CM22-L-B.R1
Costa Mesa/Mesa Verde

LEASE

THIS IS A LEASE, hereinafter referred to as "Lease," made _____, 2007, by and between, the CITY OF COSTA MESA, a municipal corporation, hereinafter referred to as "CITY," and the COUNTY OF ORANGE, hereinafter referred to as "COUNTY," without regard to number and gender. The term "COUNTY" shall mean the Board of Supervisors of the political body that executed this agreement or its authorized representative.

1. DEFINITIONS (1.2 N)

"Board of Supervisors" means the Board of Supervisors of the County of Orange, a political subdivision of the State of California

"County Executive Officer" means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to CITY, such other person or entity as shall be designated by the Board of Supervisors.

" Manager of Corporate Real Estate" means the Manager, Resources and Development Management Department, Internal Services, Real Estate Division, Corporate Real Estate, County of Orange, or designee or upon written notice to CITY, such other person or entity as shall be designated by the Director of Resources Development and Management Department, or designee.

"Auditor-Controller" means the Auditor-Controller, County of Orange, or designee, or upon written notice to CITY, such other person or entity as shall be designated by the Board of Supervisors.

"County Librarian" means the County Librarian of the Orange County Public Library of the County of Orange, or designee, or such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"County Counsel" means the County Counsel, County of Orange, or designee, or upon written notice to CITY, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"Corporate Real Estate" means the Resources Development and Management Department, Internal Services, Real Estate Division, Corporate Real Estate for the County of Orange, or upon written notice to CITY, such entity as shall be designated by the Director of Resources Development and Management Department or the County Executive Officer.

"CITY" means the City of Costa Mesa, a municipal corporation.

"City Manager" means the City Manager of the City of Costa Mesa.

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2. PREMISES (1.3A S)

CITY leases to COUNTY that certain property hereinafter referred to as "Premises," described in "Exhibit A" and shown on "Exhibit B," which exhibits are attached hereto and by reference made a part hereof.

3. PARKING (1.4 S)

CITY, throughout the term of this Lease, shall provide thirty (30) parking spaces for COUNTY's free and exclusive use. Said parking spaces are to be located in the parking area shown on Exhibit B.

In addition to said parking spaces, CITY shall also provide parking for disabled persons in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform 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 local codes and/or ordinances exceed or supersede the State requirements.

4. TERMINATION OF PRIOR AGREEMENTS (1.5 S)

It is mutually agreed that this Lease shall terminate and supersede any prior agreement between the parties hereto covering all or any portion of the Premises, EXCEPT that all personal property and/or equipment (e.g., fixtures, partitions, counters, shelving) attached to and/or placed upon any portion of the Premises by COUNTY pursuant to the terms of any prior agreement between the parties hereto shall remain the personal property of COUNTY, who shall have the right to remove same.

5. USE (2.1 S)

The Premises shall be used for the provision of free public library services.

6. TERM (2.2A S)

The term of this Lease shall be ten (10) years, commencing November 1, 2007 and terminating on October 31, 2017.

Parties agree that the commencement date of this Lease will be confirmed in writing by either party upon demand by the other.

7. RENT (3.1 S)

COUNTY agrees to pay to CITY as rent for the Premises the sum of One Thousand Seven Hundred and Fifteen Dollars ($1,715) per month.

To obtain rent payments CITY (or CITY's designee) shall submit to Orange County Public Library, in a form acceptable to said Orange County Public Library, a written claim for said rent payments.

Payment shall be due and payable within twenty (20) days after the later of the following:

A. The first day of the month following the month earned; or

B. Receipt of CITY's written claim by Orange County Public Library.

Should COUNTY occupy the Premises before the first day of the lease term, CITY shall be entitled to pro rata rent for the period of occupancy and the amount of space occupied prior to the beginning of the lease term based upon the monthly installment above. Said rent shall be included in the rent claim submitted by CITY for the first full month of the lease term and shall be paid by COUNTY at the time of payment for said month.

