

RESOLUTION NO. 2022-50

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MARINA AND JOBY AERO, INC. FOR 210 8th STREET (BUILDING PO 1637 AT 8TH STREET AND 2ND AVENUE), AND AUTHORIZING CITY MANAGER TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY, SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY

WHEREAS, the City facility located at 210 8th Street (Building PO 1637) was conveyed to the City in 2006 for economic development purposes. The former Army motor pool structure sits on a 3.260 acres and consists of 12,536 square feet; and,

WHEREAS, the structure has been mostly vacant for years with the exception of the East Bay and the East Lean-to section which has been occupied by the City of Seaside for storage purposes; and,

WHEREAS, there are no established utilities in the facility (water is available), and there are needed roof repairs, asbestos abatement, bird dropping cleaning and disinfecting, and hauling away of trash and debris; and,

WHEREAS, Joby Aviation wishes to lease the West Lean-to and the West Bay sections for storage purposes of large casts, molds and machinery that will be housed in the large Aviation Manufacturing facility at the Marina airport when its constructed; and,

WHEREAS, the Lease Agreement includes interior space consisting of approximately 4,000 square feet as shown on **Exhibit A**; and,

WHEREAS, the Lease Agreement consists of a base term of two-years and two additional one-year conditional City optional extension periods, the Lease rate is \$.25 per sf per month; and,

WHEREAS, The monthly rent payable for the first year of the Term of this Lease shall be \$1,000 per month (at the rate of \$.25 per square foot per month).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Approve a Lease Agreement between the City of Marina and Joby Aero, Inc. for 210 8th Street (Building PO 1637 at 8th Street and 2nd Avenue); and
2. Authorize the City Manager to execute the Lease Agreement, on behalf of the City, subject to final review and approval by City Attorney.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 19th day of April 2022, by the following vote:

AYES, COUNCIL MEMBERS: Burnett, Berkley, Biala, Delgado

NOES, COUNCIL MEMBERS: None

ABSENT, COUNCIL MEMBERS: Medina Dirksen

ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

**CITY OF MARINA
LEASE AGREEMENT
BUILDING PO 1637**

This LEASE AGREEMENT is made on _____ 2022, by and between the CITY OF MARINA, a Charter City organized and existing under the laws of the State of California ("Landlord or City"), and JOBY AERO, INC, a Delaware corporation ("Tenant").

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the term and subject to the terms, covenants, agreements and conditions set forth below, to each and all of which Landlord and Tenant hereby mutually agree.

1. PREMISES

The site of the premises consist of a portion of the property located at 210 8th Street in the City of Marina, County of Monterey, California, assigned APN Number 031-251-031 being a part of Building PO 1637, a single-story metal framed structure consisting of 12,536 total square feet (estimated date of construction 1985) of which 4,000 square feet, consisting of the West Lien-to (775 sq. ft.) and the West Bay (3,225 sq. ft.), shall make up the initial leasehold, as depicted on **Exhibit A**, attached hereto ("the Premises").

2. TERM

The term of this lease shall commence on the date following the Landlord's completion of its obligation to reroof a portion of the Premise and complete a cleanup of the entire Premises, the "Effective Date," and shall continue for a period of two (2) Lease Years plus the partial month, if any, immediately preceding the first full calendar month of this lease. "Lease Year," shall mean each twelve (12) month period during the term of the Lease commencing upon the Effective Date. Landlord and Tenant shall confirm the Effective Date in a writing signed by both parties.

A. The City has the right to terminate this Lease with thirty (30) days prior written notice to Tenant upon Tenant's failure to comply with any of the terms and conditions herein set forth or if, in the City Manager's exercise of reasonable discretion, revocation is necessary in the interest of public health or safety.

3. RENT

A. Minimum Rent. Tenant shall pay to Landlord for its use and occupancy of the Premises One-Thousand Dollars (\$1,000) per month.

B. Manner of Payment. All rent and other payments due from Tenant shall be made to Landlord's Finance Department in lawful money of the United States of America at Landlord's address for notice hereunder, or to such other person or at such other place as Landlord may from time to time designate in writing.

4. RIGHT OF FIRST REFUSAL

The City will not lease remaining space available in Building PO 1637 to other prospects for the initial term following the Effective Date and hereby extends a Right of First Refusal to Tenant to lease such space. Such Right of First Refusal Space can be added to the original Premises by written amendment of

this Lease provided such expansion occurs within any term of this Lease on the same terms and conditions as the initial Lease and Tenant will begin paying the same rate per square foot rental at time of expansion. The City Manager is authorized to take all necessary actions in connection with or related to the Tenant's exercise of this Right of First Refusal

5. PROPERTY AND OTHER TAXES

A. Possessory Interest Taxes. The property interests created by this Lease may be subject to property taxation and Tenant, in whom the possessory interest is vested, will be responsible for the timely payment of any property taxes levied on such possessory interest. Tenant agrees to pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the state, county, city or any tax or assessment levying body against the transfer of the leasehold interest hereunder upon recordation or otherwise, or upon any activity carried on under this Lease, any interest in this Lease or any possessory right which Tenant may have in or to the Property or the Property by reason of its use or occupancy thereof or otherwise.

B. Personal Property and Other Taxes. In addition to all other sums to be paid by Tenant hereunder, Tenant shall pay, before delinquency, any and all taxes levied or assessed during the term of the Lease on Tenant's equipment, furniture, fixtures, merchandise, and other personal property located in the Premises, and shall pay, or shall reimburse Landlord for, any and all assessments (including, without limitation, (i) all assessments for public improvements, services or benefits, irrespective of when commenced or completed), excises, levies, business taxes, Lease, permit, inspection and other authorization fees, payments in lieu of taxes and any other fees or charges of any kind, which are levied, assessed, or imposed by any public authority; (ii) upon or with respect to the development, possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the or any portion thereof; (iii) upon, measured by or reasonably attributable to the cost or value of Tenant's equipment, furniture, fixtures, merchandise, and other personal property located at or in the Premises or by the cost or value of any improvements made by Tenant to the Property, regardless of whether title to such improvements shall be in Tenant or Landlord; or (iv) upon this Lease or any document to which Tenant is a party creating or transferring an interest in the Property.

C. Tenant's Right to Contest. Tenant may, at no cost to Landlord, reasonably contest the legal validity or amount of any taxes, assessments, or charges for which Tenant is responsible under this Lease, and institute such proceedings as Tenant considers necessary; provided, however, that Tenant shall at all times protect Landlord from foreclosure of any lien, and that Landlord shall not be required to join in any proceeding or contest brought by Tenant.

6. SECURITY DEPOSIT

City and Tenant acknowledge that there shall be no security deposit required.

7. USE

The Premises shall be used by the Tenant for storage of the Tenant's equipment and personal property. Tenant shall not use the Premises for any other purposes without the City's prior written consent including for commercial storage and shall not store property belonging to others on the Premises.

Tenant shall not do or permit to be done in, on, or about the Premises anything which is prohibited by or may conflict with any law, statute, ordinance or governmental rule or regulation now in force or hereafter enacted or promulgated, which is prohibited by the standard forms of special form or

commercial general liability insurance or which may cause a cancellation of any insurance policy covering or the Premises or any of its contents, or (except with the prior written consent of Landlord) which may increase the existing rate of or affect any special form or commercial general liability insurance or other insurance upon or the Premises, or any of its contents. In the event Tenant does or permits to be done anything or keeps or permits to be kept anything on or about the Premises or which increases the existing rate of such insurance upon or the Premises or any of its contents, Tenant shall pay the amount of any such increase promptly upon Landlord's demand. Tenant shall not do or permit anything to be done which will in any way obstruct or interfere with the rights of other lawful users of , including, without limitation, tenants, their employees or invitees, disturb or annoy them, or use or allow the Premises to be used for any improper, unlawful or objectionable purpose. Tenant shall not maintain or permit any nuisance in or about the Premises or commit or suffer to be committed any waste in or upon the Premises.

8. OPTION TO RENEW

A. Option Period. So long as Tenant is not in default under this lease, either at the time of exercise or at the time the extended term commences, the City will extend two separate options to extend the initial term of this lease for an additional period ONE (1) year each (each an "option period") on the same terms, covenants, and conditions of this lease. In order to exercise this option, City must give written notice of its election to extend an option to Tenant at least 180 days, but not more than one year, prior to the expiration date of the initial lease term or the first option period.

9. HOLDING OVER

If Tenant remains in possession of the premises with Landlord's consent after the expiration of the term of this lease without the City having extended an option to renew this lease, or after the termination of any such option period, such possession by Tenant shall be construed to be a tenancy from month-to-month, terminable on thirty (30) days' notice given at any time by either party. All provisions of this lease, except those pertaining to term, shall apply to the month-to-month tenancy.

