



Children & Families
Commission of Orange County

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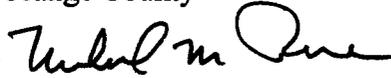
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Agenda Item No. 3

CLERK OF THE **October 7, 2009 Meeting**
ORANGE COUNTY
BOARD OF SUPERVISORS

DATE: September 28, 2009

TO: Children and Families Commission of Orange County

FROM: Michael M. Ruane, Executive Director 

SUBJECT: Approve Fifth Amendment to Commission Office Space Lease Agreement with Bixbybit Innwood Park, LLC

SUMMARY:

Commission offices have been located at 17320 Red Hill Avenue, Irvine, since August 2001. The Commission has approved four Amendments to the original Office Space Lease Agreement to extend the term of the lease and to provide adequate administrative office and conference room space for Commission staff operations, as well as to meet office space requirements for AmeriCorps/VISTA and consultant positions serving the Commission.

Consistent with Commission direction to staff to reduce operating expenses during May and September discussions of the FY 2009-10 Annual Operating Budget, staff has worked with the County Corporate Real Estate Manager to negotiate a lower lease rate and extend the term of the lease agreement to lock-in the lower rate.

With the Commission's existing lease scheduled to expire on July 31, 2011, high vacancy rates in the commercial office sector, and lower lease rates overall, the property owner has agreed to reduce the monthly lease rate from the current \$24,083 to \$16,433; a 32% reduction. Expressed as a rate per square foot, the new rate will be \$1.75, down from \$2.56. The new rates will become effective October 1, 2009, and will not increase through the term of the lease, September 30, 2014. This will result in immediate, as well as long-term, cost savings for the Commission's operating budget. The budget reduction for the remaining nine months of FY 2009-10 will be \$68,850 at the new rate. Twelve-month savings would be \$91,800.

The lease will continue to provide for termination of the lease upon nine months written notice to the property owner. Also, the Commission will have the option to extend the lease for one five-year period with written notice on or before February 1, 2014. A summary of the Fifth Amendment to Lease is presented in Attachment 1.

The Commission is requested to authorize the Executive Director or designee to execute the Fifth Amendment to Office Space Lease Agreement with Bixbybit Innwood Park, LLC as presented in Attachment 2.

PRIOR COMMISSION ACTIONS:

- July 21, 2001 - Commission approved Office Lease Agreement commencing on August 1, 2001.

- December 26, 2001 – First Amendment to Lease executed.
- March 14, 2005 – Second Amendment to Lease executed.
- January 4, 2006 – Third Amendment to Lease executed.
- July 1, 2006 – Fourth Amendment to Lease executed.

STRATEGIC PLAN & FISCAL SUMMARY:

The proposed Office Lease Amendment has been reviewed in relation to the Commission's Strategic Plan, and is consistent with Commission goals. Sufficient funding is included in the FY 2009-10 within the Office Expense budget category.

RECOMMENDED ACTION:

Authorize Executive Director or designee to execute Fifth Amendment to Commission Office Space Lease Agreement with Bixbybit Innwood Park, LLC (Attachment 2).

ATTACHMENTS:

1. Summary of Terms, Fifth Amendment to Lease
2. Fifth Amendment to Commission Office Space Lease Agreement with Bixbybit Innwood Park, LLC

Contact: Steve Kozak, COO

CHILDREN & FAMILIES COMMISSION OF ORANGE COUNTY SUMMARY OF FIFTH AMENDMENT TO LEASE
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LEASE (as previously amended)**LESSOR**

CA – Inwood Park Limited Partnership

CFCOC

Children & Families Commission of Orange County

LOCATION17320 Red Hill Ave. #100, 120, 200 & 230
17310 Red Hill Ave., Basement Storage**PREMISES**9,192 rentable square feet (rsf) of office space on first and second floors of a three-story office building, and 198 rsf of storage in an adjacent office building. The total Premises is 9,390 rsf.**PARKING**28 non-exclusive parking spaces in the surface lot
One subterranean parking space below the 17320 Red Hill building, for a total of 29 parking spaces.**TERM**

The term of this Lease commenced on August 1, 2001, and will terminate on July 31, 2011.

OPTION TO TERMINATE

CFCOC has the option to terminate anytime after July 31, 2004, with six months notice.

OPTION TO EXTEND THE TERM

CFCOC has one – five year option to extend the term (already exercised)

FIFTH AMENDMENT**LESSOR**

Bixbybit – Inwood Park, LLC

CFCOC

Same

LOCATION

Same

PREMISES

Same

PARKING37 non-exclusive parking spaces in the surface parking lot.**TERM**

The term of this Lease commenced on August 1, 2001, and will terminate on September 30, 2014 (approximately three additional years).

OPTION TO TERMINATE

CFCOC has the option to terminate anytime after September 30, 2012, with nine months notice.

OPTION TO EXTEND THE TERM

CFCOC has one – five year option to extend the term.

LEASE (as previously amended)

FIFTH AMENDMENT

RENT

<u>Commencing</u>	<u>Mo. Rent</u>	<u>S.F.</u>
August 1, 2005	\$22,060.80	\$2.34
August 1, 2006	\$22,060.80	\$2.34
August 1, 2007	\$22,704.25	\$2.42
August 1, 2008	\$23,347.70	\$2.49
August 1, 2009	\$24,083.00	\$2.56*
August 1, 2010	\$24,818.40	\$2.64

* Current rent.

