ATTACHMENT A

COMMERCIAL PROPERTY LEASE AGREEMENT
BY AND BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
Caffe Del Doge Venezia, Inc.

This lease agreement (herein "Lease") is made and entered into this _____ day of __________, 2008, by and between the Santa Clara Valley Transportation Authority, a special district ("VTA"), and Caffe Del Doge Venezia, Inc., a Delaware corporation, dba Caffe Del Doge ("Lessee"). VTA, and Lessee may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Lease."

RECITALS

A. Stanford University ("Stanford") is the owner of, and City of Palo Alto, California, a California chartered municipal corporation ("City") is the tenant of, and VTA is the subtenant of that certain real property located at 95 University Avenue, Palo Alto, California, and commonly known as University Avenue Train Depot (the "Depot"). The lease between Stanford and City is dated June 10, 1915 and expires on June 30, 2033, however, per the Fifth Amendment dated January 18, 2000 of its lease with Stanford, City has the right to terminate their lease as to Depot only as of February 26, 2013 and assign any subleases it then has with respect to the Depot, to Stanford. The sublease between City and VTA is dated March 31, 1981 and expires on June 30, 2013. The Depot is generally shown on Exhibit "A," attached hereto and incorporated herein by reference.

B. VTA desires to cooperate with City, which desires to make available: 1) a food and beverage service (Cafe) for the general public in an approximately 1,289 square-foot portion of the 5,375 square-foot Depot; and 2) public access to restrooms within the Depot.

C. The Depot is listed on the National Register and the California Register of Historical Resources, and is also listed on the City’s Historic Building Inventory as Category 1 level of significance; and the City desires to preserve as much of its historic significance and integrity as possible.

D. Lessee desires to construct and operate the Cafe in a manner that will retain the historic integrity of the Depot.

E. Lessee desires to construct, operate and manage the Cafe on the terms and conditions more particularly set forth in this Lease.

F. VTA desires to make Lessee responsible for janitorial service for the Premises, Depot main room, and main restrooms as outlined in Exhibit B, for the duration of Lessee’s use of the Depot.

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G. Lessee and VTA agree that the primary purpose of this Lease is to provide a food and beverage service, janitorial services and public access to the restrooms.

Now, therefore, in consideration of these recitals and the following covenants, terms, and conditions, Lessee and VTA mutually agree as follows:

**LEASE PROVISIONS**

1. **PREMISES.**

VTA hereby subleases to Lessee, and Lessee hires from VTA, the 1,289 square-foot portion of the Depot, including the proposed Depot Caffe Area, an office, portions of the News Stand and Ticket Storage areas on the mezzanine, and an employee locker area located in the Women's Waiting Room, all as more particularly shown in the cross-hatched portion of Exhibit A. The 1,289 square-foot area shall herein be referred to as the "Premises."

Lessee is aware of and acknowledges a Caltrain project to modify and improve the adjacent Caltrain platform area, and has knowingly that said project will result in disruption of access to the platform area from the Premises during a period anticipated to be approximately 6 to 8 months beginning in May of 2008.

2. **TERM.**

2.1 **Primary Term.** The term of this Lease ("Primary Term") shall commence on [delivery date] ("Delivery Date"), shall be coterminous with the remainder of VTA's sub-lease with City, subject to the provisions of Section 2.2 below. If the Caltrain project to modify the platform area completely prevents access to the Premises or prevents the development and use of the Premises, the Delivery Date shall be delayed until access to the Premises is restored from at least one entrance to the Depot, and development and use are possible.

2.2 **Options: Agreement with City of Palo Alto to enter into Sublease.** Lessee shall have options to extend the duration of this Lease beyond the Primary Term for two consecutive, five-year periods ("Option Periods"), with either VTA or the City as sublessor, as set forth in this Section 2.2. Lessee acknowledges that the sublease between VTA and the City expires June 30, 2013, the end of the Primary Term, or February 26, 2013, if City exercises its right to terminate its lease with Stanford under its Fifth Amendment to the Lease. In the event the term of the sub-lease between VTA and the City terminates at or before the end of the Primary Term, as anticipated, or in the event the sub-lease between VTA and the City is extended and terminates at any other time, the City, by its approval of this Lease, agrees that the Lessee shall become a direct subtenant of the City at the time VTA's lease with City terminates, upon all
the provisions contained in this Lease. To exercise an option, Lessee shall give VTA (so long as VTA is the sublessor to Lessee under this Lease) and the City notice of the exercise of the option at least 90 days prior to the expiration of the Primary Term or then-current Option Period. Lessee's exercise of each option is expressly conditioned upon (1) Lessee being in lawful possession of the Premises at the time of the exercise; (2) Lessee not being in default under the provisions of this Lease; and (3) the City having exercised its option to extend its lease with Stanford, so that the City's lease term is of sufficient duration to cover the term of the Option Period so exercised by Lessee. If Lessee and the City enter into a direct sublease pursuant to this provision, City shall indemnify, defend, and hold VTA harmless from and against any claims, causes of action, judgments, obligations, costs and expenses (including attorney's fees), damages, and liability arising out of: (1) the performance of any obligation under the sublease between City and Lessee; and (2) the use, occupancy, maintenance, or operation of the Premises subsequent to the expiration of the sublease between VTA and the City. In the event the sublease between VTA and the City is extended beyond June 30, 2013, or in the event the City exercises its option to extend its lease with Stanford beyond February 26, 2013, for less than the two full 5-year Option Periods, Lessee shall have the right to exercise the first or second Option Period, as the case may be, for the shorter time period remaining for such Option Period.

City of Palo Alto
By:

__________Assistant City Manager or designee__________

3. RENT.

3.1 No Rent for First 6 Months of Retail Operations. Lessee shall pay no rent for the first 6 months of retail operations.

3.2 Base Rent after the First 6 months of Retail Operations. Beginning on the first day of the seventh (7th) month of retail operations, the Base Rent to be paid by Lessee shall be equal to one thousand five hundred dollars per month ($1,500.00). Base Rent shall be paid in lawful money of the United States of America, without deduction or offset.

3.3 Upon the request of VTA, Lessee shall promptly provide, at Lessee's expense, necessary data to enable VTA to fully comply with any and all requirements of the State of California or the United States of America for information or reports relating to this Lease and to Lessee's use of the Premises. Such data shall include, if required, a detailed breakdown of Lessee's use of the Premises and/or a detailed breakdown of Lessee's receipts and expenses. VTA shall not disclose Lessee's financial information except as may be required by law.
3.4 Late Charge. Lessee acknowledges that late payment by Lessee to VTA of rent will cause VTA to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Such costs include, without limitation, processing, accounting and late charges that may be imposed on VTA. Therefore, if VTA does not receive rent due from Lessee within ten (10) days after such rent is due, Lessee shall pay to VTA an additional sum of ten percent (10%) of the overdue rent as a late charge. The Parties agree this late charge represents a fair and reasonable estimate of the costs VTA will incur by reason of late payment by Lessee. Acceptance of any late charge shall not constitute a waiver of Lessee's default with respect to the overdue amount, nor prevent VTA from exercising any of the other rights and remedies available to VTA.

3.5 Rent Payment Procedures.

3.5.1 Rent includes all amounts payable by Lessee to VTA under this Lease, including but not limited to monthly Base Rent, security deposit, taxes and assessments, insurance, utilities, and other charges payable by Lessee under this Lease (even if payable directly to someone other than VTA). Lessee's obligation to pay rent shall commence on the first day of the seventh (7th) month of retail operations. If the term commences or terminates on a date other than the first of any month, monthly rent for the first and last month of this Lease shall be prorated based on a 30-day month.

3.5.2. Rent payments shall be delivered to VTA Accounts Payable, 3331 N. First Street, attn: Cash Group, San Jose, CA 95134. Payments shall be effective upon receipt. The designated place of payment may be changed at any time by VTA upon ten (10) days’ written notice to Lessee.

3.5.3. Lessee specifically agrees that acceptance of any late or incorrect rentals submitted by Lessee shall not constitute an acquiescence or waiver by VTA and shall not prevent VTA from enforcing Section 3.4 or any other remedy provided in this Lease. VTA may apply any payment received from Lessee against any obligation due and owing by Lessee under this Lease, regardless of any statement appearing on or referred to in any remittance from Lessee or any prior application of such payments. Acceptance by VTA of a partial payment shall not waive any right of VTA or affect any notice of legal proceedings. Partial payment of any amount due to VTA shall be deemed to be a partial payment only, and any endorsements or statements on the check or any letter accompanying the check shall not be deemed an accord and/or satisfaction, and, notwithstanding said endorsements, VTA may accept and deposit said check without prejudice to its right to recover the balance. Lessee's obligation to pay rent and all other amounts due hereunder shall be absolute and unconditional, and not subject to any abatement, set off, defense, recoupment or reduction.

3.5.4. Acceptance of rent shall not constitute approval of any unauthorized sublease or use, nor constitute a waiver of any non-monetary breach.
3.5.5. A service charge of twenty dollars ($20.00) will be made for each check that must be resubmitted for payment.

