

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 LEASE

2 **30955**

3 THIS LEASE is made and entered, in duplicate, as of November 18, 2008
4 pursuant to a minute order of the City Council of the City of Long Beach adopted at its
5 meeting held on November 18, 2008, by and between the DANIEL AND JOAN ROMAN
6 FAMILY TRUST u/t/d February 8, 1980, whose address is 17647 Tarzana Street, Encino,
7 California 91316 ("Landlord"), and the CITY OF LONG BEACH, a municipal corporation,
8 whose address is 333 W. Ocean Boulevard, 3rd Floor, Long Beach, California 90802,
9 Attention: Property Services Bureau Manager ("Tenant").

10 Landlord and Tenant, in consideration of the mutual terms, covenants, and
11 conditions herein, agree as follows:

12 1. Premises. Landlord hereby leases to Tenant and Tenant hereby
13 accepts and leases from Landlord those certain premises containing approximately 6,900
14 rentable square feet (the "Premises") located within the building located at 2235 Lemon
15 Avenue (the "Building"), such premises being more particularly depicted in Exhibit "A"
16 attached hereto. The Premises shall be leased in "as is" condition. Tenant shall have a
17 right of first refusal to lease the space within the Building immediately adjacent to the
18 Premises on the same terms and conditions applicable to the Premises, should such
19 space become available during the term of this Lease.

20 2. Term. The term of this Lease shall commence on the date on which
21 both parties have executed this Lease, and shall terminate at midnight on March 31,
22 2009. The term of this Lease may be extended to April 30, 2009 on the terms and
23 conditions contained in this Lease upon the mutual agreement by Tenant and Landlord,
24 and, in that event, the parties shall execute an amendment to this Lease that extends the
25 term.

26 3. Rent. Tenant shall pay to Landlord a monthly rental payment equal to
27 Five Thousand One Hundred Seventy-Five and No/100 (\$5,175.00), such rent to be
28 prorated for any partial month. The monthly rental payment reflects a \$0.75 per square

1 foot rental rate.

2 4. Use. The Premises shall be used as a winter homeless shelter.

3 5. Tenant's Maintenance Obligations. Tenant shall keep the Premises in a
4 neat, safe and sanitary condition. Tenant acknowledges that the Premises are industrial
5 space and that certain modifications may need to be made to the Building HVAC system
6 to make the Premises inhabitable for its intended purpose. Tenant agrees to make such
7 modifications to the HVAC system at its own cost and expense and Landlord shall
8 provide Tenant with reasonable access to the Building in order to make such
9 modifications. At the expiration of the term and at Landlord's request, Tenant shall return
10 the HVAC system to its original condition. All other maintenance and repairs not
11 specifically described immediately above shall be the responsibility of Landlord pursuant
12 to Section 6.

13 6. Landlord's Maintenance Obligations. Landlord shall, at its own cost and
14 expense, manage and maintain the Building and make all necessary repairs to the
15 Premises, including without limitation all surface and structural elements of the roof,
16 bearing walls and foundations of the Building, all electrical, plumbing, HVAC systems
17 (other than those modifications to be made by Tenant pursuant to Section 5) and all other
18 elements of the Building. If Landlord fails to maintain the Premises as required herein,
19 Tenant shall notify Landlord of such failure in writing.

20 7. Utilities. Landlord shall pay the monthly costs associated with all utilities
21 to the Premises. Tenant shall reimburse Landlord within sixty (60) days of receipt from
22 Landlord of reasonable documentation showing utility charges for the Premises during
23 the term.

24 8. Taxes. Landlord shall be responsible for payment of all real property
25 taxes.

26 9. Hazardous Materials. In the event any Hazardous Materials are
27 detected during the Lease term, such materials shall be removed promptly in accordance
28 with applicable law at the sole cost and expense of Landlord. In the event Landlord

1 determines it is cost prohibitive to remove such materials, Tenant shall have the option of
2 terminating this Lease by giving written notice.

3 No goods, merchandise, supplies, personal property, materials, or items of
4 any kind shall be kept, stored, or sold in or on the Premises which are in any way
5 explosive or hazardous. Tenant shall comply with California Health and Safety Code
6 Section 25359.7 or its successor statute regarding notice to Landlord on discovery by
7 Tenant of the presence or suspected presence of any hazardous material on the
8 Premises. "Hazardous Materials" means any hazardous or toxic substance, material or
9 waste which is or becomes regulated by the City, the County of Los Angeles, the State of
10 California or the United States government.