10. NOTICES

A written notice shall be deemed served upon mailing said notice to the other party and depositing the same with the U.S. Post Office, first class mail, with postage paid. For purposes of this Lease, all notices to the City shall be addressed to the:

City of Marina
Office of the City Manager
211 Hillcrest Avenue
Marina, CA 93933

For purposes of this Lease, all notices to Tenant shall be addressed to:

Joby Aero, Inc.
2155 Delaware Avenue, Suite #225
Santa Cruz, CA 95060
Attn: Legal Department

11. IMPROVEMENTS, MAINTENANCE AND ALTERATIONS

A. "Improvements" shall mean Tenant's repairs to the metal roof over the West Lien-to and the West Bay of the Premises to make the building suitable for Tenant's proposed use. Tenant shall be responsible for coordination of its activities and the work to avoid any conflicts with the City's contractor performing reroofing activities of the Center and East Lien-to and East Bay sections of the Premises and cleanup activities of the entire building.

B. Tenant shall maintain the Premises in good order, condition, and repair, including the repaired roof, walls, flooring, lighting and landscaping. Tenant shall keep the Premises, up to and including the areas immediately adjacent to the Premises and up to the edge of the sidewalk abutting the Premises reasonably free and clear of all debris and trash.

C. Tenant acknowledges that City owns the Premises. Tenant upon entering occupancy accepts the Premises from City in its "as is" condition, the conditions that exist as of the Effective Date of this Lease. Tenant acknowledges that City makes no representation or warranty concerning (i) physical condition of the Premises; (ii) the Premises suitability for Tenant's proposed use; or (iii) the presence of any Hazardous Materials, as defined in **Exhibit B**, in or about the Property or the Premises, except as otherwise expressly set forth in this Lease. Tenant is encouraged to make its own physical inspection of the Property and Premises and to conduct its own investigations as to the suitability of the Property and Premises.

D. Tenant is informed and understands that the Premises were formerly used by the federal government as part of an Army base and that surrounding lands which were also part of such Army base have been found to contain concentrations of volatile organic chemicals which exceed standards prescribed by the environmental agencies and the state and federal governments. Pursuant to California Health & Safety Code §25359.7(a) Tenant is provided this notice that the structure contains asbestos materials and may contain other Hazardous Materials. The City has provided the Tenant an asbestos survey report prepared by the U.S. Army Corps of Engineers for Building PO 1637 which is attached hereto as **Exhibit C**. Tenant acknowledges that Landlord has granted to it the right to review all maps and records of the old Army base presently on file in the office of the City's Planning Department as well as the right to inspect the Premises and perform any tests of the soils and improvements thereon or the groundwater thereunder, all in order to afford the Tenant a full and complete opportunity to investigate and determine whether the leased Premises can be used for the purposes for which it is being offered.

E. Tenant further understands and agrees that no representation, statement or warranty, express or implied, has been made by or on behalf of the City as to the conditions of the Premises or the suitability of the Premises for its intended use, save and except for the representation and warranty that no officer, employee, contractor, subcontractor, tenant, subtenant, or agent of the City has caused any condition of pollution or contamination which may now exist on the Premises. Such representation and warranty, however, shall not extend to any condition of pollution or contamination caused by the federal government. Tenant agrees to waive any claim or right of action against the City which Tenant now has or hereafter may acquire arising out of the condition of the Premises, its soils and/or the groundwater underlying the Premises, including but not limited to, any claim of indemnity which Tenant may have by reason of costs incurred by Tenant arising out of the abatement or cleanup of any pollution or contamination condition discovered on the Premises hereinafter required under applicable state, federal or city laws or regulations save and except for a claim or right of action arising out of a condition of pollution or contamination caused by an officer, employee or agent of the City. As of the

Effective Date, Tenant waives, releases and discharges the City, its Council, Commissions, Boards and Departments, their respective elected and appointed officials, officers, employees and agents, representatives and attorneys from any and all present and future claims, demands, suits, legal and administrative proceedings, and from all liability, damages, losses, costs, liabilities, fees and expenses, (including without limitation attorney's fees) arising out of or in any way connected with the Tenant's use, maintenance, leasehold or operation of the Premises, any Hazardous Materials, contamination in any state on the Premises, however, the Hazardous Materials came to be placed there. Tenant acknowledges that it is aware of and familiar with the provisions of Section 1642 of the California Civil Code which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

To the extent of the release set forth in this Section, Tenant hereby waives and relinquishes all rights and benefit which it may have under Section 1542 of the California Civil Code.

Tenant's initials _____

F. Upon the execution of this Lease, Landlord approves and requires the improvements to the Premises described above in Subsection A above that shall be completed by Tenant. Tenant shall not make any other alterations, additions or improvements to the Premises (i) costing in excess of \$5,000 for any single instance or \$15,000 in the aggregate for any twelve (12) consecutive months or (ii) affecting the Premises, or attach any fixture or item of equipment thereto without Landlord's prior written consent. All such alterations, additions, or improvements shall be made at Tenant's sole expense in accordance with Landlord's General Design Requirements (if any) and the plans and specifications (including specifications for materials to be used in connection therewith) and a statement of the estimated cost of such work submitted to and approved by Landlord (collectively the "Plans and Specifications"). If the cost thereof exceeds \$5,000 for any single instance. Landlord, in its sole discretion, shall approve or disapprove Tenant's request and may disapprove Tenant's use of any materials or substances which Landlord, in its sole discretion, deems potentially hazardous, toxic or threatening to health. To the extent that Tenant's work shall require a building permit or other permits from the City of Marina, and/or any other governmental agency, Tenant shall not perform any of Tenant's work until Tenant has obtained all requisite permits. Tenant further shall comply with all prevailing wage requirements of California Labor Code Sections 1720 et seq., to the extent such requirements are applicable to Tenant's work.

G. Except as otherwise expressly provided in this Lease, Tenant shall not repair, replace or modify any utility system located on the Premises without the Landlord's prior written consent. Tenant is advised that as of the Effective Date there are no utilities serving the Premises. Tenant shall be responsible for damage arising out of Tenant's construction activities or Tenant's negligence or willful misconduct.

H. If Tenant proposes to make or construct any alterations, improvements, additions or fixtures (other than those described above in Subsection A that affect any portion of the Premises) Tenant shall first provide the Landlord with thirty (30) days prior written notice. If Landlord raises no objections within thirty (30) days after receipt of such notice, Tenant may proceed, provided Tenant obtains all required permits.

I. Except as may be specifically approved in writing by Landlord, Tenant shall require all contractors to provide a labor and materials bond for the full amount of any contract for improvements that exceed \$50,000. Tenant shall pay, when due, all sums of money that may be due or become due for any labor, services, materials, supplies or equipment furnished to or for Tenant in, at, upon or about the Premises and which may be secured by any mechanic's, material men's or other lien against the Premises or Landlord's interest therein. Upon termination of this Lease, for any reason, and at the City's sole option, Tenant shall remove any equipment, materials or improvements installed by Tenant and shall surrender the Premises to City.

12. PREVAILING WAGE REQUIREMENTS

A. Tenant shall be solely responsible for determining whether or not laborers employed relative to any work on the Premises must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code Sections 1720 et seq. and if so required shall cause the payment of prevailing wages in the construction of the Improvements by all contractors (including the Tenant if acting as its own general contractor) and all subcontractors, as those wages are determined pursuant to Labor Code Sections 1720 et seq., to employ apprentices as required by Labor Code Sections 1777.5 et seq., and the implementing regulations of the Department of Industrial Relations (the "DIR") and, if required by the City, to submit weekly payroll reports to the City. The Tenant shall and shall cause all contractors (including Tenant if acting as its own general contractor) and subcontractors to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and implementing regulations of the DIR. The Tenant shall and shall cause the contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Labor Code Sections 1720 et seq., and apprentices have been employed are required by Labor Code Sections 1777.5 et seq. The Tenant shall cause the contractor and subcontractors to instruct any sub-tier subcontractors of the prevailing wage responsibility. Copies of the currently applicable current per diem prevailing wages are available from DIR. During the construction of the Project, Tenant shall or shall cause the contractor to post at the Premises the applicable prevailing rates of per diem wages. The Tenant shall and shall cause the general contractor and subcontractors to review the required wage decisions and request from the City any additional classifications not included in the wage decision.

B. he Tenant shall indemnify, hold harmless and defend (with counsel reasonably acceptable to the City) the City against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including Tenant, its contractor and subcontractors) to pay prevailing wages as determined pursuant to Labor Code Sections 1720 et seq., to employ apprentices pursuant to Labor Code Sections 1777.5 et seq., and implementing regulations of the DIR or to comply with the other applicable provisions of Labor Code Sections 1720 et seq., 1777.5 et seq., and the implementing regulations of the DIR and the City's local prevailing wage requirements in connection with the construction of the Project or any other work undertaken or in connection with the Premises. The requirements in this Subsection shall survive the termination of this Lease.

13. LIENS

Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant. In the event that Tenant shall not cause any such liens to be released of record, Landlord shall have, in addition to all other remedies provided herein or by law, the right (but not the obligation) to cause the same to be released by such means as Landlord shall deem

proper, including payment of the claim giving rise to such lien. All sums paid and all expenses incurred by Landlord in connection therewith shall be reimbursed by Tenant promptly on demand. Landlord shall have the right to post and keep posted on the Premises any notices (including, without limitation, notices of non-responsibility pursuant to California Civil Code Section 3094) that Landlord may deem proper for protection of Landlord and the Premises. Tenant shall give Landlord at least ten (10) business days' prior notice of the date of commencement of any Tenant's work on or in the Premises to allow Landlord to post such notices.

