

Project: APCD Foster Road  
APN: 111-231-004  
Folio: 003645  
Agent: SD

## **LEASE AGREEMENT**

**THIS LEASE AGREEMENT**, hereinafter “Agreement,” is entered into by and between

COUNTY OF SANTA BARBARA, a political  
subdivision of the State of California,  
hereinafter referred to as "COUNTY,"

and

SANTA BARBARA COUNTY AIR POLLUTION  
CONTROL DISTRICT, a special district, hereinafter  
referred to as "DISTRICT,"

with reference to the following:

**WHEREAS**, COUNTY is the owner of the property located at 620 Foster Road, in the City of Santa Maria, County of Santa Barbara, more particularly described as Assessor Parcel Number 111-231-004 (hereinafter “Property”), depicted on Exhibit “A”, attached hereto and incorporated herein by reference; and

**WHEREAS**, DISTRICT desires to lease the County modular building known as County Facilities Building No. TO3003 (hereinafter “Building”), depicted on Exhibit “B” hereof, attached hereto and incorporated herein by reference; and

**WHEREAS**, COUNTY will provide certain improvements to the Building and DISTRICT will submit to COUNTY a deposit for such improvements prior to the improvements being completed; and

**WHEREAS**, the deposit provided by DISTRICT to COUNTY will be applied to the monthly rent as set forth in section 6. RENT hereof; and

**WHEREAS**, COUNTY and DISTRICT desire to enter into this Agreement for the purpose of leasing the Building to DISTRICT, to be used for DISTRICT office space.

**NOW THEREFORE**, in consideration of the premises, and the mutual covenants and conditions contained herein, DISTRICT and COUNTY hereby agree as follows:

1. **TRUTH OF RECITALS:** The above recitals are true and correct.
2. **ADMINISTRATION AND ENFORCEMENT:** The provisions of this Agreement shall be administered and enforced for COUNTY by the General Services Department, Director, or designee and for DISTRICT by the Air Pollution Control Officer, or designee. These authorized representatives are authorized to extend this Agreement pursuant to Section 4 hereof, and to alter the payment methods set forth in Section 6 hereof.
3. **LEASED PREMISES:** COUNTY hereby leases to DISTRICT and DISTRICT hereby takes from COUNTY, the Building consisting of approximately 1,400 square feet of commercial office space. The leased premises, as depicted on Exhibit B hereof, shall include the Building and an additional 16 square foot area located across from the Building, which shall be used for DISTRICT storage purposes.
4. **TERM:** The term of this Agreement shall be for a period of five (5) years, commencing November 1, 2011, or upon COUNTY'S completion of the Tenant Improvements described in Exhibit "C", attached hereto and incorporated herein by reference, whichever is latest (hereinafter "Commencement Date"), and terminating on October 31, 2016, subject to the provisions for extension and termination as herein contained. Upon expiration of the initial term on October 31, 2016, this Agreement may be extended for an additional three (3) years, upon the mutual agreement of the authorized representatives. In the event of such an agreement, the parties' authorized representatives shall execute a written letter of extension memorializing the extended term.
5. **HOLDING OVER:** Should DISTRICT occupy the Building after the expiration date of this Agreement, or any extension hereof, with the consent of COUNTY, expressed or implied; such possession shall be construed as a tenancy from month-to-month, and DISTRICT shall continue to provide the same consideration as specified herein. Such monthly tenancy may be terminated by either party upon thirty (30) days written notice given at any time, with or without cause.
6. **RENT:**
  - A. **RENT:** Base rent for the term of this Agreement or any extension hereof shall be ONE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$1,400.00) per month, based on \$1.00 per square foot per month (hereinafter "Base Rent"). Rent shall begin to accrue on the Commencement Date, and shall be payable in advance on or before the first (1st) day of each and every calendar month thereafter, except as described in section 6. (E).
  - B. **UTILITY PAYMENTS:** Concurrently with and in addition to Base Rent, DISTRICT shall pay COUNTY for DISTRICT'S share of all utilities serving the leased premises, except phone and data connectivity, at a pre-determined monthly cost of ONE HUNDRED FIFTY SEVEN AND NO/100 DOLLARS (\$157.00) (hereinafter "Utility" payment). Utility payments shall commence on the Commencement Date, and shall be payable in advance on or before the first (1st) day of each and every calendar month thereafter.
  - C. **RENT AND UTILITY PAYMENTS:** Rent and Utility payments shall be paid by Journal Voucher through COUNTY'S FIN system, or, alternatively, by such means as may