8. RENT ADJUSTMENT (3.3 N)

The monthly rental payable by COUNTY for the Premises shall be automatically adjusted annually as follows:

Year	Monthly Rental
November 1, 2007	$1,715.00
November 1, 2008	$1,801.00
November 1, 2009	$1,891.00
November 1, 2010	$1,986.00
November 1, 2011	$2,085.00
November 1, 2012	$2,189.00
November 1, 2013	$2,299.00
November 1, 2014	$2,414.00
November 1, 2015	$2,535.00
November 1, 2016	$2,662.00

City Manager and County Librarian may, upon mutual consent, reduce the rent payable by substituting additional library services for rent. In no event shall rent be increased during the term of this Lease.

9. PAINTING BY CITY (4.2 N)

Within sixty (60) days after March 1, 2011, CITY shall repaint, at CITY's sole expense, all painted surfaces within the Premises. Said painting shall be accomplished during hours other than COUNTY's normal working hours. CITY shall be responsible for the movement and subsequent replacement of all furniture, window coverings, and fixtures necessary to repaint the Premises. Said paint shall be of a kind and quality of Dunn-Edwards® semi-gloss paint or acceptable equivalent approved by COUNTY.

COUNTY and CITY may, by mutual consent, elect to defer said repainting. Said deferral shall not release CITY from the obligation to repaint. Should COUNTY and CITY elect to defer said repainting, the County Librarian, or designee, at least thirty (30) days prior to the scheduled repainting date, shall notify CITY in writing of COUNTY's decision to defer said repainting. This notice shall include the date COUNTY wishes the repainting to take place.

Should CITY fail to comply with the provisions of this clause, COUNTY shall have the option to complete said repainting and deduct the cost thereof, including overhead, from any rent payable.

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10. CARPETING BY CITY (4.3 N)

Within sixty (60) days after March 1, 2011, CITY shall recarpet, at CITY's sole expense, all carpeted surfaces within the Premises. Said recarpeting shall be accomplished during hours other than COUNTY's normal working hours. CITY shall be responsible for the movement and subsequent replacement of all furniture and fixtures necessary to recarpet the Premises. Carpet shall be 100% continuous filament nylon (Antron III® or equivalent) with static control, yarn weight per square yard a minimum 26 ounce level loop to minimum 35 ounce cut pile, 1/8" to 5/32" gauge, 9.5 to 10.5 stitches per inch and have .150" to .290" pile height, and solution dyed. Carpet shall be direct glue down.

COUNTY and CITY may, by mutual consent, elect to defer said recarpeting. Said deferral shall not release CITY from the obligation to recarpet. Should COUNTY and CITY elect to defer said recarpeting, the County Librarian, or designee, at least thirty (30) days prior to the scheduled recarpeting date, shall notify CITY in writing of COUNTY's decision to defer said recarpeting. This notice shall include the date COUNTY wishes the recarpeting to take place.

Should CITY fail to comply with the provisions of this clause, COUNTY shall have the option to complete said recarpeting and deduct the cost thereof including overhead, from any rent payable.

11. ALTERATIONS (4.4 S)

COUNTY may make improvements and changes in the Premises, including but not limited to the installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or appropriate. It is agreed that any such fixtures, partitions, counters, shelving, or equipment attached to or placed upon the Premises by COUNTY shall be considered as personal property of COUNTY, who shall have the right to remove same. COUNTY agrees that the Premises shall be left in as good condition as when received, reasonable wear and tear excepted.

12. REPAIR AND MAINTENANCE (5.1A N)

COUNTY shall provide, at its own cost and expense, all janitorial supplies and services to the Premises, including the supplying of rest room expendables and replacement of light bulbs and fluorescent tubes. COUNTY shall also provide, at its own cost and expense, the cleaning and refinishing of interior surfaces and repair of all damage caused by COUNTY's patrons' misuse of the Premises.

LESSOR shall provide, at its own cost and expense, all other repair and maintenance items, including, but not limited to, maintenance of the Heating, Ventilation, Air Conditioning ["HVAC"] system. The HVAC system serving the Premises shall be capable of maintaining the Premises at 78° Dry Bulb at a maximum range of 40% to 60% Relative humidity during the summer when the outdoor temperature is 95° Dry Bulb, and at 68° Dry Bulb in the winter when the outside temperature is 35° Dry Bulb.