11 10. Insurance. Within five (5) days after the execution of this Lease and in
12 partial performance of Tenant's obligations hereunder, Tenant shall deliver to Landlord a
13 Certificate of Self-Insurance on Tenant's standard form providing evidence of coverage
14 for:

15 a. Commercial general liability self-insurance equivalent in
16 coverage scope to ISO CG 00 01 10 93 in an amount not less than One Million Dollars
17 (US \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in aggregate
18 and

19 b. Special perils property coverage in an amount sufficient to
20 cover the full replacement value of Tenant's personal property, improvements, and
21 equipment on the Premises.

22 The self-insurance program shall not be suspended, voided, changed, or
23 canceled by either party except after thirty (30) days prior written notice to Landlord, and
24 shall be primary and not contributing to any other insurance or self-insurance maintained
25 by Landlord.

26 With respect to damage to property, Landlord and Tenant hereby waive all
27 rights of subrogation, one against the other, but only to the extent that collectible
28 commercial insurance is available for said damage.

1 Such self-insurance as required herein shall not be deemed to limit
2 Tenant's liability relating to performance under this Lease. Evidence of self-insurance
3 shall not be construed as a limitation on liability or as full performance of the
4 indemnification and hold harmless provisions of this Lease.

5 Landlord shall provide Tenant with evidence of equivalent liability
6 insurance.

7 Any modification or waiver of the insurance requirements herein shall be
8 made only with the written approval of the Tenant's Risk Manager or designee.

9 With respect to damage to property, Landlord and Tenant hereby waive all
10 rights of subrogation, one against the other, but only to the extent that collectible
11 commercial insurance is available for said damage.

12 Such self-insurance as required herein shall not be deemed to limit
13 Landlord's or Tenant's liability relating to performance under this Lease. Evidence of
14 self-insurance shall not be construed as a limitation on liability or as full performance of
15 the indemnification and hold harmless provisions of this Lease

16 Any modification or waiver of the insurance requirements herein shall be
17 made only with the written approval of the Landlord and Tenant's Risk Manager or
18 designee.

19 11. Default by Tenant. The occurrence of any of the following acts shall
20 constitute a default by Tenant:

21 a. Failure to pay rent when due after ten (10) days written notice;
22 b. Failure to perform any of the terms, covenants, or conditions of
23 this Lease if said failure is not cured within thirty (30) days after written notice of said
24 failure; or

25 c. Any attempted assignment, transfer, or sublease except as
26 approved by Landlord or otherwise authorized pursuant to Section 16.

27 If Tenant does not comply with each provision of this Lease or if a default
28 occurs, then Landlord may terminate this Lease and Landlord may enter the Premises

1 and take possession thereof provided, however, that these remedies are not exclusive
2 but cumulative to other remedies provided by law in the event of Tenant's default, and the
3 exercise by Landlord of one or more rights and remedies shall not preclude Landlord's
4 exercise of additional or different remedies for the same or any other default by Tenant.

5 12. Default by Landlord. The occurrence of any of the following acts shall
6 constitute a default by Landlord:

7 a. Failure to perform any of the terms, covenants, or conditions of
8 this Lease if said failure is not cured within thirty (30) days after written notice of said
9 failure.

10 If Landlord does not comply with each provision of this Lease or if a default
11 occurs, then Tenant may terminate this Lease, provided, however, that this remedy is not
12 exclusive but cumulative to other remedies provided by law in the event of Landlord's
13 default, and the exercise by Tenant of one or more rights and remedies shall not preclude
14 Tenant's exercise of additional or different remedies for the same or any other default by
15 Landlord.

16 13. Right of Entry. Landlord shall have the right of access to the Premises
17 during normal business hours and with reasonable advance notice to inspect the
18 Premises, to determine whether or not Tenant is complying with the terms, covenants,
19 and conditions of this Lease, to serve, post, or keep posted any notice, and for any other
20 legal purpose. Landlord shall also have the right to enter in case of emergencies.

21 14. Parking. Tenant shall have the non-exclusive right to use the general
22 Building parking lot adjacent to the Premises.

23 15. Condemnation. If the whole or any part of the Premises shall be taken
24 by any public or quasi-public authority under the power of eminent domain, then this
25 Lease shall terminate as to the part taken or as to the whole, if taken, as of the day
26 possession of that part or the whole is required for any public purpose, and on or before
27 the day of the taking Tenant shall elect in writing either to terminate this Lease or to
28 continue in possession of the remainder of the Premises, if any. All damages awarded

1 for such taking shall belong to Landlord, whether such damages be awarded as
2 compensation for diminution in value to the leasehold or to the fee provided, however,
3 that Landlord shall not be entitled to any portion of the award made for loss of Tenant's
4 business.