RENT ADJUSTMENT FOR LESSOR SERVICES

Annual adjustment based on proportionate increase in taxes, utilities, janitorial services and insurance.

TENANT IMPROVEMENTS

None.

INSURANCE

LESSOR provides:

Property and Fire Insurance	Full Value of Improvements
General Liability	\$2,000,000

CFCOC provides:

Property Insurance	Full Value of Improvements
General Liability	\$3,000,000
Worker's Compensation	Statutory Limits
Employers Liability	\$1,000,000
Commercial Auto	\$1,000,000

RENT

<u>Commencing</u>	<u>Mo. Rent</u>	<u>S.F.</u>
August 1, 2009	\$16,433.00	\$1.75

No rent adjustments through September 30, 2014.

Rent during 5-year Option Term:

If the Option to Extend the Term is exercised, the rent will be 95% of the then current market with no more than 3% annual increases.

RENT ADJUSTMENT FOR LESSOR SERVICES

None.

TENANT IMPROVEMENTS

LESSOR has agreed to provide new carpet, paint, cabinets, shelving and other improvements at an estimated cost of \$85,000 at LESSOR's own cost and expense. Should CFCOC exercise the option to extend the term, LESSOR will repaint the Premises at an estimated \$28,000 at LESSOR's cost.

INSURANCE

Same

Same

LEASE (as previously amended)

FIFTH AMENDMENT

SERVICES PROVIDED BY LESSOR

SERVICES PROVIDED BY LESSOR

Interior and exterior maintenance
Janitorial services
Utilities exclusive of telephone
Fire and liability insurance
Taxes

Same

SERVICES PROVIDED BY CFCOC

SERVICES PROVIDED BY CFCOC

None.

Same

HOLDOVER

HOLDOVER

CFCOC has the right to holdover after the term of this Lease on a month-to-month basis at 106% of the rental rate for the last month of the lease term.

Same



AL0012-CFCOC
Children and Families Commission of Orange County
17320 Red Hill Avenue, Suites 100, 120, 200 & 230
17310 Red Hill Avenue, Basement Storage
Irvine, CA 92614

FIFTH AMENDMENT TO LEASE

THIS FIFTH AMENDMENT TO LEASE, ("Fifth Amendment") is made _____, 2009, by and between BIXBYBIT-INWOOD PARK, LLC, a Delaware limited liability company, (hereinafter referred to as "LESSOR"), and the CHILDREN AND FAMILIES COMMISSION OF ORANGE COUNTY, a political subdivision of the State of California (hereinafter referred to as ("CFCOC")), without regard to number and gender.

RECITALS

- I. Pursuant to a lease dated June 21, 2001, ("Original Lease") LESSOR, leased to CFCOC approximately 4,944 rentable square feet of office space in the Inwood Park building complex ("Inwood Park") located at 17320 Red Hill Avenue ("Building 1"), Suite 200, in the City of Irvine, California, which space is more particularly described on Exhibit "A" and Exhibit "B" of the Lease. The term of the Lease commenced on August 1, 2001. LESSOR has become the successor in interest through a Grant Deed recorded on May 29, 2007.
- II. The Original Lease was amended on December 26, 2001 ("First Amendment"), to add 1,095 rentable square feet to the Premises in Suite 120 on the first floor of the Building 1.
- III. The Original Lease was amended on March 14, 2005 ("Second Amendment"), to add 936 rentable square feet to the Premises in Suite 100 on the first floor of Building 1, and to add 198 rentable square feet of storage space in the subterranean storage area of an adjacent building in Inwood Park located at 17310 Red Hill Avenue ("Building 2"), Unit 7, in Irvine, California.
- IV. The Original Lease was amended on January 4, 2006 ("Third Amendment"), to extend CFCOC's option to extend the term from three years to five years, and to provide a rent schedule for the option term.
- V. The Original Lease was amended on July 1, 2006 ("Fourth Amendment"), to add 2,217 rentable square feet to the Premises in Suite 230 on the second floor of Building 1; the Original Lease, as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment, is hereafter collectively referred to as the "Lease".
- VI. The entire Premises consists of 9,390 total rentable square feet at the Inwood Park building complex of which 9,192 rentable square feet of office space is located in Building 1, Suites 100, 120, 200 and 230 (collectively, the "Office Space"), along with 198 rentable square feet of storage space which is located in Building 2, Unit 7 ("Storage Space") (the Office Space and Storage Space are hereafter collectively referred to as the "Premises").
- VII. LESSOR and CFCOC are willing to amend the Lease to extend the term of the Lease through September 30, 2014, under the terms and condition set forth below.

1 NOW THEREFORE, LESSOR and CFCOC do hereby agree that effective October 1, 2009, to amend the
Lease as follows:

3 A. Clause 2 PARKING (1.4 S) is hereby deleted from the Lease and the following is substituted:

5 "2. PARKING (1.4 N)

7 LESSOR throughout the term of this Lease, shall provide a total of thirty-seven (37) parking spaces
9 for CFCOC's free and non-exclusive use in the parking area adjacent to the building as shown on
Exhibit B.

11 Furthermore, CFCOC shall have the right, subject to availability as determined by LESSOR, to
13 upgrade some or all of its unreserved parking spaces to reserved parking at the monthly cost of
\$50.00 per space, and LESSOR shall initially provide free parking cards for access to the reserved
15 parking lot. LESSOR shall replace any defective access cards at no cost to CFCOC; however,
CFCOC shall reimburse LESSOR for any lost or stolen access cards at LESSOR's cost for said
17 access cards.