In order for the COUNTY to comply with the California Code of Regulations, Title 8, Section 5142, and as it may be subsequently amended, LESSOR shall inspect the HVAC system at least once every month or on a schedule agreed to in writing by LESSOR and COUNTY, and provide repair and maintenance accordingly. LESSOR's inspections and maintenance of the HVAC system shall be documented in writing. The LESSOR shall at a minimum maintain a record of: (a) the name of the individual(s) inspecting and/or maintaining the system, (b) the date of the inspection and/or maintenance, and (c) the specific findings and actions taken. The LESSOR shall ensure that such

records are retained for at least five (5) years. The LESSOR shall make all HVAC records required by this section available to COUNTY for examination and copying, within forty-eight (48) hours of a written request. LESSOR acknowledges that COUNTY may be subject to fines and/or penalties for failure to provide said records to regulatory agencies within the given timeframes. Should COUNTY incur fines and/or penalties as a direct result of LESSOR's failure to provide said records to COUNTY, LESSOR shall reimburse COUNTY for said fines and/or penalties within thirty (30) days upon written notice. Should LESSOR fail to reimburse COUNTY within thirty (30) days, COUNTY may deduct the amount of the fine and/or penalty from any rent payable.

If CITY fails to provide satisfactory repair and maintenance (including fire extinguishers) to the Premises, County Librarian may notify CITY in writing; and if CITY does not instigate measures to provide satisfactory service and/or to remedy the unsatisfactory conditions within a reasonable time after COUNTY has placed such notice in the mail to CITY directed to the address shown for CITY in the clause entitled (NOTICES) below, or has personally delivered such notice to CITY, COUNTY may provide the repair and maintenance necessary to remedy the unsatisfactory conditions and assure satisfactory service or have others do so, and deduct the cost thereof, including labor, materials, and overhead from any rent payable.

If CITY or his representative cannot be contacted by COUNTY for emergency repairs and/or services the same day any emergency repairs and/or services are necessary to remedy the emergency condition, or if CITY following such contact by COUNTY is unable to make the necessary repairs or provide the necessary services, COUNTY may, at its option, have the necessary repairs made and/or provide services to remedy the emergency condition, and deduct the cost thereof, including labor, materials, and overhead from any rent payable.

13. UTILITIES (5.2 N)

COUNTY shall be responsible for and pay, prior to the delinquency date, all charges for utilities supplied to the Premises.

14. INSURANCE (5.3 S)

Property/Fire Insurance: CITY shall obtain and keep in force during the term of this Lease a policy or policies of property and fire insurance with extended coverage, covering the loss or damage to the Premises to the full insurable value of the improvements located on the Premises (including the full value of all improvements and fixtures owned by CITY) at least in the amount of the full replacement cost thereof, and in no event less than the total amount required by any lender holding a security interest, against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils ("all risk" as such term is used in the insurance industry, and flood), except for earthquake coverage, and shall name the COUNTY as an additional insured.

Included in the policy or policies of property and fire insurance shall be a standard waiver of right of subrogation against COUNTY by the insurance company issuing said policy or policies. CITY shall provide COUNTY with evidence of compliance with these requirements.

CITY's insurance (a) shall be in a form satisfactory to COUNTY and carried with a company (or companies) acceptable to COUNTY and licensed to do business in the state of California, (b) shall provide that such policies shall not be subject to material alteration or cancellation without at least

thirty (30) days prior written notice to COUNTY, and (c) shall be primary, and any insurance carried by COUNTY shall be non-contributing. CITY's policy or policies, or duly executed certificates for them, shall be deposited with COUNTY prior to the Commencement Date of this Lease, and prior to renewal of such policies. If CITY fails to procure and maintain the insurance required to be procured by CITY under this Lease, COUNTY may, but shall not be required to, order such insurance and deduct the cost thereof plus any COUNTY administrative charges from the rent thereafter payable.