3.6 **Base Rent During Option Periods.** Beginning on the first day of the first Option Period, the Base Rent to be paid by Lessee shall be equal to one thousand six hundred fifty dollars per month ($1,650.00) (the “Base Option Rent”). Thereafter, the yearly Base Rent payable under this Lease will be adjusted on July 1 of each year throughout the remainder of the first Option Period and each year of the second Option Period (an “Adjustment Date”) as follows:

3.6.1. The basis for computing the adjustment is the Consumer Price Index for All Urban Consumers - All Items San Francisco-Oakland-San Jose, CA, U.S. Cities Average, published bi-monthly by the Bureau of Labor Statistics of the United States Department of Labor (Base Period 1982-1984=100) (“Index”), published for April 2013 (the “Beginning Index”).

3.6.2. The new yearly Base Rent will be calculated by multiplying the Base Option Rent by a fraction, the numerator of which is the Index published for the month of April prior to the Adjustment Date (the “Adjustment Index”) and the denominator of which is the Beginning Index, not to exceed an increase equal to 3% of the yearly Base Rent in effect during the year immediately preceding the applicable Adjustment Date. In the event any such annual calculation would produce an increase in excess of 3%, the dollar amount of Base Rent which would have been collected, but for the 3% limitation, may be carried forward and added to any future Base Rent adjustment so long as any such Base Rent increase does not exceed 3% of the yearly Base Rent in effect during the immediately preceding year.

3.6.3. If the Adjustment Index is not available on the applicable Adjustment Date, Tenant will continue to pay the Base Rent in effect immediately prior to the Adjustment Date. After the Adjustment Index is available, Landlord will furnish Tenant with a computation of the rent for the ensuing one-year period. Any appropriate adjustment will be paid within 30 days of Tenant’s receipt of Landlord’s statement.

3.6.4. If the Index is changed so that the benchmark period differs from that in effect on the Delivery Date, the Index will be converted in accordance with the conversion factor published by the Bureau of Labor Statistics. If the Index is discontinued or revised during the Lease term, such other governmental index or computation with which it is replaced will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

3.6.5. Notwithstanding any other provision in this agreement, under no circumstances shall the rent adjustment provided in section 3.6 ever result in a decrease in rent.
payment. Should the CPI adjustment be computed to result in a decrease, Lessee’s rent payment for that year shall instead be equal to the Base Rent in effect during the immediately preceding year.

4. SECURITY DEPOSIT.

Security Deposit. Lessee has deposited with VTA an amount of two thousand dollars ($2,000.00), which shall be held by VTA as a security deposit for the faithful performance by Lessee of all terms, covenants, and conditions of this Lease. VTA may use these funds as are reasonably necessary to remedy any Lessee default(s) in the payment of rent, to repair damages caused by Lessee, or expenses incurred to clean the Premises upon expiration or early termination of tenancy. If any portion of the security deposit is used towards rent or damages at VTA’s sole discretion, Lessee shall within 10 days after written demand therefore, deposit cash with VTA in an amount sufficient to restore the Security Deposit to the original amount, and the failure to restore the Security Deposit shall be a material breach of this Lease. The balance of Security Deposit, if any, shall be mailed to Lessee’s last known address within forty-five (45) days of surrender of Premises, or as reasonably practicable if repairs are required.

The City will require a security deposit in the amount of $2,000 should the option(s) be exercised. The same terms and conditions would apply as to the clause above.

5. USE OF PREMISES.

5.1 Required Use. Throughout the term of this Lease, Lessee shall use and occupy the Premises solely for the following purposes (“Required Uses”):

5.1.1. Café service consisting of non-alcoholic beverage and food service for on-Premises consumption and take-out, including coffee, specialty drinks and related items.

5.1.2. Public access to Depot restrooms to be provided during operating hours of café service. Access to be provided by unlocking restroom doors upon opening the café and locking the doors upon closing. Lessee agrees and acknowledges that VTA bus operators will be allowed to use restrooms 24 hours per day, seven days per week.

5.1.3. Janitorial service for the Premises, Depot main room and restrooms as outlined in Exhibit B.

5.2 Restricted Use. Lessee shall use the Premises for those required uses described in Section 5.1 and for no other use without VTA’s prior written consent, which consent may be withheld
in the sole and absolute discretion of VTA. Lessee shall not (i) create, cause, maintain or permit any nuisance or waste in, on or about the Premises; (ii) permit or allow the Premises to be used for any unlawful or immoral purpose, or (ii) create, cause, maintain or permit any unreasonable odors, noise, vibration, power emissions or other item to emanate from the Premises. Lessee shall not store materials or articles of any nature outside upon any portion of the Premises. Lessee shall not use Premises in a manner that increases the risk of fire, cost of fire insurance or improvements thereon. No unreasonable sign or placard shall be painted, inscribed or placed in or on said Depot. No bicycles, motorcycles, automobiles or other mechanical means of transportation shall be placed or stored anywhere on the Premises. Lessee, at its expense, shall keep the Premises in as good condition as it was at the beginning of the term hereof, except damage occasioned by ordinary wear and tear, and except damage to the roof, sidewalks and plumbing, which is not the fault of Lessee.

Lessee shall use ordinary care for the presentation of the Premises and to repair all deterioration or damage to the Premises caused by Lessee’s negligence.

5.3 Condition, Use of Premises. VTA makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the parties that Lessee has personally inspected the Premises, knows its condition, finds it fit for Lessee’s intended use, accepts it as is and has ascertained that it can be used for the limited purposes specified in Section 5.1. Lessee accepts the Premises “as-is” on the date of execution of this Lease and is aware of all the characteristics and conditions of the Premises. Lessee is aware that a Caltrain project to modify and improve the adjacent Caltrain platform area will commence construction during the term of this Lease, and acknowledges that said project will result in disruption of access to the platform area from the Premises during a period anticipated to be approximately 6 to 8 months beginning in May of 2008.

6. DUTIES OF LESSEE.

6.1 Lessee shall not use the image of the Depot, the name of VTA or any other identifying sign or symbol associated with the Depot or VTA to undertake any action or representation other than those specifically assigned to Lessee as a duty under this Lease. Lessee may use the name “Palo Alto Depot,” “University Avenue Train Depot,” and the like, to identify the location of the Café.

6.2 Lessee shall protect and maintain the Premises. Lessee shall assume the responsibility for the guarding and safekeeping of all of the donated and loaned property located at the Depot, including the five benches, mural above the south end of the interior built-in countertop and offices, all built-in existing counters, desks and the safe.
7. OPERATING REQUIREMENTS.

7.1 Hours, Schedule, Operations. Lessee shall continuously and uninterruptedly, use the Premises for the uses specified in this Lease. Lessee shall use only such space within the Premises for office, clerical or other non-sales or services uses as is reasonably required for Lessee’s required or approved uses of the Premises. Unless it elects to do so, Lessee will not operate in the Premises: (i) if it is prevented from doing so because of damage or destruction, any taking described in Section 21, or force majeure causes described in Section 14.2, (ii) while alterations are being made to the Premises, (iii) for legal holidays and one other selected day per year, (iv) for a reasonable period of time at the end of the term to facilitate moving out, restoration, and other activities incidental to Lessee winding up business at the Premises, and (v) during any hours or on any days when Lessee determines that its operations are not profitable.

Lessee shall at all times maintain, and post for public viewing, a written schedule setting forth the operating hours. A schedule of prices charged for all goods and/or services related to the required and permitted uses of this Lease shall also be maintained and posted for public viewing. Individual merchandise must be clearly priced. Lessee agrees that when alternate forms of packaging are available, only items packaged in the manner most compatible with the goals of reducing litter and preserving the environment shall be sold.

Lessee shall furnish VTA a copy of the schedule of operating hours prior to commencement of operations and at least 30 days prior to any proposed change in the schedule.

7.2 Personnel. Lessee shall at all times retain active, qualified, competent, and experienced personnel to supervise Lessee's operation and to represent and act for Lessee. Lessee shall require its attendants and employees to be properly dressed, clean, courteous, efficient, and neat in appearance at all times. Lessee shall not allow any person(s) in or about the Premises who shall use offensive language and/or act in a boisterous or otherwise improper manner. Lessee shall maintain a close check over attendants and employees to insure the maintenance of a high standard of service to the public. Lessee may install video cameras for security and for observation of its personnel.

If VTA determines that the quality of service rendered by Lessee, including, without limitation, a determination that the standard of service provided by any employee of Lessee, is not satisfactory under the provisions of this Lease, Lessee shall immediately remedy any and all such deficiencies after receipt of notice from VTA.

8. HAZARDOUS MATERIALS.

8.1 Compliance with Laws. Lessee shall not cause or permit any Hazardous Material (as
defined below), other than incidental amounts of standard cleaning materials, office and restaurant products, to be used, stored, generated, discharged, transported to or from, or disposed of in or about the Premises.

8.2 Termination of Lease. VTA shall have the right to terminate the Lease in VTA’s sole and absolute discretion in the event that (i) any anticipated use of the Premises by Lessee involves the generation or storage, use, treatment, disposal or release of Hazardous Material in a manner or for a purpose prohibited or regulated by any governmental agency, authority or Hazardous Materials Laws; (ii) Lessee has been required by any lender or governmental authority to take remedial action in connection with Hazardous Material contaminating the Premises, if the contamination resulted from Lessee’s action or use of the Premises; or (iii) Lessee is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal or storage of a Hazardous Material on the Premises.

