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DATE: June 1, 2011

TO: Honorable Mayor and City Councilmembers

FROM: Economic & Community Development Department

SUBJECT: **AMENDMENT 1 TO THE LEASE AGREEMENT WITH THE ASSEMBLY RULES COMMITTEE, CALIFORNIA LEGISLATURE, FOR THE PREMISES AT 302 NORTH COAST HIGHWAY, EXTENDING THE TERM OF THE LEASE THROUGH MARCH 31, 2013**

**SYNOPSIS**

Staff recommends that the City Council approve Amendment 1 to the Lease Agreement with the Assembly Rules Committee, California Legislature, for Assembly Member Diane Harkey's legislative office located at 302 North Coast Highway, extending the term of the agreement through March 31, 2013, for a total revenue of \$4,092, and authorize the City Manager to execute the amendment.

**BACKGROUND**

On January 1, 1997, the City originally entered into a lease agreement with the Assembly Rules Committee, California Legislature ("Lessee") for the premises at 302 North Coast Highway. Subsequently, the City and Lessee entered into a series of amendments and lease agreements, with the latest agreement dated April 30, 2009, with a termination date of March 31, 2011.

Additionally, the City needed to relocate the leased premises in order to construct its Traffic Control Center within the City's Civic Center Building ("Civic Center"). The City and Lessee agreed to relocate leased premises to create space for the Traffic Control Center.

**ANALYSIS**

Due to Assembly Member Diane Harkey's re-election, the Lessee has requested to extend lease agreement with the City. The amendment provides for 110 square feet of office space and extends the term of the lease for two (2) years, commencing retroactively to April 1, 2011, and terminating on March 31, 2013. The amendment increases the rent to \$1.55 per square foot for the 110-square-foot new leased premises, with a five percent (5%) discount if Lessee pays the rent in an annual lump sum.

The amendment also relocates the leased premises within the Civic Center to accommodate the construction of the City's Traffic Control Center at the Civic Center.

As a result of the relocation the leased premises was reduced from 128 square feet to 110 square feet.

**FISCAL IMPACT**

Amendment 1 to the Lease Agreement with Lessee extends the term of the lease through March 31, 2013, which will generate a total revenue of \$4,092 (Account No. 1851.4351.0010).

**INSURANCE REQUIREMENTS**

The State of California is self-insured.

**COMMISSION OR COMMITTEE REPORT**

Does not apply.

**CITY ATTORNEY'S ANALYSIS**

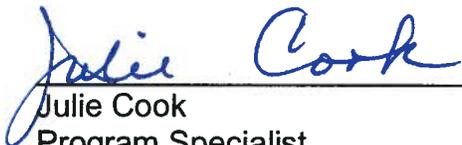
The referenced documents have been reviewed by the City Attorney and approved as to form.

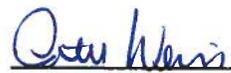
**RECOMMENDATION**

Staff recommends that the City Council approve Amendment 1 to the Lease Agreement with the Assembly Rules Committee, California Legislature, for Assembly Member Diane Harkey's legislative office located at 302 North Coast Highway, extending the term of the agreement through March 31, 2013, for a total revenue of \$4,092, and authorize the City Manager to execute the amendment.

PREPARED BY:

SUBMITTED BY:

  
Julie Cook  
Program Specialist

  
Peter A. Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Jane McVey, Economic & Community Development Director

Douglas E. Eddow, Real Property Manager

Teri Ferro, Financial Services Director


## FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("First Amendment") dated April 1, 2011, by and between the City of Oceanside ("City") and the Assembly Rules Committee, California Legislature ("Lessee").

### RECITALS

WHEREAS, City and Lessee entered into that certain Lease, executed May 13, 2009 ("Lease");

WHEREAS, the Lease expired on March 31, 2011 and the Lessee has been occupying the leased premises as a month-to-month tenant; and

WHEREAS, City and Lessee are desirous of amending the Lease to provide for the relocation of the leased premises within the Oceanside Civic Center Building ("Civic Center") and to extend the term of the Lease.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereto agree as follows:

1. **RELOCATION OF LEASED PREMISES** – The leased premises has been relocated due to recent remodeling improvements to the Civic Center. Accordingly, Exhibit "A-3" of the Lease shall be deleted in its entirety and replaced with Exhibit "A-4", which is hereby incorporated herein by this reference. Henceforth, the leased premises will consist of approximately 110 square feet at the Civic Center in the location set forth in Exhibit "A-4". The address of the leased premises will remain 302 North Coast Highway, Oceanside, CA 92054.
2. **EXTENSION OF THE TERM** – The term of the Lease is hereby extended to cover the period from April 1, 2011 to March 31, 2013.
3. **RENTAL PAYMENT** – Effective April 1, 2011 and continuing through March 31, 2013 rent shall be payable by the Lessee in the amount of ONE HUNDRED SEVENTY AND 50/100 DOLLARS (\$170.50) per month as otherwise specified under the terms of the Lease (110 SF at \$1.55 PSF per month).