be agreed to by the parties. By executing this Agreement, DISTRICT authorizes COUNTY'S General Services Department to transfer monthly rental and utility payments by Journal Voucher through FIN. COUNTY'S General Services Department may make separate Journal Voucher payment transfers for Base Rent and Utility payments, which may be applied to separate accounts, at the discretion of COUNTY. The Base Rent or Utility payment due for any period which is for less than one (1) calendar month shall be pro-rated, based upon a thirty (30) day month.

**D. TENANT IMPROVEMENT DEPOSIT:** In addition to Base Rent and Utility payments, DISTRICT shall pay to COUNTY, a deposit toward the Tenant Improvements described in Exhibit C hereof, in the amount of TWENTY-FIVE THOUSAND TWO HUNDRED AND NO/100 DOLLARS (\$25,200.00) (hereinafter "Deposit"). This Deposit shall be made no later than fifteen (15) days following the final execution of this Agreement. COUNTY shall use the Deposit to pay for the Tenant Improvements described in Exhibit C. Once COUNTY commences the Tenant Improvements, the Deposit shall become non-refundable.

**E. DEPOSIT APPLIED TO BASE RENT:** Beginning on the Commencement Date, the total amount of the Deposit shall be credited by COUNTY toward DISTRICT'S Base Rent, on a monthly basis, at the rate of ONE THOUSAND FOUR HUNDRED AND NO/100 DOLLARS (\$1,400.00) per month, until the value of the entire Deposit has been expended according to this Section. Therefore, COUNTY shall apply fourteen hundred dollars per month toward DISTRICT'S Base Rent for the first EIGHTEEN (18) months of the term. Notwithstanding, DISTRICT shall commence Utility payments on the Commencement Date. Upon final expenditure of the Deposit, DISTRICT shall commence Base Rent payments according to this Section. Therefore, if the term begins November 1, 2011, COUNTY shall credit fourteen hundred dollars per month of the Deposit toward DISTRICT'S Base Rent for the period from November 1, 2011, through April 30, 2013, and, beginning May 1, 2013, fourteen hundred dollars per month will be transferred from DISTRICT to COUNTY for Base Rent for each and every subsequent month of the term or any extension thereof.

\$1400 X 18 months (Nov. 1, 2011 – April 30, 2013) = \$25,200.00  
Base Rent payments begin May 1, 2013

**7. TENANT IMPROVEMENTS:** COUNTY shall complete the Tenant Improvements described in Exhibit C prior to the Commencement Date. In the event such Tenant Improvements are not completed by COUNTY and approved by DISTRICT prior to November 1, 2011, DISTRICT shall not be obligated to pay rent or utility payments until such Tenant Improvements are substantially completed, and the Commencement Date shall be determined to be the day such improvements are completed and approved by DISTRICT.

DISTRICT is hereby authorized to install its own information technology system and its own telephone system including all computers, telephones and wiring for such systems during the final stages of construction of the improvements to the Building and throughout the term. COUNTY hereby agrees that DISTRICT will own such DISTRICT-installed system(s) and is authorized to make any changes to such system(s) during the term.

**8. ALTERATIONS AND CONSTRUCTION:** Except as otherwise provided for herein, any exterior or interior construction or alteration proposed by DISTRICT in, on, or about the Building during the term shall be requested by DISTRICT in written form with proposed

plans and specifications prior to any construction or alterations. COUNTY, through its General Services Department, shall issue a written approval or disapproval of any additional plans and specifications submitted pursuant to this Section.

Any such COUNTY approval shall be deemed conditioned upon DISTRICT acquiring all legally necessary permits from the appropriate governmental agencies at its sole expense, furnishing a copy thereof to COUNTY prior to the commencement of any work, and DISTRICT'S compliance with all conditions of said permit(s). Any and all permits or clearances required shall be granted only on the merits of the application thereof, and nothing in this Agreement shall be construed to require that COUNTY, or any other government agency, grant such permits or clearances. DISTRICT shall give COUNTY'S General Services Department, or designee, not less than ten (10) days written notice prior to the commencement of any such work in, on, or about the Property; and COUNTY shall have the right to post Notices of Nonresponsibility, as provided by law.