8.3 Hazardous Materials Defined. The term Hazardous Material(s) shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to, those substances, materials or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of hazardous substances, hazardous waste, hazardous chemical substance or mixture, imminently hazardous chemical substance or mixture, “toxic substances,” a hazardous air pollutant, a toxic pollutant or solid waste in the (a) CERCLA or Superfund as amended by SARA, 42 U.S.C. Sec. 9601 et seq., (b) RCRA, 42 U.S.C. Sec. 6901 et seq., (c) CWA., 33 U.S.C. Sec. 1251 et seq., (d) CAA, 42 U.S.C. 78401 et seq., (e) TSCA, 15 U.S.C. Sec. 2601 et seq., (f) The Refuse Act of 1899, 33 U.S.C. Sec. 407, (g) OSHA, 29 U.S.C. 651 et seq., (h) Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq., (i) USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), (j) California Superfund, Cal. Health & Safety Code Sec. 25300 et seq., (k) Cal. Hazardous Waste Control Act, Cal. Health & Safety Code Section 25100 et seq., (l) Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq., (m) Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq., (n) Proposition 65, Cal. Health and Safety Code Sec. 25249.5 et seq., (o) Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq., (p) California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq., (q) Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq., (r) Hazardous Materials Release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541, (s) TCPA, Cal. Health and Safety Code Secs. 25208 et seq., and (t) regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules. Hazardous Materials shall also mean any and all other substances, materials and wastes which are, or in the future become regulated under applicable local, state or federal law for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including,
without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents, (ii) any petroleum products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, and (vii) radioactive materials and waste.

8.4 VTA's Right to Perform Tests. At any time prior to the expiration of the Lease Term, VTA shall have the right to enter upon the Premises in order to conduct tests and to deliver to Lessee the results of such tests to demonstrate that levels of any Hazardous Materials in excess of permissible levels has occurred as a result of Lessee's use of the Premises. Lessee shall be solely responsible for and shall indemnify, protect, defend and hold VTA harmless from and against all claims, costs and liabilities including actual attorneys fees and costs arising out of or in connection with any removal, remediation, clean up, restoration and materials required hereunder to return the Premises and any other property of whatever nature to their condition existing prior to the appearance of the Hazardous Materials to the extent caused or permitted to be caused by Lessee or its employees, agents, sublessees, assignees, contractors or subcontractors of Lessee. The testing shall be at Lessee's expense if VTA has a reasonable basis for suspecting and confirms the presence of Hazardous Materials in on, or about the Premises, which has been caused by or resulted from the activities of Lessee, its agents, employees or contractors.

8.5 Hazardous Materials Indemnity. Lessee shall indemnify, defend (by counsel reasonably acceptable to VTA), protect and hold VTA harmless from and against any and all claims, liabilities, fines, penalties, forfeitures, losses, fees, costs, damages and/or expenses, including, attorneys fees and consultant and expert fees, arising out of or in connection with any hazardous material used, generated, discharged, transported to or from, stored, or disposed of in, on, under, through or about the Depot and/or the surrounding real and personal property. For purposes of the indemnity provided herein, any acts or omissions of Lessee or its employees, agents, invitees, sublessees, assignees, contractors or subcontractors of Lessee (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee. Notwithstanding the foregoing, Lessee will have no liability for costs relating to the clean-up or remediation of hazardous materials or toxic substances that are on, in, or beneath the Depot unless the presence of the hazardous materials or toxic substances was caused, in whole or in part, by Lessee or its employees, agents, invitees, sublessees, assignees, contractors or subcontractors of Lessee, and provided that Lessee proves that it did not in fact cause or contribute to the presence of hazardous materials or toxic substances on, in, or beneath the Depot. If there are hazardous materials or toxic substances in, on, under, or about the Premises not caused by Lessee, or its representatives that, in Lessee's reasonable opinion, substantially impair Lessee's ability to conduct its business operations on the Premises, Lessee will have the right to terminate the Lease, effective upon Lessee's notice to VTA.

9. UTILITIES AND OPERATING EXPENSES.
9.1 Lessee shall fully and promptly pay for all expenses associated with the operation of the Premises, including but not limited to the furnishing of sewer, telephone service, garbage pickup and disposal, and other public utilities to the Premises (except as otherwise assessed pursuant to Section 9.2). The Lessee will be responsible for all computer hardware/software acquisition, installation, maintenance and removal in connection with Lessee’s use of the Premises. Lessee shall have no responsibility for any such utilities furnished to the landscaping, the restrooms, or any other portions of the Depot other than the Premises.

9.2 Pro Rata of Utility Expenses. Depot is a master metered building for gas, water, and electricity. The Lessee shall pay to VTA, in addition to monthly Base Rent, the pro rata share of the charges for utility based upon the proportion of which the number of square feet of gross floor area of the Premises bears to the total number of square feet of gross floor area of the Depot. Lessee’s pro rata share of the utility charges is approximately 24%. VTA represents that, over the past year, utility expenses have averaged ($1,066.00) per month for the Depot. Lessee shall pay to VTA at the time of each monthly rent payment ($256.00), which represents Lessee’s pro rata share of utility expenses. Upon 30 days’ written notice, VTA may increase the amount of Lessee’s utility expense if the actual utility expense exceeds the monthly average utility expense stated above. Within 45 days after the end of each calendar year, VTA will furnish Lessee with a statement showing the total, actual utility costs in reasonable detail for the calendar year and the payments made by Lessee with respect to the calendar year. VTA will refund to Lessee any overpayment or Lessee will reimburse VTA any deficiency, as the case may be, within 30 days of Lessee’s receipt of VTA’s statement.

10. TAXES.

10.1 Personal Property Taxes. Lessee shall pay before delinquent any and all taxes and assessments, license fees and public charges levied, assessed or imposed upon or against Lessee’s fixtures, equipment, furnishings, furniture, appliances, inventory and other personal property installed or located on or within the Premises. Lessee shall cause said fixtures, equipment, furnishings, furniture, appliances, inventory and other personal property (collectively “personal property”) to be assessed and billed separately from the real property. On demand, Lessee shall furnish VTA with satisfactory evidence of these payments. If any or all of Lessee’s personal property are assessed and taxed with the real property, then Lessee shall pay to VTA, as rent, the taxes attributable to the personal property within 10 days after receipt of bill from VTA. VTA may pay such taxes and assessments regardless of validity of the levy.

10.2 Pro Rata of Taxes: 95 University Avenue is part of a larger tax parcel. Lessee shall pay to VTA, in addition to monthly Base Rent, Lessee’s pro rata share of all real property taxes levied or assessed against the Premises and/or the Depot during the term of the Lease, based upon the proportion of which the number of square feet of gross floor area of the Premises bears to the total number of square feet of gross floor area of the Depot. Lessee’s pro rata
share of the real property tax is 1.0722% of the larger tax parcel. Taxes for the 2007/08 tax year for the larger tax parcel amount to $13,606.08. Lessee shall pay to VTA its pro rata share of the taxes twice per year when billed by VTA.

10.3 Definition. The term "real property taxes" as used herein shall mean:

10.3.1 All taxes, assessments, levies and other charges, general and special, foreseen and unforeseen, now or hereafter imposed by any governmental or quasi-governmental authority or special district having the direct or indirect power to tax or levy assessments, which are levied or assessed against or with respect to (i) value, occupancy, use or possession of the Premises and/or the Improvements, (ii) any improvements, fixtures, equipment and other real or personal property of Lessee that are an integral part of the Premises, (iii) use of the Premises, Improvements, public utilities or energy within the Premises;

10.3.2 All charges, levies or fees imposed by reason of environmental regulation or other governmental control of the Premises and/or the Improvements;

10.3.3 New excise, transaction, sales, privilege or other taxes now or hereafter imposed upon VTA as a result of this Lease; and,

10.3.4 All costs and fees (including attorneys fees) incurred by VTA in contesting any real property taxes and in negotiating with public authorities as to any real property taxes affecting the Premises.

10.4 Real Property Taxes. If at any time during the Term, the taxation or assessment of the Premises and/or the Improvements prevailing as of the commencement of this Lease shall be altered, then any such tax or charge, however designated, shall be included within the meaning of the term "real property taxes." If any real property taxes are based upon property or rents unrelated to the Premises and/or the Improvements, then only that part of such tax that is fairly allocable to the Premises, as reasonably determined by VTA, on the basis of the assessor's worksheets or other available information, shall be included within the meaning of the term "real property taxes."

