

FIFTH AMENDMENT TO LEASE

This Fifth Amendment to Lease (“Fifth Amendment”), dated as of _____, 2024 (“Effective Date”) is by and between **NORTH BAY REALTY HOLDINGS, LLC**, a California limited liability company, and the **COUNTY OF SONOMA**, a political subdivision of the State of California (“Tenant”). Landlord and Tenant are sometimes collectively referred to herein as the “parties” and singularly as “party”. All capitalized terms used herein shall, unless otherwise defined, have the meaning ascribed to those terms in the Lease (as defined below).

R E C I T A L S

WHEREAS, Landlord and Tenant entered into that certain Lease dated August 20, 2013 (“Original Lease”) for premises located at 141 Stony Circle, Santa Rosa, California (“Premises”); and

WHEREAS, Landlord and Tenant executed the following amendments, modifying the original Lease: First Amendment to Lease dated November 14, 2014 (“First Amendment”); Second Amendment to lease dated November 1, 2017 (“Second Amendment”); Third Amendment to Lease dated March 2, 2021 (“Third Amendment”); and a Fourth Amendment to Lease dated December 7, 2021 (“Fourth Amendment”) (collectively, the “Amendments”); and

WHEREAS, the Original Lease was additionally modified by certified letter dated May 13, 2020 (“May 2020 Option Notice”), and by certified letter dated September 11, 2020 (“September 2020 Letter”); and

WHEREAS, the Original Lease as modified by the Amendments, the May 2020 Option Notice and September 2020 Letter is hereinafter referred to as the Lease; and

WHEREAS, the Lease term expires on October 6, 2024, and Landlord and Tenant desire to amend the Lease in order to: (i) extend the term of the Lease; (ii) redefine the Premises; (iii) specify rental payments; (iv) revise the insurance provisions; and (v) provide for certain other terms and conditions as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

A G R E E M E N T

1. The foregoing Recitals are true and correct.
2. Effective as of the Effective Date of this Fifth Amendment, the Agreement is modified as follows:
 - A. Section 1.1 of the Lease is hereby deleted in its entirety and replaced with the following section:

“1.1 Lease of Premises. Landlord hereby leases to Tenant and Tenant leases from Landlord those certain premises which includes Suite 110 comprised of one thousand eight hundred ninety-nine (1,899) rentable sq. ft.; Suite 120 comprised of three thousand three hundred eighty-seven (3,387) rentable sq. ft.; and Room 14 comprised of one hundred and one (101) rentable sq. ft., for a total of five thousand three hundred eighty-seven (5,387) rentable sq. ft., hereinafter collectively referred to as the “Premises”, as depicted in Exhibit A-Z, attached hereto and by this reference made a part hereof, which Premises are situated in that certain office building commonly known as 141 Stony Circle (the “Building”), located in the City of Santa Rosa, County of Sonoma, State of California. The Building, the areas servicing the Building, and the land on which the Building and those are located (as shown on the site plan attached to this Lease as Exhibit B) are sometimes collectively referred to as the “Real Property”.”

B. Section 1.5 is hereby deleted, and replaced with the following section:

“1.5 Expansion of Office Space. Provided that Tenant is not in default under the Lease at the time, and subject to any renewal and extension rights of any existing tenants and subject to any other already existing rights of existing tenants, Landlord hereby grants Tenant the option to expand the Premises by including Suite 130, comprised of one thousand seven hundred forty-seven (1,747), as depicted in Exhibit A-7 (the “Option Space”) to the Premises. Landlord shall provide Tenant with written notice (“First Offer Notice”) when Landlord determines that the Option Space will be available for lease. If Tenant wishes to exercise its first right of offer with respect to the Option Space, Tenant shall, within thirty (30) days after Landlord’s delivery of the First Offer Notice, deliver notice to Landlord of Tenant’s intention to exercise its first right of offer with respect to the Option Space. If Tenant does not exercise its first right of offer within the 30-day period specified above, it will be deemed that Tenant has waived its first right of offer to expand the Premises. Rent for the subject Option Space shall be equivalent to the base Rent in effect under this Lease for the Premises immediately prior to Tenant’s exercise of its first right of offer. Upon Tenant’s exercise of the option and occupancy of the Option Space, the Option Space shall be included within the Premises and leased to Tenant pursuant to the provisions of this Lease, including, without limitation, the provisions relating to the rights and obligations of the parties with respect to alterations. The rent payable under this Lease shall be increased by the amount of rent attributable to the Option Space to be leased by Tenant. The parties shall execute an amendment to this Lease stating the addition of the Option Space to the Premises