Liability Insurance: COUNTY shall obtain and keep in force during the term of this Lease a policy or policies of commercial general liability insurance covering all injuries occurring within the building and the Premises. The policy or policies evidencing such insurance shall name CITY as an additional insured, shall provide that same may not be cancelled or amended without thirty (30) days prior written notice to CITY, and shall provide for a combined coverage of bodily injury and property damage in the amount of not less than One Million Dollars ($1,000,000). Such policy or policies shall be issued by an insurance company licensed to do business in the State of California and in a form acceptable to CITY. Prior to the Commencement Date of this Lease and upon renewal of such policies, COUNTY shall submit to CITY suitable evidence that the foregoing policy or policies are in effect. CITY acknowledges and agrees that COUNTY may elect to self insure to fulfill the requirements of this clause.

15. INDEMNIFICATION (5.5 S)

COUNTY shall defend, indemnify and save harmless CITY, its officers, agents, and employees, from and against any and all claims, demands, losses, or liabilities of any kind or nature which CITY, its officers, agents, and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, or arising out of, the sole negligence of COUNTY, its officers, agents, employees, subtenants, invitees, or licensees, in connection with the occupancy and use of the Premises by COUNTY.

Likewise CITY shall defend, indemnify and save harmless COUNTY, its officers, agents, and employees from and against any and all claims, demands, losses, or liabilities of any kind or nature which COUNTY, its officers, agents, and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property as a result of, or arising out of, the sole negligence of CITY, its officers, agents, employees, invitees, or licensees, in connection with the ownership, maintenance, or use of the Premises.

16. TAX EXEMPTION (5.6A S)

It is mutually understood and agreed that the rental rate set forth in this Lease is made in anticipation that the Premises will be used for a public library and as such will be exempt from real property taxes (but not from special assessments and special assessment district levies) as provided for in Section 202 of the Revenue and Taxation Code. It is also understood and agreed that it is CITY's responsibility to properly claim said exemption through the Orange County Assessor's Office. If CITY has properly claimed said tax exemption and the Premises fails to qualify for said tax exemption under the above-mentioned code section, the CITY agrees to pay the real property taxes prior to delinquency, and the COUNTY agrees to reimburse the CITY for the amount of any such taxes, but not for any delinquent or other penalties thereon.

Any reimbursement made under the provisions as set forth above will not include payment of special assessments and special assessment district levies.

17. BUILDING AND SAFETY REQUIREMENTS (5.7 S)

During the full term of this Lease, CITY, at CITY's sole cost, agrees to maintain the Premises in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they are applicable on the date of this Lease and as they may be subsequently amended.

Included in this provision is compliance with the Americans with Disabilities Act (ADA) and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended.

CITY further agrees to maintain the Premises as a "safe place of employment," as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended.

In the event CITY neglects, fails, or refuses to maintain said Premises as aforesaid, COUNTY may, notwithstanding any other termination provisions contained herein:

A. Terminate this Lease; or

B. At COUNTY's sole option, cure any such default by performance of any act, including payment of money, and subtract the cost thereof plus reasonable administrative costs from the rent.

18. TOXIC MATERIALS (5.9 S)

COUNTY hereby warrants and represents that COUNTY will comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively "Toxic Materials"). COUNTY shall be responsible for and shall defend, indemnify and hold CITY, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys' fees and costs arising out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by COUNTY. If the storage, use, and disposal of Toxic Materials on the Premises by COUNTY results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, COUNTY shall promptly take any and all action necessary to clean up such contamination.

Likewise, CITY hereby warrants and represents that CITY has in the past and will hereafter comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively "Toxic Materials"). CITY shall be responsible for and shall defend, indemnify and hold COUNTY, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys' fees and costs arising out of or in connection with the previous, current and future storage, use and disposal of Toxic Materials on the Premises (or building if the Premises comprises only a portion of said building) by CITY. If the previous, current and future storage, use, and disposal of Toxic Materials on the Premises by CITY results in contamination or deterioration of water or soil resulting in a level of

contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, CITY shall promptly take any and all action necessary to clean up such contamination.

19. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE (6.4 N)

This Lease and all rights of the COUNTY hereunder are subject and subordinate to any mortgage or deed of trust which does now or may hereafter cover the Premises or any interest of CITY therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage or deed of trust except, insofar as COUNTY is meeting its obligations under this Lease, any foreclosure of any mortgage or deed of trust shall not result in the termination of this Lease or the displacement of COUNTY.