11. MAINTENANCE.

11.1 VTA and Lessee Responsibilities. VTA shall maintain and repair the Depot as provided in the sublease between City and VTA, including the utility systems not exclusively serving the Premises, roof repair, electrical and plumbing system repair, exterior painting, exterior window cleaning and window replacement, and structural repairs. During the term of this Lease, Lessee shall be responsible for routine maintenance of the Premises and for providing janitorial service to the Depot main room and restrooms as outlined in Exhibit B. Lessee, at
Lessee’s expense, shall keep the Premises and all improvements thereto in first-class order, repair and condition, and shall keep the Premises in a safe, clean, wholesome, and sanitary condition to the complete, reasonable satisfaction of VTA, and in compliance with all applicable laws and regulations throughout the term of this Lease. In addition, Lessee shall maintain, at Lessee’s expense, all equipment, furnishings and trade fixtures upon the Premises required for the maintenance and operation of a first-class business of the type to be conducted pursuant to this Lease.

Lessee expressly waives the benefit of any statute now or hereinafter in effect, including the provisions of Sections 1941 and 1942 of the Civil Code of California, which would otherwise afford Lessee the right to make repairs at VTA’s expense or to terminate this Lease because of VTA’s failure to keep Premises in good order, condition and repair. Lessee further agrees that if and when any repairs, alterations, additions or betterments shall be made by Lessee as required by this paragraph, Lessee shall promptly pay for all labor done or materials furnished and shall keep the Premises free and clear of any lien or encumbrance of any kind whatsoever. If Lessee fails to make any repairs or perform any maintenance work for which Lessee is responsible within a reasonable time (as determined by VTA in its sole discretion) after demand by VTA, VTA shall have the right, but not the obligation, to make the repairs at Lessee’s expense; within ten (10) days of receipt of a bill, Lessee shall reimburse VTA for the cost of such repairs, including a fifteen percent (15%) administrative overhead fee. The making of such repairs or performance of maintenance by VTA shall in no event be construed as a waiver of the duty of Lessee to make repairs or perform maintenance as provided in this Section.

11.2 Maintenance of Common Areas. VTA shall maintain or cause to be maintained, including repair and replacement as necessary, all of the common areas serving the Premises including the landscaping around the Depot.

12. CONSTRUCTION OR ALTERATION BY LESSEE.

12.1 Alteration by Lessee. Lessee shall not make any alterations or improvements to the Premises without obtaining the prior written consent of VTA. Lessee may, at any time and at its sole expense, install and place business fixtures and equipment within the Premises, provided such fixtures and installation are historically compatible with the Depot and have been reviewed and approved in writing by VTA.

12.2 Minimum Construction & Permits. Lessee shall in an efficient and workmanlike manner, and in accordance with the Secretary of Interior’s Standards for Historic Rehabilitation attached as Exhibit C, cause to be designed, constructed, and installed within the Premises, at no cost to VTA, appropriate improvements to adequately accommodate the services and uses required and permitted by this Lease. Lessee shall prepare the plans and specifications for approval by the City’s Building Division and Planning & Community Development Divisions.
as required by the Palo Alto Municipal Code.

12.3 Construction Standards. All design and construction performed by or on behalf of Lessee shall conform to the approved plans, specifications, construction and architectural standards contained in Exhibit D. Once the work is begun, Lessee shall with reasonable diligence prosecute all construction to completion. All work shall be performed in a good and workmanlike manner, shall substantially comply with any plans and specifications approved by VTA and shall comply with all applicable governmental permits (including a permit from the Santa Clara County Health Department), laws, ordinances and regulations, and shall meet all other requirements contained in this Lease.

12.4 Cost of Improvements. Lessee shall pay all costs for construction done or caused to be done by Lessee on the Premises as permitted or required by this Lease. Lessee shall keep the Premises free and clear of all claims and liens resulting from construction done by or for Lessee. Promptly after completion of construction, Lessee shall provide to VTA a statement of the reasonable and actual costs of construction for the initial improvements, which statement shall be certified as to accuracy and signed by Lessee under penalty of perjury.

12.5 Ownership of Improvements. All improvements constructed, erected or installed upon the Premises must be free and clear of all liens, claims, or liability for labor or material and shall become the property of VTA, at its election, upon expiration or earlier termination of this Lease and, upon VTA election, shall remain upon the Premises upon termination of this Lease. Title to all equipment, furniture, furnishings and trade fixtures placed by Lessee upon the Premises shall remain in Lessee, and replacements, substitutions and modifications thereof may be made by Lessee throughout the term of this Lease. Lessee may remove such fixtures and furnishings upon expiration or early termination of this Lease if Lessee is not then in default under this Lease, provided that Lessee shall repair to the satisfaction of VTA any damage to the Premises and improvements caused by such removal and provided that usual and customary lighting, plumbing and heating fixtures shall remain upon the Premises upon expiration or early termination of this Lease.

12.6 Indemnity for Claims Arising Out of Construction. Lessee shall defend and indemnify VTA against all claims, liabilities and losses of any type arising out of work performed on the Premises by Lessee, together with reasonable attorneys' fees and all costs and expenses reasonably incurred by VTA in negotiating, settling, defending or otherwise protecting against such claims.

12.7 Assurance of Completion. Prior to commencement of any construction or alteration expected to cost more than $10,000, Lessee shall furnish VTA satisfactory evidence that assures VTA that sufficient monies will be available to complete the proposed work. The amount of such assurance shall be at least the total estimated construction cost. Evidence of such assurance
shall take one of the forms set out below and shall guarantee Lessee's full and faithful performance of all of the terms, covenants, and conditions of this Lease:

A. Completion Bond;
B. Performance, labor and material bonds, supplied by Lessee's contractor or contractors; provided the bonds are issued jointly to Lessee and VTA;
C. Irrevocable letter of credit from a financial institution; or
D. Any combination of the above, or as otherwise approved in writing by VTA.

E. All bonds and letters of credit must be issued by a company qualified to do business in the State of California and be acceptable to VTA. All bonds and letters of credit shall be in a form acceptable to VTA, and shall insure faithful and full observance and performance by Lessee of all of the terms, conditions, covenants, and agreements relating to the construction of improvements or alterations in accordance with this Lease.

12.8 Certificate of Inspection. Upon completion of any construction, Lessee shall submit to VTA a Certificate of Inspection, verifying that the construction was completed in conformance with Title 20 of the California Code of Regulations for residential construction, or in conformance with Title 24 of the California Code of Regulations for non-residential construction.

12.9 As Built Plans. Upon completion of any (i) new construction, (ii) structural alterations or (iii) non-structural alterations, Lessee shall provide VTA with a complete set of reproducible "as built plans" reflecting actual construction within or upon the Premises.

13. HOLD HARMLESS/INDEMNIFICATION.

13.1 Indemnification. To the extent permitted by law, Lessee agrees to protect, defend, hold harmless and indemnify VTA, its Board of Directors, commissions, officers, agents, volunteers, and employees from and against any claim, injury, liability, loss, cost, and/or expense or damage, however same may be caused, including all costs and reasonable attorney's fees in providing a defense to any claim arising there from for which VTA shall become legally liable arising from Lessee's negligent, reckless, or wrongful acts, errors, or omissions with respect to or in any way connected with this Lease. Lessee shall give VTA immediate notice of any claim or liability hereby indemnified against.

13.2 Waiver of Claims. Lessee waives any claims against VTA for injury to Lessee's business or any loss of income there from, for damage to Lessee's property, or for injury or death of any person in or about the Premises or VTA property, from any cause whatsoever, except to the extent caused by VTA's negligence or willful misconduct.
14. **DAMAGE, DESTRUCTION AND TERMINATION.**

14.1 **Non-termination and Non-abatement.** Except as provided herein, no destruction or damage to the Premises by fire, windstorm or other casualty, whether insured or uninsured, shall entitle Lessee to terminate this Lease.

14.2 **Force Majeure.** Prevention, delay or stoppage due to strikes, lockouts, labor disputes, Acts of God, inability to obtain labor, materials or reasonable substitutes, governmental restrictions, governmental regulation, governmental controls, judicial orders, enemy, or hostile governmental actions, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Lessee (financial inability excepted), shall excuse the performance by Lessee for a period equal to the prevention, delay or stoppage, except the obligations imposed with regard to rent to be paid by Lessee pursuant to this Lease. In the event any work performed by Lessee or Lessee’s contractor’s results in a strike, lockout, and/or labor dispute, the strike, lockout, and/or labor dispute shall not excuse the performance by Lessee of the provisions of this Lease.

14.3 **Waiver.** VTA and Lessee waive the provisions of any statutes which relate to termination of leases when leased Premises is destroyed and agree that such event shall be governed by the terms of this Lease.

14.4. **Damage or Destruction.**

14.4.1 **Definitions.**

14.4.1.1 "Depot Partial Damage" shall mean if the Depot is damaged or destroyed to the extent that the cost to repair is less than fifty percent (50%) of the then replacement cost of the Depot.

14.4.1.2 "Depot Total Destruction" shall mean if the Depot is damaged or destroyed to the extent that the cost to repair is fifty percent (50%) or more of the then replacement cost of the Depot.

14.4.1.3 "Replacement cost" shall mean the amount of money necessary to be spent in order to repair or rebuild the damaged area to the condition that existed immediately prior to the damage occurring excluding all improvements made by Lessee.

14.4.2 **Depot Partial Damage.** Subject to the provisions of Section 14.5, if at any time during the term of this Lease there is damage which falls into the classification of Depot Partial Damage, then VTA shall, to the extent required under the provisions of the sublease between the City and VTA, at VTA's expense, repair such damage to the Premises and the Depot, but
not Lessee's fixtures, equipment or tenant improvements, as soon as reasonably possible, and this Lease shall continue in full force and effect.