19 In addition to said parking spaces, LESSOR shall also provide parking for disabled persons in
accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform
21 Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as
established by the local jurisdiction in which the Premises is located where the provisions of such
23 local codes and/or ordinances exceed or supersede the State requirements."

25 B. Clause 3 TERM (2.2 S) is hereby deleted from the Lease and the following is substituted:

27 "3. TERM (2.2 S)

29 The term of this Lease commenced August 1, 2001, ("Commencement Date"), and terminates on
September 30, 2014."

31 C. Clause 4. OPTION TO EXTEND TERM (2.3 N) is hereby deleted from the Lease and the following is
33 substituted:

35 "4. OPTION TO EXTEND TERM (2.3 N)

37 CFCOC shall have the option to extend the term of this Lease ("Option to Extend") with respect to
the entire Premises for one (1) five (5) year period on the same terms and conditions, except rent
39 which shall be at 95% of the "fair market rental rate" as agreed upon by CFCOC and LESSOR, and
will not to be less than the rent for the month prior to the commencement date of the Option to
41 Extend, with annual rent increases not to exceed three percent (3%) per year. Should CFCOC
exercise said Option to Extend, LESSOR shall repaint all painted surfaces within the Premises in
43 accordance with Clause 30 (PAINTING BY LESSOR) of this Lease.

45 Notification of said exercise of Option to Extend shall be done in writing on or before February 1,
2014. Should CFCOC fail to timely notify LESSOR, CFCOC shall not lose such option unless
47 LESSOR has notified CFCOC in writing, and CFCOC fails to exercise said option with thirty (30)
days after said notice.

1 The Option to Extend is personal to CFCOC, and may be exercised only by CFCOC while
3 occupying the entire Premises and without the intent of thereafter assigning the Lease (as amended
5 hereby) or subletting the Premises and may not be exercised or be assigned, voluntarily or
7 involuntarily, by any person or entity other than CFCOC. The Option to Extend is not assignable
separate and apart from the Lease (as amended hereby), nor may the Option to Extend be separated
from the Lease (as amended hereby) in any manner, either by reservation or otherwise.”

9 D. Clause 5. OPTION TO TERMINATE LEASE (2.4A N) is hereby deleted from the Lease and the
following is substituted:

11 “5. OPTION TO TERMINATE LEASE (2.4A N)

13 CFCOC shall have the option to terminate this Lease at any time after September 30, 2012, upon
15 giving LESSOR written notice at least nine (9) months prior to said termination date.

17 Should CFCOC exercise said option, LESSOR may, within thirty (30) days after receiving said
19 notice from CFCOC, make a claim for reimbursement unamortized lease commissions. The amount
of said reimbursement shall be determined as follows:

21 Reimbursement Amount = $\$657 \times (60 \text{ months less the number of months of the lease term elapsed}$
after October 1, 2009).

23 If no claim is received by CFCOC within said thirty (30) day period, LESSOR’s right to
25 reimbursement shall be deemed waived. CFCOC shall have forty-five (45) days after receipt of the
claim by LESSOR to pay said claim.

27 The Termination Option is personal to CFCOC, and may be exercised only by CFCOC while
29 occupying the entire Premises and without the intent of thereafter assigning the Lease (as amended
hereby) or subletting the Premises and may not be exercised or be assigned, voluntarily or
31 involuntarily, by any person or entity other than CFCOC. The Termination Option is not assignable
separate and apart from the Lease (as amended hereby), nor may the Termination Option be
33 separated from the Lease (as amended hereby) in any manner, either by reservation or otherwise.”

35 E. Clause 6. CFCOC'S RIGHT TO LEASE ADDITIONAL SPACE (2.5 N) is hereby deleted from the
Lease in its entirety.

37 F. Clause 7. RENT (3.1 N) is hereby deleted from the Lease and the following is substituted :

39 “7. RENT (3.1 N)

41 CFCOC agrees to pay LESSOR as rent for the Premises the sum of Sixteen Thousand Four Hundred
43 Thirty-Three Dollars (\$16,433) per month total for the Office Space in Building 1, and the Storage
Space in Building 2 commencing October 1 2009 through September 30, 2014.

45 Rent shall be paid in arrears and be due and payable by the twentieth (20th) day of the month
47 following the month earned.”

49 G. Clause 8. ADJUSTMENT FOR COST OF LESSOR SERVICES (3.4 N) is hereby deleted from the
Lease in its entirety.

1 H. Clause 9 CONSTRUCTION (4.1 N) is hereby deleted from the Lease and the following is substituted :

3 "9. PERFORMANCE (4.1 N)

5 LESSOR hereby agrees to complete, at LESSOR's sole cost and expense, within sixty (60) calendar
7 days after the date first written above, the alterations, repairs and other work (the "Work") listed in
the attached Scope of Work attached hereto and by reference made a part hereof as "Exhibit D.

9 CFCOC acknowledges and agrees that the completion by LESSOR of the Work shall occur during
the Term and that there may be certain minor temporary interferences with CFCOC's business
11 operations in the Premises as a result of CFCOC's occupancy of the Premises while LESSOR is
performing such work. LESSOR agrees to use commercially reasonable efforts to minimize the
13 interference with CFCOC's business operations. CFCOC acknowledges and agrees that minor
temporary interruptions shall not constitute a constructive eviction of CFCOC or grounds for rent
15 abatement under the terms of the Lease (as amended hereby) or otherwise. LESSOR
acknowledges and agrees that CFCOC shall have the right to abatement for any failure to provide
17 any utilities to the Premises as a result of the Work, or that results in an unsafe working
environment.