4. Except as expressly modified by this First Amendment, the Lease and all of its terms and conditions, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto agree to all of the covenants and conditions as set forth herein as of the date first written above.

“CITY”

City of Oceanside

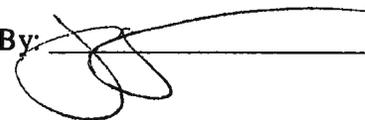
Approved as to form by the Attorney  
For the City of Oceanside

By: \_\_\_\_\_  
City Manager

By:  \_\_\_\_\_, ASST.  
City Attorney

“LESSEE”

Assembly Rules Committee of the  
California Legislature

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

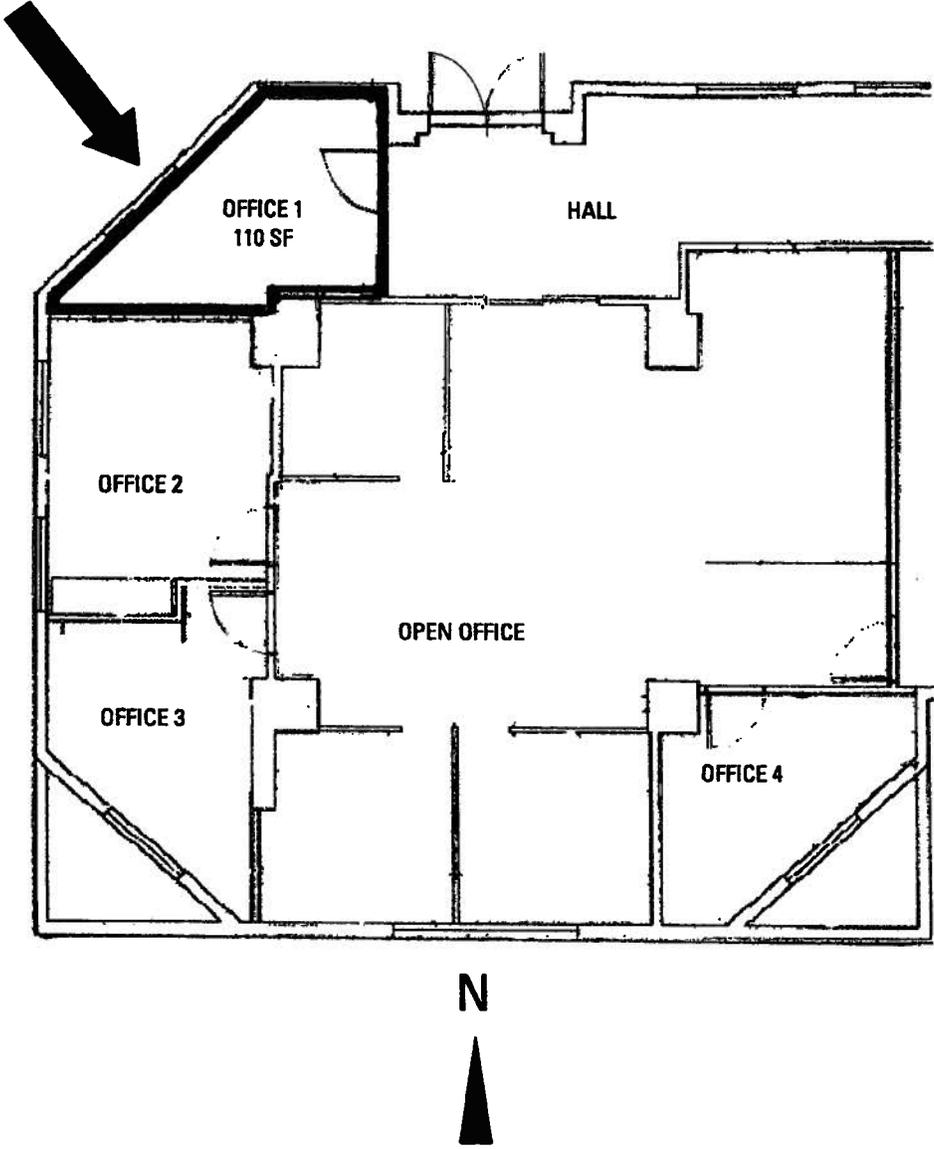
Name: JONATHAN WALDIE

Title: CHIEF ADMINISTRATIVE OFFICER

EXHIBIT “A-4” IS TO BE ATTACHED AND INCORPORATED AS PART OF THE  
FIRST AMENDMENT

**CIVIC CENTER PLAZA**

**LEASED  
PREMISES**  
(Portion of Civic Center Complex)



**CITY OF OCEANSIDE**  
**SKETCH OF LEASED PREMISES**  
**FOR STATE ASSEMBLYMEMBERS OFFICE AT**  
**302 N. COAST HIGHWAY**

**EXHIBIT "A-4"**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

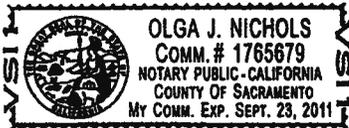
State of California

County of Sacramento

On May 12, 2011 before me, Olga J. Nichols, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Jonathan Waldee  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature: Olga J. Nichols  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document: First Amendment to lease dated 4/1/2011

Document Date: April 1, 2011 Number of Pages: 3 plus ack

Signer(s) Other Than Named Above: NONE

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Jonathan Waldee

- Corporate Officer — Title(s): \_\_\_\_\_
- Individual
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
 Top of thumb here



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Corporate Officer — Title(s): \_\_\_\_\_
- Individual
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

RIGHT THUMBPRINT OF SIGNER  
 Top of thumb here

Signer Is Representing: \_\_\_\_\_

**CALIFORNIA LEGISLATURE** (REV. 2/28/09)  
**ASSEMBLY LEASE NO. ASM \_\_\_\_\_**

**ALL INFORMATION REQUESTED IN THIS LEASE MUST BE COMPLETED PRIOR TO SIGNATURE OF THE ASSEMBLY RULES COMMITTEE**

**THIS LEASE**, made and entered into this April 30, 2009 by and between THE CITY OF OCEANSIDE, (hereinafter "Lessor") and the ASSEMBLY RULES COMMITTEE, CALIFORNIA LEGISLATURE, (hereinafter "Lessee").

**WITNESSETH**

The parties hereto mutually agree as follows:

1. Lessor hereby leases unto and Lessee hereby hires from Lessor those certain premises situated in the City of Oceanside, County of San Diego, State of California located at **302 NORTH COAST HWY., OCEANSIDE, CALIFORNIA 92054**, and more particularly described as **128 square feet of office space as shown on a sketch thereof marked Exhibit "A-3" attached hereto and incorporated by this reference.**

2. **LESSOR LEASES SAID PREMISES TO LESSEE TO HAVE AND TO HOLD**, together with associated appurtenances, rights, privileges and easements, for a term commencing on April 1, 2009, and ending on March 31, 2011 with such rights of termination as are hereinafter set forth, with rental payable by Lessee on or before the 10<sup>th</sup> of each month in the term, unless sufficient funds have not been made available in the annual budget act for the purpose of funding Assembly Rules Committee lease agreements, in an amount as follows:

**One Dollar and Fifty Cents (\$1.50) PER SQUARE FOOT for One Hundred Twenty Eight (128) SQUARE FEET.**

**Total yearly rent is Two Thousand, Three Hundred Four Dollars (\$2,304.00) due in monthly payments of One Hundred Ninety-Two Dollars (\$192.00).** Any rental payments that are not paid under this paragraph due to budgetary constraints shall be paid by the Lessee as soon as funds are made available under the annual budget act.

3. The Lessee shall have the right during the term of this agreement to prepay rent to Lessor in a lump sum payment for any portion of the lease term. In exchange for this prepayment, Lessor shall discount by five percent (5%) the amount of the rent determined pursuant to the lease for that portion of the lease term and Lessor shall accept this prepaid discounted rent as the Lessee's rent for that portion of the lease term. If this Agreement is terminated for any reason authorized herein prior to the end of the period for which the Lessee has made a prepayment of rent, the Lessor shall refund to the Lessee that portion of the Lessee's prepaid rent attributable to the period

9. Lessor reserves the right to enter and inspect the leased premises, at reasonable times, and to make any necessary repairs to the premises.