14. TENANT AND LANDLORD MAINTENANCE OBLIGATIONS

A. Except as provided for in subparagraph F below, Tenant agrees that during the entire term of this Lease, at its own cost and expense, it shall keep and maintain the Premises, and all leasehold improvements, fixtures, furniture, and other improvements located on the Premises in good-quality order, repair and condition. Except as otherwise provided in this Lease, Tenant shall perform, at its own cost and expense, any and all maintenance, removal of graffiti, repairs, or rehabilitation to the Premises, whether required by deterioration or by operations of Tenant or otherwise.

B. To the extent applicable, Tenant hereby waives the provisions of Civil Code Sections 1941 and 1942, and any other provision of law now or hereafter in effect, with regard to the habitability of the Property and the Premises.

C. "Good-quality order, repair and condition", as used herein, shall mean the maintenance, repair, or renovation of the equipment, furniture, fixtures, signage, and appurtenances necessary to keep and maintain the Premises in efficient condition, at any time during the term of this Lease.

D. Tenant shall provide its own maintenance service for the Premises, and all of Tenant's rubbish shall be removed by Tenant.

E. In the event of a dispute that Landlord and Tenant cannot informally resolve, Tenant's only remedy against Landlord shall be the right to terminate this Lease, effective thirty (30) days from the delivery of written notice to Landlord.

F. Nothing in this Paragraph 14 shall be deemed to affect or impair Landlord's rights under Paragraph 11 of this Lease. Tenant acknowledges that Landlord has no obligation and has made no promises to alter, remodel, improve, or repair, the Premises, or any part thereof. Landlord has made no representations respecting the condition of the Premises, except as specifically set forth in this Lease.

15. DAMAGE OR DESTRUCTION

A. In the event the Premises are damaged by fire, flood, earthquake, act of God, the elements, or other casualty, then Landlord shall forthwith repair the same at its sole expense. In this event, Tenant shall be solely responsible for the loss, repair, and replacement of all its equipment.

B. Anything in subparagraph A to the contrary notwithstanding, neither Tenant nor City shall have any obligation to repair or rebuild the Premises, as the case may be, following damage or destruction thereto if the damage or destruction is due to any cause or casualty other than one against which the responsible party is required to carry insurance or actually does carry insurance and such party reasonably estimates that the cost of repair or rebuilding exceeds ten per cent 10% of the then replacement cost of the Premises, as the case may be. If the responsible party elects not to repair any damage or destruction pursuant to this provision, such party shall give the other party notice of such

election within sixty (60) days after the date of such damage or destruction; and this Lease shall terminate as of the date of such damage or destruction.

C. Tenant hereby waives the provision of California Civil Code Sections 1932 and 1933 and any other statutes now or hereafter in effect which relate to termination of a Lease when the Premises is damaged or destroyed and agrees that such event shall be governed by the terms of this Lease.

16. COMPLIANCE WITH LAWS

A. Tenant, at its sole expense, shall promptly comply with all applicable laws, ordinances, rules, regulations, permits or requirements now or hereafter in effect (whether foreseen or unforeseen by Landlord or Tenant), with the requirements of any board of fire underwriters or similar body now or hereafter constituted; with any occupancy certificate issued by any public officer and with the provisions of all recorded documents affecting the Premises, insofar as any of the foregoing relate to or affect the condition, use or occupancy of the Premises. Such compliance by Tenant shall include, without limitation, compliance with all obligations to alter, maintain, or restore the Premises or construct improvements in or to the Premises, regardless of cost and regardless of when during the term of the Lease the work is required.

B. Tenant and its officers, employees, agents and contractors or any tier shall comply with all applicable local, state, and federal laws and regulations including those laws which govern worker health and safety and reporting the use, handling, treatment, removal, or disposal of toxic or hazardous substances, materials or wastes, including without limitation all substances described in the definition of Hazardous Materials set forth in **Exhibit B** attached hereto and incorporated herein, which may exist on the Premises (herein "Hazardous Materials"). Tenant shall conduct its operations and the work on the Premises so as to avoid unfavorable impact upon the environment and shall take all required steps to minimize dust and noise in conformance with governmental standards. Tenant and its employees, agents, consultants and contractors or any tier shall properly and lawfully transport and dispose of any and all waste and Hazardous Materials generated by Tenant's activities on the Premises.

C. Tenant understands and agrees that Landlord is entering into this Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency of the City of Marina with certain police powers. Landlord's legal status shall in no way limit the obligation of Tenant to obtain any required approvals from Landlord's departments, boards, or commissions that have jurisdiction over the Premises. By Landlord's entering into this Lease, neither Landlord nor any of City Council, boards, commissions, agencies, departments, or Affiliates obligates itself to any other governmental agent, board, commission or agency, or to Tenant, or to any other individual or entity, with regard to any discretionary action relating to development or operation of the Premises. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals that may be required or desirable for the improvement, alteration, or operation of the Premises. By entering into this Lease, Landlord is in no way modifying or limiting the obligation of Tenant to cause the Premises to be used and occupied in accordance with all laws.

17. ACCESS TO PROPERTY BY OTHERS

The City, its agents, and employees shall have the right to enter the Premises at any time, provided such entry does not cause unreasonable interference with Tenant's business.

18. UTILITIES

Tenant shall make all arrangements for and pay for any utilities and services furnished to or used by it to use or maintain the Premises and any improvements thereon, including without limitation, telephone, gas, electricity, garbage, water and sewer services. Tenant is informed and acknowledges that as of the Effective Date there are no utilities serving the Premises.

19. ASSIGNMENT AND SUBLETTING PROHIBITED

This Lease is personal and exclusive to Tenant. Tenant may not assign or sublease this Lease in whole or in part without the City Manager's prior written consent, to be granted or withheld in the exercise of reasonable discretion. No reference to sublessees or assignees elsewhere in this Lease shall be construed to the contrary. If Tenant attempts to assign or sublease this Lease without the City Manager's prior consent, the City Manager shall have the sole option to terminate the Lease.

20. INDEMNIFICATION

A. To the fullest extent permitted by law, Tenant shall (1) immediately defend and (2) indemnify the City, and its officers, and employees from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with the Lease. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Tenant's obligation to indemnify applies regardless of whether a liability is a result of the negligence of any other person, unless it is adjudicated that the liability is caused by the sole active negligence or sole willful misconduct of an indemnified party.

B. The duty to defend is a separate and distinct obligation from the Tenant's duty to indemnify. The Tenant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its officers, and employees, immediately upon submittal to the Tenant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. A determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Tenant from its separate and distinct obligation to defend the City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Tenant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Tenant may submit a claim to the Landlord for reimbursement of reasonable attorneys' fees and defense cost.

C. The review, acceptance or approval of any of Tenant's work or work product by any indemnified party shall not affect, relieve or reduce the Tenant's indemnification or defense obligations. This Section survives the termination of this Lease. The provisions of this Section are not limited by and do not affect the provisions of this Lease relating to insurance.

D. Liabilities subject to this Section include any claim of discrimination or harassment, including but not limited to sexual harassment, arising from the conduct of the Tenant or any of the Tenant's officers, employees, agents, licensees, or subcontractors. In the event of a discrimination or harassment complaint against any employee, agent, licensee or subcontractor of the Tenant or its subcontractors, the Tenant shall take immediate and appropriate action in response to such complaint, including, but

not limited to termination or appropriate discipline of any responsible employee, agent, licensee or subcontractor.

21. INSURANCE

A. Tenant shall procure, maintain and require the following insurance:

1. Tenant will maintain and ensure any of its contractors or subcontractor of any tier maintain insurance coverage appropriate for the activities to be conducted on the Premises which, at a minimum, will be primary Commercial General Liability (CGL) coverage of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the general aggregate amount as well as business auto insurance and employer's liability to the satisfaction of the City's Risk Manager and workers' compensation as required by law. City and its Council, boards, commissions, officers, employees, and volunteers shall be added as additional insureds on the CGL, business auto and employer liability coverage(s). Tenant agrees to provide evidence of the insurance required herein, satisfactory to the City prior to taking any steps in furtherance of this Lease consisting of certificate(s) of insurance evidencing all of the coverages required and an additional insured endorsement naming the City, its Council boards, commissions, officers, and employees as additional insured using ISO or ACCORD forms. Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Right of Entry in no way waives any right or remedy of City or any additional insured in this or any other regard. Tenant agrees to require all contractors, subcontractors or other parties hired for this project to provide general liability insurance naming as additional insureds all parties to this Agreement. Tenant agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required herein. Tenant's insurance shall be primary insurance as respects the City, its officials, officers, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, officers, and employees shall be excess of Tenant's insurance and shall not contribute with it. Tenant agrees to require that no contract used by any contractor or subcontractor, will reserve the right to charge back any cost to City. Failure of City to request copies of evidence of such insurance or other documents will not impose any liability on City, its Council, commissions, officers, employees and volunteers. Such comprehensive general liability insurance shall include public liability and property damage insurance, including personal injury, broad form property damage, blanket contractual, and other coverage as may be reasonably required by the City. The City shall have the right, from time to time, to require Tenant to increase the amount of its comprehensive general liability insurance coverage if, in the City's reasonable opinion, the amount of such coverage is not sufficient in light of the risks insured and Tenant's use of the Property.