19 Should LESSOR fail to complete the Work within sixty (60) calendar days after the date of
21 execution of this Fifth Amendment to this Lease by CFCOC, CFCOC shall have the option to
complete the Work and deduct the cost thereof, including labor, materials, and overhead from any
23 rent payable. However, should CFCOC choose to delay the Work to a time beyond said sixty-day
period, LESSOR's time for completion shall be extended by said delay, and CFCOC's option to
25 complete the work will also be extended by said delay. CFCOC shall give written notice to
LESSOR of any request to delay the completion of the Work."

27 I. Clause 13. UTILITIES (5.2N) is hereby deleted from the Lease and the following is substituted:

29 "13. UTILITIES (5.2 N)

31 LESSOR shall be responsible for remaining in good standing with utility providers, by paying,
33 prior to the delinquency date, all charges for utilities supplied to the Premises except telephone,
which shall be the obligation of CFCOC. Should utility service to the Premises be interrupted due
35 to LESSOR's failure to pay utility bills timely, CFCOC may arrange and pay for such service
directly from the utility provider and deduct the cost thereof, including overhead, from any rent
37 payable.

39 CFCOC shall have the right to rent abatement should there be an interruption of utilities which is
caused by LESSOR.

41 LESSOR shall furnish CFCOC with customary heat and air conditioning in season from 8:00 A.M.
43 to 6:00 P.M. Monday through Friday (collectively, the "Building Service Hours"). The HVAC
system shall be operated so as to deliver customary heat and air conditioning by the start of and
45 during all Building Service Hours or any additional hours requested in accordance with the terms
below.

47 CFCOC shall have the right to receive HVAC service during hours other than the Building Service
49 Hours by paying LESSOR's then standard charge for additional HVAC service with a two (2) hour

1 minimum and providing such reasonable prior notice as is specified by LESSOR. If CFCOC
3 desires to use heat, ventilation or air conditioning during hours other than those for which LESSOR
5 is obligated to supply such utilities pursuant to the terms of this Section 13, CFCOC shall give
7 LESSOR such prior notice, if any, as LESSOR shall from time to time establish as appropriate, but
in no case longer than forty-eight (48) hours, of CFCOC's desired use in order to supply such
utilities, and LESSOR shall supply such utilities to CFCOC at an hourly cost to CFCOC (which
shall be treated as additional rent under the Lease) of Sixty-Five Dollars (\$65.00).”

9 J. Clause 16. TAXES AND ASSESSMENTS (5.6 N) is hereby deleted from the Lease in its entirety.

11 K. Clause 28 NOTICES (8.1 S) is hereby deleted from the Lease and the following is substituted:

13 “28. NOTICES (8.1 S)

15 All written notices pursuant to this Lease shall be addressed as set forth below or as either party
17 may hereafter designate by written notice and shall be deemed delivered upon personal delivery,
delivery by facsimile machine, or seventy-two hours after deposit in the United States Mail.

19 TO: LESSOR

TO: CFCOC

21 Bixbybit–Inwood Park, LLC
23 % Bixby Land Company
2211 Michelson Drive, Suite 500
Irvine, CA 92612

Children and Families Commission of
Orange County
17320 Red Hill Avenue, Suite 200
Irvine, CA 92614”

25 L. Clause 29. ATTACHMENTS (8.2 S) is hereby deleted from the Lease and the following is substituted:

27 “29. ATTACHMENTS (8.2 S)

29 This Lease includes the following, which are attached hereto and made a part hereof:

31 I. GENERAL CONDITIONS

33 II. EXHIBITS

35 Revised Exhibit A–3. Description - Premises
Revised Exhibit B–3. Plot Plan - Premises
Exhibit C. Janitorial Specifications
37 Exhibit D. Scope of Work”

39 M. The following Clause 30. PAINTING BY LESSOR (4.2 N) is hereby added to the Lease:

41 N. “30. PAINTING BY LESSOR (4.2 N)

43 Within sixty (60) days after commencement of the first year of the Option to Extend, should CFCOC
45 exercise said option, LESSOR shall repaint, at LESSOR’s sole expense, all painted surfaces within
47 the Premises. Said painting shall be accomplished during hours other than CFCOC’s normal
49 working hours. LESSOR shall be responsible for the movement and subsequent replacement of all
furniture, window coverings, and fixtures necessary to repaint the Premises. CFCOC shall, at its
own cost and expense, be responsible for the movement and subsequent replacement of all computer
equipment, electronic equipment, any other communication equipment, all otherwise sensitive
equipment or files and for the personal effects of the CFCOC’s employees. Said paint shall be of a

1 kind and quality in accordance with Exhibit D. The cost of said repainting shall not be included in
3 the operating costs for the building for the purpose of operating cost adjustments.

5 At CFCOC's sole option, CFCOC may elect to defer said repainting. Said deferral shall not release
7 LESSOR from the obligation to repaint. Should CFCOC elect to defer said repainting, CFCOC shall
9 notify LESSOR in writing at least thirty (30) days prior to the scheduled repainting date of
CFCOC's decision to defer said repainting. This notice shall include the date CFCOC wishes the
repainting to take place.

11 Should LESSOR fail to comply with the provisions of this clause, CFCOC shall have the option to
complete said repainting, and deduct the cost thereof from any rent payable."