C. Section 2.1 of the Lease is hereby deleted in its entirety and replaced with the following section:

“2.1 Term. The term of this lease (“Lease Term”) shall commence on October 7, 2013 (“Commencement Date”) and shall expire on October 6, 2029 (“Lease Expiration Date”), subject to any option, renewal or extension rights of Tenant as provided for in this Lease. Tenant is provided with one (1) three-year option to extend the term (the “Option Term”), for a total term through October 6, 2032. If Tenant exercises its Option Term extension, Landlord shall, at Landlord’s sole cost and expense and prior to the Option Term, repaint the Premises and install new carpeting throughout the Premises, including furniture lift, in a manner acceptable to Tenant.”

D. Section 2.5.2 of the Lease is hereby deleted in its entirety and replaced with the following:

“2.5.2 Option Rent. The monthly rent payable by Tenant shall be as follows:

a) For the period of October 7, 2029 through October 6, 2030, the sum of \$10,616.52 (\$1.97 per rentable sq. ft.);

b) For the period of October 7, 2030 through October 6, 2031, the sum of \$10,935.01 (\$2.03 per rentable sq. ft.); and

c) For the period of October 7, 2031 through October 6, 2032, the sum of \$11,263.06 (2.09 per rentable sq. ft.)”

E. Section 4.1 of the Lease is hereby deleted in its entirety and replaced with the following:

“4.1 Definition of “Rent”—Limited Setoff. The monthly base Rent for the Premises shall be as follows:

a) For the period of July 1, 2024 through October 6, 2025, the sum of \$9,157.90 (\$1.70 per rentable sq. ft.);

b) For the period of October 7, 2025 through October 6, 2026, the sum of \$9,432.64 (\$1.75 per rentable sq. ft.);

c) For the period of October 7, 2026 through October 6, 2027, the sum of \$9,715.62 (\$1.80 per rentable sq. ft.);

d) For the period of October 7, 2027 through October 6, 2028, the sum of \$10,007.08 (\$1.86 per rentable sq. ft.); and

e) For the period of October 7, 2028 through October 6, 2029, the sum of \$10,307.30 (\$1.91 per rentable sq. ft.).

Tenant shall pay the monthly installment of Base Rent in advance on or before the first day of every calendar month during the Lease Term, without any setoff or deduction except as otherwise expressly allowed under this Lease. Payment shall be made at the address set forth in Section 19.3 or at any other place that Landlord may from time to time designate in writing.”

F. The following section is hereby added to the Lease as Section 1.3.4:

“1.3.4 Work of Improvement. On or before July 1, 2024, Landlord, at Landlord’s sole cost and expense, shall remove the door knob between Suites 120 and 130 side and replace it with a door hole cover plate.”

G. Section 9.1 is hereby deleted in its entirety and replaced with the following section and Exhibit:

“9.1 Insurance. Landlord and Tenant shall maintain insurance specified in Exhibit H-1, which is attached hereto and incorporated herein by this reference.”

H Exhibit A-7, attached hereto, is hereby incorporated into and attached to the Lease.

3. Except to the extent the Lease is expressly amended or supplemented hereby, the Lease, together with exhibits is, and shall continue to be, in full force and effect as originally executed, and nothing contained herein shall, or shall be construed to modify, invalidate or otherwise affect any provision of the Lease or any right of Tenant or Landlord arising thereunder.

4. This Fifth Amendment shall be governed by and construed under the internal laws of the State of California, and any action to enforce the terms of this Fifth Amendment or for the breach thereof shall be brought and tried in the County of Sonoma.

LANDLORD AND TENANT HAVE CAREFULLY READ AND REVIEWED THIS FIFTH AMENDMENT AND EACH TERM AND PROVISION CONTAINED HEREIN AND, BY EXECUTION OF THIS FIFTH AMENDMENT, SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.

IN WITNESS WHEREOF, the parties hereto have executed this Fifth Amendment as of the Effective Date.

"LANDLORD": **NORTH BAY REALTY HOLDINGS, LLC**, a California limited liability company

By: _____
Print Name: _____
Title: _____

"TENANT": **COUNTY OF SONOMA**, a political subdivision of the State of California

By: _____
Johannes J. Hoevertsz, Director
Sonoma County Public Infrastructure
Department

The SPI Director is authorized to sign this Fifth Amendment pursuant to Board of Supervisors' action dated _____, 2024.