14.4.3 Depot Total Destruction. Subject to the provisions of Section 14.5, if at any time during the term of this Lease there is damage, which falls into the classification of Depot Total Destruction, then VTA may at VTA's option either (i) to the extent required under the provisions of the sublease between the City and VTA, repair such damage or destruction, but not Lessee's fixtures, equipment or tenant improvements, as soon as reasonably possible at VTA's expense, and this Lease shall continue in full force and effect, or (ii) give written notice to Lessee within thirty (30) days after the date of occurrence of such damage of VTA's intention to cancel and terminate this Lease, in which case, this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

14.5 Abatement of Rent; Lessee's Remedies.

14.5.1 In the event VTA repairs or restores the Premises pursuant to the provisions of this Section 14, the rent payable hereunder for the period during which such damage, repair or restoration continues shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired. Except for abatement of rent, if any, Lessee shall have no claim against VTA for any damage suffered by reason of any such damage, destruction, repair or restoration.

14.5.2 If VTA shall be obligated to repair or restore the Premises under the provisions of this Section 14 and shall not commence such repair or restoration within ninety (90) days after such obligation accrues, Lessee may at Lessee's option cancel and terminate this Lease by giving VTA written notice of Lessee's election to do so at any time prior to the commencement of such repair or restoration. In such event this Lease shall terminate as of the date of such notice.

15. SIGNS.

Lessee shall not place, construct, maintain, or allow any signs upon the exterior of the Premises without prior written consent of VTA. Approval by the Palo Alto Architectural Review Board and/or Historical Review Board might also be required. Lessee may install standard signs listing menu, prices and operating hours within the interior of the Premises.

16. ASSIGNMENT AND SUBLETTING.

16.1 VTA Consent Required. Lessee shall not assign this Lease, nor any interest therein, and shall not sublet or encumber the Premises or any part thereof, nor any right or privilege appurtenant thereto, nor allow or permit any other person(s) to occupy or use the Premises or any portion thereof, without the prior written consent of VTA. This Lease shall be binding
upon any permitted assignee or successor of Lessee. Consent by VTA to one assignment, subletting, occupation or use by another person shall not be deemed to be consent to any subsequent assignment, subletting, occupation or use by another person. Lessee may have the Premises delivered to a subsidiary company of Lessee, but such arrangement shall in no way alter Lessee's responsibilities hereunder with respect to the Premises. Any assignment, subletting, encumbrances, occupation or use contrary to the provisions of this Lease shall be void and shall constitute breach of this Lease. VTA may assign any of its rights hereunder without notice to Lessee in connection with a transfer of VTA's rights under its sublease with the City.

16.2 No Release of Lessee. No subletting or assignment as approved by VTA shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to pay the rent and to perform all other obligations by Lessee hereunder. The acceptance of rent by VTA from any other person shall not be deemed to be a waiver by VTA of any provision hereof. In the event of default by any assignee of Lessee or any successor of Lessee in the performance of any of the terms hereof, VTA may proceed directly against Lessee without the necessity of exhausting remedies against said assignee.

17. DEFAULTS; REMEDIES.

17.1 Defaults. The occurrence of any one or more of the following events shall constitute a material default or breach of this Lease by Lessee:

17.1.1 Abandonment of the Premises by Lessee as defined by California Civil Code §1951.3 or as provided in Paragraph 28;

17.1.2 Failure by Lessee to make any payment of rent or any other payment required to be made by Lessee hereunder, as provided in this Lease, where such failure shall continue for a period of ten (10) business days after written notice thereof from VTA to Lessee. In the event VTA serves Lessee with a Notice to Pay Rent or Quit pursuant to applicable Unlawful Detainer statutes, such Notice to Pay Rent or Quit shall also constitute the notice required by this subparagraph;

17.1.3 Failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease in any material respect to be observed or performed by Lessee where such failure shall continue for a period of thirty (30) days after written notice thereof from VTA to Lessee; provided, however, that if the nature of Lessee's default is such that more than thirty (30) days are reasonably required for its cure, then Lessee shall not be deemed to be in default if Lessee commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion;

17.1.4 Making by Lessee of any general arrangement or assignment for the benefit of
creditors; Lessee's becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); the appointment of a bankruptcy trustee or receiver to take possession of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease where possession is not restored to Lessee within thirty (30) days; or the attachment, execution or other judicial seizure of all or substantially all of Lessee's assets located at or on the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within thirty (30) days.

17.2 Remedies. In the event of any material default or breach by Lessee, VTA may at any time thereafter, following any notice required by statute, and without limiting VTA in the exercise of any right or remedy which VTA may have by reason of such default or breach:

17.2.1 Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises and Improvements to VTA. In such event, VTA shall be entitled to recover from Lessee all damages incurred by VTA by reason of Lessee's default including, but not limited to, the cost of recovering possession of the Premises and Improvements, expenses of re-letting, including necessary renovation and alteration of the Premises and Improvements, reasonable attorneys' fees, the worth at the time of the award of the unpaid rent that had been earned at the time of termination of this Lease and the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Lessee proves could be reasonably avoided.

17.2.2 Maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event, VTA shall be entitled to enforce all of VTA's rights and remedies under this Lease, including the right to recover rent and other payments as they become due hereunder.

17.2.3 Pursue any other remedy now or hereafter available to VTA under the laws or judicial decisions of the State of California.

17.3 No Relief from Forfeiture After Default. Lessee waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure §§1174 and 1179, and any other present or future law, in the event Lessee is evicted or VTA otherwise lawfully takes possession of the Premises by reason of any default or breach of this Lease by Lessee.

17.4 Default by VTA. VTA will commit a default if VTA fails to perform any provision of this Lease required of it and the failure is not cured within 30 days after Lessee's notice to VTA. If, however, the failure cannot reasonably be cured within the cure period, VTA will not be in default of this Lease if VTA commences to cure the failure within the cure period and
diligently and in good faith continues to cure the failure. Notices given under this Section 17.4 will specify the alleged breach and the applicable Lease provisions. Lessee may, after expiration of the cure period unless there is an emergency, correct or remedy any failure of VTA not timely cured and the reasonable cost paid by Lessee will immediately become due and payable to Lessee by VTA upon written demand accompanied by backup documentation.

18. **INTEREST ON PAST-DUE OBLIGATIONS.**

Except as expressly provided herein, any amount due VTA when not paid when due shall bear interest at the lesser of ten percent (10%) per year or the maximum rate then allowable by law from the date due.

19. **VTA’S and JPB/CALTRAIN’S ACCESS.**

19.1 **Access for Inspection.** VTA and VTA’s agents or contractors shall have the right to enter the Premises at reasonable times, upon not less than twenty-four (24) hours prior notice to Lessee, for the purpose of inspecting same, showing same to prospective purchasers, lenders or lessees, and making such alterations, repairs, improvements or additions to the Premises as VTA may deem necessary. VTA may at any time during the last 90 days of the term of this Lease place on or about the Premises any ordinary for lease signs.

19.2 **Security Measures.** Lessee shall have the right to require a reasonable security system, device, operation or plan be installed and implemented to protect the Premises or the Improvements. Should Lessee, in its sole discretion, decide to install such a security system, Lessee agrees to bear the sole cost and expense of any security system, device, operation or plan and the installation and implementation thereof. Lessee shall obtain VTA’s prior approval before installing or implementing any security system, device, operation or plan.

19.3 **JPB/Caltrain Access.** JPB/Caltrain requires access to the Depot building 24/7 without prior notification.

20. **INSURANCE.**

20.1 **Lessee’s Insurance.** Lessee’s responsibility for the Premises begins immediately upon delivery and Lessee, at its sole cost and expense, and at no cost to VTA, shall purchase and maintain in full force and effect during the entire term of this Lease insurance coverage in an amount(s) and in a form acceptable to VTA as set forth in Exhibit E attached hereto and incorporated herein by reference. Said policies shall be maintained with respect to Lessee’s employees, if any, and all vehicles operated on the Premises. The policies shall include the required endorsements, certificates of insurance and coverage verifications as described in Exhibit E. Lessee also agrees to secure renter’s liability insurance. Insurance form shall name City as additional insured.

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20.2 VTA's Insurance. VTA shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the Depot, but not Lessee's personal property, fixtures, equipment or tenant improvements, in an amount and providing coverage as required under the provisions of the sublease between the City and VTA. VTA may self-insure for the foregoing obligation to the extent permitted in the sublease between the City and VTA.

21. EMINENT DOMAIN.

21.1 If all or any part of the Premises or the Depot is condemned by a public entity in the lawful exercise of its power of eminent domain, this Lease shall cease as to the part condemned. The date of such termination shall be the effective date of possession of the whole or part of the Premises by the condemning public entity.