In the event of transfer of title of the Premises, including any proceedings brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other transfer of title covering the Premises, COUNTY shall attorn to and recognize any subsequent title holder as the CITY under all terms, covenants and conditions of this Lease. COUNTY's possession of the Premises shall not be disturbed by the CITY, or its successors in interest, and this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative immediately upon succession of the current titleholder, or its successors in interest, to the interest of CITY under this Lease.

CITY shall require all future lenders on the Premises, upon initiation of their interest in the Premises, to enter into a *Subordination, Attornment and Non-Disturbance Agreement* with COUNTY, thereby insuring COUNTY of its leasehold interests in the Premises. Said *Subordination, Attornment and Non-Disturbance Agreement* shall be in the form of COUNTY's standard form *Subordination, Attornment and Non-Disturbance Agreement* or in a form approved by County Librarian, City Manager, Corporate Real Estate, and County Counsel.

Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be responsible for all liabilities of the CITY under the terms of this Lease.

Upon default by CITY of any note or deed of trust, COUNTY may, at its option, make all lease payments directly to Lender, and same shall be applied to the payment of any and all delinquent or future installments due under such note or deed of trust.

20. ESTOPPEL CERTIFICATE (6.5 N)

COUNTY agrees that its County Librarian, or designee, shall furnish from time to time upon receipt of a written request from CITY or the holder of any deed of trust or mortgage covering the Premises or any interest of CITY therein, COUNTY's standard form *Estoppel Certificate* containing information as to the current status of the Lease. The *Estoppel Certificate* shall be approved by County Librarian, City Manager, Corporate Real Estate, County Counsel and the City Attorney.

21. DEFAULTS AND REMEDIES (6.8 S)

The occurrence of any of the following shall constitute an event of default:

- Failure to pay any installment of any monetary amount due and payable hereunder;
- Failure to perform any obligation, agreement or covenant under this Lease.

In the event of any non-monetary breach of this Lease by COUNTY, CITY shall notify COUNTY in writing of such breach, and COUNTY shall have fifteen (15) days in which to initiate action to cure said breach.

In the event of any non-monetary breach of this Lease by CITY, COUNTY shall notify CITY in writing of such breach and CITY shall have fifteen (15) days in which to initiate action to cure said breach.

In the event of any monetary breach of this Lease by COUNTY, CITY shall notify COUNTY in writing of such breach, and COUNTY shall have fifteen (15) days in which to cure said breach, unless specified otherwise within this Lease.

In the event of any monetary breach of this Lease by CITY, COUNTY shall notify CITY in writing of such breach, and CITY shall have fifteen (15) days in which to cure said breach, unless specified otherwise within this Lease.

In the event any such monetary breach by COUNTY in the payment of the monthly rent, pursuant to the clause entitled (RENT) herein, is not cured within said fifteen (15) day period, CITY may declare all rent payments to the end of COUNTY's current fiscal year to be due, including any delinquent rent from prior budget years. However, in no event shall CITY be entitled to a remedy of acceleration of the total rent payments due over the term of this Lease.

22. DEBT LIMIT (6.9 S)

CITY acknowledges and agrees that the obligation of the COUNTY to pay rent under this Lease is contingent upon the availability of COUNTY funds which are appropriated or allocated by the COUNTY's Board of Supervisors for the payment of rent hereunder. In this regard, in the event that this Lease is terminated due to an uncured default of the COUNTY hereunder, CITY may declare all rent payments to the end of COUNTY's current fiscal year to be due, including any delinquent rent from prior budget years. In no event shall CITY be entitled to a remedy of acceleration of the total rent payments due over the term of the Lease. The parties acknowledge and agree that the limitations set forth above are required by Article 16, section 18, of the California Constitution. CITY acknowledges and agrees that said Article 16, section 18, of the California Constitution supersedes any law, rule, regulation or statute, which conflicts with the provisions of this paragraph. Notwithstanding the foregoing, CITY may have other rights or civil remedies to seek relief due to the COUNTY's default under the Lease. Such rights or remedies may include a right to continue the COUNTY's right of possession under the Lease and sue for the rent as it becomes past due.