During any such construction or alteration, DISTRICT shall keep the leasehold and improvements free and clear of liens for labor and materials expended by or for DISTRICT or on its behalf, and shall hold COUNTY harmless and defend COUNTY with respect to any construction or alterations. Non-compliance with this section shall constitute a material breach hereof. When improvements are constructed by DISTRICT under the provisions of this Agreement, DISTRICT shall inform COUNTY of the date of completion of such improvements.

9. **MAINTENANCE AND REPAIR:**

A. **COUNTY'S Responsibilities:** COUNTY agrees to perform all maintenance and repair to the Building as said responsibilities are set forth in Exhibit D, attached hereto and incorporated herein by reference, except that DISTRICT shall be responsible for maintenance and repair where such is required due to the negligence of DISTRICT, agents, officers, employees and/or invitees.

B. **DISTRICT'S Responsibilities:** DISTRICT, shall, at its sole cost and expense, keep and maintain in good condition and repair the interior of the Building and those items listed as DISTRICT'S responsibility in Exhibit D. Upon termination or expiration of this Agreement, DISTRICT will return the Building to COUNTY, with those items in good order, reasonable wear and tear excepted.

To the extent that there is conflict between this Section and Exhibit D, Exhibit D shall prevail.

10. **UTILITIES AND JANITORIAL SERVICES:** COUNTY shall pay all charges for, gas, electricity, sewer, water, and trash collection and DISTRICT shall pay COUNTY a flat rate of ONE HUNDRED FIFTY SEVEN AND NO/100 DOLLARS (\$157.00) per month as provided in section 6, *RENT* above. DISTRICT shall independently contract and pay for janitorial services, as well as phone and data service within the Building.

11. **PARKING:** At no additional expense, DISTRICT shall be entitled to non-exclusive use of all unreserved parking spaces on the Foster Road Campus.

12. **AMENDMENTS:** This Agreement may only be amended by written consent of the parties. All amendments, once fully executed shall, like this Agreement, be binding upon heirs, successors, and assigns of all parties hereto.

13. **NONDISCRIMINATION:** DISTRICT shall comply with County laws, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara Code and as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth.

Noncompliance with provisions of this section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, COUNTY shall have the right to terminate this Agreement and the interest hereby created without liability therefor.

14. **QUIET ENJOYMENT:** COUNTY covenants that DISTRICT, on performing the provisions of this Agreement, shall have peaceable and quiet enjoyment of the Building. COUNTY further covenants that it will not deliberately interfere or permit others acting subsequently through or under COUNTY, including other tenants of COUNTY, to interfere with DISTRICT'S peaceful possession or use of the Building.

15. **NOTICES:** Except where otherwise specifically provided, all notices under this Agreement and in connection herewith and all statements shall be addressed and delivered as follows:

DISTRICT: Santa Barbara County  
Air Pollution Control District  
260 North San Antonio Road  
Santa Barbara CA 93110-1316  
Attention: Business Manager  
(805) 961-8800  
(805) 961-8801

With copy to:

County of Santa Barbara  
Office of the County Counsel  
105 East Anapamu Street, #201  
Santa Barbara, CA 93101

COUNTY: County of Santa Barbara  
General Services Department  
1100 Anacapa Street  
Santa Barbara, CA 93101-6065  
Attention: Office of Real Estate Services  
(805) 568-3070  
(805) 568-3249 (fax)

or at such other address as the respective party may designate in writing. Any notice may be given by use of the United States mail, postage prepaid Certified mail, or by personal delivery. The date of mailing, or in the event of personal delivery the date of delivery, shall constitute the date of service.

16. **INDEMNIFICATION:** DISTRICT shall defend, indemnify, and save harmless COUNTY, its officers, agents, employees and contractors from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities arising out of this Agreement, or occasioned by the performance or attempted performance of the provisions hereof, including but not limited to any act or omission to act on the part of DISTRICT or its agents, employees, or independent contractors.

COUNTY shall defend, indemnify, and save harmless DISTRICT, its officers, agents, employees and contractors from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments, or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof, including but not limited to any act or omission to act on the part of COUNTY, its agents, employees, or independent contractors.