21.2 If only a part of the Premises is condemned and the condemnation of that part does not substantially impair the capacity of the remainder to be used for the purposes required by this Lease, Lessee shall continue to be bound by the terms, covenants and conditions of this Lease. However, the then monthly rent shall be equitably reduced in proportion to the diminution in value of the Premises. If the condemnation of a part of the Premises substantially impairs the capacity of the remainder to be used for the purposes required by this Lease, Lessee may:

a. Terminate this Lease and thereby be absolved of obligations under this Lease which have not accrued as of the date of possession by the condemning public entity; or

b. Continue to occupy the remaining Premises and thereby continue to be bound by the terms, covenants and conditions of this Lease. If Lessee elects to continue in possession of the remainder of the Premises, the monthly rent shall be equitably reduced in proportion to the diminution in value of the Premises.

c. Lessee shall provide VTA with written notice advising VTA of Lessee's choice within thirty (30) days of possession of the part condemned by the condemning public entity.

21.3 VTA shall be entitled to and shall receive all compensation related to the condemnation, except that Lessee shall be entitled to: (a) that portion of the compensation which represents the value for the remainder of the Lease term of any Lessee-constructed improvements taken by the condemning public entity, which amount shall not exceed the actual cost of such improvements reduced in proportion to the relationship of the remaining Lease term to the original Lease term, using a straight line approach, (b) any amount specifically designated as a moving allowance or as compensation for Lessee's personal property. Lessee shall have no claim against VTA for the value of any unexpired term of this Lease.
22. **DISPUTE RESOLUTION.**

22.1 Unless otherwise mutually agreed to, any controversies between Lessee and VTA regarding the construction or application of this Lease, and claims arising out of this Lease or its breach shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

22.2 The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Lease.

22.3 The costs of mediation shall be borne by the Parties equally.

22.4 Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation arising out of any dispute related to this Lease, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

23. **NON-LIABILITY OF OFFICIALS AND EMPLOYEES OF VTA.**

No official or employee of VTA shall be personally liable for any default or liability under this agreement.

24. **NON-DISCRIMINATION.**

Lessee agrees that in the performance of this Lease, Lessee, its employees and subcontractors shall not unlawfully discriminate against any employee or applicant for employment, refuse to enter into any contract, or cancel or decline to renew or reinstate any contract, nor modify the terms of a contract because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age, sexual orientation or gender, and shall take affirmative action to assure that applicants are lawfully employed, and that employees and contracting parties are lawfully treated, without regard to their race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age, sexual orientation or gender.

25. **ESTOPPEL CERTIFICATE.**

Each Party shall, from time to time, upon at least thirty (30) days prior written notice from the other Party, execute, acknowledge and deliver to the other Party, a statement in writing (i) certifying this Lease is unmodified and in full force and effect, or, if modified, stating the
nature of the modification and certifying that the Lease, as modified, is in full force and effect, and the date to which the rental and other charges, if any, have been paid; and, (ii) acknowledging that there are not to the representing Party’s knowledge, any defaults, or stating if any defaults are claimed. Any statement may be relied upon by any prospective purchaser, lender, or other interested party.

26. **LIENS.**

Lessee agrees at its sole cost and expense to keep the Premises free and clear of any and all claims, levies, liens, encumbrances or attachments. Lessee may at any time encumber its fixtures or equipment with purchase money financing, without the consent of VTA, but no such encumbrance will constitute a lien on VTA’s estate. VTA will comply with all reasonable and customary requests of any lender or financing party to execute such documents as may be necessary to carry out the intent of this Section 26.

27. **VACATING.**

Upon expiration or early termination of the tenancy, Lessee shall completely vacate the Premises, including the removal of any and all of its personal property. Before departure, Lessee shall return keys and personal property listed on the inventory to VTA in good, clean and sanitary condition, reasonable wear and tear excepted. Lessee shall allow VTA to inspect the Premises to verify the condition of the Premises and its contents.

28. **ABANDONMENT.**

Lessee’s absence from the Premises for ten (10) consecutive days, without prior notice, during which time rent or other charges are delinquent, shall be deemed abandonment of the Premises. Such abandonment will be deemed cause for immediate termination without notice. VTA shall thereupon be authorized to enter and take possession and to remove and dispose of the property of Lessee or its guests in accordance with law.

29. **NOTICES.**

All notices to the Parties shall, unless otherwise requested in writing, be sent to VTA addressed as follows:

Santa Clara Valley Transportation Authority
Attention: Real Estate Division
3331 N. First Street, Bldg. B-2
San Jose, CA 95134
Or by facsimile at (408) 955-0896

And to Lessee addressed as follows:

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Santa Clara Valley Transportation Authority and
Caffe Del Doge Venezia, Inc.

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Caffe del Doge, Inc (Claudia Cornejo)  
Address: 419 University Avenue  
Palo Alto, CA 94301-1813  
Or by facsimile at (206) 350-6349

Notices may be served upon Lessee in person or by first class mail or by certified mail to Lessee whether or not said mailing is accepted by Lessee. If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

30. **MISREPRESENTATIONS.**

Any statements submitted to City in the request for proposal by Lessee are considered inducements to execute this Lease. Misrepresentation shall entitle VTA to terminate this Lease at any time.

31. **SIGNING AUTHORITY.**

Each person whose signature appears below represents that he/she is duly authorized to enter into this Lease on behalf of the Party indicated below.

32. **CHANGE OF LOCKS.**

Lessee, at Lessee’s expense, and VTA’s approval, may re-key the locks on the west and east exterior doors (as indicated on Exhibit A), but not the north door used by VTA bus operators for restroom access. Lessee shall advise VTA of such action and shall provide VTA and JPB/Caltrain with keys to said locks. Lessee shall also deliver to VTA the old locks and keys. The new locks shall become the property of VTA.

33. **CAPTIONS.**

The captions of the various sections, paragraphs and subparagraphs of this Lease are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

34. **INTEGRATED DOCUMENT.**

This Lease, including any exhibits attached hereto, embodies the entire agreement between
VTA and Lessee and its terms and conditions. No other understanding, agreements, conversations or otherwise, with any officer, agent or employee of VTA prior to execution of this Lease shall affect or modify any of the terms or obligations contained in any documents comprising this Lease. Any such verbal agreement shall be considered as unofficial information and in no way binding upon VTA. This Lease may be modified only by a written amendment duly executed by the Parties to this Lease. All agreements with VTA are subject to approval of the VTA Board of Directors and shall be bound thereby.

35. **WAIVER.**

Waiver by either Party of one or more conditions of performance or any breach or condition under this Lease shall not be construed as a waiver(s) of any other condition of performance or subsequent breaches or conditions. The subsequent acceptance by a Party of the performance of any obligation or duty by another Party shall not be deemed to be a waiver of any term or condition of this Lease. The exercise of any remedy, right, option or privilege hereunder by either Party shall not preclude such Party from exercising the same or any and all other remedies, rights, options and privileges hereunder and a Party’s failure to exercise any remedy, right, option or privilege at law or equity, or otherwise which such Party may have, shall not be construed as a waiver.

36. **CITY/VTA SUBLEASE**

Lessee has been provided a copy of the March 31, 1981 sublease between City and VTA, and VTA and Lessee agree that all of the provisions of that document shall be incorporated by reference into this Lease and that Lessee agrees to be bound by all the terms, covenants, and conditions of that document.

37. **INTERPRETATIONS.**

In construing or interpreting this Lease, the word "or" shall not be construed as exclusive and the word "including" shall not be limiting. The Parties agree that this Lease shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against either Party.

38. **SEVERABILITY CLAUSE.**

If any provision of this Lease is held to be illegal, invalid or unenforceable in full or in part, for any reason, then such provision shall be modified to the minimum extent necessary to make the provision legal, valid and enforceable, and the other provisions of this Lease shall not be affected thereby.

39. **GOVERNING LAW.**

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This Lease shall be governed and construed in accordance with the statutes and laws of the State of California.

40. **VENUE.**

If suit is brought by any Party to this Lease, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara.

41. **COMPLIANCE WITH LAWS.**

The Parties hereto shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments in the performance of their rights, duties and obligations under this Lease.

42. **BROKERS.**

Each Party represents that it has not had dealings with any real estate broker, finder, or other person, with respect to this lease in any manner. Each Party ("Indemnifying Party") shall hold harmless the other Party from all damages resulting from any claims that may be asserted against the other Party by any broker, finder, or other person with whom the Indemnifying Party has or purportedly has dealt.

LESSEE:

*Caffe Del Doge Venezia, Inc., a Delaware corporation, dba Caffe Del Doge*

By: ________________________________
   Claudia Cornejo
   Title: President and CEO

Local Address: 419 University Ave

Telephone: (650) 796-3124
Fax: (206) 350-6349

LESSORS:

*Santa Clara Valley Transportation Authority*

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Lease Agreement between Santa Clara Valley Transportation Authority and Caffe Del Doge Venezia, Inc.  
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By: __________________________
    Michael T. Burns
Title: General Manager

Approved as to form:

________________________________________
Counsel

With The Consent of:
Stanford:
The Board of Trustees of the
Leland Stanford Junior University,
a body having corporate powers
under the laws of the State of California
By Stanford Management Company

By __________________________
Title: __________________________

City of Palo Alto, California,
a chartered California municipal corporation

By: __________________________
   [Assistant City Manager or Designee]
COMMERCIAL PROPERTY LEASE AGREEMENT
BY AND BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
Caffe Del Doge
EXHIBIT A

DESCRIPTION OF SUBJECT PROPERTY
General Requirement and Specifications for Custodian Services

Facility: Train Depot Facilities and Restroom

Location:

Servicing Frequency: Five Days per Week, (Monday through Friday)

Contractor shall provide initial and annual cleaning service for the complete interior of the facility, then daily, monthly and semi-annually service thereafter for designated areas as listed below. Contractor shall use “green” cleaning products to comply with Green Seal GS-37, and recycled content paper products.