23. LABOR CODE COMPLIANCE (6.10 S)

CITY acknowledges and agrees that all improvements or modifications required to be performed as a condition precedent to the commencement of the term of this Lease or any such future improvements or modifications performed by CITY at the request of COUNTY shall be governed by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of

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the State of California (Sections 1770, et seq.). These provisions are applicable to improvements or modifications costing more than $1,000.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Orange County Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications from the Director of the State Department of Industrial Relations. Copies of said prevailing wage rates may be obtained from the State of California, Department of Industrial Relations or County Librarian.

CITY hereby agrees to pay or cause its contractors and/or subcontractors to pay said prevailing wage rates at all times for all improvements or modifications to be completed for COUNTY within the Premises, and CITY herein agrees that CITY shall post, or cause to be posted, a copy of the most current, applicable prevailing wage rates at the site where the improvements or modifications are performed.

Prior to commencement of any improvements or modifications, CITY shall provide County Librarian with the applicable certified payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. CITY shall provide County Librarian, bi-weekly updated, certified payroll records for all workers that include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

If CITY neglects, fails, or refuses to provide said payroll records to County Librarian such occurrence shall constitute an event of default of this Lease and COUNTY may, notwithstanding any other termination provisions contained herein:

A. Terminate this Lease; or

B. At COUNTY's sole option, COUNTY may deduct future rent payable to CITY by COUNTY as a penalty for such non-compliance of paying prevailing wage, which rent deduction would be COUNTY's estimate, in its sole discretion, of such prevailing wage rates not paid by CITY.

24. RIGHT TO WORK AND MINIMUM WAGE LAWS (6.13 S)

In accordance with the United States Immigration Reform and Control Act of 1986, CITY shall require its employees that directly or indirectly service the Premises, pursuant to the terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. CITY shall also require and verify that its contractors or any other persons servicing the Premises, pursuant to the terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, CITY shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. CITY shall require and verify that all its contractors or other persons servicing

the Premises on behalf of the CITY also pay their employees no less than the greater of the Federal or California Minimum Wage.

CITY shall comply and verify that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, CITY, where applicable, shall comply with the prevailing wage and related requirements, as provided for in the Clause (LABOR CODE COMPLIANCE) of this Lease.

25. NOTICES (8.1 S)

All written notices pursuant to this Lease shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail.

COUNTY	CITY
Orange County Public Library 1501 E. St. Andrew Place Santa Ana, CA 92705 Attention: County Librarian	City of Costa Mesa 77 Fair Drive Costa Mesa, CA 92628 Attention: City Manager

26. ATTACHMENTS (8.2 S)

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

I. GENERAL CONDITIONS

II. EXHIBITS
- A. Description - Premises
- B. Plot Plan – Premises

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

CITY

CITY OF COSTA MESA

By _____
Allan R. Mansoor, Mayor

APPROVED AS TO FORM:
County Counsel

By _____
Julie Folcik, City Clerk

By Thomas A. Miller
Deputy

APPROVED AS TO FORM:

Date: 7/24/07

By _____
Kimberly Hall Barlow, City Attorney

RECOMMENDED FOR APPROVAL:
Orange County Public Library

By _____
County Librarian

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

COUNTY

COUNTY OF ORANGE

By _____
DARLENE J. BLOOM
Clerk of the Board of Supervisors
of Orange County, California

By _____
Chairman, Board of Supervisors

GENERAL CONDITIONS (9.1 – 9.17 S)

1. LEASE ORGANIZATION (9.1 S)

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.

2. INSPECTION (9.2 S)

LESSOR or his authorized representative shall have the right at all reasonable times and upon reasonable advance notice to COUNTY to inspect the Premises to determine, if COUNTY is complying with all the provisions of this Lease.

3. SUCCESSORS IN INTEREST (9.3 S)

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, all of who shall be jointly and severally liable hereunder.