2. . Special form property insurance for the full replacement cost of damage to the Building, including, without limitation, alterations, Tenant's work, trade fixtures, furnishings, equipment, goods and inventory, and, during any term of construction of Tenant's work, builders' All-Risk Insurance. Such insurance shall include coverage for vandalism and malicious mischief and cost of demolition and increased cost of construction by reason of changes in applicable ordinances/laws and shall not contain a co-insurance clause. Before commencing any construction work and during the course of construction, Tenant agrees to cause its contractor(s) of any tier to be obtain, with a responsible insurance carrier authorized under the laws of the State of California to insure employees against liability for compensation under the Workers Compensation Insurance and Safety Act, compensation insurance covering full liability for compensation under said Act, for any person injured while performing any work or labor incidental to the work in or on the Premises. During the course of construction, Tenant shall, at its cost, keep in full force and effect a policy of builder's risk and liability insurance, including installation

floater coverage, in a sum equal, from time to time, to the agreed full replacement cost of Buildings PO 1637 prior to completion of the improvements in the amount of Three Million dollars (\$3,000,000) plus the amount to be expended for construction of the reroof in the estimated amount of Eight-Thousand dollars (\$8,000). All risk of loss or damage to the improvements during the course of construction shall be on Tenant with the proceeds from insurance thereon payable to Tenant. The City and Tenant general contractor, shall be additional named insureds on Tenant's builder's risk and liability insurance.

3. The City maintains insurance coverage on the Property for damage by fire in an amount equal to the full replacement value of the structure and any fixtures on the Property at the commencement of this Lease and will, upon request, provide information to Tenant concerning the form and amount of the fire insurance coverage maintained by the City. Tenant and any of its independent contractors shall be responsible for providing insurance for any personal property brought onto the Premises..

B. All policies of insurance and all renewals thereof shall be approved as to form and sufficiency by the City's Risk Manager and shall be issued by good and responsible companies qualified to do and doing business in California and rated A VII or better in the most recent version of Best's Insurance Guide. Each of the required insurance coverage's except for workers compensation (i) shall name Landlord and each of its Affiliates as additional insured and, with respect to casualty insurance, as their respective interests may appear and (ii) shall provide that it may not be canceled or altered by the insurer in such manner as to adversely affect the coverage unless thirty (30) days' prior notice is given by certified mail to the City at the address set forth in Subsection G below, or to such place as Landlord may from time to time designate in a notice to Tenant.

C. An original certificate of each policy of insurance shall be delivered to Landlord prior to the date the Property is delivered to Tenant and from time to time during the Term. If Tenant shall fail to procure or maintain any insurance required hereunder or shall fail to furnish to Landlord any duplicate policy or certificate, the City may obtain such insurance; and any premium or cost paid by the City for such insurance shall be reimbursed by Tenant promptly upon the City's demand. Tenant shall make good faith efforts to ensure that at least sixty (60) days prior to the expiration of any such policy, an extension endorsement showing that such insurance coverage has been or will be renewed or extended shall be delivered to Landlord and if, despite such good faith efforts, such extension endorsement cannot be timely delivered, Tenant shall cause to be delivered to Landlord within said time other reasonable documentary evidence of renewal of coverage and shall continue exercising diligent efforts to deliver to Landlord the required extension endorsement. If such coverage is canceled or reduced, Tenant, within ten (10) days after receipt of written notice of such cancellation or reduction in coverage but in no event later than the effective date of cancellation or reduction, shall deliver to Landlord a certificate showing that the required insurance has been reinstated or provided through another insurance company(ies). Upon Tenant's failure to so deliver such certificate, Landlord may, without further notice and at its option, (1) exercise Landlord's rights as provided in this Lease or (2) procure such insurance coverage at Tenant's expense and Tenant shall promptly reimburse Landlord for such expense.

D. If any of the insurance required in this Paragraph 21 is provided under a claims made form of policy, Tenant shall maintain such coverage continuously throughout the Term and without lapse for a period of not less than five (5) years beyond the termination of this Lease, to the effect that should occurrences during the Term give rise to claims made after termination of this Lease, such claims shall be covered by such claims-made policies.

E. Each of Tenant's property insurance policies insuring Tenant's property shall include a waiver of the insurer's right of subrogation against Landlord.

F. Tenant hereby releases Landlord with respect to any claim (including a claim for negligence) which Tenant might otherwise have against Landlord for loss, damage or destruction of Tenant's property occurring during the Term to the extent to which Tenant is insured under a policy(ies) containing a waiver of subrogation. If, notwithstanding the recovery of insurance proceeds by Tenant for such loss, damage or destruction, Landlord is liable to Tenant with respect thereto or is obligated under this Lease to make replacement, repair, restoration or payment, then (provided Tenant's right of full recovery under its insurance policies is not thereby prejudiced or otherwise adversely affected) the amount of the net proceeds of the Tenant's insurance against such loss, damage or destruction shall be offset against Landlord's liability to Tenant therefore or shall be made available to Landlord to pay for replacement, repair or restoration, as the case may be. Nothing contained herein shall relieve either party of any duty to repair, restore or rebuild imposed elsewhere in this Lease or shall nullify any abatement of rent provided for elsewhere in this Lease.

G. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Lease, Tenant shall immediately notify the Landlord's Risk Manager. If any accident occurs in connection with this Lease, Tenant shall promptly submit a written report to Landlord, in such form as the Landlord may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Tenant's subtenant, if any; 3) name and address of Tenant's liability insurance carrier; and 4) a detailed description of the accident, including whether any of Landlord's equipment, tools or materials were involved. Tenant shall forward all insurance documents to:

City of Marina
Office of City Manager
211 Hillcrest Avenue
Marina, CA 93933

22. DEFAULT

The occurrence of any one of the following shall constitute an event of default on the part of Tenant:

A. Failure To Use Premises. Failure to use the Premises as specified in Paragraph 7.

B. Nonpayment of Rent. Failure to pay any installment of rent or any other sum due and payable hereunder upon the date when such payment is due, such failure continuing for a period of five (5) days after written notice of such failure.

C. Other Obligations. Failure to perform any obligation, agreement or covenant under this Lease, such failure having continued for thirty (30) days after notice of such failure from Landlord or such longer period as is reasonably necessary to remedy such default, provided that Tenant has commenced to remedy the default within such thirty (30) day period and shall continuously and diligently pursue such remedy until such default is cured.

D. General Assignment. A general assignment by Tenant for the benefit of creditors.

E. Bankruptcy. The filing of a voluntary petition in bankruptcy by Tenant, or the filing of an involuntary petition by Tenant's creditors, which involuntary petition remains undischarged for a period of thirty

(30) days. In the event that under applicable law the trustee in bankruptcy or Tenant has the right to affirm this Lease and to continue to perform the obligations of Tenant hereunder, such trustee or Tenant, in such time period as may be permitted by the bankruptcy court having jurisdiction, shall cure all defaults of Tenant hereunder outstanding as of the date of affirmance and shall provide to Landlord such adequate assurances as may be necessary to ensure Landlord of the continued performance of Tenant's obligations hereunder. Any transferee (by operation of law or otherwise) must provide Landlord with adequate assurance of its future performance under this Lease. In the event of Tenant's bankruptcy, insolvency or reorganization, the parties specifically intend that the actions of the trustee or Tenant in assuming and/or assigning this Lease shall be governed by Section 365 of Title 11 of the United States Code applicable to shopping center leases.

F. Receivership. The employment of a receiver to take possession of all or substantially all of tenant's assets in the premises.

G. Insolvency. The attachment, execution or other judicial seizure of all or substantially all of tenant's assets in or on the premises; the admission by tenant in writing of its inability to pay its debts as they become due; the filing by tenant of a petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation; the filing by tenant of an answer admitting or failing timely to contest a material allegation of a petition filed against tenant in any such proceeding or if, within thirty (30) days after the commencement of any proceeding against tenant seeking reorganization or arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation, such proceeding shall not have been dismissed.

23. REMEDIES UPON DEFAULT

A. Termination. In the event of the occurrence of any event of default, Landlord shall have the right immediately to terminate this Lease by written notice and at any time thereafter to recover possession of the Premises or any part thereof and to expel and remove Tenant, any other person or party occupying the same and all Premises located therein, by any lawful means and to reenter the Premises without prejudice to any of the remedies that Landlord may have under this Lease or under law or equity.

B. Continuation After Default. In the event of any default, this Lease shall continue in effect for so long as Landlord does not terminate this Lease under subparagraph A above. In such case, Landlord may enforce all its rights and remedies under this Lease, including without limitation, the right to recover rent as it becomes due, and all of its rights and remedies under law. Acts of maintenance, preservation, efforts to relet the Premises for Tenant's account or the appointment of a receiver upon application of Landlord to protect Landlord's interest under this Lease shall not constitute an election to terminate this Lease or Tenant's right to possession.