Type of Service: Restrooms - Complete daily servicing.
Empty all trash and waste containers in all restrooms. All waste containers to be kept lined with proper liners, which must be replaced immediately when needed. Empty and replace with new liners all sanitary napkin receptacles. Replace and refill, as needed, all dispensers and containers. All soap dispensers require non-anti-bacterial hand soap. Damp wipe toilet partitions and all wall areas showing any stains, spots, grime and/or any abuse in general. Remove any graffiti immediately from any surface as it appears, as well as “spitballs,” etc. Clean mirrors and keep all chrome fixtures clean. Sweep floors and properly dispose of all trash items. Damp mop floor areas with disinfectant cleaner. Clean drains, counter tops, and both the interior and exterior surfaces of sinks, toilet bowls and urinals with brush and disinfectant cleaner. Pour one gallon of water down each floor drain.

Frequency: Daily, Monday through Friday

Type of Service: Hallway and Lobby Area Including Coffee Stand
Empty all trash receptacles and replace liners with proper size and depth. Sweep floors and dispose of all trash items. Damp mop all floor areas with proper disinfectant cleaners. Clean marks from glass on entry doors.

Frequency: Daily, Monday through Friday

Type of Service: Entire Facility
Strip and refinish all ceramic and vinyl tiled floor areas.

Frequency: Twice Annually

Type of Service: Entire Facility
Wash interior and exterior of all windows.
**Frequency:** Twice Annually

**Type of Service:** Entire Facility
Spray Buff with a high-speed buffer all tiled areas including restrooms, lobby and hallway.

**Frequency:** Monthly

**Type of Service:** Entire Facility
Dust all countertops, window ledges, etc. Remove cobwebs from walls and ceilings.

**Frequency:** Monthly
COMMERCIAL PROPERTY LEASE AGREEMENT
BY AND BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
Caffe Del-Doge
Exhibit B

DESCRIPTION OF THE JANITORIAL SERVICE AREA

Pass Through Window

Door may be re-keyed by Lessee

Mezzanine

Mechanical Room

Ticket Storage

Men

Proposed Depot Cafe Area

Women

Waiting Room

Ticket Office

Agent

Women's Waiting

Door may be re-keyed by Lessee
COMMERCIAL PROPERTY LEASE AGREEMENT
BY AND BETWEEN
CITY OF PALO ALTO, CALIFORNIA
AND
CAFFE del DOGE
EXHIBIT C

Secretary of the Interior’s Standards for Rehabilitation*

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of the property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time: Those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measure shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

*Guidelines for these Standards are available for public review in the Palo Alto Planning Department.
EXHIBIT D - Proposed Development Plans

PLAN COUNTER AND DINING ZONE

www.designitcsffederlags.com
COMMERCIAL PROPERTY LEASE AGREEMENT
BY AND BETWEEN
SANTA CLARA VALLEY TRANSPORTATION AUTHORITY
AND
CAFFE DEL DOGE
EXHIBIT E

INSURANCE REQUIREMENTS

Insurance Requirements for Lessee:

Lessee shall purchase and maintain the insurance policies set forth below on all of its operations under this Lease at its sole cost and expense. Such policies shall be maintained for the full term of this Lease and the related warranty period (if applicable). For purposes of the insurance policies required under this Lease, the term "Santa Clara Valley Transportation Authority" ("VTA") shall include the duly elected or appointed members of the Board of Directors, commissioners, officers, agents, employees and volunteers of VTA, individually or collectively.

Coverages

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3) Worker's Compensation insurance as required by the Labor Code of the State of California and Employer's Liability Insurance (for lessees with employees).
4) Property insurance against all risks of loss to any Lessee improvements or betterments

The policy or policies of insurance maintained by LESSEE shall provide the following limits and coverages:

<table>
<thead>
<tr>
<th>POLICY</th>
<th>MINIMUM LIMITS OF LIABILITY</th>
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<tbody>
<tr>
<td>(1) Commercial General Liability</td>
<td>$2,000,000 per each occurrence for bodily injury, personal injury and property damage</td>
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<tr>
<td>(2) Automobile Liability</td>
<td>$1,000,000 Combined Single Limit</td>
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<tr>
<td>Including Owned, Hired and</td>
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<td>Non-Owned Automobiles</td>
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<td>(3) Workers' Compensation</td>
<td>Statutory</td>
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<td>Employers Liability</td>
<td>$1,000,000 per accident for bodily injury or disease</td>
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<td>(4) Lessee's Property Insurance</td>
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<td>Lessee shall procure and maintain</td>
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<tr>
<td>property insurance coverage for:</td>
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<td>(a) all office furniture, trade</td>
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<tr>
<td>fixture, office equipment,</td>
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<tr>
<td>merchandise, and all other items of</td>
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<tr>
<td>Lessee's property in, on, at, or</td>
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<td>about the premises and the building,</td>
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<td>including property installed by, for,</td>
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<td>or at the expense of Lessee;</td>
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<td>(b) all other improvements,</td>
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<tr>
<td>betterments, alterations, and</td>
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<td>additions to the premises.</td>
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Lessee’s property insurance must fulfill the following requirements:
(a) it must be written on the broadest available “all risk” policy form or an equivalent form acceptable to VTA, including earthquake sprinkler leakage.
(b) for no less than ninety percent (90%) of the full replacement cost (new without deduction for depreciation) of the covered items and property; and
(c) the amounts of coverage must meet any coinsurance requirements of the policy or policies.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by VTA. At the option of VTA either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects VTA, its officers, officials, employees and volunteers; or the LESSEE shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Insurance shall be in full force and effect commencing on the first day of the term of this Lease.

Each insurance policy required by this Lease shall:

1. Be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days’ prior written notice by certified mail, return receipt requested, has been given to VTA.

2. Include a waiver of all rights of subrogation against VTA and the members of the VTA Board of Directors, elective or appointive officers or employees, and each party shall indemnify the other against any loss or expense including reasonable attorney fees, resulting from the failure to obtain such waiver.

3. Name the SANTA CLARA VALLEY TRANSPORTATION AUTHORITY as a loss payee on the property policy.

4. Provide that VTA, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects liability arising out of activities performed by or on behalf of the LESSEE; products and completed operations of the LESSEE; premises owned, occupied or used by the LESSEE; or automobiles owned, leased, hired or borrowed by the LESSEE. The coverage shall contain no special limitations on the scope of protection afforded to VTA, its officers, officials, employees, agents or volunteers.

5. Provide that for any claims related to this Lease, the LESSEE’s insurance coverage shall be primary insurance as respects VTA, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by VTA, its officers, officials, employees, agents or volunteers shall be excess of the LESSEE’s insurance and shall not contribute with it.

6. Provide that any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to VTA, its officers, officials, employees, agents or volunteers.

7. Provide that LESSEE’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

8. LESSEE agrees to promptly pay to VTA as Additional Rent, upon demand, the amount of any increase in the rate of insurance on the Premises or on any other part of Building that results by reason of LESSEE’s act(s) or LESSEE’s permitting certain activities to take place.
Acceptability of Insurers

All insurance policies shall be issued by California-admitted carriers having current A.M. Best's ratings of no lower than A-:VII.

Other Insurance Requirements

LESSEE shall deposit with VTA, on or before the effective date of this Lease, certificates of insurance necessary to satisfy VTA that the insurance provisions of this Lease have been complied with, and to keep such insurance in effect and the certificates therefor on deposit with VTA during the entire term of this Lease. Should LESSEE not provide evidence of such required coverage at least three (3) days prior to the expiration of any existing insurance coverage, VTA may purchase such insurance, on behalf of and at the expense of LESSEE to provide six months of coverage.

VTA shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of VTA, the insurance provisions in this Lease do not provide adequate protection for VTA and for members of the public using the Premises, VTA may require LESSEE to obtain insurance sufficient in coverage, form, and amount to provide adequate protection as determined by VTA's Risk Manager. VTA's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk that exists at the time a change in insurance is required.

VTA shall notify LESSEE in writing of changes in the insurance requirements. If LESSEE does not deposit copies of acceptable insurance policies with VTA incorporating such changes within sixty (60) days of receipt of such notice; or in the event LESSEE fails to maintain in effect any required insurance coverage, LESSEE shall be in default under this lease without further notice to LESSEE. Such failure shall constitute a material breach and shall be grounds for immediate termination of this Lease at the option of VTA.