APPROVED AS TO FORM FOR TENANT:

Deputy County Counsel

RECOMMENDED FOR APPROVAL FOR TENANT:

Ethan Brown, Executive Director
Economic Development Board

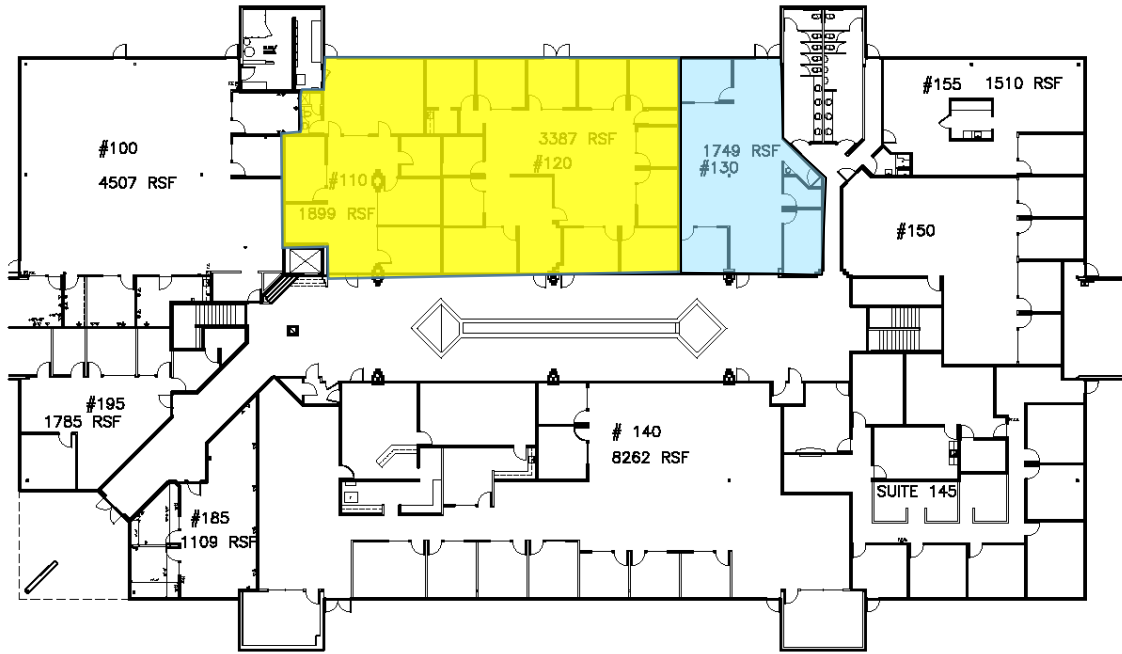
C. Warren Sattler, Real Estate Manager
Sonoma County Public Infrastructure

CERTIFICATE OF INSURANCE
ON FILE WITH DEPARTMENT:

Reviewed by: _____ Date: _____

EXHIBIT A-7

141 Stony Circle, Santa Rosa, CA



FIRST FLOOR - 141 STONY CIRCLE, SANTA ROSA, CA



-  Revised Premises
-  Option space

Exhibit H-1**Section I: Insurance Required to be Maintained by Landlord**

At all times during the term of this Lease, Landlord shall purchase and maintain, at its own expense, insurance as described below, unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*.

Tenant reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Lease or failure to identify any insurance deficiency shall not relieve Landlord from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during this Lease.

1. Workers Compensation and Employers Liability Insurance

- a. Required if Landlord has employees.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Tenant.
- e. Required Evidence of Insurance:
 - i. Subrogation waiver endorsement; and
 - ii. Certificate of Insurance

If Landlord currently has no employees, Landlord agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should any employees be engaged during the term of this Lease or any extensions of the term.

2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; the General Aggregate shall apply separately to each location. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Landlord maintains higher limits than the specified minimum limits, Tenant requires and shall be entitled to coverage for the higher limits maintained by Landlord.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by Tenant. Landlord is responsible for any deductible or self-insured retention and shall fund it upon Tenant's written request, regardless of whether Landlord has a claim against the insurance or is named as a party in any action involving the Tenant.
- d. The **County of Sonoma, its Officers, Agents and Employees** shall be additional insureds for liability arising out of premises owned by or rented to Landlord, (Insurance Services Office endorsement CG 20 26 or equivalent).
- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy shall cover inter-insured suits between Landlord and Tenant and include a "separation of insureds" or "severability" clause which treats each insured separately.