17. **INSURANCE:** Without limiting the DISTRICT'S indemnification of the COUNTY, DISTRICT shall procure the following required insurance coverages at its sole cost and expense. All insurance coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place DISTRICT in default. Upon request by the COUNTY, DISTRICT shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

A. **Workers' Compensation Insurance:** Statutory Workers' Compensation and Employers Liability Insurance shall cover all DISTRICT'S staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event DISTRICT is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if DISTRICT has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and DISTRICT submits a written statement to the COUNTY stating that fact.

B. **General and Automobile Liability Insurance:** The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of DISTRICT and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the DISTRICT in the indemnity and hold harmless provisions [above] of the Indemnification Section of this Agreement between COUNTY and DISTRICT. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of DISTRICT pursuant to DISTRICT'S activities hereunder. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and

\$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY. Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form: "Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the DISTRICT is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

DISTRICT shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the DISTRICT may be held responsible for payment of damages resulting from DISTRICT'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

In the event the DISTRICT is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the DISTRICT'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY'S Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY'S risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. DISTRICT agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

C. Personal Property Insurance. DISTRICT shall maintain property insurance for its personal property, including but not limited to equipment, supplies and tenant improvements, throughout the term hereof.

18. **MUTUAL WAIVER OF SUBROGATION RIGHTS:** COUNTY and DISTRICT hereby waive any rights each may have against the other on account of any loss or damage suffered by COUNTY or DISTRICT, as the case may be, to their respective property, the Building or its contents, arising from any risk generally covered by "all risk" property insurance; and the parties each, on behalf of their respective insurance companies insuring the property of either COUNTY or DISTRICT against any such loss, waive any right of subrogation that either may have against the other, as the case may be. The foregoing waiver of subrogation shall be offered only so long as any such policy carried by COUNTY will not be invalidated thereby.

19. **ENVIRONMENTAL PROTECTION:** DISTRICT shall comply with all applicable laws, regulations, rules, and orders regardless of when they become or became effective, including without limitation those relating to construction, grading, signage, health, safety, noise, environmental protection, waste disposal, water and air quality, and shall furnish satisfactory evidence of compliance upon request by COUNTY.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Building attributable to DISTRICT'S acts or omissions, DISTRICT shall clean all property affected to the satisfaction of COUNTY and any governmental body having jurisdiction therefor. DISTRICT shall indemnify, hold harmless, and defend COUNTY from and against all liability, claim, cost, and expense (including without limitation any fines, penalties, judgments, litigation costs, attorney's fees, and consulting engineering and construction costs) incurred by COUNTY as a result of DISTRICT'S breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution, regardless of whether such liability, cost, or expense arises during or after the term of this Agreement.

Should any discharge, leakage, spillage, emission, or pollution of any type occur upon or from the Building attributable to COUNTY'S acts or omissions, COUNTY shall clean all property affected to the satisfaction of DISTRICT and any governmental body having jurisdiction therefor. COUNTY shall indemnify, hold harmless, and defend DISTRICT from and against all liability, claim, cost, and expense (including without limitation any fines, penalties, judgments, litigation costs, attorney's fees, and consulting engineering and construction costs) incurred by DISTRICT as a result of COUNTY'S breach of this section, or as a result of any such discharge, leakage, spillage, emission or pollution, regardless of whether such liability, cost, or expense arises during or after the term of this Agreement.

20. **TOXICS:** DISTRICT shall not manufacture or generate hazardous waste in the Building unless specifically authorized by this Agreement. DISTRICT shall be fully responsible for any hazardous wastes, substances, or materials as defined under federal, state, or local law, regulation, or ordinance that are manufactured, generated, used, placed, disposed, stored, or transported in the Building during this Agreement and shall comply with and be bound by all applicable provisions of such federal, state, or local law, regulation, or ordinance dealing with such wastes, substances, or materials. DISTRICT shall notify COUNTY and the appropriate governmental emergency response agency(ies) immediately in the event of any release or threatened release of any such wastes, substances or materials.

21. **COMPLIANCE WITH THE LAW:** DISTRICT shall comply with all applicable federal, state, county, and municipal laws, statutes, rules, regulations, and ordinances regulating the use of the Building during the term.