The procuring of such required policy or policies of insurance shall not be construed to limit LESSEE'S liability hereunder nor to fulfill the indemnification provision and requirements of this Lease. Notwithstanding the policy or policies of insurance, LESSEE shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Lease or with use or occupancy of the Premises.
March ___, 2008

Santa Clara Valley Transportation Authority
3331 North First street, Building B-2
San Jose, CA 95134-1927
Attention: ______________

Re: Lease dated as of June 10, 1915 (the “Lease”), by and between The Board of Trustees of the Leland Stanford Junior University (“Landlord”) and the City of Palo Alto (“Tenant”), covering certain premises (the “Premises”) commonly known as the University Avenue Train Depot, Palo Alto, CA; Sublease dated as of March 31, 1981 (the “Sublease”) by and between Tenant and The Santa Clara Valley Transportation Agency (“Subtenant”) for a portion of the Premises (the “Sublease Premises”); Sub-Sublease dated as of __________, 2008 (the “Sub-Sublease”) by and between the Subtenant and Caffe Del Doge Venezia, Inc., dba Caffe Del Doge (the “Sub-Subtenant”) for a portion of the Sublease Premises (the “Sub-Sublease Premises”).

Gentlemen/Ladies:

We understand that Subtenant has entered into the Sub-Sublease with Sub-Subtenant and, in accordance with the terms of the Lease, has requested the consent of Landlord to such subletting. By execution of this letter agreement, Tenant, Subtenant and Sub-Subtenant acknowledge and agree to the terms hereof. Landlord’s consent shall not be effective until receipt by Landlord of a counterpart of this letter agreement duly executed by each of Tenant, Subtenant and Sub-Subtenant. Sub-Subtenant shall have no right to occupy the Sub-Sublease Premises unless and until a fully executed original of this letter agreement is delivered to Landlord, and any premature occupancy shall, at Landlord’s election, be a default under the Lease.

1. Subject to the following provisions of this letter agreement, Landlord hereby consents to Subtenant’s sublease of the Sub-Sublease Premises to Sub-Subtenant pursuant to the Sub-Sublease.

2. The Sub-Sublease is and shall remain at all times subject and subordinate in all respects to the Lease.

3. This consent shall not modify or be deemed to modify or amend the Lease in any way, or to impose on Landlord any obligation to provide notice to, or obtain consent from, Sub-Subtenant with respect to amendments, defaults, waivers or any other matters pertaining to the Lease or the Premises. Any waiver by Landlord of its rights shall be made only by a writing signed by Landlord.
4. At Landlord's sole option, any termination of the Lease, including but not limited to by reason of its expiration, or a voluntary surrender of the Lease by Tenant, or any default of Tenant, shall automatically and without notice or demand, terminate the Sub-Sublease and Sub-Subtenant agrees promptly to surrender the Sub-Sublease Premises to Landlord upon such termination without compensation from Landlord.

5. By execution of this letter agreement, Sub-Subtenant hereby agrees that all indemnities set forth in the Sub-Sublease in favor of Subtenant shall also apply to and benefit Landlord.

6. Neither Tenant, Subtenant nor Sub-Subtenant shall use any name, trademark or service mark of Landlord or Stanford University without the prior written consent of Landlord which consent may be given or withheld in Landlord's sole discretion.

7. This agreement shall not be nor be deemed to be a consent or waiver or amendment of the Lease with respect to any other or future transaction, whether similar or dissimilar, and any other or future transaction shall require Landlord's written consent, which consent, except as otherwise expressly provided in the Lease, may be given or withheld in Landlord's sole discretion.

Please confirm your acceptance of and agreement with the terms hereof by signing and returning to the undersigned the enclosed copy hereof.

LANDLORD:

THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR UNIVERSITY

By: ____________________________

Its: ____________________________

ACKNOWLEDGED AND AGREED:

SUBTENANT:

SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY

By: ____________________________

Its: ____________________________

Title: __________________________

Dated: _________________________

SUB-SUBTENANT:

CAFFE DEL DOGE VENEZIA, INC.,

By: ____________________________

Its: ____________________________

Title: __________________________

Dated: _________________________
ATTACHMENT C
Proposal Evaluation Criteria

1. The extent to which the proposal satisfies a public need or provides public benefit.

2. The extent to which the proposal is responsive to the guidelines and standards for rehabilitation for historic preservation of the property as set out in the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings attached as Exhibit B to the Information Flyer.

3. The consistency of the proposed use with existing City goals and objectives (set forth in the Comprehensive Plan, Zoning Ordinance, and Municipal Code).

4. The impact of the proposed use upon the other tenants of the Depot, the immediate neighborhood, the community generally, and the environment.

5. The history and assessment of the proposer's ability to carry out the proposed improvements and operate the facility and services as proposed;

6. The consideration (monetary and non-monetary) to be provided to the City.

7. The degree of public access, i.e., the numbers of people, especially City residents and taxpayers, that will be served by the proposed use.

8. The fees that will be charged to Palo Alto citizens, if any.

9. A three-year pro-forma financial analysis of the proposed use, setting forth the project revenues and expenses for that period of time.

10. Evidence of the proposer's ability to finance or to obtain financing for the required improvements.
ATTACHMENT D

SUMMARY OF SUBLEASE
for the University Avenue Depot Coffee Concession
95 University Avenue, Palo Alto

LESSOR:
Santa Clara Valley Transportation Authority (VTA)

TENANT:
Caffe Del Doge Venezia, Inc.

CONSENTORS:
Stanford University (Stanford)
City of Palo Alto (City)

PREMISES:
95 University Avenue, University Avenue Depot, approximately 1,289 square feet of interior space, including the cafe Area, an office, portions of the news stand and ticket storage areas on the mezzanine, and an employee locker area located in the women’s waiting room.

PURPOSE:
To provide for: 1) a food and beverage service (cafe) for the general public in an approximately 1,289 square-foot portion of the 5,375 square-foot Depot; 2) janitorial service for the Depot; and 3) public access to restrooms within the Depot.

TERM:
The primary term will be approximately 5 years, from the delivery date of the lease through the remainder of VTA’s sublease with City (expiration date is June 30, 2013 unless City exercises its right to terminate its lease with Stanford, in which case expiration date is February 26, 2013).

OPTIONS TO EXTEND:
Tenant may extend the lease beyond the primary term for two consecutive, five-year periods, with either VTA or City as sublessor. In the event the term of the sublease between VTA and City terminates at or before the end of the primary term, as anticipated, or in the event the sublease between VTA and City is extended and terminates at any other time, Tenant shall become a direct subtenant of City at the time VTA’s lease with City terminates. Tenant’s options to extend are subject to City exercising its option to extend its lease with Stanford.

USES:
A. REQUIRED USE:
1. Cafe service consisting of non-alcoholic beverage and food service for on-premises consumption and take-out, including coffee, specialty drinks and related items.
2. Public access to Depot restrooms to be provided during operating hours of cafe service. Access to be provided by unlocking restroom doors upon opening the cafe and locking the doors upon closing. Tenant agrees and acknowledges that
VTA bus operators will be allowed to use restrooms 24 hours per day, seven days per week.

3. Janitorial service for the Premises, Depot main room and restrooms as outlined in Exhibit B to the sublease.

B. RESTRICTED USE: Tenant shall use the premises only for required uses without VTA’s prior written consent.

CONSIDERATION/RENT:
No rent for the first 6 months of retail operations. Beginning on the first day of the seventh (7th) month of retail operations, the Base Rent will be $1,500.00 per month. Beginning on the first day of the first Option Period, the Base Rent will be $1,650.00, and will be adjusted each year based on the Consumer Price Index (CPI).

SECURITY DEPOSIT:
$2,000, which VTA may use to remedy any Sublessee default.

REQUIRED AND PERMITTED IMPROVEMENTS:
At its own cost, Tenant must design, construct and install appropriate improvements, in accordance with the Secretary of Interior’s Standards for Historic Rehabilitation and as approved by the City Building and Planning Divisions, to accommodate the required uses and services. Except for the placement of business fixtures and equipment, Tenant may not make any alterations or improvements to the premises without prior written consent of VTA.

OPERATING REQUIREMENTS:
Tenant must: 1) use the Premises for required uses only except for space for office, clerical or other non-sales uses as is reasonably required; 2) maintain a written schedule of operating hours and prices charged, and upon written request, provide VTA a copy of the schedules and procedures; and 3) operate the services in a competent and efficient manner comparable to other well-managed operations of a similar type.

MAINTENANCE:
Tenant is responsible for maintaining the premises and for providing janitorial service to the Depot main room and restrooms. VTA is responsible for the maintenance and repair of the Depot as provided in its sublease with City, including the main support systems and common areas not exclusively serving the Premises.

UTILITIES:
Tenant to pay VTA for its pro-rata share of public utility expenses. Tenant is responsible for all computer hardware/software acquisition, installation, maintenance and removal.

ASSIGNMENT/SUBLETTING:
Assignment or encumbrance of the Sublease is prohibited without first obtaining the written consent of the VTA.

TAXES, ASSESSMENTS, INSURANCE:
Tenant shall be responsible for all taxes and assessments for the premises and Tenant’s personal property, and shall maintain insurance meeting the VTA requirements for insurance protection. VTA shall maintain insurance coverage as required under its sublease with the City.