- g. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Tenant.
- h. Required Evidence of Insurance:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status, and
 - ii. Certificate of Insurance.

3. Property Insurance for Building and Tenants' Improvements & Betterments

- a. The insurance shall cover the Building (excluding land) and all improvements and structures on the land.
- b. Insured perils shall be "special form" or "all risks".
- c. The minimum amount of insurance shall be the full current replacement cost of the building and all improvements and structures on the land, including the cost of debris removal. This amount shall be re-determined annually by Landlord, subject to approval by Tenant.
- d. The insurance shall apply on a replacement cost basis, without deduction for depreciation.
- e. The insurance shall cover the interests of both Landlord and Tenant. Tenant shall be endorsed as an additional insured with respect to its interest in covered property; other tenants may be added as additional insureds.
- f. All moneys collected from the insurance company shall be held by Landlord in trust to be used and applied exclusively in accordance with **Article 10** entitled "Destruction and Untenantability of Premises".
- g. Tenant shall not be responsible to Landlord for any coinsurance penalty assessed by the insurance company.
- h. If the policy has a deductible, Landlord shall be responsible for the full amount of the deductible without contribution from Tenant.
- i. Required Evidence of Insurance:
 - i. Additional insured endorsement; and
 - ii. Certificate of Property Insurance *or* Evidence of Commercial Property Insurance.

4. Rental Value Insurance

- a. The insurance shall cover loss of rents resulting from an insured cause of loss under a "special form" or "all risks" policy.
- b. The period of insurance shall be the entire period of restoration of damaged property and shall not be limited to a period of 12 or 18 months.
- c. The limit shall be one hundred fifty percent (150%) of the annual rents payable by all tenants occupying the building.
- d. Required Evidence of Insurance: Certificate of Property Insurance or Evidence of Commercial Property Insurance

5. Mold Liability Insurance

- a. The insurance shall cover claims for mold-related bodily injury and property damage (including loss of use) and remediation expenses.
- b. The insurance shall cover claims arising out of the presence of mold, microbial matter, or mold or fungus spores on the Premises.
- c. Minimum Limit: \$5,000,000 per occurrence.
- d. Required Evidence of Insurance: Certificate of Insurance

6. Standards for Insurance Companies

Insurers shall have an A.M. Best's rating of at least A:VII.

7. Documentation

- a. The Certificate of Insurance must include the following reference: **Leased premises located at 141 Stony Circle, Santa Rosa, CA.**
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Lease. Landlord agrees to maintain current Evidence of Insurance on file with Tenant for the required period of insurance.
- c. The name and address for Additional Insured endorsements and Certificates of Insurance is: **County of Sonoma, its Officers, Agents and Employees**
In c/o Sonoma County Public Infrastructure, Attn: Real Estate Manager
2300 County Center Drive, Suite A220
Santa Rosa, CA 95403
Email: SPI-RealEstate-Employees@sonoma-county.org
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Landlord shall provide immediate written notice if: (1) any of the required insurance policies is terminated; or (2) the limits of any of the required policies are reduced.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

8. Policy Obligations

Landlord's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

9. Material Breach

If Landlord fails to maintain insurance which is required pursuant to this Lease, it shall be deemed a material breach of this Lease. Tenant may give notice to Landlord to reinstate or acquire the affected insurance. Should Landlord fail to reinstate or acquire the affected insurance within ten (10) days of Tenant's notice to reinstate or acquire such insurance, Tenant may either terminate this Lease, reinstate or acquire the affected insurance, and Landlord shall reimburse Tenant for the necessary cost at Tenant's option.

Section II: Insurance Required to be Maintained by Tenant

At all times during the term of this Lease, Tenant shall purchase and maintain, at its own expense, insurance or self-insurance as described below.

1. General Liability Insurance

- a. Minimum Limit: \$1,000,000 per occurrence.
- b. The policy shall be endorsed to include a written waiver of the insurer's right to subrogate against Landlord.
- c. Required Evidence of Insurance: Certificate of Insurance or Letter of Self-Insurance.

2. Documentation

- a. All required Evidence of Insurance shall be submitted prior to the execution of this Lease. Tenant agrees to maintain current Evidence of Insurance on file with Landlord at all times during the term of this Lease.
- b. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing insurance or self-insurance.