10. Lessor agrees that Lessee, keeping and performing the covenants and agreements herein contained on the part of Lessee to be kept and performed, shall at all times during the existence of this lease peaceably and quietly, have, hold and enjoy the leased premises, without suit, trouble or hindrance from Lessor, or any person claiming under Lessor.

11. In the event the leased premises or any essential part thereof shall be destroyed by fire or other casualty, this lease shall, in the case of total destruction of the leased premises, immediately terminate and, in case of partial destruction or damage shall terminate at the option of the Lessee upon giving notice in writing to the Lessor within fifteen (15) days after such fire or casualty, and no rent shall accrue or be payable to the Lessor after such termination. In the event of any such destruction where the Lessee remains in possession of said premises, the rental as herein provided shall be reduced by the same ratio as the floor space Lessee is thus precluded from occupying bears to the total floor space of the leased premises.

12. Rent payable hereunder for any period of time less than that for which periodic rent is paid shall be determined by prorating the rent herein specified for the applicable period.

13. To the extent authorized by any fire and extended coverage insurance issued to Lessor on the herein demised premises, Lessor releases Lessee from liability for loss or damage covered by said insurance and waives subrogation rights of the insurer.

14. Lessee represents that it is self insured against damages, injury, and other forms of liability for its motor vehicle and general liability exposures through a general liability program administered by the California State Attorney General.

15. This lease is subject to the provisions of the California Fair Employment and Housing Act (Section 12900, et seq., Government Code) and in its performance Lessor will not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation. Such action shall include but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

\* See Sections 12900-12994 of the Government Code for further details.

The Lessor will permit access to its records of employment, employment advertisements, and application forms, and other pertinent data and records by the State Fair Employment and Housing Commission, and any other agency of the State of

California designated by the Department of General Services, for the purpose of investigation to ascertain compliance with this section.

The Lessee may determine a willful violation of the fair employment practices provision to have occurred upon receipt of a final judgment having the effect from a court in an action to which Lessor was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that the Lessor has violated the Fair Employment and Housing Act and has issued an order, under Section 12970 of the Government Code, which has become final, or obtained an injunction under Section 12973 of the Government Code.

In the event of willful violation of the foregoing provision in the performance of this lease, and if Lessor, within thirty (30) days after receipt of a written notice thereof from Lessee, fails to cure such breach the Lessee shall have the right, immediately, to terminate this lease, and any other necessary additional expense incurred by the Lessee in securing space equivalent to the leased premises, including the additional rental, if any, shall be borne by the Lessor.

**THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, this lease has been executed by the parties hereto as of the date first above written.

