

FIRST AMENDMENT TO
OFFICE SPACE LEASE BETWEEN THE CITY OF SAN JOSE
AND SMITH FAMILY TRUST

THIS FIRST AMENDMENT is dated this ____ day of _____, 2014 ("Effective Date"), by and between the CITY OF SAN JOSE, a municipal corporation ("CITY") and the SMITH FAMILY TRUST ("LESSOR").

RECITALS

WHEREAS, CITY and LESSOR entered into a lease agreement for office space approximately Twenty Thousand Four Hundred Eighty (20,480) square feet located at 1302 North Fourth Street dated June 9, 2009 ("Lease Agreement"); and

WHEREAS, CITY and LESSOR desire to amend the Lease Agreement to extend the term thereof to and including December 31, 2014.

NOW THEREFORE, as of the Effective Date, the parties hereby amend the Lease Agreement as follows:

1. TERM: The term of the Lease Agreement is extended to midnight on December 31, 2014; the period between the Effective Date and December 31, 2014 is herein referred to as the "Extension Period".
2. RENT: Beginning July 1, 2014, and on the first day of each calendar month thereafter during the Extension Period, CITY shall pay LESSOR as rent for the Leased Premises the sum of Thirty Eight Thousand Nine Hundred Twelve and No/100 Dollars (\$38,912.00). If CITY remains in possession of the Leased Premises after expiration of the term of the Lease Agreement with LESSOR's consent, Tenant's occupancy shall be on a month-to-month tenancy at the monthly rental rate set forth above.
3. CITY and LESSOR agree that during the Extension Period, LESSOR shall have the right to enter the Leased Premises, and CITY shall make the Leased Premises accessible, to market the same for sale or lease. LESSOR shall provide the CITY with 24 hours advance written notice of any on site sale or leasing activities, which activities shall be subject to such reasonable conditions as CITY may request in order to minimize interference with CITY's enjoyment of the Leased Premises. LESSOR's indemnity obligations, as set forth in Section 6(b) of the Lease Agreement, shall extend to include any acts, errors or omissions of any third persons permitted on the Leased Premises by LESSOR in connection with any such marketing activities .
4. In the event that, during the Extension Period, LESSOR receives an acceptable

offer to lease the Leased Premises, LESSOR shall provide CITY with written notice of LESSOR's intent to lease. Thereafter, CITY will have fourteen (14) calendar days from receipt of the written notice to present LESSOR an offer to lease the Leased Premises. LESSOR reserves the right to accept either offer. No such offer by CITY shall be binding upon CITY, notwithstanding acceptance thereof by LESSOR, unless and until such offer has been approved by the City Council of CITY. For the avoidance of doubt, in no event shall either: i) CITY's failure to present an offer, or ii) LESSOR's decision to lease (or sell) the Leased Premises to a third party, otherwise affect CITY's rights under the Lease Agreement.


5. NOTICES: CITY's address for written notice is amended as follows:

City of San Jose
OED, Real Estate Services
200 E. Santa Clara Street, T-14
San Jose, CA 95113

6. All of the terms and conditions of the Lease Agreement not expressly modified by this FIRST AMENDMENT shall continue in full force and effect as originally written.

IN WITNESS WHEREOF, this FIRST AMENDMENT has been duly executed by the parties as of the Effective Date.

LESSOR:
SMITH FAMILY TRUST




H. EUGENE SMITH (GENE)
Trustee

CITY:
CITY OF SAN JOSE, a municipal corporation
of the State of California

Name: _____
Title: _____

APPROVED AS TO FORM:



Kenneth D. Johnson
Senior Deputy City Attorney