13 O. The following Clause 31. COMMISSION (6.11 S) is hereby added to the Lease:

15 "31. COMMISSION (6.11 S)

17 CFCOC's obligations and responsibilities under this Fifth Amendment are contingent upon the
19 LESSOR paying to the County of Orange ("County") Nineteen Thousand Seven Hundred Twenty
21 Dollars (\$19,720) commission as a result of this Lease transaction. Said commission shall be paid
23 to County within fifteen (15) working days after delivery of a fully-executed copy of this Fifth
Amendment to LESSOR and shall be made payable to the "County of Orange" and delivered to:
County of Orange, OCPW/Corporate Real Estate, 300 N. Flower Street, Suite 646, Santa Ana,
California 92703."

25 P. "Revised Exhibit A-2. Description - Premises" is deleted from the Lease and the attached "Revised
27 Exhibit A-3. Description - Premises" is substituted. All references to "Revised Exhibit A-2" in the
Lease are hereby amended to refer to "Revised Exhibit A-3."

29 Q. "Revised Exhibit B-2. Plot Plan" is deleted from the Lease and the attached "Revised Exhibit B-3.
31 Plot Plan - Premises" is substituted. All references to "Revised Exhibit B-2" in the Lease are hereby
amended to refer to "Revised Exhibit B-3."

33 R. The Lease, as modified by this Fifth Amendment, constitutes the entire agreement between LESSOR
35 and CFCOC with respect to the transactions contemplated hereby and supersedes all prior discussions,
understandings, agreements and negotiations between LESSOR and CFCOC in connection therewith.
37 Wherever a conflict in the terms or conditions of this Fifth Amendment and the Lease as previously
39 amended exists, the terms or conditions of this Fifth Amendment shall prevail. In all other respects, the
terms and conditions of the Lease, as previously amended, not specifically changed by this Fifth
Amendment shall remain in full force and effect.

41 S. The following Clause 32. ERISA is hereby added to the Lease:

43 "32. ERISA (N)

45 CFCOC represents and warrants to LESSOR that neither CFCOC nor any guarantor of CFCOC's
47 obligations under the Lease (as amended by this Fifth Amendment) is (a) a party in interest, as
49 defined in Section 3(14) of the of the Employee Retirement Income Security Act of 1974, as
amended ("ERISA"), to the AFL-CIO Building Investment Trust ("Trust"), or of any of the plans
participating therein, or (b) a disqualified person under Section 4975(e)(2) of the Internal Revenue

1 Code of 1986, as amended ("Code"), with respect to the Trust or the plans participating therein.
3 Neither CFCOC nor any guarantor of CFCOC's obligations under the Lease (as amended by this
5 Fifth Amendment) shall take any action that would cause the Lease (as amended by this Fifth
7 Amendment) or the exercise by LESSOR or the Trust of any rights hereunder, to be a non-exempt
9 prohibited transaction under ERISA. Notwithstanding any contrary provision of the Lease (as
11 amended by this Fifth Amendment), CFCOC shall not assign the Lease or sublease all or any
13 portion of the Premises unless (i) such assignee or subtenant delivers to LESSOR a certification (in
15 form and content satisfactory to LESSOR) with respect to the status of such assignee or subtenant
17 (and any guarantor of such assignee's or subtenant's obligations) as a party in interest and a
19 disqualified person, as provided above; and (ii) such assignee or subtenant undertakes not to take
21 any action that would cause the Lease (as amended by this Fifth Amendment) or the exercise by
23 LESSOR or the Trust of any rights hereunder, to constitute a non-exempt prohibited transaction
25 under ERISA.

15 Notwithstanding any contrary provision of the Lease (as amended by this Fifth Amendment),
17 CFCOC shall not (a) sublease all or any portion of the Premises under a sublease in which the rent
19 is based on the net income or net profits of any person, or (b) take any other action with respect to
21 the Lease (as amended by this Fifth Amendment) or the Premises such that the revenues to be
23 received by LESSOR or the Trust from time to time in connection with the Lease would, as a result
25 of such action, be subject to the Unrelated Business Income Tax under Sections 511 through 514 of
the Code.

23 CFCOC agrees that it shall incorporate the requirements of this Section 32 in any sublease of all or
25 any part of the Premises (without implying LESSOR's consent thereto)."

27 S. The following Clause 33. LABOR is hereby added to the Lease:

29 "33. LABOR (N)

31 To the extent permitted by applicable law, CFCOC shall use contractors who employ craft workers
33 who are members of unions that are affiliated with The Building and Construction Trades
35 Department, AFL-CIO ("Union Labor") for all maintenance, repair, and replacement of the Premises
37 which is not otherwise required to go through a competitive bidding process (the "Maintenance
39 Labor Covenant"). In the event a competitive bidding process is required or is utilized by CFCOC
41 the Maintenance Labor Covenant shall not apply. Notwithstanding the foregoing, the Maintenance
43 Labor Covenant shall not apply to (i) the services for installation, operation, maintenance and repair
45 of personal property owned exclusively by CFCOC (e.g., computer systems, telephones, and
furniture other than modular furniture) or for any of CFCOC's specialized equipment, (ii) a specific
item or instance of maintenance, repair or replacement to the extent Union Labor is not available in
the market to perform such specific item or instance of maintenance, repair or replacement, and/or
(iii) maintenance, repairs and replacements that may be and are self-performed by the existing staff
of CFCOC without the retention, engagement or hiring of any third party or additional employee.
CFCOC shall provide such evidence as LESSOR may reasonably require, from time to time during
the Lease Term, that the Maintenance Labor Covenant is being fully and faithfully observed."