4. DESTRUCTION OF OR DAMAGE TO PREMISES (9.4 N)

"Partial Destruction" of the Premises shall mean damage or destruction to the Premises, for which the repair cost is less than 25% of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

"Total Destruction" of the Premises shall mean damage or destruction to the Premises, for which the repair cost is 25% or more of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

In the event of a Partial Destruction of the Premises, LESSOR shall immediately pursue completion of all repairs necessary to restore the Premises to the condition which existed immediately prior to said Partial Destruction. Said restoration work (including any demolition required) shall be completed by LESSOR, at LESSOR's sole cost, within One Hundred and Twenty (120) days of the occurrence of said Partial Destruction or within an extended time frame as may be mutually agreed upon by CITY and COUNTY. The Partial Destruction of the Premises shall in no way render this Lease and/or any option to purchase null and void; however, rent payable by COUNTY under the Lease shall be abated in proportion to the extent COUNTY's use and occupancy of the Premises is adversely affected by said Partial Destruction, demolition, or repair work required thereby. Should LESSOR fail to complete necessary repairs, for any reason, within One Hundred and Twenty (120) days, or other time frame as may be mutually agreed upon by CITY and COUNTY, COUNTY may, at COUNTY's sole option, terminate the Lease or complete necessary repair work and deduct the cost thereof, including labor, materials, and overhead from any rent thereafter payable.

In the event of Total Destruction of the Premises or the Premises being legally declared unsafe or unfit for occupancy, this Lease and/or any option shall in no way be rendered null and void and LESSOR shall immediately instigate action to rebuild or make repairs, as necessary, to restore the Premises (including replacement of all tenant improvements) to the condition which existed immediately prior to

the destruction. All rent payable by COUNTY shall be abated until complete restoration of the Premises is accepted by COUNTY. In the event LESSOR refuses to diligently pursue or is unable to restore the Premises to an occupiable condition (including replacement of all tenant improvements) within 180 days of the occurrence of said destruction or within an extended time frame as may be mutually agreed upon by CITY and COUNTY, COUNTY may, at COUNTY's sole option, terminate this Lease or complete the restoration and deduct the entire cost thereof, including labor, materials, and overhead from any rent payable thereafter.

Further, LESSOR, at COUNTY's request, shall provide a suitable, COUNTY-approved temporary facility ("Facility") for COUNTY's use during the restoration period for the Premises. The Facility may be leased, at market rate, under a short term lease, for which the COUNTY will reimburse LESSOR the cost thereof, on a monthly basis.

5. AMENDMENT (9.5 S)

This Lease sets forth the entire agreement between LESSOR and COUNTY and any modification must be in the form of a written amendment.

6. PARTIAL INVALIDITY (9.6 S)

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

7. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (9.7 S)

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Financial inability shall not be considered a circumstance excusing performance under this Lease.

8. STATE AUDIT (9.8 S)

Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event that this Lease involves expenditures and/or potential expenditures of State funds aggregating in excess of ten thousand dollars ($10,000), LESSOR shall be subject to the examination and audit of the Auditor General of the State of California for a period of three years after final payment by COUNTY to LESSOR under this Lease. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

9. WAIVER OF RIGHTS (9.9 S)

The failure of LESSOR or COUNTY to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that LESSOR or COUNTY may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.

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HOLDING OVER (9.10 S)

In the event COUNTY shall continue in possession of the Premises after the term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease.

10. HAZARDOUS MATERIALS (9.11 N)

LESSOR warrants that, to the best of its knowledge, the Premises are free and clear of all hazardous materials or substances.

11. EARTHQUAKE SAFETY (9.12 N)

LESSOR warrants that, to the best of its knowledge, the Premises are in compliance with all applicable seismic safety regulations and building codes.

12. QUIET ENJOYMENT (9.13 S)

LESSOR agrees that, subject to the terms, covenants and conditions of this Lease, COUNTY may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

13. WAIVER OF JURY TRIAL. (9.15 S)

Each party acknowledges that it is aware of and has had the advice of Counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this agreement and/or any claim of injury or damage.

14. GOVERNING LAW AND VENUE. (9.16 S)

This agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

15. TIME (9.17 S)

Time is of the essence of this Lease.