C. Damages Upon Termination. Should Landlord terminate this Lease pursuant to subparagraph A above, in addition to any other rights and remedies to which it may be entitled under applicable law, Landlord shall be entitled to recover from Tenant: (i) the worth at the time of the award of the unpaid rent and other amounts which had been earned at the time of termination; plus (ii) the worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rent loss that Tenant proves reasonably could have been avoided; plus (iii) the worth at the time of the award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of such

rent loss that Tenant proves reasonably could be avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course of things, would likely result therefrom, including without limitation, the costs and expenses (including brokerage commissions and advertising costs) incurred by Landlord, with or without terminating the Lease, (1) in retaking possession of the Premises; (2) in cleaning and making repairs and alterations to the Premises reasonably necessary to return the Premises to good condition for the use permitted by this Lease and otherwise to prepare the Premises for reletting; (3) in removing all persons and personal property from the Premises and transporting and storing any of Tenant's personal property left at the Premises, although Landlord shall have no obligation to remove, transport, or store any of such personal property; and (4) in reletting the Premises for such term, at such rent and upon such other terms and conditions as Landlord in its sole discretion may deem advisable; plus (v) such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under California law. The "worth at the time of award" of the amounts referred to in (i) and (ii) shall be computed with interest at the maximum rate allowed by law. The "worth at the time of award" of the amount referred to in (iii) shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%).

D. Computation of Rent For Purposes of Default. For purposes of computing unpaid rent which would have accrued and become payable pursuant to subparagraph C above, unpaid rent shall include the total rent for the balance of the term of the Lease.

E. Remedies Cumulative. All rights, privileges and elections or remedies of the parties are cumulative and not alternative to the extent permitted by law and except as otherwise specifically provided herein.

F. No Waiver. Landlord's waiver of any breach of a covenant or condition hereof, or Landlord's failure to declare any default immediately upon occurrence thereof or a delay in taking any action in connection therewith shall not waive such breach or such covenant or condition or any subsequent breach thereof. The subsequent acceptance of rent or other monies by Landlord shall not be deemed a waiver of any preceding default by Tenant, other than the failure of Tenant to pay the particular rent or other sum so accepted, regardless of Landlord's knowledge of such default at the time of its acceptance of rent.

G. No Right of Redemption. Tenant waives any right of redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179 or any other present or future law in the event Tenant is evicted or Landlord takes possession of the Premises by reason of Tenant's default.

24. ENVIRONMENTAL OBLIGATIONS

A. Tenant shall not, without Landlord's prior written consent (which consent may be granted or denied in Landlord's sole discretion), install, bring into or release or discharge in, on, under, around, or from the Premises any (i) asbestos-containing materials, (ii) electrical transformers, fluorescent light fixtures with ballasts or other equipment containing PCB's or (iii) materials which constitute hazardous, extremely hazardous or toxic materials under the Resource Conservation and Recovery Act, the California Hazardous Waste Control Act, the Comprehensive Environmental Response Compensation and Liability Act, the California Safe Drinking Water and Toxic Enforcement Act of 1986 or any other applicable law or regulation concerning hazardous or toxic materials, (collectively "Hazardous Materials") and has not done so prior to the effective date of this Lease. Any Hazardous Substances which are used, stored, treated, disposed of or released from the Premises by Tenant or its representatives, agents, employees

or invitees, shall be used, stored, treated, released and disposed of in accordance with all applicable laws and regulations.

B. If Tenant knows or has reasonable cause to believe that any Hazardous Substance has been released on or beneath the Premises, Tenant shall immediately notify the City Manager and promptly give written notice of same to Landlord. If Tenant knows or has reasonable cause to believe that such substance is an imminent and material danger to public health or safety, Tenant shall take all actions necessary to alleviate such danger. Tenant shall provide to Landlord as promptly as possible, and in any event within five business days after Tenant first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Tenant's use thereof and concerning Hazardous Materials. Tenant shall not negotiate or enter into any settlement agreement, consent decree or other compromise in respect of Hazardous Materials affecting the Premises or the Premises without first giving Landlord prior written notice and full opportunity to appear, intervene or otherwise protect Landlord's rights and interests.

C. Without limitation of the provisions of Paragraph 15 hereof, Tenant shall indemnify, defend and hold Landlord and its affiliates harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the term of this Lease as a result of the handling of Hazardous Materials on the Premises, or by Tenant, its agents or invitees, including without limitation, all costs of monitoring, investigating, and remediation of the same, damages for diminution in the value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of any such space and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees. This indemnification by Tenant includes, but is not limited to, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work requested by Landlord or required by any federal, state or local governmental agency or political subdivision because of Hazardous Materials present in the soil or groundwater in, on or under the Premises or in any improvements. Without limiting the foregoing, if the presence of any Hazardous Materials, on, under or about the Premises caused or permitted by Tenant results in any contamination of the Premises or, Tenant, at its sole expense, promptly shall take all action that is necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Materials in, on, under or about the Premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions could not potentially have any material adverse effect upon the Premises. Tenant's obligations under this Paragraph C shall survive the expiration or termination of this Lease.

25. CHANGES BY LANDLORD

A. The description of the Premises and the location of any Premises utility system(s), including without limitation electrical, plumbing, shall be subject to such minor changes as Landlord determines to be necessary or desirable in the course of any construction performed by or under the authorization of Landlord. No such changes shall invalidate or affect this Lease. Landlord shall effect such changes using reasonable efforts not to disturb Tenant's business. Tenant shall have no claim against Landlord for abatement of rent or loss of business as a result of any such disturbance.

B. Landlord shall have the right in its sole discretion to, among other things, change permitted land uses, install, maintain and remove public improvements, change the arrangement, character, use or location of entrances or passageways, walkways, streets, sidewalks, parking areas, stairs, landscaping, toilets,

and other facilities.. None of the foregoing shall be deemed an actual or constructive eviction of Tenant, nor shall it entitle Tenant to any reduction of rent hereunder or result in any liability of Landlord to Tenant; provided, however, Landlord shall not unreasonably obstruct or interfere with access to or the lines of sight toward the Premises.

26. LANDLORD'S RIGHT TO CURE All covenants to be performed by Tenant shall be performed at Tenant's sole cost and expense and without abatement of rent. Without limiting Landlord's rights under any other provision of this Lease, if Tenant shall fail to pay any sum of money or shall fail to perform any other act and such failure shall have become an event of default under Paragraph 19, Landlord, without waiving or releasing Tenant from any of its obligations, may make (but shall not be obligated to make) any such payment or perform any such other act. All sums so paid by Landlord and all necessary incidental costs shall be deemed additional rent and shall be payable to Landlord immediately upon Landlord's written demand.

27. EMINENT DOMAIN

A. If all or any part of the Premises shall be taken as a result of the exercise of the power of eminent domain, this Lease shall terminate as to the part so taken on the earlier of the dates that title vests in the condemning authority or such authority takes possession of the Premises. In the case of a partial taking, either Landlord or Tenant shall have the right to terminate this Lease as to the balance of the Premises by written notice to the other party within thirty (30) days after such date of taking; provided, however, that Tenant shall have no right to terminate this Lease unless the portion of the Premises taken shall be of such extent and nature as substantially to impede or impair Tenant's use of the balance of the Premises. In the event of any such taking, Landlord shall be entitled to all compensation, damages, income, rent, awards and interest that may be paid or made in connection with such taking. Tenant shall have no claim against Landlord for the value of any unexpired Term; however, Landlord shall cooperate with Tenant if Tenant seeks to recover, at its sole expense, proceeds or awards paid to compensate for damage to the Tenant's business. Any such amounts recovered shall belong to Tenant.

B. If any part of the Premises shall be so taken and this Lease shall not be terminated, then this Lease shall continue in full force and effect, except that the Rent shall be reduced in the same proportion that the rentable area of the Premises taken bears to the original rentable area of the Premises. Landlord, upon receipt of the award, shall make all necessary repairs and alterations (exclusive of Tenant's trade fixtures, furniture, furnishings, personal property and contents) to restore the portion of the Premises remaining to as near its former condition as the circumstances will permit and to restore the Building to the extent necessary to constitute the portion of the Building not so taken a complete architectural unit. Landlord, in any event, shall not be required to spend for such repairs and alterations an amount in excess of the amount received by Landlord as damages for the taking of such part of the Premises and/or Building; and Tenant, at its sole cost and expense, shall make all necessary repairs and alterations to Tenant's trade fixtures, furniture, furnishings, personal property and contents.

C. As used herein, the "amount received by Landlord" shall mean that portion of the award received by Landlord as damages from the condemning authority which is free and clear of all prior claims or collections by Landlord and less reasonable attorneys' and appraisers' fees and expenses.

28. SUBORDINATION

A. This Lease shall be subject and subordinated to (i) all ground or underlying leases which have been or may hereafter be executed affecting the Premises, (ii) any Declaration of Covenants, Conditions and

Restrictions now or hereafter recorded affecting , all without the necessity of having further instruments executed on behalf of Tenant to effectuate such subordination.

B. Tenant agrees to execute and deliver upon demand such further instruments or documents as may reasonably be required by Landlord to evidence any such subordination of this Lease. Tenant hereby constitutes and appoints Landlord, as Tenant's attorney-in-fact, coupled with an interest, to execute and deliver any such instrument(s) on behalf of Tenant.