**LESSOR:**

THE CITY OF OCEANSIDE  
A Municipal Corporation

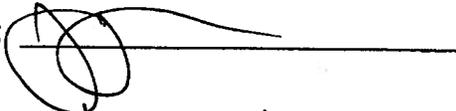
APPROVED AS TO FORM

By: *Otto Weiss*  
City Manager

BY: *Robert Hamilton, Esq.*  
City Attorney

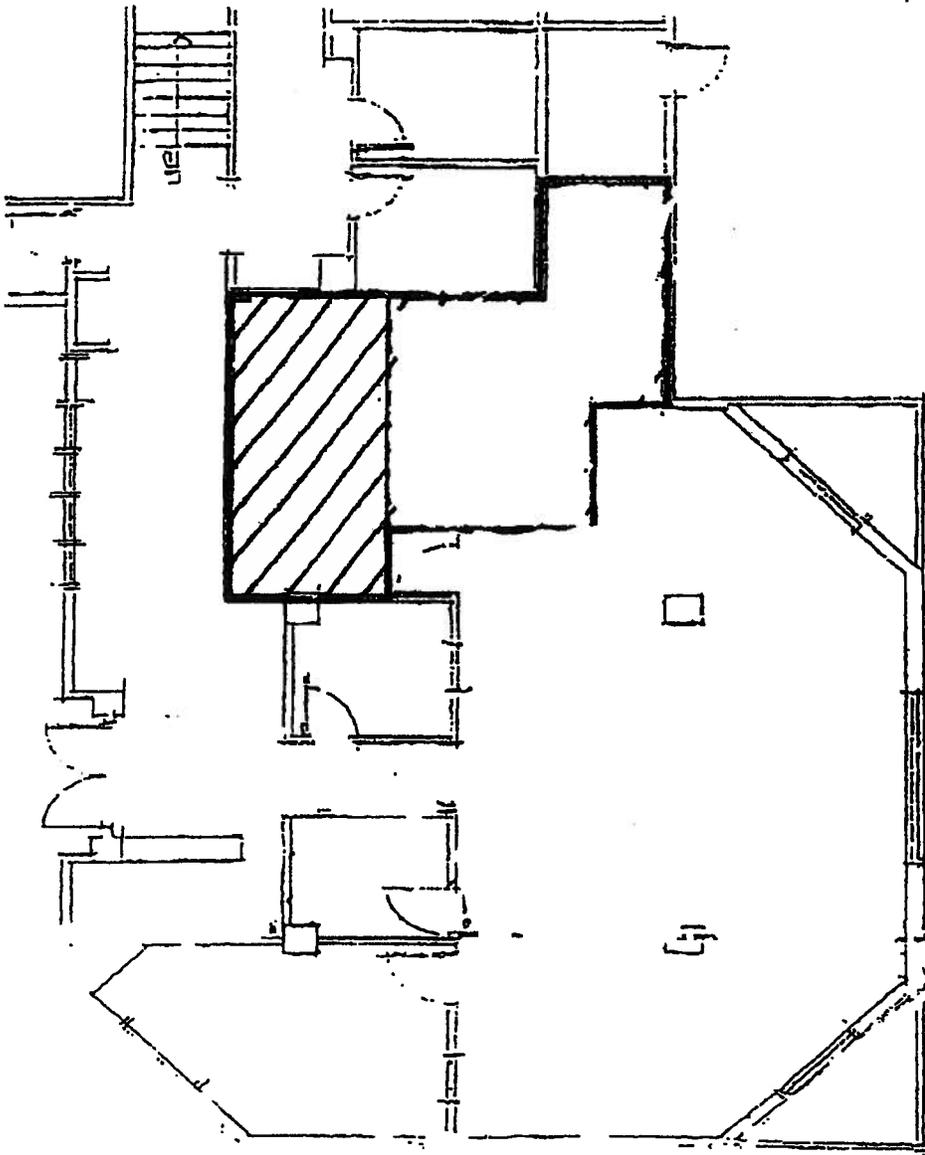
**LESSEE:**

ASSEMBLY RULES COMMITTEE OF  
THE CALIFORNIA LEGISLATURE

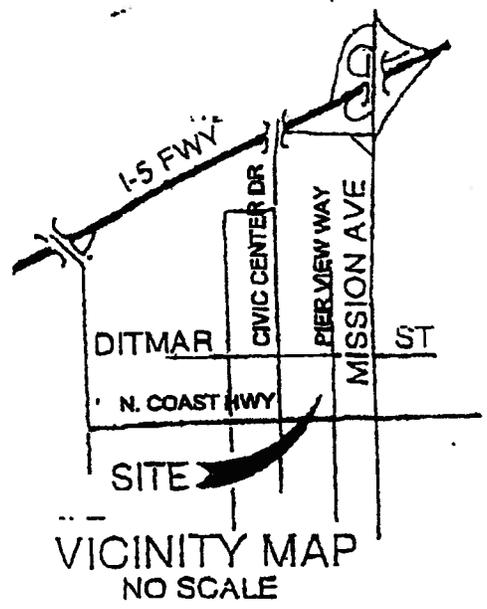
By:   
Name: *Jonathan Walczak*

Title: *Co-Space Acquirer*

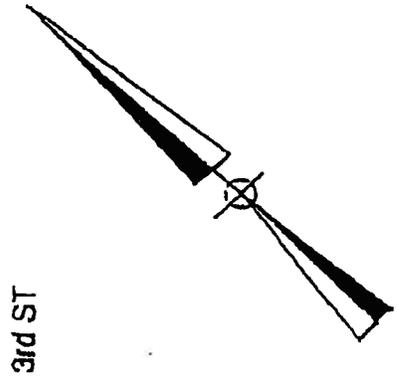
**NOTARY ACKNOWLEDGMENT OF LESSEE'S SIGNATURE(S) MUST BE  
ATTACHED**



CITY HALL-SOUTH  
 PORTION OF FIRST FLOOR PLAN  
 NO SCALE



VICINITY MAP  
 NO SCALE



3rd ST

**LEGEND**  
 BOUNDARY OF  
 LEASED PREMISES  
 128 SQ FT ±

Revision	By	Approved	Date

**CITY OF OCEANSIDE**  
 SKETCH SHOWING LEASED PREMISES  
 302 N. COAST HIGHWAY

EXHIBIT "A-3"