same, or ancillary services such as spinning reserve, voltage control, or load scheduling, as required for assuring reliable services in accordance with good utility practice, to or on behalf of the Department of Water and Power; provided that the purchase of same may not practically be accomplished through the City's standard competitive bidding procedures; and further provided that this exemption shall not apply to contractors or franchisees providing direct, retail services to end users within the City of Los Angeles.

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(9) The equal benefits requirements of this section shall not apply to any contracts, executed or amended prior to January 1, 2000 or to bid packages advertised and made available to the public, or any competitive or sealed bids received by the City, prior to January 1, 2000, unless and until such contracts are amended after January 1, 2000, and would otherwise be subject to this Section.

f. The provisions of this Section shall not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations of the United States of America.

g. Severability.

If any provision of this section is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION HISTORY

Added by Ord. No. 172,908, Eff. 1-9-2000; amended by: Ord. No. 173,054, Eff. 2-27-00

Sec. 10.8.3. Equal Employment Practices Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$1,000 or more, and every construction contract for which the consideration is \$1,000 or more, shall contain the following provisions, which shall be designated as the EQUAL EMPLOYMENT PRACTICES provision of such contract:

A. During the performance of this contract, the contractor certifies and represents that it will provide equal employment practices and the contractor and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or service performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work, or service category.

3. The contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the City's supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, the contractor shall certify in the specified format that her or she has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The contractor shall permit access to and may be required to provide certified copies of all of his or her records

pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City contracts. On their or either of their request the contractor shall provide evidence that he or she has or will comply therewith.

E. The failure of any contractor to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of City contracts. Such failure shall only be established upon a finding to that effect by the awarding authority on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

F. Upon a finding duly made that the contractor has failed to comply with the Equal Employment Practices provisions of a City contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such failure may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until the contractor shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the Office of Contract Compliance, and provide necessary forms and required language to the awarding authorities to be included in City Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program

I. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. At the time a supplier registers to do business with the City, or when an individual bid or proposal is submitted, the contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Hiring practices;
2. Apprenticeships where such approved programs are functioning, and other on-the-job training for nonapprenticeable occupations;
3. Training and promotional opportunities; and

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4. Reasonable accommodations for persons with disabilities.

L. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

SECTION HISTORY

Amended by Ord. No. 147,030, Eff. 4-28-75; Paragraphs A., B., C., Ord. No. 164,516, Eff. 4-13-89; Paragraph C., Ord. No. 168,244, Eff. 10-18-92; Ord. No. 173,186, Eff. 5-22-00.

Sec. 10.8.4. Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM of such contract:

A. During the performance of a City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

1. This provision applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hardcopy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with

the Affirmative Action Program of this contract, and on their or either of their request to provide evidence that it has or will comply therewith.

E. The failure of any contractor to comply with the Affirmative Action Program of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

F. Upon a finding duly made that the contractor has breached the Affirmative Action Program of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment Practice Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.

H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hardcopy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.

J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. The contractor shall submit an Affirmative Action Plan which shall meet the requirements of this Chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-

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bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

(1) Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation, or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

(2) A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.

L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.

M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for nonapprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

N. Any adjustments which may be made in the contractor's or supplier's work force to achieve the requirements of the City's Affirmative Action Contract

Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, lay-off, demotion, or change in grade.

O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.

P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.

Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

SECTION HISTORY

Amended by Ord.No. 147,030, Eff. 4-28-75; Paragraphs A., B., C., Ord.No. 164,516, Eff. 4-13-89; Paragraphs B. and C., Ord.No. 168,244, Eff. 10-18-92; Ord.No. 173,186, Eff. 5-22-00.

EXHIBIT C: MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

CITY OF LOS ANGELES
DEPARTMENT OF GENERAL SERVICES
c/o Office of the City Attorney
James K. Hahn, City Attorney
R. Bruce Coplen, Deputy City Attorney
Real Property/Environment Division
1800 City Hall East
200 North Main Street
Los Angeles, California 90012

Free recording in accordance with California
Government Code section 6103

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made as of the date of attestation by the City Clerk of the City of Los Angeles of page 2 of this Memorandum, by and between the CITY OF LOS ANGELES, a municipal corporation, as Landlord ("City") and 9517 GLASCOW, LLC and S. GREVILLEA, LLC, California Limited Liability Companies ("Tenant"), who agree as follows:

1. Term And Premises.

City leases to Tenant, and Tenant leases from City, the real property located in the City of Los Angeles, County of Los Angeles, State of California, described as:

Lot __, Tract No. ____, as per map recorded in Book __, pages __ and __,
of Maps, in the office of the County Recorder of Los Angeles County,
excepting therefrom those portions within public streets and subject to all
easements of record,

commonly known as 820 W. Washington Boulevard, Venice, CA 90291, for a term of sixty (60) months, with one sixty (60) month option to extend, commencing on or about the date of this Memorandum, on the provisions of the lease between the parties, which lease ("Lease") is dated on the same date as this Memorandum. These provisions are incorporated into this Memorandum by reference.

2. Provisions Binding On Tenant.

The provisions of the Lease to be performed by Tenant, whether affirmative or negative in nature, are intended to and shall bind Tenant and its successors and assigns at any time, and shall inure to the benefit of City and its successors and assigns.

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3. Provisions Binding on City.

The provisions of the Lease to binding on City, whether affirmative or negative in nature, are intended to and shall bind City and its successors and assigns at any time, and shall inure to the benefit of Tenant and its successors and assigns.

4. Purpose of Memorandum.

This Memorandum is prepared for the purpose of recordation, and it in no way modifies the provisions of the Lease.

5. Reference to Lease for All Purposes.

Reference is hereby made to the entire Lease for any and all purposes. A true copy of the Lease is on file with the City Clerk of the City of Los Angeles, whose office is Room 615, City Hall East, 200 North Main Street, Los Angeles, California 90012.

APPROVED AS TO FORM AND LEGALITY:

JAMES K. HAHN, City Attorney

By: SPECIMEN - DO NOT SIGN
R. BRUCE COPLEN
Deputy City Attorney

DATE: _____

ATTEST:

J. MICHAEL CAREY, City Clerk

By: SPECIMEN - DO NOT SIGN
Deputy

DATE: _____

CITY:

CITY OF LOS ANGELES, a municipal corporation,
acting by and through its Department of General
Services

By: SPECIMEN - DO NOT SIGN
JON KIRK MUKRI
General Manager
Department of General Services

DATE: _____

TENANT:

9517 GLASCOW, LLC and S. GREVILLEA, LLC,
California Limited Liability Company

By: SPECIMEN - DO NOT SIGN
GIOVANNI GIAMMARCO
Managing Member

By: SPECIMEN - DO NOT SIGN

DATE: _____

Council File No.:00-0148
Council Approval Date: February 16, 2000
Land No.: A-147
SSCHE03-_____1/WASH820.LM1
(10/24/2001)

MEMORANDUM OF LEASE

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