29. RISK OF LOSS

Tenant bears all risk of loss under this Lease.

30. CONFORMITY WITH LAW AND SAFETY

A. Tenant shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the activities of Tenant hereunder, including the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all applicable federal, state, municipal and local regulations relating to health, safety, noise, environmental protection, waste disposal, Hazardous Materials, water and air quality. All activities conducted by Tenant on the Premises must be in accordance with these laws, ordinances, codes and regulations. Tenant shall release, defend, indemnify and hold harmless City, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

B. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Lease, Tenant shall immediately notify the City's Manager. If any accident occurs in connection with this Lease, Tenant shall promptly submit a written report to City, in such form as the City may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of Tenant's liability insurance carrier; and 3) a description of the accident, including if any of City's equipment, tools or materials were involved.

31. INSPECTION BY CASP

As of the date of this Lease, the Premises has not been inspected by a Certified Access Specialist and has not been determined to meet all applicable construction-related accessibility standards pursuant to California Civil Code 55.53. Tenant understand that h the exception of: (1) an Americans with Disabilities Act (ADA) compliant path of travel from the public way to inside the building, including common area; and the ADA compliant restroom on the first floor of building PO 1637, City makes no representation concerning the Premises compliance with the ADA. Tenant is solely responsible for determining whether or not its intended use of Building PO 1637 will be or is in compliance with the ADA. The parties acknowledge that certain portions of Building PO 1637 remain inaccessible for some disabled individuals. Upon the Effective Date of this Agreement Tenant shall be responsible for the Premises compliance with the ADA and Tenant shall hold Landlord harmless for any liability loss, damages, or claim arising out of or related to compliance with the ADA.

32. INDEPENDENT CAPACITY

For purposes of this Lease, and for the duration of this Lease, Tenant and its agents and employees shall be, and are, an independent contractors and not an agent or employee of the City. Tenant has and shall

retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Tenant in the performance of this Lease. Tenant shall be solely responsible for all matters relating to the payment of its employees, including compliance with Social Security withholding taxes and all regulations governing such matters, and shall be solely responsible for its own acts and those of its agents and employees.

33. NON-DISCRIMINATION In the performance of this Lease, Tenant agrees as follows:

Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

34. CONFLICT OF INTEREST PROHIBITED

A. In accordance with Government Code section 1090, neither Tenant nor any employee, officer, director, partner or member of Tenant, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of this Lease.

B. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 et seq., no person who is a director, officer, partner, trustee, employee or consultant of the Tenant, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City commission, board or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Tenant.

C. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations, manuals and codes, Government Code section 1090.

35. SETOFF AGAINST DEBTS

Tenant agrees that City may deduct from any payments due to Tenant under this Lease any monies that Tenant owes City under any ordinance, Lease or resolution for any unpaid taxes, fees, Leases, unpaid checks or other amounts.

36. GOVERNING LAW

This Lease shall be deemed to have been executed in Monterey County. The laws of the State of California, excluding its conflict of laws rules, shall govern the formation, interpretation and performance of this Lease. Venue for all litigation relative to the formation, interpretation and performance of this Lease shall be in Monterey County, California.

37. AMENDMENTS

The terms of this Lease shall not be altered or otherwise modified except by a written amendment to this Lease executed by City and Tenant.

38. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I D NUMBER

Tenant has obtained a City business Lease as required by Marina Municipal Code. Chapter 5.08, Tenant shall pay all state and federal income taxes and any other taxes due.

39. SEVERABILITY

If any part of this Lease or the application thereof is declared invalid for any reason, such invalidity shall not affect the other terms of this Lease which can be given effect without the invalid provision or application, and to this end the provisions of this Lease are declared to be severable.

40. WAIVER

Failure of City to insist on strict performance shall not constitute a waiver of any of the provisions of this Lease or a waiver of any other default of Tenant.

41. EFFECT ON SUCCESSORS AND ASSIGNS

This Lease shall be binding on and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

42. UNAVOIDABLE DELAYS

A. In the event that Tenant or Landlord is delayed, directly or indirectly, from the performance of any act or thing required to be done or performed under the terms or conditions hereof by acts of the other party to this Lease, acts of God, fire, floods, inclement weather, unavoidable governmental action, strikes or labor difficulties of any and all kinds, shortages of or delay in the delivery of materials, acts of war, riot and civil commotion, or by any other cause beyond the reasonable control of Tenant or Landlord, as the case may be, such failure shall not be deemed to be a breach of this Lease or a violation of any such covenants or conditions and the time within which Tenant or Landlord must perform any such act shall be extended by a period of time equal to the period of delay arising from any of such causes.

B. Notwithstanding any provision of this Paragraph 42 or any other provision of this Lease to the contrary, it is understood and agreed that there shall be no abatement of, or delay in the commencement of, or payment of any sum due to Landlord under this Lease

43. TIME OF THE ESSENCE

Time is of the essence of each and every covenant and condition of this Lease.

45. ENTIRE AGREEMENT

A. The terms and conditions of this Lease, all exhibits attached and any documents expressly incorporated by reference, represent the entire agreement between the parties with respect to this Lease. This Lease shall supersede any and all prior agreements, oral or written, regarding the subject matter between City and Tenant. No other agreement, statement, or promise relating to this Lease shall be valid or binding except by a written amendment to this Lease.

B. If any conflicts arise between the terms and conditions of this Lease and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Lease shall control.

46. EXECUTION IN COUNTERPARTS

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same document.

IN WITNESS WHEREOF, City and Tenant acknowledge that they have read and understand this Lease, to be effective on the date first written above and hereby execute this Lease.

CITY OF MARINA,
a municipal corporation

JOBY AERO, INC
a Delaware corporation

By: _____
Bruce C. Delgado, Mayor

By: _____
Name:
Its:

Dated: _____

Dated: _____

(Pursuant to Reso. 2022-_____)

ATTEST:

City Clerk

APPROVED AS TO FORM:

Legal Counsel for the City

EXHIBITS
[TO BE ADDED]

EXHIBIT A

DEPICTION OF THE [INITIAL] LEASEHOLD
WEST LIEN-TO AND WEST BAY

EXHIBIT B

DEFINITION OF HAZARDOUS MATERIALS

EXHIBIT C

ARMY CORPS OF ENGINEERS ASBESTOS SURVEY REPORT

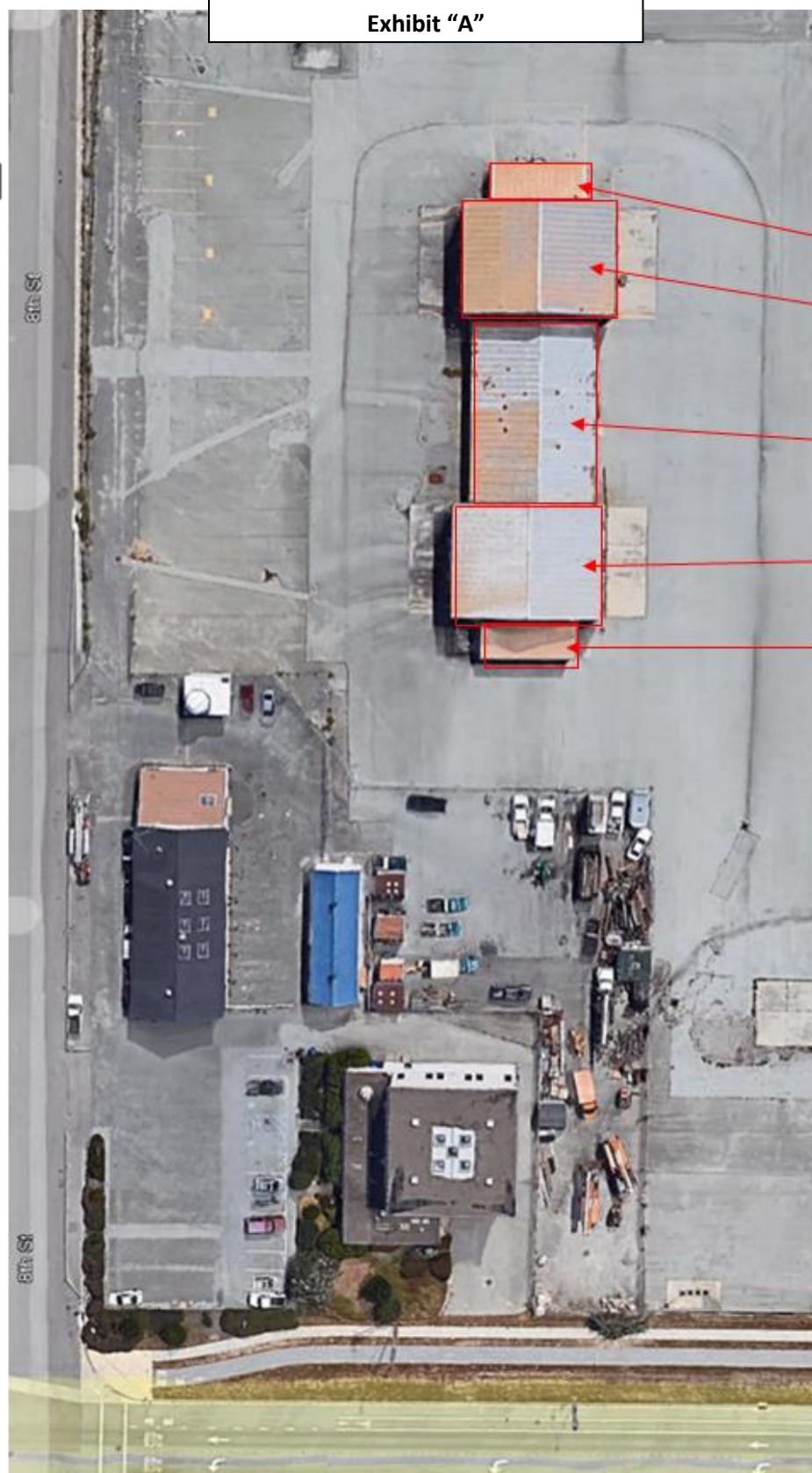


Exhibit "A"