5 16. Assignment. Landlord acknowledges that Tenant intends to sublease
6 the Premises to the Long Beach Rescue Mission concurrently with its execution of this
7 Lease. Landlord hereby approves of such sublease. Tenant shall not otherwise assign
8 or transfer this Lease or any interest herein, nor sublease the Premises or any part
9 thereof (collectively referred to as "transfer") without the prior written approval of
10 Landlord.

11 17. Signs. Tenant may, at its own cost, install exterior signage on the
12 Premises subject to Landlord's reasonable approval as to design, size and location.

13 18. Access. Tenant shall have access to the Premises twenty-four (24)
14 hours per day, seven (7) days per week.

15 19. Holding Over. If Tenant holds over and remains in possession of the
16 Premises or any part thereof after the expiration of this Lease with the express or implied
17 consent of Landlord, then such holding over shall be construed as a tenancy from month
18 to month at the monthly rent then in effect and otherwise on the same terms, covenants,
19 and conditions contained in this Lease.

20 20. Surrender of Premises. On the expiration or sooner termination of this
21 Lease Tenant shall deliver to Landlord possession of the Premises in substantially the
22 same condition that existed immediately prior to the date of execution hereof, reasonable
23 wear and tear excepted.

24 21. Notice. Any notice required hereunder shall be in writing and
25 personally served or deposited in the U.S. Postal Service, first class, postage prepaid to
26 Landlord and Tenant at the respective addresses first stated above. Notice shall be
27 deemed effective on the date of mailing or on the date personal service is obtained,
28 whichever first occurs. Change of address shall be given as provided herein for notice.

1 22. Waiver of Rights. The failure or delay of Landlord to insist on strict
2 enforcement of any term, covenant, or condition herein shall not be deemed a waiver of
3 any right or remedy that Landlord may have and shall not be deemed a waiver of any
4 subsequent or other breach of any term, covenant, or condition herein. The receipt of
5 and acceptance by Landlord of delinquent rent shall not constitute a waiver of any other
6 default but shall only constitute a waiver of timely payment of rent. Any waiver by
7 Landlord of any default or breach shall be in writing. Landlord's approval of any act by
8 Tenant requiring Landlord's approval shall not be deemed to waive Landlord's approval of
9 any subsequent act of Tenant.

10 23. Successors in Interest. This Lease shall be binding on and inure to the
11 benefit of the parties and their successors, heirs, personal representatives, transferees,
12 and assignees, and all of the parties hereto shall be jointly and severally liable hereunder.

13 24. Force Majeure. Except as to the payment of rent, in any case where
14 either party is required to do any act, the inability of that party to perform or delay in
15 performance of that act caused by or resulting from fire, flood, earthquake, explosion,
16 acts of God, war, strikes, lockouts, or any other cause whether similar or dissimilar to the
17 foregoing which is beyond the control of that party and not due to that party's fault or
18 neglect shall be excused and such failure to perform or such delay in performance shall
19 not be a default or breach hereunder. Financial inability to perform shall not be
20 considered cause beyond the reasonable control of the party.

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

25 26. Time. Time is of the essence in this Lease, and every provision hereof.

26 27. Governing Law. This Lease shall be governed by and construed in
27 accordance with the laws of the State of California.

28

1 28. Integration and Amendments. This Lease represents and constitutes
2 the entire understanding between the parties and supersedes all other agreements and
3 communications between the parties, oral or written, concerning the subject matter
4 herein. This Lease shall not be modified except in writing signed by the parties and
5 referring to this Lease.

6 29. Joint Effort. This Lease is created as a joint effort between the parties
7 and fully negotiated as to its terms and conditions and nothing contained herein shall be
8 construed against either party as the drafter.

9 30. No Recordation. This Lease shall not be recorded.

10 31. Attorney's Fees. In any action or proceeding relating to this Lease, the
11 prevailing party shall be entitled to its costs, including a reasonable attorney's fee.

12 32. Captions and Organization. The various headings and numbers herein
13 and the grouping of the provisions of this Lease into separate sections, paragraphs and
14 clauses are for convenience only and shall not be considered a part hereof, and shall
15 have no effect on the construction or interpretation of this Lease.

16 33. Relationship of Parties. The relationship of the parties hereto is that of
17 Landlord and Tenant, and the parties agree that nothing contained in this Lease shall be
18 deemed or construed as creating a partnership, joint venture, association, principal-agent
19 or employer-employee relationship between them or between Landlord or any third
20 person or entity.

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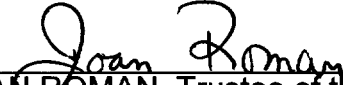
IN WITNESS WHEREOF, the parties have executed this Lease with all of the formalities required by law as of the date first above written.