47 T. This Fifth Amendment may be executed in multiple counterparts with the same effect as if all parties
49 hereto had signed the same document. All such counterparts shall be construed together and shall
constitute one and the same instrument.

1 **IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above
written.

3
5 APPROVED AS TO FORM:

LESSOR

7 _____
CFCOC Counsel

BIXBYBIT-INWOOD PARK LLC,
a Delaware limited liability company

By: BixbyBIT Investments, LLC,
a Delaware limited liability company
its sole member

11 By _____

By: BLC Incentive Management, LLC,
a Delaware limited liability company,
its Managing Member

13 Date _____

By: Bixby Land Company,
a California corporation,
its Managing Member

17 RECOMMENDED FOR APPROVAL:

21 OC Public Works/OC Facilities

By: _____
Name: _____
Title: _____

25 BY: _____
John Beck, Administrative Manager
OCPW/Corporate Real Estate

By: _____
Name: _____
Title: _____

37
39 **CFCOC**

Children and Families Commission of Orange County

43 By _____

45 Date _____

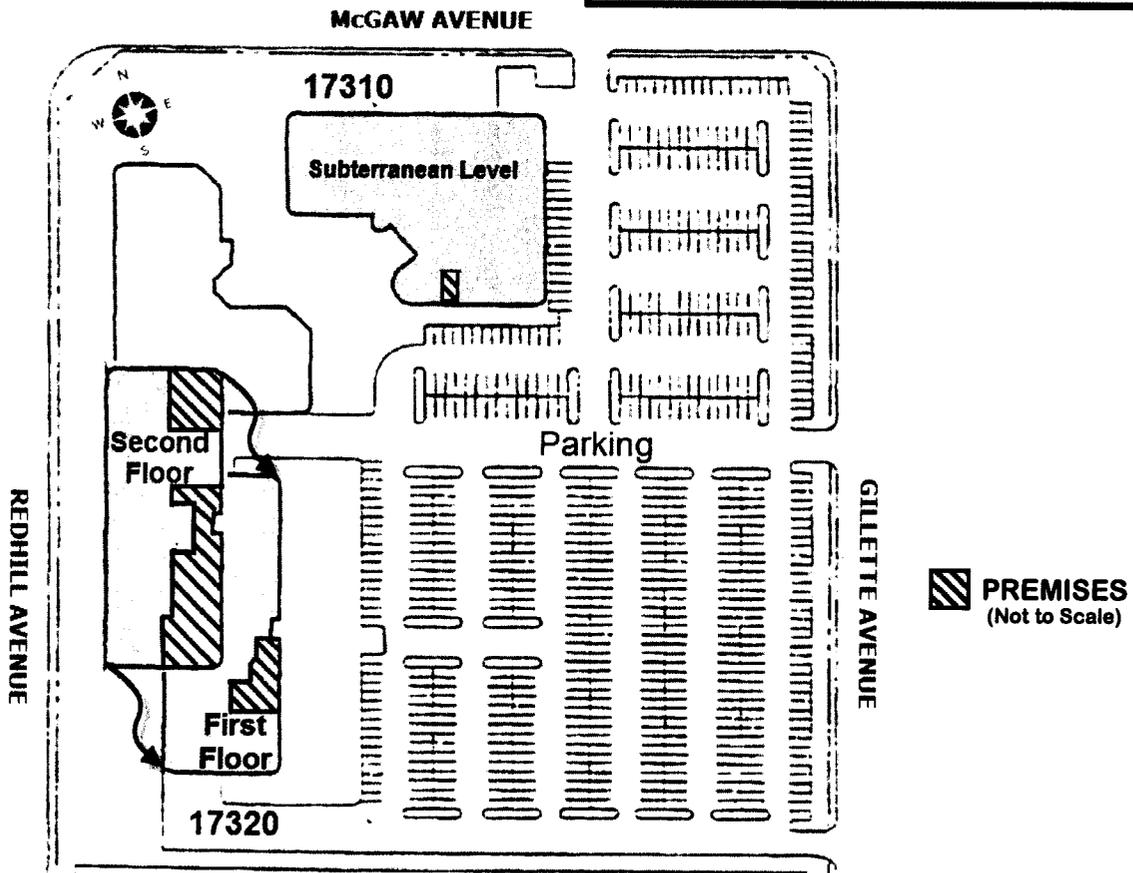
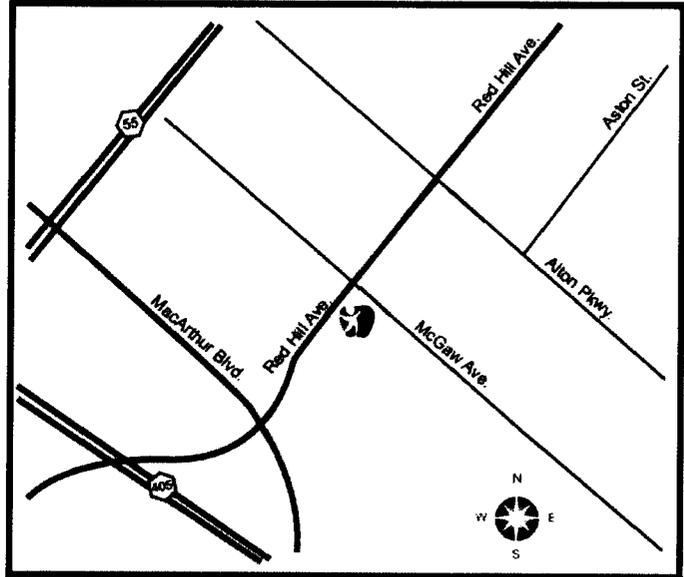
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7 **REVISED EXHIBIT A-3**