East Lean-to

East Bay

Center Office
Section

West Bay

West Lean-to

EXHIBIT B

HAZARDOUS MATERIALS

“Hazardous Materials” shall mean any and all (a) substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed, regulated or addressed under any Environmental Laws, and (b) any materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by-products, or waste may give rise to liability under any Environmental Law or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict or absolute liability or under any reported decisions of any state or federal court; and (c) any substance, product, by-product, waste or any other material which may be hazardous or harmful to the air, water, soil, environment or affect industrial hygiene, occupational, health, safety and/or general welfare conditions, including without limitation, petroleum and/or asbestos materials, products, by-products, or waste.

“Environmental Laws” shall mean and include all federal, state, and local laws, statutes, ordinances, regulations, resolutions, decrees, and/or rules now or hereinafter in effect, as may be amended from time to time, and all implementing regulations, directives, orders, guidelines, and federal or state court decisions, interpreting, relating to, regulating or imposing liability (including, but not limited to, response, removal, remediation and damage costs) or standards of conduct or performance relating to industrial hygiene, occupational, health, and/or safety conditions, environmental conditions, or exposure to, contamination by, or clean-up of, any and all Hazardous Materials, including without limitation, all federal or state superlien or environmental clean-up statutes

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

BUILDING SUMMARY

BUILDING P01637

Date(s) of Survey 12/12/91
 Estimated Date of Construction 1985
 Building Usage Vehicle Maintenance Shed
 Total Gross Square Footage 12,536 Sq. Ft.
 Building Type Concrete Block
 Number of Levels 1
 Estimated Cost of Recommended Work Items for Asbestos-Containing Materials (CWE) \$0
 Total Estimated Cost Including Additive Items (CWE) \$18,779
 • Cost per Square Foot Including Additive Items (CWE) \$1.50
 Friable Asbestos-Containing Materials None
 Nonfriable Asbestos-Containing Materials Floor Tile Mastic

WORK ITEM INVENTORY

BLDG./ WORK #	DE RATING	CONSTR. YEAR	TYPE OF MATERIAL	ESTIMATED QUANTITY	DESCRIPTION LOCATION	FRIABILITY	ACTION	CONTRACTOR COST
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P01637 1	13	N/A	Floor Tile Mastic	1,030 SF	1st Flr Various Locations	Nonfriable	O&M	\$0
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NOTE: No samples were taken from the roof because it was composed of metal.

FINDINGS: Nonfriable asbestos-containing floor tile mastic associated with 12" x 12" white resilient floor tile in offices 2, 7, 9, and 10 and the storeroom adjacent to office 2 was in good condition. No asbestos was detected in the resilient floor tile. This material is protected by the floor tile and does not pose a risk of contamination as long as it does not become damaged or deteriorated in such a way that it could release asbestos fibers into the air. [Bulk Sample(s) 2, 4]

RECOMMENDATIONS: Inspect biannually as part of O&M. Prohibit any disturbance including sanding, chipping or the use of corrosive cleaning chemicals on this material which may cause generation of airborne asbestos fibers. For all O&M, repair or removal activities, floor tile associated with the mastic must be considered asbestos-contaminated. Should this material be removed, delete this work item from the O&M. Use asbestos-free materials for any replacement.

Additive cost for optional removal and replacement of this material is \$14,370.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

WORK ITEM INVENTORY

WLDG/ WORK ITEM	DEI RATING	CONSTR. YEAR	TYPE OF MATERIAL	ESTIMATED QUANTITY	DESCRIPTION LOCATION	FRIABILITY	ACTION	CONTRACTOR COST
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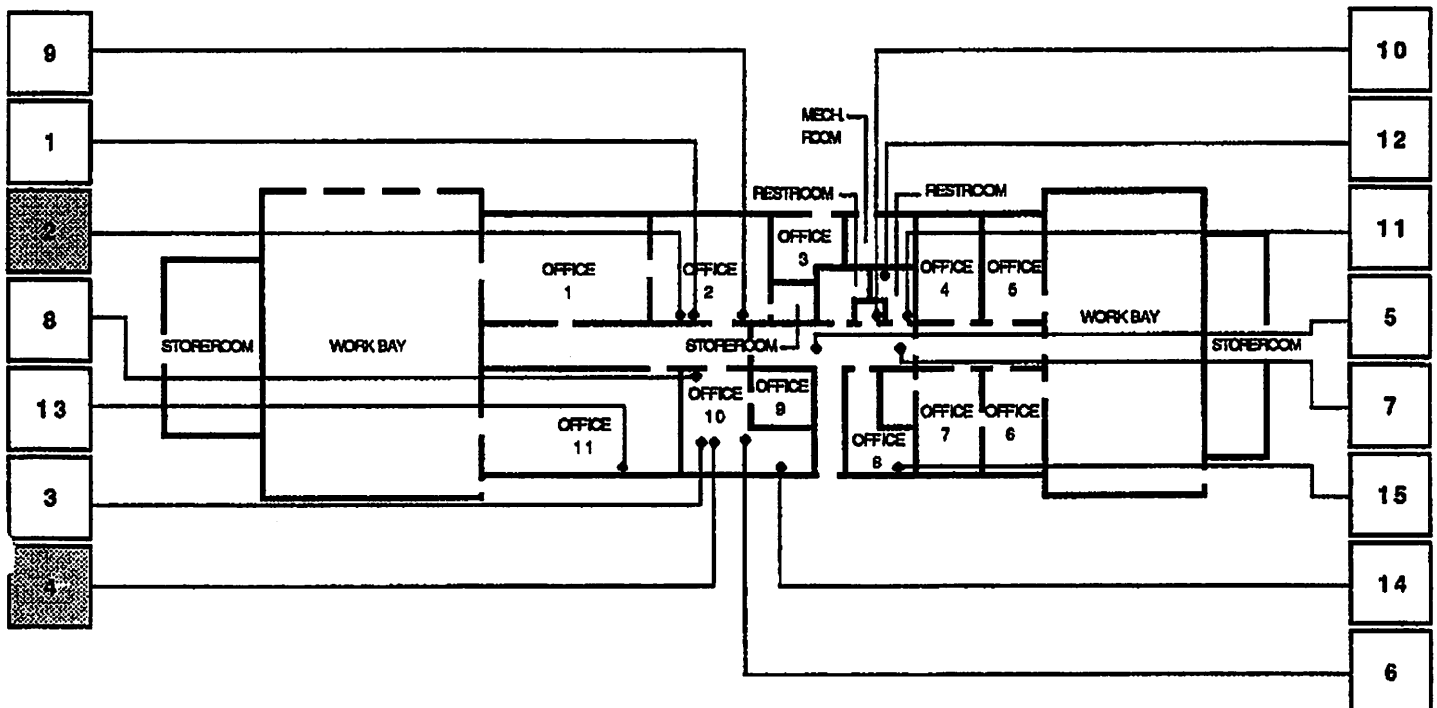
**WORK ITEM SUMMARY
BUILDING P01637**

The work items are listed below in numerical (and DEI Rating) order, and their estimated costs have been totaled.

P01637	13	N/A	Floor Tile	1,030 SF	1st Flr Various Locations	Nonfriable	O&M	\$0
1			Mastic					

\$0

ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION



BUILDING P01637
FIRST FLOOR PLAN
NOT TO SCALE



BULK SAMPLE ASBESTOS CONTENT  = >0.1%  = NONE DETECTED

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

BULK SAMPLE LOG

BUILDING NO.	SAMPLE NO.	TYPE OF MATERIAL	ESTIMATED QUANTITY	FLOOR/ LEVEL	SAMPLE LOCATION	POS./ NEG.	ASBESTOS TYPE	%	FRIABILITY	DAMAGE
P01637	1	Resilient Floor Tile (12" x 12") White	1,030 SF	1	Office	N		N/D		
P01637	2	Floor Tile Mastic Black	1,030 SF	1	Office	P	Chrysotile	10	Nonfriable	None
P01637	3	Resilient Floor Tile (12" x 12") White	(R1)	1	Office	N		N/D		
P01637	4	Floor Tile Mastic Black	(R2)	1	Office	P	Chrysotile	15	Nonfriable	None
P01637	5	Acoustic Panel (2' x 4') White	1,770 SF	1	Corridor	N		N/D		
P01637	6	Acoustic Panel (2' x 4') White	(R5)	1	Office	N		N/D		
P01637	7	Acoustic Panel (2' x 4') White	(R5)	1	Corridor	N		N/D		
P01637	8	Baseboard Mastic Brown	160 LF	1	Office	N		N/D		
P01637	9	Baseboard Mastic Brown	(R8)	1	Office	N		N/D		
P01637	10	Wallboard Painted	1,730 SF	1	Janitor's Closet	N		N/D		
P01637	11	Wallboard Painted	(R10)	1	Restroom	N		N/D		
P01637	12	Wallboard Painted	(R10)	1	Restroom	N		N/D		
P01637	13	Joint Compound Painted	1,730 SF	1	Office	N		N/D		

(R#) denotes that the estimated material quantity for the area has been included in referenced sample number.