22. **DEFAULT:** Except as otherwise specified herein, should either party at any time be in default hereunder with respect to any material covenant contained herein, the nondefaulting party shall give notice to the defaulting party specifying the particulars of the default and the defaulting party shall promptly commence remedial action to cure the default. Should such default continue uncured for a period of thirty (30) calendar days from such notice, then this Agreement shall terminate at the option of the nondefaulting party unless the cure of such default shall reasonably take more than thirty (30) calendar days in which case the defaulting party shall proceed with all due speed to cure the default and shall have a reasonable time to effectuate its cure.



23. **REMEDIES:** In the event of a default or breach by either party, subject to the cure provisions contained in Section 22, DEFAULT above, the nondefaulting party may exercise any right or remedy at law or in equity which such nondefaulting party may have by reason of such default or breach including but not limited to the following:

A. Either party may waive the default or breach in accordance with Section 24, WAIVER, herein below.

B. Either party may maintain this Agreement in full force and effect and recover whatever monetary loss(es) may have resulted from such default or breach.

C. Where DISTRICT is the nondefaulting party, DISTRICT may terminate this Agreement and surrender possession.

D. Where COUNTY is the nondefaulting party, COUNTY may terminate or not terminate this Agreement. Where COUNTY elects not to terminate this Agreement but elects to terminate DISTRICT'S right of possession, COUNTY shall have the right and the duty to attempt to relet the Premises for the benefit of DISTRICT upon such terms and conditions, including rent, which DISTRICT deems reasonable. If COUNTY lawfully removes property of DISTRICT, such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, DISTRICT.

24. **WAIVER:** It is further understood and agreed that any waiver, express or implied, of any breach of any term of this Agreement shall not be a waiver of any subsequent breach of a like or any other provision of this Agreement.

25. **TERMINATION:** This Agreement shall terminate and all rights of DISTRICT shall cease and DISTRICT shall quietly and peacefully deliver to COUNTY, possession and interest in the Premises and upon such delivery, shall be relieved of all future liability:

A. At the expiration of the term as provided in Section 4, TERM of this Agreement;

B. After expiration of the initial term, upon thirty (30) days written notice given by either party, which notice may be given without cause;

C. Upon the failure of either party to satisfy, observe, or perform any of the covenants, conditions, or reservations set forth in this Agreement and the expiration of the cure period as provided in Section 22, DEFAULT; or

E. Upon the total destruction of the Building, as provided in Section 29, DESTRUCTION OF THE BUILDING.

In the event of early termination of this Agreement, DISTRICT shall not be entitled to any refund of the Deposit submitted pursuant to Section 6 hereof.

26. **ABANDONMENT:** DISTRICT shall not vacate or abandon the Building at any time during the term of this Agreement and if DISTRICT shall abandon, vacate, or surrender said Building, any personal property belonging to DISTRICT and left in the Building more than thirty (30) days after termination of this Agreement shall be deemed abandoned at the option of the COUNTY.

27. **SURRENDER OF BUILDING:** Upon expiration or termination of this Agreement, DISTRICT shall vacate and surrender the Building to COUNTY in good condition, except for ordinary wear and tear. DISTRICT shall remove all its personal property prior to the expiration or termination of this Agreement and shall perform all restoration made necessary by the removal of any trade fixtures or personal property prior to the expiration or termination of this Agreement. COUNTY may, by giving at least thirty (30) days notice to DISTRICT, elect to retain or dispose of in any manner any trade fixture(s) or personal property that DISTRICT does not remove from the Building upon expiration or termination of this Agreement. Title to any such trade fixture(s) or personal property that COUNTY elects to retain or dispose of following expiration of the thirty (30) day period shall vest in COUNTY. DISTRICT waives all claims against COUNTY for any damage to DISTRICT resulting from COUNTY'S retention or disposition of any such trade fixture(s) or DISTRICT'S personal property. DISTRICT shall be liable to COUNTY for COUNTY'S costs for storing, removing, and disposing of any such items.

If DISTRICT fails to surrender the Building to COUNTY, DISTRICT shall hold COUNTY harmless from damages resulting from the DISTRICT'S failure to surrender the Building, including, without limitation, claims made by a succeeding lessee resulting from such failure to surrender the Building.