LEASE DESCRIPTION (10.1 S)

PROJECT NO: CM22-L-B DATE: November 14, 2006

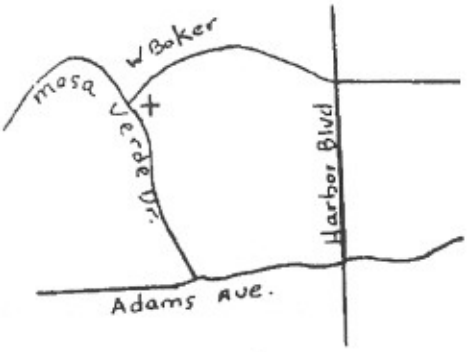
PROJECT: Costa Mesa/Mesa Verde Library VERIFIED BY: Vince Geraghty

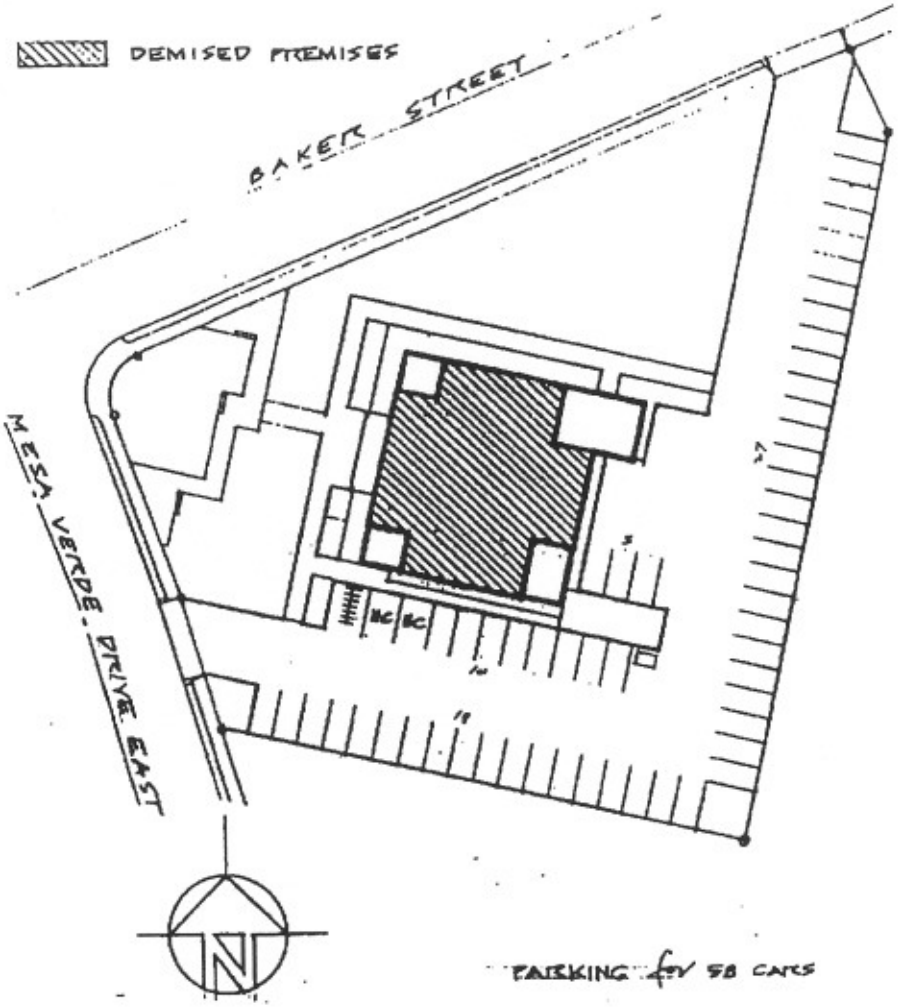
All the Premises shown crosshatched on a plot plan marked Exhibit B, attached hereto and made a part hereof, being that certain one (1) story building located at 2969 Mesa Verde Drive East, in the City of Costa Mesa, County of Orange, State of California, and located on Lot 170 of Tract No. 3487 per map recorded in Book 122, pages 6 through 16, inclusive, of Miscellaneous Maps in the office of the County Recorder of the County of Orange together with exclusive use of thirty (30) parking spaces in the parking areas shown on Exhibit B.

NOT TO BE RECORDED

EXHIBIT A

LOCATION MAP





SITE PLAN

COUNTY OF ORANGE
ORANGE COUNTY PUBLIC LIBRARY
2969 MESA VERDE DRIVE EAST, COSTA MESA
COSTA MESA/MESA VERDE LIBRARY

EXHIBIT B