9 **LEASE DESCRIPTION (10.1 S)**

11 PROJECT NO: AL0012-CFCOC DATE: August 31, 2009
13 PROJECT: Children & Families Commission VERIFIED BY: John Beck

15 All the Premises shown crosshatched on a plot plan marked Revised Exhibit B-3, attached hereto and made
17 a part hereof, in the Inwood Park building complex being a portion of the first and second floors of that
19 certain three-story building located at 17320 Red Hill Avenue, Suites 100, 120, 200, and 230, in the City of
Irvine, County of Orange, State of California, comprising approximately 9,192 rentable square feet of office
space, and a portion of the subterranean storage of that certain three-story building located at 17310 Red Hill
Avenue, Unit 7, in the City of Irvine, County of Orange, State of California, comprising approximately 198
rentable square feet of storage space. The total Premises is approximately 9,390, together with the non-
exclusive use of twenty (37) parking spaces in the surface parking lot shown on Revised Exhibit B-3.

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AL0012-CFCOC Children & Families Commission 17320 Red Hill Avenue #100, 120, 200 & 230 17310 Red Hill Avenue, Basement Storage Irvine, CA 92612	Prepared By: John Beck	
	Checked By:	
	Date: 9/16/2009	

REVISED EXHIBIT B-3
FLOOR PLANS

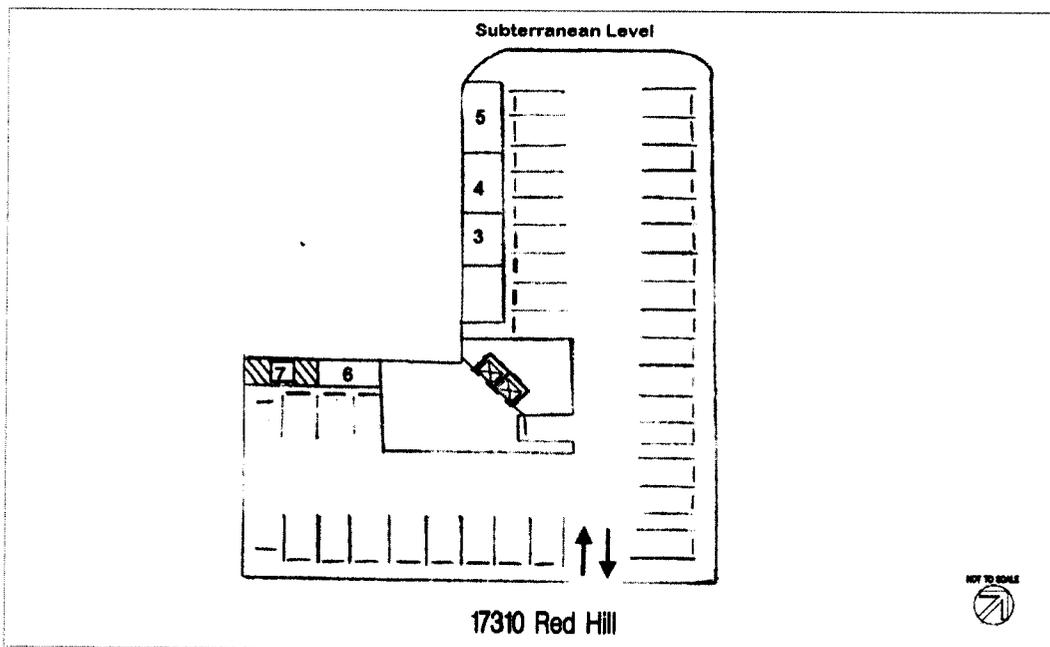
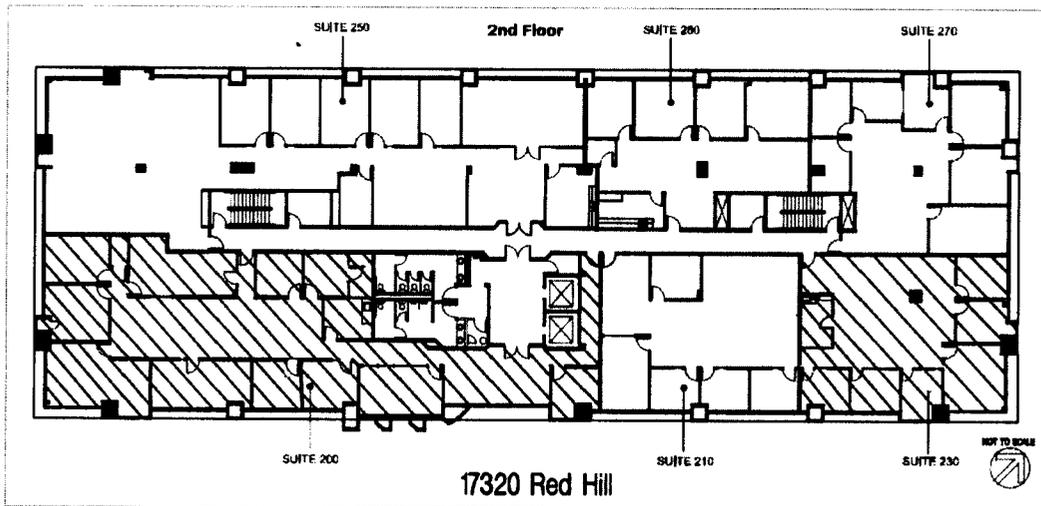
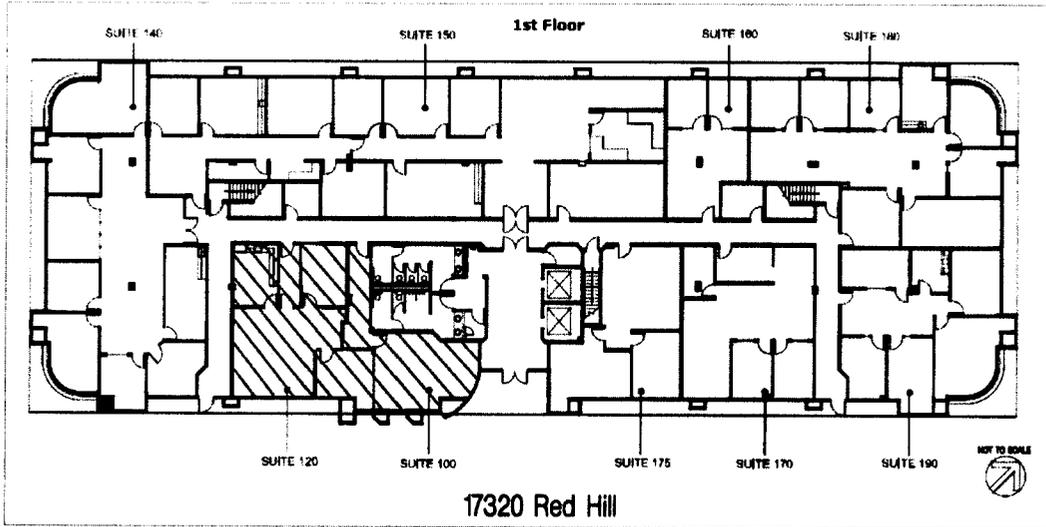


EXHIBIT D

SCOPE OF WORK

This Exhibit D describes the Work to be performed by LESSOR under the terms and conditions of the Lease. All Work shall be completed at appropriate times, other than CFCOC's normal business hours without CFCOC's prior consent, and in a manner so as to cause the minimum possible disturbance to CFCOC's operation. LESSOR shall coordinate work schedule with CFCOC.

1. Carpet and Flooring

- A. Replace carpet throughout the Premises. CFCOC to determine color and style of carpet to meet minimum standards as follows:
- B. Carpet shall be 100% continuous filament type 66 nylon (Antron III or acceptable equivalent) with static control, yarn wt./S.Y. min. 32 oz. level loop to min. 35 oz. cut pile, 1/8" to 5/32" gauge, 9.5 to 10.5 stitches/in. and have .150" to .290" pile height, and solution dyed. Carpet shall be direct glue down. Provide and install new 4" high wallbase throughout. CFCOC to determine color and style.
- C. Carpet under large file cabinets at north end of Suite 200 to remain in place. New carpet will be installed to neatly match seams and provide an even surface so as not to form a trip hazard.
- D. Carpet in Suite 120 to be cleaned and remain in place.
- E. All VCT to remain in place and will be stripped and polished per the Janitorial Specifications attached in Exhibit C of this Lease.
- F. LESSOR shall remove and replace all CFCOC's property including, but not limited to desks, chairs, file cabinets, modular furniture, copiers, etc. as necessary to complete carpet installation.
- G. CFCOC shall disconnect all computers and phone equipment and shall reconnect when the Work is finished.
- H. LESSOR shall provide CFCOC packing boxes to, and shall remove and dispose of said packing boxes when work is complete.

2. Painting

Repair interior wall cracks and holes and repaint all interior walls throughout the Premises to meet minimum standards as follows:

- A. All walls and partitions shall be treated with one undercoat and one finish coat of Dunn-Edwards®, Sherwin-Williams®, or Benjamin Moore® latex paint or acceptable equivalent, as necessary, to completely cover existing paint.
- B. CFCOC to select color(s) to include a primary office color and accent wall color as determined by CFCOC.
- C. All existing nails and hangers to remain in place except as marked by CFCOC.
- D. CFCOC shall remove all pictures and wall hangings prior to commencement of painting, except LESSOR shall remove any attached marker boards, etc. to insure all wall surfaces are painted.

3. General Work

Complete the following items:

- A. Replace damaged or stained ceiling tiles throughout Premises and remedy source of stains. All ceiling tiles within a room or area will be replaced completely if necessary to match;
- B. Repair or replace all damaged ceiling light fixtures and diffusers throughout Premises as needed;
- C. Replace damaged vinyl window blinds throughout the Premises as needed;
- D. Clean or replace all air conditioning vents throughout the Premises as needed;

4. In Suite 200:

- A. Reverse/replace suite entry doors to swing into lobby rather than into suite;
- B. Install door closers so as not to cause interior wall damage when opened;
- C. Repair damage to walls around entry door;
- D. Repair/replace kitchen cabinet hinges;
- E. Install upper cabinet to match style and color as directed by CFCOC;
- F. In copy room, install single open shelf approximately 12 inches above cabinet on east wall and 12 inches wide extending the length of the cabinet.

5. In Suite 230:

- A. Re-surface/Replace cabinetry around sink in computer/IT room, CFCOC to;
- B. Repair fire sprinkler escutcheon in southeast office;
- C. Re-install or replace loose thermostat in Director's office (northeast).