28. **FIXTURES:** The parties agree that all improvements to, or fixtures on the Building, made or added by either party, except trade fixtures and the information technology and telephone systems added by DISTRICT that may be removed as hereinafter provided, shall be and become the property of COUNTY upon their being affixed or added to the Building. At the termination of the term hereof, DISTRICT may remove such trade fixtures, including but not limited to phone and information technology equipment as it shall have affixed or added to the Building (if any) which may be removed without damage to the Building.

29. **DESTRUCTION OF THE BUILDING:** If the Building is totally destroyed by fire or any other cause, this Agreement shall terminate.

If a loss renders any portion of the Building unusable due to destruction, DISTRICT may choose to remain or may terminate this Agreement by written notice to COUNTY.

If DISTRICT chooses to remain in possession of the Building despite partial destruction, the rent provided in this Agreement shall be reduced by the same percentage that usable floor space has been reduced until the destroyed section is rebuilt to its condition prior to the casualty.

30. **RESERVATIONS:** COUNTY hereby reserves the right for COUNTY or its agents to enter the Building at any time, in the case of an emergency, and otherwise at reasonable times for making such alterations, repairs, improvements or additions to the Building as COUNTY may deem necessary. In addition, COUNTY reserves the right to grant such easements, rights and dedications that COUNTY deems necessary, so long as such easements, rights or dedications do not unreasonably interfere with the use of the Building by DISTRICT.

Notwithstanding the above, in the event that access through the Building is required by third parties such as lessees of roof space, access shall only be provided during normal working hours and upon 24-hour notice to DISTRICT. Whenever practical, third parties entering the Building shall be accompanied by an employee of DISTRICT or COUNTY.

31. **CAPTIONS:** The title on headings to the sections of this Agreement are not a part of this Agreement, and shall have no effect upon the construction or interpretation of any part hereof.

32. **SEVERABILITY:** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

33. **SUCCESSORS IN INTEREST:** This Agreement shall bind and enure to the benefit of the parties hereto, their respective personal representatives, heirs, successors in interest, and assigns.

34. **WASTE AND NUISANCE:** DISTRICT shall not commit, nor suffer to be committed, any waste upon the Building, nor permit any nuisance to exist thereon.

35. **CERTIFICATION OF SIGNATORY:** The signatories of this Agreement and each of them represent and warrant that they are authorized to execute this Agreement and that no additional signatures are required to bind DISTRICT and COUNTY to its terms and conditions or to carry out duties contemplated herein.

36. **EXECUTION IN COUNTERPARTS:** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

37. **FACSIMILE/ELECTRONICALLY TRANSMITTED SIGNATURES:** In the event that the parties hereto utilize facsimile transmitted documents or electronically transmitted documents which include signatures, such documents shall be accepted as if they bore original signatures provided that documents bearing ORIGINAL SIGNATURES are provided within seventy-two (72) hours of transmission; however, funds shall not be released nor shall documents be accepted for recordation by the Clerk Recorder of the County until such documents bearing original signatures are received by COUNTY.

38. **CONSTRUCTION:** The parties agree that each party and its respective counsel have reviewed and approved this Agreement to the extent that each party in its sole discretion has desired, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement. The terms and provisions of this Agreement embody the parties' mutual intent, and this Agreement shall not be construed more liberally in favor of, nor more strictly against any party hereto.

39. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties hereto and no obligation other than those set forth herein will be recognized.

Project: APCD Foster Road  
APN: 111-231-004  
Folio: 003645  
Agent: SD

**IN WITNESS WHEREOF**, COUNTY and DISTRICT have executed this Agreement to be effective on the date executed by the last party.

"COUNTY"  
COUNTY OF SANTA BARBARA

ATTEST:  
CHANDRA L. WALLAR  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Chair, Board of Supervisors

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
ROBERT W. GEIS, CPA  
AUDITOR-CONTROLLER

By: \_\_\_\_\_  
Kevin E. Ready, Sr.  
Senior Deputy County Counsel

By: \_\_\_\_\_  
Deputy

APPROVED:

APPROVED:

By: \_\_\_\_\_  
Ronn Carlentine, SR/WA  
Real Property Manager

By: \_\_\_\_\_  
Ray Aromatorio, ARM, AIC  
Risk Manager

"DISTRICT"  
SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT,  
A SPECIAL DISTRICT

ATTEST:  
CLERK OF THE DISTRICT BOARD

By: \_\_\_\_\_  
Chairperson

By: \_\_\_\_\_

Date: \_\_\_\_\_