"Landlord"

Date: 11/26/08, 2008



DANIEL ROMAN, Trustee of the DANIEL AND JOAN ROMAN FAMILY TRUST, u/t/d February 8, 1980



JOAN ROMAN, Trustee of the DANIEL AND JOAN ROMAN FAMILY TRUST, u/t/d February 8, 1980

"Tenant"

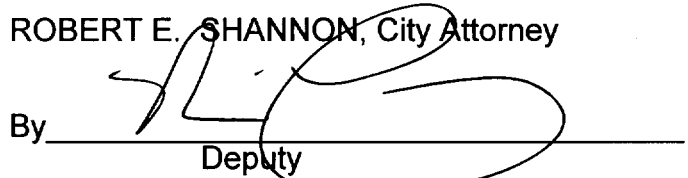
CITY OF LONG BEACH, a municipal corporation

Date: 11/25, 2008


City Manager

This Lease is hereby approved as to form this 19 day of November, 2008.

ROBERT E. SHANNON, City Attorney


Deputy

07-05695

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333 West Ocean Boulevard, 11th Floor
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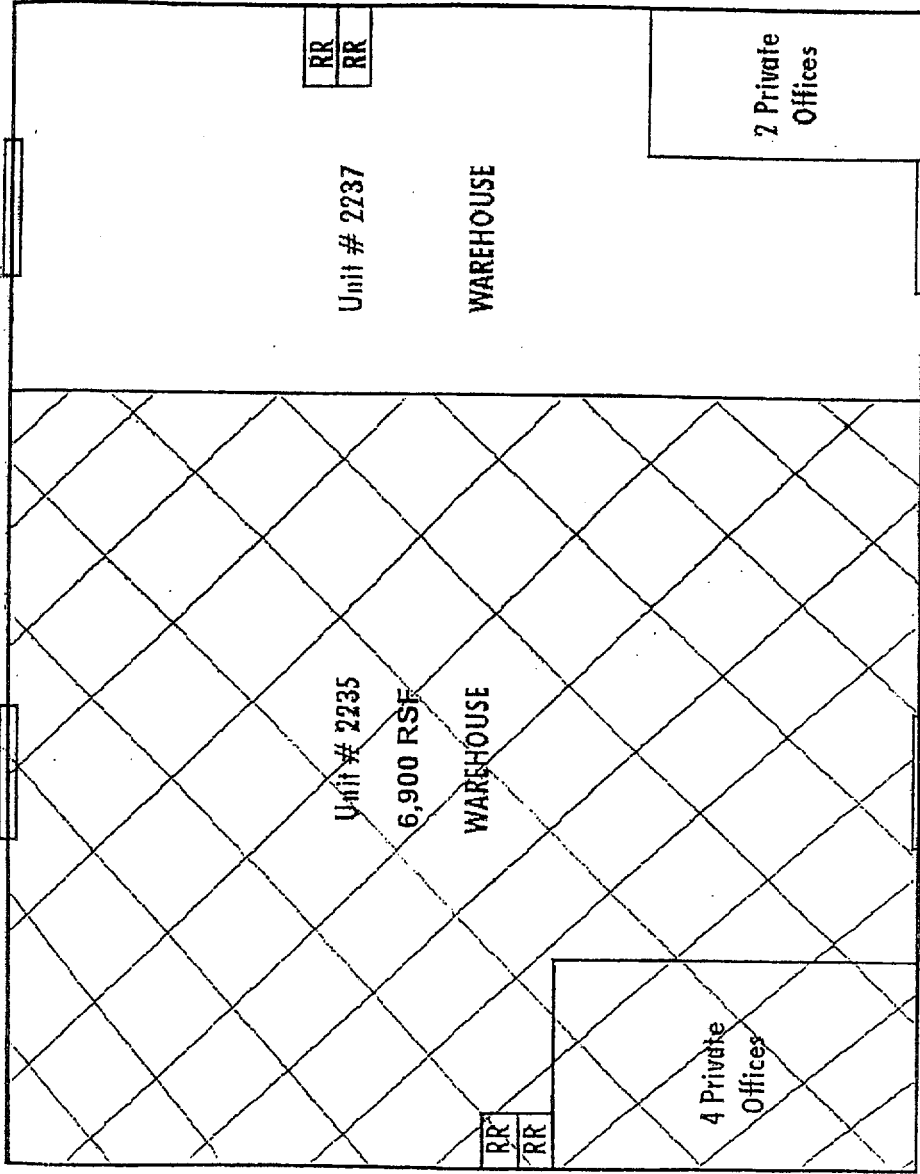
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EXHIBIT "A"
PREMISES

ALLEY

14' X 10'

12' X 10'



14' X 10'

12' X 10'

ALLEY

Parking

LEMON AVENUE

EXHIBIT "A"