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

CURRENT WORKING ESTIMATE (CWE)

UNIT COST ESTIMATE SUMMARY

DATE PREPARED: 4/30/92

SHEET 1 OF 2

PROJECT: FORT ORD INSTALLATION BUILDING - P 01637
ASBESTOS MATERIAL ABATEMENT/REPLACEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY):

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	RECOMMENDED ACTION	ESTIMATED QUANTITY	UNIT	COST BREAKDOWN	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Floor Tile Mastic	O&M	1,030	SF	ABATEMENT	0.00	0
					REPLACEMENT	0.00	0
					ADDITIVE REMOVAL	5.80	5,974
					ADDITIVE REPLACEMENT	3.50	3,606

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

CURRENT WORKING ESTIMATE (CWE)

UNIT COST ESTIMATE SUMMARY

DATE PREPARED: 4/30/92

SHEET 2 OF 2

PROJECT: FORT ORD INSTALLATION BUILDING - P 01637
ASBESTOS MATERIAL ABATEMENT/REPLACEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

COSTS FOR BUILDING P01637 : DIRECT COST		CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	CONTRACTOR COST	
ABATEMENT	\$0	\$0	\$0	
REPLACEMENT	\$0	\$0	\$0	\$0
ADDITIVE REMOVAL	\$5,974	\$2,987	\$8,961	
ADDITIVE REPLACEMENT	\$3,606	\$1,803	\$5,409	\$14,370

RECOMMENDED ITEMS:

Building P01637 Contractor Cost		\$0
INDEPENDENT MONITORING (CONTRACT)	10%	\$0
SITE & UTILITIES		\$0
Total Contract Cost		\$0
Contingencies During Construction	10%	\$0
Subtotal		\$0
Supervision & Administration	8%	\$0
Total Construction		\$0
SUB-ALLOTMENT		\$0
Total CWE Without Additives		\$0

ADDITIVE ITEMS:

Building P01637 Additive Contractor Cost		\$14,370
INDEPENDENT MONITORING (CONTRACT)	10%	\$1,437
Total Additive Contract Cost		\$15,807
Contingencies During Construction	10%	\$1,581
Subtotal		\$17,388
Supervision & Administration	8%	\$1,391
Total Additives CWE		\$18,779

Total CWE Including All Additives

\$18,779

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

UNIT COST ESTIMATE

DATE PREPARED: 4/30/92

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 01637
ASBESTOS MATERIAL ABATEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Floor Tile Mastic	O&M	1,030	SF	0.00	0

DIRECT COST	\$0
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	\$0
CONTRACTOR COST - ABATEMENT	\$0

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

UNIT COST ESTIMATE

DATE PREPARED: 4/30/92

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 01637
ABATED MATERIAL REPLACEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Floor Tile Mastic	Replacement	1,030	SF	0.00	0

DIRECT COST	\$0
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	\$0
CONTRACTOR COST - REPLACEMENT	\$0

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

UNIT COST ESTIMATE

DATE PREPARED: 4/30/92

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 01637
ADDITIVE ASBESTOS MATERIAL REMOVAL
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Floor Tile Mastic	Additive Removal	1,030	SF	5.80	5,974

DIRECT COST	\$5,974
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	<u>\$2,987</u>
CONTRACTOR COST - ADDITIVE REMOVAL	\$8,961

**ASBESTOS SURVEY REPORT
CORPS OF ENGINEERS - FORT ORD INSTALLATION
BUILDING P01637**

UNIT COST ESTIMATE

DATE PREPARED: 4/30/92

SHEET 1 OF 1

PROJECT: FORT ORD INSTALLATION BUILDING - P 01637
ADDITIVE ABATED MATERIAL REPLACEMENT
LOCATION: FORT ORD, CALIFORNIA
ARCHITECT/
ENGINEER: DIAGNOSTIC ENGINEERING INC.

BASIS FOR ESTIMATE

☒ CODE A (NO DESIGN)
☐ CODE B (PRELIMINARY DESIGN)
☐ CODE C (FINAL DESIGN)
☐ OTHER (SPECIFY): _____

REPORT NO. 1A2141AB001

ESTIMATOR: M. EISSINGER

CHECKED BY: L. WERNER

ITEM NO.	DESCRIPTION	ACTION	ESTIMATED QUANTITY	UNIT	UNIT COST (\$)	DIRECT COST (\$)
W.I. 1	Floor Tile Mastic	Additive Replacement	1,030	SF	3.50	3,606

DIRECT COST	\$3,606
CONTRACTORS' 50% MARKUP (OVERHEAD, PROFIT, BONDS)	<u>\$1,803</u>
CONTRACTOR COST - ADDITIVE REPLACEMENT	\$5,409

April 12, 2022

Item No: **8g(1)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of April 19, 2022

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2022-,
APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MARINA
AND JOBY AERO, INC. FOR 210 8TH STREET (BUILDING PO 1637 AT 8TH
STREET AND 2ND AVENUE), AND AUTHORIZING CITY MANAGER TO
EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY, SUBJECT
TO FINAL REVIEW AND APPROVAL BY CITY ATTORNEY**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2022-, approving a Lease Agreement between the City of Marina and Joby Aero, Inc. for 210 8th Street (Building PO 1637 at 8th Street and 2nd Avenue); and
2. Authorizing City Manager to execute the Lease Agreement, on behalf of the City, subject to final review and approval by City Attorney.

BACKGROUND:

Building PO 1637 at 8th Street and 2nd Avenue was conveyed to the City in 2006 for economic development purposes. The former Army motor pool structure sits on a 3.260 acre bordered by the Dunes on Monterey Bay development on the north and east, Cal State Monterey Bay undeveloped property on the south and the Monterey Institute for Research in Astronomy facility on the west.

The structure totals 12,536 square foot, included the following:

West Lean to	775 sf
West Bay	3,225 sf
Office Space	4,536 sf
East Bay	3,225 sf
East Lean to	<u>775 sf</u>
Total	12,536 sf

The structure has been mostly vacant for years with the exception of the East Bay and the East Lean-to section which has been occupied by the City of Seaside for storage purposes. There are no established utilities in the facility, and it is in need of roof repairs, asbestos and hazardous material abatement, bird dropping cleaning and disinfecting, and hauling away of trash and debris.

The City Council approved \$550,000 in the budget for Fiscal Year 2021-22 to clean up the building and remove all the hazardous material and waste, reroof the building, and seal up the holes and stabilize the building for potential future use.

ANALYSIS:

Joby Aviation wishes to lease the West Lean-to and the West Bay sections for storage purposes of large casts, molds and machinery that will be housed in the large Aviation Manufacturing facility at the Marina airport when its constructed. City staff has worked with Joby to negotiate a lease rate that is appropriate for the condition of the building and the use that Joby wishes to utilize the space for.

Prior to lease commencement, the City will continue to move forward with the the cleanup and removal of hazardous waste material from the facility to make it appropriate for storage uses. However, the City will not move forward with the reroofing of the West and East Bay areas. Instead, Joby will be responsible for repairing the roof in these areas and sealing up the Bays so they no longer leak and animals and rodents will not be able to enter the building.

The City will continue to move forward with it's plan to reroof and seal up the middle part of the building (center office section area) which will not be leased by Joby Aviation.

There are no utilities in the building, which includes power and water.

The proposed Lease Agreement includes interior space consisting of approximately 4,000 square feet of the West Bay area as shown on **EXHIBIT A**. The proposed Tenant wishes to use the space for storage.

The proposed Lease Agreement provides for:

- Base term of two-years and two additional one-year conditional City optional extension periods.
- The Lease rate will include \$.25 per sf per month.
- Joby will be responsible for fixing the roof over the West Bay and West Lean-to areas of the building.

The monthly rent payable for the first year of the Term of this Lease shall be \$1,000 per month (at the rate of \$.25 per square foot per month).

All of Tenant's operating expenses including liability insurance premiums, permits and license fees and personal property taxes on Tenant's trade fixtures and property shall be paid by the Tenant as well.

Staff is recommending approval of the proposed Lease Agreement as it will create additional ongoing/reoccurring building lease revenue for the City.

FISCAL IMPACT:

Should the City Council approve this request, anticipated beginning annual rent revenue to the airport will be approximately \$12,000.

CONCLUSION:

This request is submitted for the City Council consideration and approval

Respectfully submitted,

Matt Mogensen
Assistant City Manager
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina