

LEASE BETWEEN
THE CITY OF HUNTINGTON BEACH
AND CURRENTS OUTDOOR, LLC

THIS Lease (the "Lease") is made and entered into by and between the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California ("City") and CURRENTS OUTDOOR, LLC, a California limited liability company ("Lessee").

WHEREAS, City wishes to lease certain real property (the "Property"), consisting of approximately 3.9 acres located at 10449 East Adams Avenue, as depicted in Exhibit A, attached hereto and incorporated herein by this reference;

Lessee desires to operate a wholesale nursery ("Nursery") on the Property; and lease the Property in the manner set forth below.

NOW, THEREFORE, the parties covenant and agree as follows:

SECTION 1. OPERATION OF THE NURSERY

The Property is subject to City of Huntington Beach Conditional Use Permit No.1985-006 (the "CUP") pursuant to which the Nursery may be operated. A copy of the CUP is attached hereto as Exhibit "B."

SECTION 2. TIME OF ESSENCE

Time shall be of the essence of this Lease and each and all of its terms, covenants or conditions in which performance is a factor.

SECTION 3. CONDITION OF PROPERTY

The taking of possession of the Property by Lessee shall, in itself, constitute acknowledgement that the Property, and any facilities, structures, improvements or buildings presently located on the Property, (hereinafter collectively referred to as the "Facilities") are in good and tenantable condition. Upon taking possession of the Property, Lessee agrees to accept

the Property and Facilities, “as is,” and agrees that the City shall not be obligated to make any alterations, additions or betterments thereto.

SECTION 4. RESERVATIONS, ENCUMBRANCES AND RIGHTS-OF-WAY

- (a) City expressly reserves all natural resources in, on, or under the Property, including, without limitation, oil, coal, natural gas and other hydrocarbons, minerals, aggregates, timber and other geothermal resources, as well as the right to grant leases or other contractual arrangements in and over the Property for the extraction of such natural resources. However, such leasing or other arrangement shall be neither inconsistent nor incompatible with the rights or privileges of Lessee under this Lease.
- (b) City expressly reserves a right to enter upon the Property with as much advance written, verbal or electronic notice as possible to Lessee for any reason associated with public health, safety or welfare, or for the protection of life, limb or property. In all other cases unless otherwise specifically set forth herein, City reserves the right for such entry but City shall give Lessee at least twenty-four (24) hours advance written, verbal or electronic notice. City shall have a right of reasonable access to the Property across Lessee owned, controlled or occupied lands adjacent to the Property, if any, for any purpose associated with this Lease.
- (c) City expressly reserves the right to lease, convey, or encumber the Property, in whole or in part, for any purpose not inconsistent or incompatible with the rights or privileges of Lessee under this Lease. In addition, Lessee agrees to subordinate the Lease to any existing or future City financing regarding the Property or any

portion thereof. Lessee also agrees to cooperate and provide any documentation necessary for City to obtain any such financing.

- (d) This Lease is subject to pre-existing contracts, leases, licenses, easements, encumbrances and claims affecting the Property and it is made without warranty by City of title, condition or fitness of the land for the stated or intended use.

SECTION 5. TERM

The term of this Lease is five (5) years, commencing on _____, 2026, and shall end at 11:59 p.m. on _____, 2031, unless extended, or sooner terminated, as provided for herein. The term may be extended for one additional five (5) year period upon mutual written agreement of both parties.

SECTION 6. RENT

Lessee agrees to pay to City as rent ("Rent") for the use and occupancy of the Property the sum of Two Thousand Six Hundred Twenty and no/100 Dollars (\$2,620.00) per month payable in advance on or before the 1st of each month during the Lease Term. Lessee shall prepay the initial six months rent in advance within five (5) days following City Council approval of this Lease. Lessee shall pay rent to the City at the City Treasurer's office, P. O. Box 711, Huntington Beach, California 92648 or at such other place or places as City may from time to time designate by written notice delivered to Lessee in the manner set forth in the "Notices" Section of this Lease Agreement.

SECTION 7. RENT ESCALATOR

Rent shall be subject to an annual escalator beginning on the first anniversary of this Lease, such that each year of the Lease term and any authorized extensions in accordance with

Section 11 authorized by the “Term” Section above, Rent will be increased by Two Percent (2%) per year.

SECTION 8. ADDITIONS, ALTERATIONS AND REMOVAL

- (a) No modifications, alterations or additions to the Property, including, without limitation, construction of Improvements or changes to structural design, landscape design, or interior or exterior furnishings, shall be constructed or made by Lessee without Lessee first obtaining the prior written approval of City, which will not be unreasonably withheld.
- (b) Except as provided under this Lease, no alteration or removal of existing Facilities on or natural features of the Property shall be undertaken without Lessee first obtaining the prior written approval of City.
- (c) Lessee’s obligation to obtain City’s prior written approval is separate and independent of Lessee’s obligation to obtain any permits from City, such as, without limitation, a building permit.
- (d) Lessee shall pay a security deposit to City in the amount of Two Thousand Six Hundred Twenty and no/100 Dollars (\$2,620.00), to be held as security for the full and faithful performance of all terms and conditions of this Lease. The deposit shall be returned to Lessee without interest within thirty (30) days after the termination of this Lease, less any deductions for damages or unpaid Rent.

SECTION 9. CITY’S CONTRACT ADMINISTRATOR

City’s Director of Community Development, or his or her designee, shall be City’s Contract Administrator for this Lease with the authority to act on behalf of City for the purposes

of this Lease, and all City approvals and notices required to be given herein to City shall be so directed and addressed.

SECTION 10. LATE CHARGE AND PENALTY

If the Rent is not received by the City Treasurer by the 10th of each month for which the Rent is being paid, or the next business day if the 10th day falls on a weekend or holiday, Lessee shall pay the following late charge and penalty: (1) a late charge of ten percent (10%) shall be applied to any outstanding balance after any payment hereunder is due but unpaid; and (2) one and a half percent (1 ½%) penalty per month shall be added for each month the Rent is due but unpaid. With respect to any other payments required by Lessee, a one and a half percent (1 ½%) penalty per month shall be added for each month such payment hereunder is due but unpaid.

SECTION 11. EXTENSION

As provided below, this Lease Agreement may be extended for up to one (1) separate successive period of five (5) years, commencing on the expiration of the original term. Written notice of Lessee's request to extend each term must be provided to the Director of Community Development of City for approval no fewer than six (6) months prior to the expiration of the original Lease term. The City, at its sole discretion, will grant or deny Lessee's request for extension, and will notify Lessee in writing of its decision no later than 45 days after receiving the request for extension. If the request for extension is denied, this Lease will automatically terminate at the end of its original term. If the request for an extension is granted, this Lease will automatically be extended for an additional five year period.

SECTION 12. TERMINATION

This Lease Agreement may be terminated by either party without cause on thirty (30) days written notice delivered to the other party to this Lease Agreement in the manner set forth in the "Notices" Section of this Lease Agreement.

SECTION 13. REMOVAL OF FACILITIES UPON TERMINATION

Except as otherwise set forth in Section 53 herein, upon termination of this Lease, Lessee will remove all Facilities on the Property and restore the Property to its natural condition to the satisfaction of, and at no cost to, the City.

SECTION 14. INDEMNIFICATION, DEFENSE AND HOLD HARMLESS Agreement

Lessee hereby agrees to protect, defend, indemnify and hold harmless City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation (including arbitration) of every nature or liability of any kind or nature) arising out of or in connection with (1) the use or occupancy of the Property or Facilities by Lessee, its officers, employees or agents, or (2) the death or injury of any person or the damage to property caused by a condition of the Property, (3) operation of the Nursery; or (4) the death or injury of any person or the damage to property caused by any act or omission of Lessee, its officers, employees or agents, or (5) any failure by Lessee to keep the Property in a safe condition, or (6) Lessee's (or Lessee's agents and/or sublessees, if any) performance of this Lease or its failure to comply with any of its obligations contained in this Lease by Lessee, its officers, agents or employees except such loss or damage which was caused by the sole negligence or willful misconduct of City. Lessee shall hold all personal property or trade inventory on the Property at the sole risk of Lessee and save City harmless from any loss or

damage thereto by any cause whatsoever, except such loss or damage which was caused by the sole negligence or willful misconduct of City. City shall be reimbursed by Lessee for all costs and attorney's fees incurred by City in enforcing Lessee's obligations set forth in this Section. Lessee will conduct all defense at its sole cost and expense and City shall approve selection of Lessee's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Lessee.

SECTION 15. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE

Lessee acknowledges awareness of Section 3700 *et seq.* of the *California Labor Code*, which requires every employer to be insured against liability for workers' compensation. Lessee covenants that it shall comply with such provisions prior to the commencement of this Lease. Lessee shall obtain and furnish to City workers' compensation and employers' liability insurance in amounts not less than the State statutory limits. Lessee shall require all contractors to provide such workers' compensation and employers' liability insurance for all of the sublessees' and contractors' employees. Lessee shall furnish to City a certificate of waiver of subrogation under the terms of the workers' compensation and employers' liability insurance and Lessee shall similarly require all contractors to waive subrogation.

SECTION 16. GENERAL PUBLIC LIABILITY INSURANCE

In addition to the workers' compensation and employers' liability insurance and Lessee's covenant to defend, hold harmless and indemnify City, Lessee shall obtain and furnish to City, a policy of general public liability insurance, including motor vehicle coverage against any and all claims arising out of or in connection with the Property or Facilities. This policy shall indemnify

Lessee, its officers, employees and agents, while acting within the scope of their duties, against any and all claims arising out of or in connection with the Property or Facilities, and shall provide coverage in not less than the following amount: combined single limit bodily injury and property damage, including products/completed operations liability and blanket contractual liability, of One Million Dollars (\$1,000,000.00) per occurrence. If coverage is provided under a form which includes a designated general aggregate limit, the aggregate limit must be no less than One Million Dollars (\$1,000,000.00) for the Property. This policy shall name City, its officers, elected or appointed officials, employees, agents, and volunteers as Additional Insureds, and shall specifically provide that any other insurance coverage which may be applicable to the Lease shall be deemed excess coverage and that Lessee's insurance shall be primary.

Under no circumstances shall said above-mentioned insurance contain a self-insured retention, or a "deductible" or any other similar form of limitation on the required coverage.

SECTION 17. PROPERTY INSURANCE

Lessee shall provide before commencement of this Lease and shall obtain and furnish to City, at Lessee's sole cost and expense, property and fire insurance with extended coverage endorsements thereon, by a company acceptable to City authorized to conduct insurance business in California, in an amount insuring for the full insurable value of all Improvements, personal property whether or not owned or leased by Lessee, and all trade inventory in or on the Property against damage or destruction by fire, theft or the elements. This policy shall contain a full replacement cost endorsement naming Lessee as the insured and shall not contain a coinsurance penalty provision. The policy shall also contain an endorsement naming City as an Additional Insured. The policy shall contain a special endorsement that such proceeds shall be used to repair, rebuild or replace any such Improvements, personal property whether or not owned or

leased by Lessee, and all trade inventory so damaged or destroyed; and if not so used, such proceeds (excluding any insurance proceeds for personal property whether or not owned or leased by Lessee, and trade inventory, but only to the extent the insurance proceeds specifically cover those items) shall be paid to City. The policy shall also contain a special endorsement that if the Property is so destroyed triggering the parties' ability to terminate as set forth herein, and either party elects to terminate the Lease, the entire amount of any insurance proceeds (excluding such proceeds for personal property whether or not owned or leased by Lessee and trade inventory, but only to the extent the insurance proceeds specifically cover those items) shall be paid to City. The proceeds of any such insurance payable to City may be used, in the sole discretion of City, for rebuilding or repair as necessary to restore the Property or for any such other purpose(s) as City sees fit.

This policy shall also contain the following endorsements:

- (a) The insurer shall not cancel or reduce the insured's coverage without (30) days prior written notice to City;
- (b) City shall not be responsible for premiums or assessments on the policy.

A complete and signed certificate of insurance with all endorsements required by this Section shall be filed with City prior to the execution of this Lease. At least thirty (30) days prior to the expiration or termination of any such policy, a signed and complete certificate of insurance showing that coverage has been renewed shall be filed with City.

SECTION 18. INCREASE IN AMOUNT OF GENERAL PUBLIC LIABILITY
AND PROPERTY INSURANCE

Not more frequently than once every two (2) years, if, in the sole opinion of City, the amount and/or scope of general public liability insurance and/or property insurance coverage in

the “General Public Liability Insurance” and “Property Insurance” Sections hereof, at that time is not adequate, Lessee shall increase the insurance coverage as reasonably required by City.

SECTION 19. CERTIFICATES OF INSURANCE; ADDITIONAL INSURED
ENDORSEMENTS

Prior to commencement of this Lease, Lessee shall furnish to City certificates of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverages as required by this Lease; these certificates shall:

- (a) provide the name and policy number of each carrier and policy;
- (b) shall state that the policy is currently in force; and
- (c) shall promise to provide that such policies shall not be canceled or modified without thirty (30) days’ prior written notice of City; however ten (10) days’ prior written notice in the event of cancellation for nonpayment of premium, which 10-day notice provision shall not apply to property insurance in “Property Insurance” Section hereof.

Lessee shall maintain the foregoing insurance coverages in force during the entire term of the Lease or any renewals or extensions thereof or during any holdover period.

The requirement for carrying the foregoing insurance coverages shall not derogate from Lessee’s defense, hold harmless and indemnification obligations as set forth in this Lease. City or its representatives shall at all times have the right to demand the original or a copy of any or all the policies of insurance. Lessee shall pay, in a prompt and timely manner, the premiums on all insurance hereinabove required.

SECTION 20. INSURANCE HAZARDS

Lessee shall not commit or permit the commission of any acts on the Property nor use or permit the use of the Property in any manner that will increase the existing rates for, or cause the cancellation of any liability, property, or other insurance policy for the Property or required by this Lease. Lessee shall, at its sole cost and expense, comply with all requirements of any insurance carrier providing any insurance policy for the Property or required by this Lease necessary for the continued maintenance of these policies at reasonable rates.

SECTION 21. RELEASE

Lessee hereby releases and forever discharges City of and from any and all claims, demands, actions or causes of action whatsoever which Lessee may have, or may hereafter have, against the City specifically arising out of the matter of the entry of Lessee onto the Property or the operation of the Facilities. This is a complete and final release and shall be binding upon Lessee and the heirs, executors, administrators, successors and assigns of Lessee's use of the Property and Facilities under this Lease Agreement. Lessee hereby expressly waives any rights under or benefit of any law of any jurisdiction whatsoever providing to the contrary. Neither the acceptance of this Release nor any payment made hereunder shall constitute any admission of any liability of City.

SECTION 22. WASTE

Lessee shall not alter, damage or commit any kind of waste upon the Property of Facilities or any improvement, equipment or personal property thereon and shall not interfere in any manner with the operations or activities of City. Lessee shall not cause any workmen's or materialmen's liens to be placed upon the Property or Facilities and agrees to indemnify and hold City harmless against any such liens including but not limited to the payment of attorneys' fees.

SECTION 23. MAINTENANCE OF PROPERTY

Lessee agrees to care for and maintain the Property, at Lessee's sole cost and expense, during the entire term of this Lease Agreement or any extension thereof, in good and satisfactory condition as acceptable to the City. In the event Lessee does not maintain the Property in a satisfactory manner, Lessee authorizes City to perform such maintenance on Lessee's behalf. All costs incurred performing said maintenance shall be assessed to and billed directly to the Lessee. Lessee agrees to pay such costs within ten (10) days of billing.

SECTION 24. CONTROL OF EQUIPMENT

Lessee shall keep any equipment used or brought onto the Property for the purposes of operating the nursery or maintaining the Facilities under its absolute and complete control at all times and said equipment shall be used on the Property at the sole risk of Lessee.

SECTION 25. TAXES

This Lease may create a possessory interest in property, which is subject to taxation. In the event that such possessory interest is created, Lessee agrees to be subject to the payment of and to pay taxes levied on such interest, at its sole cost and expense. Lessee also agrees to pay, at its sole cost and expense, before they become delinquent all other lawful taxes, assessments or charges, which at any time may be levied by any governmental agency including, without limitation, the State, County, City or any tax or assessment levying body upon any interest in this Lease, or any possessory right which Lessee may have in or to the Property, by reason of Lessee's use or occupancy thereof or otherwise, as well as all taxes, assessments, and charges on personal property and trade inventory in, on, or about the Property. Upon request, Lessee shall promptly furnish to City satisfactory evidence establishing such payment. Lessee shall comply

with all laws, regulations and ordinances regarding the collection of taxes due a government agency.

SECTION 26. PAYMENT OF OBLIGATIONS

Lessee shall promptly pay, at its sole cost and expense, before they become delinquent, any and all bills, debts, liabilities and obligations incurred by Lessee in connection with Lessee's occupation and use of the Property and/or operation of the Facilities. Upon request, Lessee shall promptly furnish to City satisfactory evidence establishing such payment.

SECTION 27. UTILITIES AND SERVICES

Lessee shall be responsible for the payment of all utility charges, including, without limitation, gas, electricity, water, telephone service, cable TV service, and the furnishing of all necessary refuse and garbage containers and the removal and disposal of all rubbish, refuse and garbage resulting from the operation of the Property and/or the Facilities. All such rubbish, refuse and garbage removed shall be disposed of in accordance with applicable laws and local ordinances. All trash containers and/or trash bins shall be adequately screened and located to the satisfaction of City. For the purposes of this Section, sewage disposal shall be construed as a utility. All such charges shall be paid by Lessee directly to the provider of the service and shall be paid as they become due and payable. Upon request, Lessee shall promptly furnish to City satisfactory evidence establishing such payment.

SECTION 28. BUSINESS LICENSE

Lessee shall maintain a business license from City during the entire term of this Lease or any renewals or extensions thereof or during any holdover period.

SECTION 29. SIGNS, ADVERTISING AND APPROVAL OF NAME

City shall have the right to approve in its sole discretion and at any time require Lessee to change or remove signs, names, placards, decorations or advertising placed on, or inscribed, painted or affixed upon the Property. Should City approve of any sign, name, placard, decoration or advertising, Lessee shall maintain the same at all times during the entire term of this Lease or any renewals or extensions thereof or during any holdover period in good appearance and repair. All signs, names, placards, decorations or advertising must comply with all requirements of any governmental authority with jurisdiction.

SECTION 30. NO ASSIGNING, SUBLEASING OR ENCUMBERING

- (a) Prohibition of Assignment. The parties acknowledge that City is entering into the Lease in reliance upon the experience and abilities of Lessee and its principals. Consequently, Lessee shall not voluntarily assign, encumber or otherwise transfer its interest in the Lease or in the Property, or sublease all or any part of the Property, or allow any other person or entity (except Lessee's authorized representatives) to occupy or use all or any part of the Property without the prior written consent of the Director of Economic Development, which consent may be conditioned on renegotiation of the terms and conditions of this Agreement in the sole and absolute discretion of the City. However, that City's consent shall not relieve Lessee from any and all of its obligations, liabilities, duties or responsibilities under this Lease. Any assignment, encumbrance, occupation or use, sublease or other transfer without such consent shall be voidable and, at City's sole discretion, shall constitute a Default of this Lease.

- (b) Consent to Transfer. City's consent to any assignment, encumbrance, occupation or use, sublease or other transfer is subject to Lessee providing City with evidence satisfactory to City that the proposed, assignee, encumbrancer, occupier or user, sublessee or other transferee has suitable financial strength, experience and character for operation and control of the Property and the Facilities and that the use of the Property by the proposed assignee, encumbrancer, occupier or user, sublessee or other transferee is consistent with that specified herein, and is commercially reasonable. Any proposed assignee, encumbrancer, occupier or user, sublessee or other transferee shall agree to abide by the terms and conditions of the Lease including, without limitation, all the obligations, liabilities, duties and responsibilities of Lessee, and other conditions imposed upon it pursuant to law. An approval by City to one assignment, encumbrance, occupation or use, sublease or other transfer shall not be deemed to be an approval to any other assignment, encumbrance, occupation or use, sublease or other transfer.
- (c) Voluntary assignment defined. Except as otherwise expressly provided herein, any dissolution, merger, consolidation or reorganization of Lessee, or the sale or other transfer resulting in a transfer of a controlling percentage of the capital stock of Lessee (other than a transfer by will, devise, bequest, intestate succession, a transfer to or between the family members of Lessee, or a transfer to or between one or more trusts for the benefit of Lessee and/or Lessee's family members, where applicable) shall be deemed a voluntary assignment.
- (d) Exceptions. Notwithstanding the foregoing paragraphs or anything to the contrary contained herein, City's consent shall not be required for an assignment

or subleasing to an Affiliate, Subsidiary or Successor of Lessee (for purposes hereof, an "Affiliate," a "Subsidiary" and a "Successor" of Lessee are defined as follows: (a) an "Affiliate" is any corporation which directly or indirectly controls or is controlled or is under common control with Lessee (for this purpose, "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities or by contract or otherwise), (b) a "Subsidiary" shall mean any corporation or partnership not less than twenty-five percent (25%) of whose outstanding stock shall, at the time, be owned directly or indirectly by Lessee and which is at least as creditworthy as Lessee, and (c) a "Successor" shall mean a corporation or partnership in which or with which Lessee is merged or consolidated, in accordance with applicable statutory provisions for merger or consolidation of corporations, or a corporation or partnership acquiring a substantial portion of the property and assets of Lessee.

SECTION 31. TERMS BINDING ON SUCCESSORS

All the terms, covenants and conditions of this Lease shall inure to the benefit of and be binding upon the parties and their successors, including, without limitation, their assignees, encumbrancers, occupiers or users, sublessees or other transferees. The provisions of this Section shall not be deemed as a (1) waiver of any of the prohibitions and conditions against assignments, encumbrances, occupations or uses, subleases or other transfers hereinbefore set forth, or (2) City's consent thereto. If more than one lessee is a party to this Lease, the obligations of the lessees shall be joint and several. Even if City's consent is not required,

Lessee shall immediately provide City with written notice of any, assignment, encumbrance, occupation or use, sublease or other transfer.

SECTION 32. DEFAULT

The occurrence of any one or more of the following events shall constitute a material default and breach (“Default”) of this Lease by Lessee:

- (a) Lessee’s failure to make any payment of the Rent or other payment required to be made by Lessee at the time required for payment under this Lease.
- (b) Lessee’s failure to obtain or maintain the insurances and/or the security deposit as required under this Lease.
- (c) Lessee’s vacating or abandonment of the Property during the entire term of this Lease or any renewals or extensions thereof or during any holdover period. Closure of the Facilities for more than a combined total of one hundred eighty (180) days in a calendar year, minus any days of closure of the Facilities caused by City, shall be deemed an abandonment of the Property.
- (d) Lessee’s violation of the “Indemnification, Defense and Hold Harmless Agreement”, “No Assigning, Subleasing or Encumbering”, “Hazardous Substances”, “Nondiscrimination”, “Sale of Alcoholic Beverages and Entertainment Prohibited”, “Conflict of Interest” or Compliance with Laws” Sections of this Lease Agreement.
- (e) The insolvency of Lessee as evidenced by a receiver being appointed to take possession of all or substantially all of Lessee’s assets located at or on the Property or of Lessee’s interest in this Lease, or the making by Lessee of a general arrangement or assignment for the benefit of creditors, or Lessee’s filing a

petition in bankruptcy, whether voluntary or involuntary, or the attachment, execution or the judicial seizure of substantially all of Lessee's assets located at or on the Property or of Lessee's interest in the Lease.

- (f) Lessee's failure to observe or perform any other term, covenant, obligation, duty, responsibility or condition of this Lease to be observed or performed by Lessee when such failure shall continue for a period of thirty (30) days after City's giving written notice to Lessee, or such earlier period if specifically set forth in this Lease; however, if the nature of such failure 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 notifies City of the length of the additional time required to cure and receives City's written approval of the additional time required, which approval will not be unreasonably withheld, and commences such cure within such thirty (30) day period and diligently proceeds with such cure to completion during such additional time period approved by City.

SECTION 33. REMEDIES

- (a) Cumulative Nature of Remedies. In the event of any Default by Lessee, City shall have the remedies described in this Section in addition to all other rights and remedies provided in Section 12 or by law or equity, to which City may resort cumulatively or in the alternative:
- (1) Reentry without Termination. City may at City's sole discretion reenter the Property, and, without terminating the Lease, at any time and from time to time relet the Property or any part or parts of them for the account and in the name of Lessee or otherwise. Any reletting may be for the

remainder of the term or for a longer or shorter period. City may in City's sole discretion eject all persons or eject some and not others or eject none. In addition, City may in its sole discretion remove some or all of the personal property and trade inventory from the Property. City may store such removed personal property and trade inventory in a public warehouse or other location at the sole cost, expense and risk of Lessee, and for the account of and in the name of Lessee. City shall apply all rents from reletting as follows: first, to the payment of reasonable expenses (including brokers' commissions) paid or incurred by or on behalf of City in recovering possession, placing the Property in good condition, and preparing or altering the Property for reletting; second, to the reasonable expense of securing new subtenants; third, to the fulfillment of Lessee's covenants to the end of the term. City may execute any leases or subleases made under this provision either in City's name or in Lessee's name and City shall be entitled to all rents from the use, operation or occupancy of the Property. Lessee shall nevertheless pay to City on the dates specified in this Lease the equivalent of all sums required of Lessee under this Lease, plus City's expenses, less the proceeds of any reletting or attornment.

- (2) Termination. In conjunction with Section 12, in the event of a Default by Lessee, City may at City's sole discretion terminate this Lease by giving Lessee written notice of termination. In the event City terminates this Lease, City may recover possession of the Property (which Lessee

shall immediately surrender and vacate upon demand) and remove all persons therefrom, and Lessee shall comply with, without limitation, all Sections herein. In Addition to any legal or equitable remedies as a court may award, City also shall be entitled to recover as damages all of the following:

- (A) The worth at the time of the award of any unpaid Rent or other charges which have been earned at the time of termination;
- (B) The worth at the time of the award of the amount by which the unpaid Rent and other charges which would have been earned after termination until the time of the award exceeds the amount of the loss of such rental and other charges that Lessee proves could have been reasonably avoided;
- (C) The worth at the time of the award of the amount by which the unpaid Rent and other charges for the balance of the term after the time of the award exceeds the amount of the loss of such rental and other charges that Lessee proves could have been reasonably avoided;
- (D) Any other amount necessary to compensate City for the detriment proximately caused by Lessee's failure to perform its obligations, liabilities, duties or responsibilities under this Lease; and
- (E) At City's sole discretion, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

As used in “Remedies” Section hereof, subsections (a)(2)(A) and (B), the “worth at the time of the award” shall be computed by allowing interest at the rate of twelve percent (12%) per annum. As used in “Remedies” Section hereof, subsection 37(a)(2)(C), the “worth at the time of the award” shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%). The amount recoverable by City pursuant to the “Remedies” Section, subsection (a)(2)(D) above shall include, without limitation, any costs or expenses incurred by City in maintaining or preserving the Property after such Default.

- (3) Use of Personal Property. City may at City’s sole discretion use the, personal property and/or trade inventory located on, about or appurtenant to the Property without compensation and without liability for use or damage, or store them in a public warehouse or other location at the sole cost, expense and risk of Lessee, and for the account of and in the name of Lessee.
- (b) Election of Remedy. The election of one remedy for any one item shall not foreclose an election of any other remedy for another item or for the same item at a later time.
- (c) City’s Right to Cure Lessee’s Default. Upon continuance of any Default, City may in its sole discretion, but is not obligated to, cure such Default at Lessee’s sole cost and expense. If City at any time, by reason of such Default by Lessee, pays any sum or does any act, the sum paid by City plus the reasonable cost of performing such act, together with a penalty thereon at the penalty rate set forth in

the “Late Charge and Penalty” Section hereof from the date the costs were incurred or the act performed by City to the date they are reimbursed to City by Lessee, shall be due as additional rent not later than five (5) days after service of a written demand therefor on Lessee, including reasonably detailed documentation of the amount owed. No such payment or act shall constitute a waiver of Default or of any remedy for Default or render City liable for any loss or damage resulting from any such act.

- (d) Waiver of Rights. Lessee hereby waives any right of redemption or relief from forfeiture under *California Code of Civil Procedure* Sections 1174 or 1179, or under any other present or future law, in the event Lessee is evicted or City takes possession of the Property by reason of any Default by Lessee hereunder.
- (e) Other Rights of City. No act of City, including, without limitation, City’s entry on the Property, efforts to relet the Property, or maintenance of the Property, shall be construed as an election to terminate this Lease unless a written notice of such intention is given to Lessee by City or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding if City elects to continue the Lease in full force and effect after a Default by Lessee and to relet the Property, City may at any time after such reletting elect to terminate this Lease for any such Default.

SECTION 34. CUMULATIVE REMEDIES

As provided above, the remedies given to City described shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease. City shall have the right to exercise any other right or remedy which City

may have at law or in equity including, without limitation, City's rights under the unlawful detainer laws.

SECTION 35 . WAIVER OF DEFAULT

The waiver by City of any Default by Lessee of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent Default by Lessee either of the same or another provision of this Lease.

SECTION 36. CITY'S DEFAULTS/LESSEE'S REMEDY

In the event City fails to perform any material obligation of City under the Lease within ninety (90) days after receiving written notice from Lessee specifying the nature of such default, or, if the nature of City's obligation is such that more than ninety (90) days are required for its performance, if City fails to commence such performance within such ninety (90) day period and thereafter diligently prosecute the same to completion, then City shall be in default of this obligation. If City's default materially interferes with Lessee's use of the Property for its intended purpose, Lessee shall have the option to terminate the Lease by giving City at least sixty (60) days' written notice of its intent to terminate. In such a situation, Lessee must still comply with all of its obligations, liabilities, duties and responsibilities under the Lease, including, without limitation, paying any Rent due up to the time of termination and surrendering the Property pursuant to Sections 53 and 54 below. This remedy of termination is Lessee's sole and exclusive remedy for a default by City.

SECTION 37. HAZARDOUS SUBSTANCES

Lessee represents and warrants that its use of the Property or operation or maintenance of the Facilities shall not generate any Hazardous Substance (as defined below in this Section), and that Lessee shall not store or dispose on the Property nor transport to or over the Property any

Hazardous Substance during the entire term of this Lease Agreement or any extensions thereof. The foregoing restrictions shall not be deemed to restrict or prohibit the use by Lessee of ordinary products as customarily used in Lessee's ordinary course of operation of the Nursery, or cleaning products as customarily used in Lessee's ordinary course of maintenance of the Facilities, provided that Lessee complies with all applicable provisions of federal and state laws and rules and regulations thereto pertaining to the use, storage and disposal of such Hazardous Substances or cleaning products. Lessee further agrees to clean up and remediate any such Hazardous Substance on the Property, and agrees to protect, defend, indemnify and hold harmless City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation (including arbitration) of every nature or liability of any kind or nature) arising out of or in connection with any Hazardous Substance and any damage, loss, or expense or liability resulting from any Hazardous Substance including, without limitation, all attorney's fees, costs and penalties incurred as a result thereof except any release caused by the sole negligence or willful misconduct of City. City shall be reimbursed by Lessee for all costs and attorney's fees incurred by City in enforcing Lessee's obligations set forth in this Section. Lessee will conduct all defense at its sole cost and expense and City shall approve selection of Lessee's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by Lessee. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as a hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term, by any Federal, State or local environmental law, regulation or

rule presently in effect or promulgated in the future, as such law, regulation or rule may be amended from time to time; and it shall be interpreted to include, without limitation, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

SECTION 38. RESERVED

SECTION 39. MAINTENANCE OF DRAINAGE DITCH

Lessee agrees to clean, keep clear, and maintain the drainage ditch running roughly parallel to and west of the eastern property line of the Property at Lessee's own expense, and in the event Lessee shall fail to perform the acts set forth in this section, City may at its option, do such as at the expense of Lessee, which expense Lessee agrees to pay City upon demand.

SECTION 40. FENCES

City shall have the right, at its option, to fence the Property, or any portion thereof, in which event it shall provide one or more suitable gates to afford Lessee access to the egress from the Property. Should Lessee desire to install any fence on the Property, Lessee shall obtain the prior written approval of City thereto. Lessee's obligation to obtain City's prior written approval is separate and independent of Lessee's obligation to obtain any permits from City, such as, without limitation, a building permit. Notwithstanding the above, Lessee shall not install, operate, maintain, cause or permit to be installed, operated or maintained any electrically charged fence on the Property.

SECTION 41. CONSENT

When City's consent/approval is required under this Lease, its consent/approval for one transaction or event shall not be deemed to be a consent/approval to any subsequent occurrence of the same or any other transaction or event.

SECTION 42. HOLDOVER

Should Lessee hold over and continue in possession of the Property after expiration or termination of this Lease, with or without the express prior written consent of City, Lessee's continued occupancy of the Property shall constitute a month-to-month tenancy, subject to all the terms and conditions of this Lease, at a monthly rent of one hundred ten percent (110%) of the previous calendar year's annual Rent divided by twelve (12) (or the average monthly Rent for all months Lessee owned/operated the Facilities if Lessee has owned/operated the Facilities for less than one (1) year) or that month's actual Rent, whichever is greater, and shall not constitute a renewal or extension of the Lease term.

SECTION 43. WAIVER OF CLAIMS

Lessee hereby waives any claim against City, its officers, elected or appointed officials, employees, agents or volunteers for damage or loss caused by any suit or proceeding directly or indirectly attacking the validity of this Lease, or any part thereof, or caused by any judgment or award in any suit or proceeding declaring this Lease null, void or voidable, or delaying the Lease or any part thereof from being carried out.

SECTION 44. INSPECTION OF PROPERTY

Upon at least twenty-four (24) hours advance written, verbal or electronic notice given by City to Lessee, Lessee shall permit City or City's agents, representatives or employees to enter the Property at all reasonable times for the purpose of inspecting, investigating and surveying the Property to determine whether Lessee is complying with the terms of this Lease and for the purpose of doing other lawful acts that may be necessary to protect City's interest in the Property or to perform City's duties under this Lease. City also shall have the right in its sole discretion to do any and all work of any nature necessary for the preservation, maintenance and operation of

property owned, controlled or occupied by City. Lessee shall be given reasonable notice when such work becomes necessary, and Lessee shall adjust the operation of the Facilities in such a manner that City may proceed expeditiously.

SECTION 45. PHOTOGRAPHY

Lessee acknowledges and agrees that City may grant permits to third parties engaged in the production of still and motion pictures and related activities to take photographs or videos of or on the Property when such permission shall not interfere with the primary business of Lessee, all without providing Lessee with notice or requiring consent by Lessee.

SECTION 46. NONDISCRIMINATION

Lessee and its employees shall not discriminate because of race, religion, color, ancestry, sex, age, national origin or physical handicap against any person by refusing to furnish such person any accommodation, facility, rental, service or privilege offered to or enjoyed by the general public. Nor shall Lessee or its employees publicize the accommodation, facilities, rentals, services or privileges in any manner that would directly or inferentially reflect upon or question the acceptability of the patronage of any person because of race, religion, color, ancestry, sex, age, national origin or physical handicap.

In the performance of this Lease, Lessee shall not discriminate against any employee or applicant for employment, because of race, religion, color, ancestry, sex, age, national origin or physical handicap. Lessee shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, religion, color, ancestry, sex, age, national origin or physical handicap. Such action shall include, without limitation, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and

selection for training, including, without limitation, apprenticeship. Lessee shall post in conspicuous places, available to all employees and applicants for employment, notices setting forth the provisions of this Section.

Lessee shall permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by City, the State Fair Employment Practices Commission or any other agency with jurisdiction over these matters, for the purpose of investigation to ascertain compliance with this Section.

City may determine a violation of this Section to have occurred upon receipt of a final judgment having that effect from a court in an action to which Lessee was a party, or upon receipt of a written notice from the State Fair Employment Practices Commission or other government agency with jurisdiction over these matters that it has investigated and determined that Lessee has violated the Fair Employment Practices Act or other applicable discrimination law and has issued an order which has become final, or obtained an injunction. In the event of violation of this Section, City shall have the right to terminate this Lease, and any loss of revenue sustained by City by reason thereof shall be borne and paid for by Lessee, at its sole cost and expense.

SECTION 47. SALE OF ALCOHOLIC BEVERAGES AND ENTERTAINMENT

PROHIBITED

Notwithstanding anything to the contrary, the sale or provision of alcoholic beverages and/or live entertainment in, on, or from the Property is expressly forbidden, unless expressly permitted in writing by City in advance. For any proposed sale or provision of alcoholic beverages, Lessee must first obtain written City approval prior to submitting any request for approval to the Alcohol Beverage Commission.

SECTION 48. LIENS

Lessee shall keep the Property free and clear from any and all liens, including, without limitation, mechanics' or materialmens' liens, claims and demands for work performed, materials furnished, or operations conducted on or about the Property or by reason of any use or occupancy by Lessee, or any person claiming under Lessee. When applicable, Lessee shall cause a notice of nonresponsibility to be posted and recorded pursuant to *California Civil Code* Section 3094.

SECTION 49. DESTRUCTION

Should the Property be partially destroyed, this Lease shall continue in full force and effect, and Lessee, at Lessee's sole cost and expense, shall complete the work of repairing and restoring the Property to their prior condition providing such work can be accomplished under all applicable governmental laws and regulations within one hundred eighty (180) days. Should the Property be so far destroyed that in City's reasonable judgment they cannot be repaired or restored to their former condition within one hundred eighty (180) days, City shall give Lessee notice of such determination in writing and each party may, in that party's sole discretion:

- (a) Continue this Lease in full force and effect in which case Lessee shall repair and restore, at Lessee's sole cost and expense, the Property to their former condition;
or
- (b) Terminate this Lease by giving the other party thirty (30) days' written notice of such termination within sixty (60) days after the date that City gives Lessee notice that the Property cannot be repaired or restored to their former condition within one hundred eighty (180) days. In the event that either party elects to terminate this Lease, the entire amount of any insurance proceeds (excluding such proceeds

for personal property whether or not owned or leased by Lessee and trade inventory, but only to the extent that the insurance proceeds specifically cover those items) shall be paid to City. The proceeds of any such insurance payable to City may be used, in the sole discretion of City, for rebuilding or repair as necessary to restore the Property or for any other such purpose(s) as City sees fit. In addition, if Lessee elects to terminate the Lease, Lessee must still comply with all of its obligations, liabilities, duties and responsibilities under the Lease, including, without limitation, paying any Rent due up to the time of termination and surrendering the Property, pursuant to Sections 53 and 54 below.

In the event of the damage or destruction of the Facilities, and/or personal property located on the Property not giving rise to a termination of this Lease, Lessee shall, at its sole cost and expense, replace and repair the same as soon as reasonably possible to permit the prompt continuation of Lessee's business at the Property.

SECTION 50. NO ABATEMENT OF RENT DURING REPAIR WORK

The Rent shall not be abated for the time Lessee is prevented from using the whole or a portion of the Property. In addition, Lessee shall not be excused from the payment of taxes, insurance or any other obligations for the time Lessee is prevented from using the whole or a portion of the Property.

SECTION 51. EMINENT DOMAIN

If, during the term of this Lease or any renewals or extensions thereof or during any holdover period, City's real property (whether held by City in fee simple, an easement interest or otherwise) and/or the Property is taken in eminent domain, the entire award (that is, all forms) of compensation, other than as provided herein, shall belong to and be paid to City. In the event of

condemnation, Lessee shall be entitled to an award of only the following forms of compensation, if any, from the condemning authority: compensation for loss of business goodwill; compensation for the value of any of Lessee's personal property; compensation for the value of any of Lessee's trade inventory; and compensation for relocation benefits as authorized by law. All other forms of compensation, such as, for example, but not by way of limitation, any bonus value of Lessee's interest in this Lease, shall belong to and be paid to City. In the event of condemnation, unless Lessee is allowed by the condemning authority to continue its operations on the Property, the Lease shall terminate on the earliest of the following dates: the date the condemning authority obtains a prejudgment order for possession; the date title to the Property vests in the condemning authority; or the date when Lessee is required by the condemning authority to cease its operations.

SECTION 52. IRRIGATION PIPELINES AND APPURTENANCES

Lessee agrees that any and all irrigation pipelines and appurtenances, as well as all well pumping equipment, located on the Property at the commencement of Lessee's occupancy thereof are the property of City, and shall remain upon and be surrendered with the premises upon the termination of this Lease or any renewal or extension thereof. In consideration of the privilege of using the same, Lessee agrees to maintain, operate, repair and replace if necessary, at Lessee's sole cost and expense, any and all of said irrigation pipelines and appurtenances and well pumping equipment, during the continuance of this Lease. Any and all well pumping equipment placed on the Property by Lessee, the installation of which is made with the consent of City and for which a rent adjustment is made, and any and all irrigation pipelines and appurtenances and well pumping equipment installed by Lessee to replace equipment located on the Property at the time Lessee entered into possession thereof, shall thereupon be and become

the property of City and shall remain upon and be surrendered with the Property upon the termination of this Lease or any renewal or extension thereof. Lessee agrees to promptly deliver to City a good and sufficient bill of sale for any and all such irrigation pipelines, appurtenances and well pumping equipment installed on the Property at the time the same is installed. Lessee further agrees that no such replacement pipelines or well pumping equipment shall be purchased on other than a cash basis.

SECTION 53. RESTORATION AND SURRENDER OF PROPERTY/TITLE
TO IMPROVEMENTS

On expiration or termination of this Lease, Lessee shall, without compensation to Lessee, promptly surrender and deliver the Property to City in as good condition as such were at the commencement date of this Lease, reasonable wear and tear excepted. Lessee shall, at the option of the City, remove the Facilities and restore the Property to its natural condition to the satisfaction of, and at no cost to the City. In the alternative, and again and at the option of the City, Lessee shall and without compensation to Lessee, surrender all Facilities to City in good condition and repair, ordinary wear and tear excepted, free and clear of all liens and encumbrances. Lessee shall remove all personal property and trade inventory. City may in its sole discretion accept all or any portion of the Facilities and no sum whatsoever shall be paid to Lessee or any other person; or City may require Lessee to remove all or any portion of the Facilities, at Lessee's own risk and cost and expense; or City may itself remove or have removed all or any portion of the Facilities, at Lessee's own risk and cost and expense. If required by City to do so, in removing any such Facilities, Lessee shall restore the Property as nearly as possible to the conditions existing prior to their installation or construction. All such removal and restoration shall be to the satisfaction of City and shall be completed within thirty (30) days of

the expiration or termination of this Lease; provided, however, that Lessee shall be considered a holdover tenant (pursuant to the "Holdover" Section hereof) after expiration or termination of the Lease until the time Lessee completes this removal and restoration work, including, without limitation, the removal of any personal property and trade inventory left on the Property. In addition, any personal property or trade inventory left on the Property after the expiration of this 30-day period, regardless of cause, shall be deemed abandoned by Lessee. In City's sole discretion, it may choose to do one or more of the following: (1) take any or all of such personal property and trade inventory as City property; (2) store any or all of such personal property and trade inventory in a public warehouse or other location at the sole cost, expense and risk of Lessee, and for the account and in the name of Lessee; or (3) dispose of any or all of such personal property and trade inventory without any liability to Lessee. In addition, Lessee's indemnification, hold harmless and defense obligations set forth in this Lease shall apply to such personal property and/or trade inventory, and to City's actions with respect thereto.

SECTION 54. FORCE MAJEURE - UNAVOIDABLE DELAYS

Should the performance of any act required by this Lease to be performed by either City or Lessee be prevented or delayed by reason of an act of God, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, or any other cause except financial inability not the fault of the party required to perform the act, the time for performance of the act shall be extended for a period equivalent to the period of delay and performance of the act during the period of delay shall be excused. Provided, however, that nothing contained in this Section shall excuse the prompt payment of the Rent or other consideration by Lessee as required by this Lease or the performance of any act rendered

difficult solely because of the financial condition of the party, City or Lessee, required to perform the act.

SECTION 55. CITY'S OPTION TO CLOSE THE PROPERTY

City may close the Property without liability and without advance notice to Lessee therefor at any time as City in its sole discretion deems necessary for the protection of life, limb or property, or for public health, safety or welfare purposes, or upon reasonable notice to effect any repair, remodeling or rebuilding deemed necessary by City in its sole discretion. The length of time of any closing of the Property by City longer than two (2) weeks during a period when the Facilities would otherwise be open shall extend the term of the Lease by the same amount of time. If this occurs, Lessee and City shall memorialize this extension in writing.

SECTION 56. DELIVERIES OF SUPPLIES

City may establish the days and times deliveries of supplies may be made and advise Lessee in writing thereof.

SECTION 57. EMPLOYEE PARKING

City shall establish the days, times and locations where Lessee and Lessee's employees may park, and the number of automobiles, trucks, and other motorized and non-motorized vehicles that Lessee and Lessee's employees may park, and advise Lessee in writing thereof.

SECTION 58. CONFLICT OF INTEREST

Lessee warrants and covenants that no official or employee of City, nor any business entity in which an official or employee of City is interested, (1) has been employed or retained by Lessee to solicit or aid in the procuring of this Lease; or (2) shall be employed by Lessee in the performance of this Lease without the immediate written divulgence of such fact to City. In the event City determines that the employment of any such official, employee or business entity

is not compatible with such official's or employee's duties as an official or employee of City, Lessee, upon request of City, shall terminate such employment immediately. For breaches or violation of this Section, City shall have the right both to terminate this Lease without liability and, in its discretion, recover the full amount of any such compensation paid to such official, employee or business entity. No official or employee of City shall have any financial interest in this Lease in violation of the applicable provisions of the *California Government Code*.

SECTION 59. NOTICE

Unless specifically providing for verbal or electronic notice, all notices, certificates, or other communications required to be given hereunder shall be in writing and made in the following manner, and shall be sufficiently given and deemed received when (a) personally delivered; or (b) three (3) business days after being sent via United States certified mail – return receipt requested; or (c) one (1) business day after being sent by reputable overnight courier, in each case to the addresses specified below; provided that City and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent:

| | |
|---|---|
| <p>City:</p> <p>City of Huntington Beach ATTN: Community Development 2000 Main Street, P.O. Box 190 Huntington Beach, CA 92648</p> | <p>Lessee:</p> <p>Currents Outdoor, LLC 10925 Kamela River Avenue, Suite G Fountain Valley, CA 92708 Attn: _____</p> |
|---|---|

SECTION 60. COMPLIANCE WITH LAWS

Lessee, at its sole cost and expense, shall comply with all statutes, ordinances, regulations and requirements of all governmental entities, including, without limitation, Federal, State, county or municipal, relating to Lessee's use and occupancy of the Property and/or operation of the Nursery whether such statutes, ordinances, regulations and requirements be now in force or

hereinafter enacted. This Lease is expressly subject to the laws, regulations and policies of City. Lessee shall deliver to City a copy of any notice from any governmental entity received by Lessee regarding any alleged violation of law regarding the Lease, Property or the Nursery or from any person allegedly entitled to give notice under any conditions, covenants, or restrictions binding or affecting the Property. The judgment of any court of competent jurisdiction, or the admission by Lessee in a proceeding brought against Lessee by any government entity, that Lessee has violated any such statute, ordinance, regulation or requirement shall be conclusive as between City and Lessee and shall be grounds for termination of this Lease by City.

SECTION 61. INTERPRETATION OF THIS LEASE

The language of all parts of this Lease shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Lease is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining covenants and provisions of this Lease. No covenant or provision shall be deemed dependent upon any other unless so expressly provided here. As used in this Lease, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this Lease which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

SECTION 62. SURVIVAL

Terms and conditions of this Lease, which by their sense and context survive the expiration or termination of this Lease, shall so survive.

SECTION 63. MODIFICATION

No waiver or modification of any language in this Lease shall be valid unless in writing and duly executed by both parties.

SECTION 64. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Lease are merely descriptive and are included solely for convenience of reference only and are not representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Lease.

SECTION 65. BROKERS

Each party warrants to and for the benefit of the other that it has had no dealings with any real estate broker or other agent (attorneys excepted) in connection with the negotiation or making of this Lease.

SECTION 66. INDEPENDENT CONTRACTOR

Lessee acknowledges and understands that at no time shall Lessee act in the performance of this Agreement as an employee of City. Lessee shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for Lessee and its officers, agents and employees and all business licenses, if any, in connection with the Lease and/or operation of the Nursery.

SECTION 67. ATTORNEY'S FEES

Except as expressly set herein, in the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Lease or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the non-prevailing party.

SECTION 68. LEGAL SERVICES SUBCONTRACTING PROHIBITED

Lessee and City agree that City is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. Lessee understands that pursuant to Huntington Beach City Charter Section 309, the City Attorney is the exclusive legal counsel for City; and City shall not be liable for payment of any legal services expenses incurred by Lessee.

SECTION 69. GOVERNING LAW

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

SECTION 70. DUPLICATE ORIGINAL

The original of this Lease and one or more copies hereto have been prepared and signed as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who signed it.

SECTION 71. ENTIRETY

The parties acknowledge and agree that they are entering into this Lease freely and voluntarily following extensive arm's length negotiations, and that each has had the opportunity to consult with legal counsel prior to executing this Lease. The parties also acknowledge and agree

that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party, or anyone acting on that party's behalf, which are not embodied in this Lease, and that that party has not executed this Lease in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this Lease. The Lease, and the attached exhibits, contain the entire agreement between the parties respecting the subject matter of this Lease, the Property, the leasing of the Property to Lessee, or the lease term created under this Lease and supercede all prior understandings and agreements, whether oral or in writing between the parties respecting the subject matter hereof.

SECTION 72. CITY DISCOUNT

Lessee shall provide the City of Huntington Beach a minimum 20% discount on all tree and plant purchases, with exact discount varying by species and volume.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by and through their authorized officers on _____, 2026.

CURRENTS OUTDOOR, LLC

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

By:  DANIEL CORTAZ

Its: PRESIDENT.

By: _____

Its: _____

Mayor

City Clerk

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

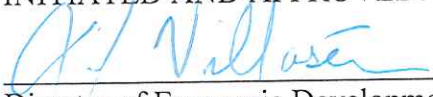
City Manager



City Attorney

Pae

INITIATED AND APPROVED:



Director of Economic Development

Community

Exhibits:

- A: Legal Description and Map of Property
- B: Conditional Use Permit
- C: Easements and Encumbrances

EXHIBIT A

Legal Description

APN: 155-094-11

City Owned Parcel

North of Adams West of S.A River

That portion of Section 5, Township 6 South, Range 10 West, in the Rancho Las Bolsas, City of Huntington Beach, County of Orange, State of California, as per map recorded in book 51 page 14 of Miscellaneous Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the intersection of the South line of said Section 5 with the Westerly line of the joint outfall sewer right of way as described in the deed recorded in book 673 page 389 of Official Records of Orange County, California; thence South $89^{\circ} 29' 00''$ West along the Southerly line of Section 5, 217.18 feet; thence North $0^{\circ} 31' 00''$ West 660.00 feet; thence North $89^{\circ} 29' 00''$ East 380.00 feet to said Westerly line of the joint outfall sewer right of way; thence South $13^{\circ} 20' 30''$ West 679.19 feet along said Westerly line to the point of beginning.

EXCEPT all oil and gas and other minerals of whatsoever nature on, in and under the lands above described, or that may be produced therefrom, but that the extraction and removal of such minerals must be by means other than by entering upon the surface of said land, as reserved by Tide Water Associated Oil Company, recorded May 24, 1956, in book 3523 page 69, Official Records.

Map of Property (Leased Premises)

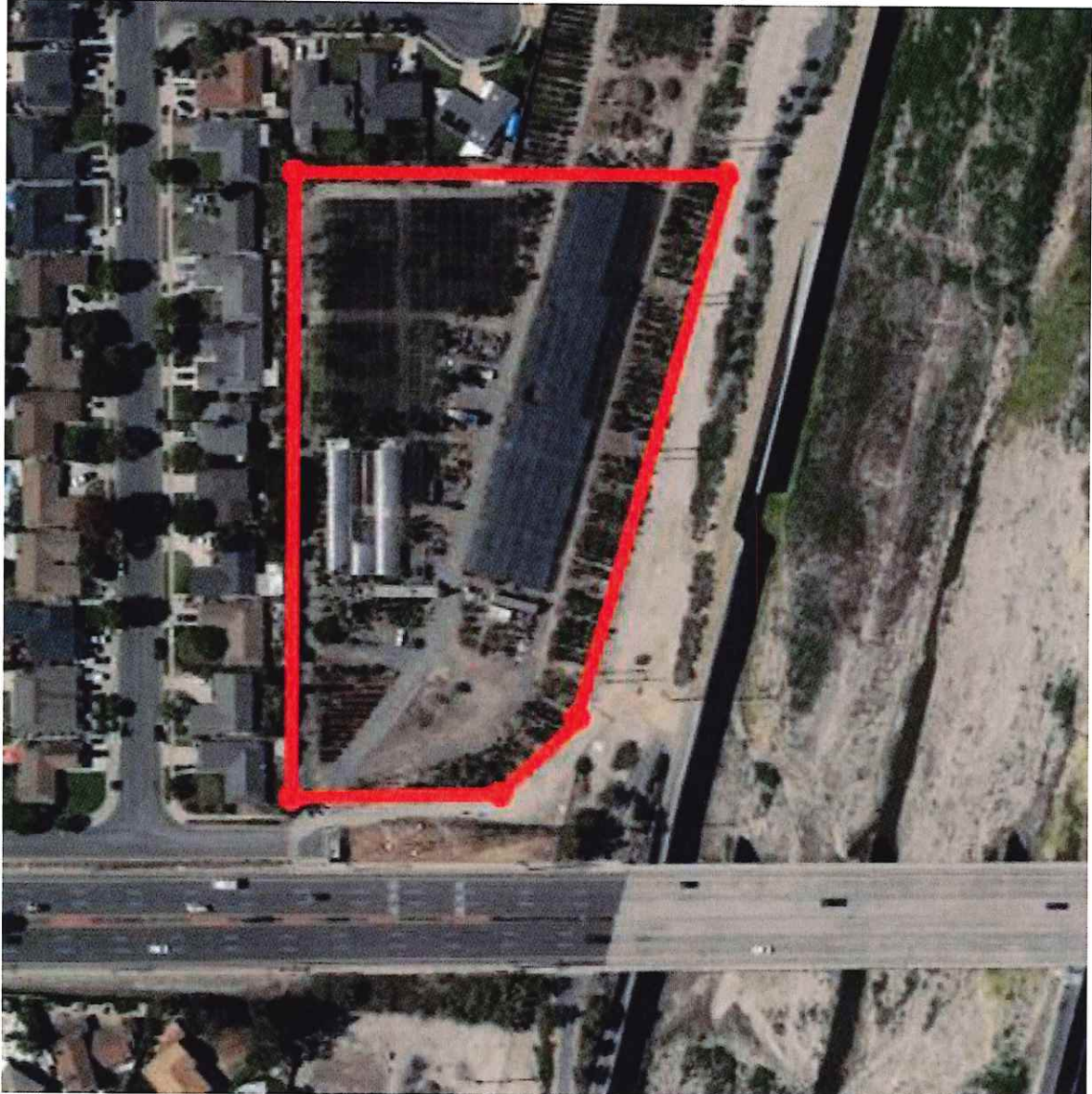
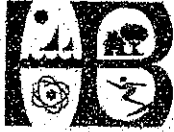


EXHIBIT B



Huntington Beach Planning Commission

P.O. BOX 190

CALIFORNIA 92648

Date: _____

NOTICE OF ACTION

Applicant: Gladys Woodson, 10111 Van Duren Highway, Torrance, CA 90505

Subject: Conditional Use Permit No. 23-1

Your application was acted upon by the Huntington Beach Planning Commission on _____ and your request was:

- Withdrawn _____
- Approved _____
- Approved with Conditions _____ (See Attached)
- Disapproved _____
- Tabled _____
- Continued until _____

Under the provisions of the Huntington Beach Ordinance Code, the action taken by the Planning Commission is final unless an appeal is filed to the City Council by you or an interested party. Said appeal must be in writing and must set forth in detail the actions and grounds by and upon which the applicant or interested party deems himself aggrieved. Said appeal must be accompanied by a filing fee of one hundred and sixty-five (\$165) dollars and be submitted to the City Clerk's office within ten (10) days of the date of the Commission's action.

In your case, the last day for filing an appeal and paying the filing fee is _____

Provisions of the Huntington Beach Ordinance Code are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

Very truly yours,
James W. Palin
James W. Palin, Secretary

A-PC-LT-IA



Huntington Beach Planning Commission

P.O. BOX 190

CALIFORNIA 92648

March 19, 1985

Timothy Woodson
(Woodhall Growers)
15161 Van Buren
Midway City, CA 92655

SUBJECT: CONDITIONAL USE PERMIT #85-6.

REQUEST: to establish a wholesale
nursery within the R1 zone

LOCATION: Abutting the west side of the
Santa Ana River, 680 feet
north of Adams

Findings for Approval:

1. The proposed nursery is compatible with existing uses in the vicinity because it is small scale and for wholesale purposes only.
2. The conditions of approval will assure that the proposed nursery will not have a detrimental effect upon the general health, welfare, safety and convenience of persons residing in the neighborhood, nor be detrimental to the value of the property and improvements in the neighborhood.
3. The proposed nursery is consistent with the goals and objectives of the General Plan.
4. Access to and parking for the proposed use will not create undue traffic problems because the use is wholesale and not open to the public.

Conditions of Approval:

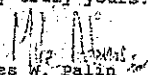
1. The conceptual site plan dated February 1, 1985, shall be amended to include the following:
 - * Employee parking area adjacent to the south boundary of the project
 - * Truck loading and unloading area, to be kept 185 feet from residential, adjacent to the south boundary of the project.

2. The shade house shall be setback greater than 20 feet from the westerly block wall and shall not exceed 15 feet in height open on all sides. The design of the structure shall be subject to the review of the Director of Development Services.
3. The site and access road shall be maintained with gravel ground cover or other suitable material to control dirt and dust.
 - a. Asphalt paving transition from driveway apron shall be to the satisfaction and specifications of the Public Works Department.
4. All soil amendments or planting mix material shall be kept damp as to not blow onto adjacent properties. All such material shall not be stacked over a height of six (6) feet and shall not be stored within 20 feet of the westerly or northerly property lines.
5. The taller and larger plant materials shall not be stored within twenty (20) feet of the residential properties to the west. Lower growing trees and shrubs only shall be permitted within 20 feet of these residential properties, shall be no higher than one (1) foot lower than the top of existing block wall.
6. Chemical spraying of plant materials is prohibited. Plant watering shall be done in such a manner to prevent water from flowing into the residential area.
7. There shall be no activity, nor deliveries, including maintenance, between the hours of 8:00 P.M. and 8:00 A.M. on weekdays, excluding holidays. On weekends or holidays, there shall be no activity whatsoever other than general maintenance.
 - a. No retail activity or sales to the public shall take place on the property.
8. All vehicles operating within the nursery shall not exceed speeds of ten (10) miles per hour. All stock movement on site shall be via electric carts.
9. Outside phone alarms, intercoms, and loudspeakers are prohibited.
10. Any yard lighting proposed shall be directed away from adjacent residential properties.
11. Any proposed signing shall conform to Article 976 of the Huntington Beach Ordinance Code.

12. Proposed portable and permanent office and storage buildings (including storage bins) shall be located within fifty (50) feet from the east property line, and subject to review and approval by the Director of Development Services.
13. All chemicals used or stored at the subject site shall be approved by the Orange County Agricultural Department, as required by law.
14. The applicant shall submit a grading plan to the Department of Public Works for review, approval, and issuance prior to any grading operation or change of drainage.
15. Proof of access rights on the County Sanitation District road shall be submitted to the Department of Development Services within 60 days.
16. This Conditional Use Permit is subject to annual review. Any violation of the conditions of this report or applicable zoning laws may be cause for revocation of this Conditional Use Permit.
17. Complex will comply with all applicable regulations of the Huntington Beach Fire Department.

I hereby certify that Conditional Use Permit No. 85-6 was approved by the Planning Commission of the City of Huntington Beach, California, on March 19, 1985, upon the foregoing conditions and citations.

Very truly yours:


James W. Palin
Secretary
Planning Commission

JWP:lep

(2098d)

EXHIBIT C

159 29

RECORD OF SURVEY 90-1056

IN THE CITIES OF HUNTINGTON BEACH, COSTA MESA, FOUNTAIN VALLEY AND THE AND THE UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA

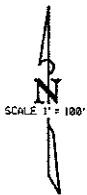
DATE OF SURVEY: MAY-DEC. 1929 AND JUNE 1936

MICHAEL B. EMMONS P.L.S. 5699

SHEET 2 OF 11
SCALE 1" = 100'

SEE SHEET 1 FOR BASIS OF BEARINGS, MONUMENT NOTES, AND SURVEYOR'S NOTES

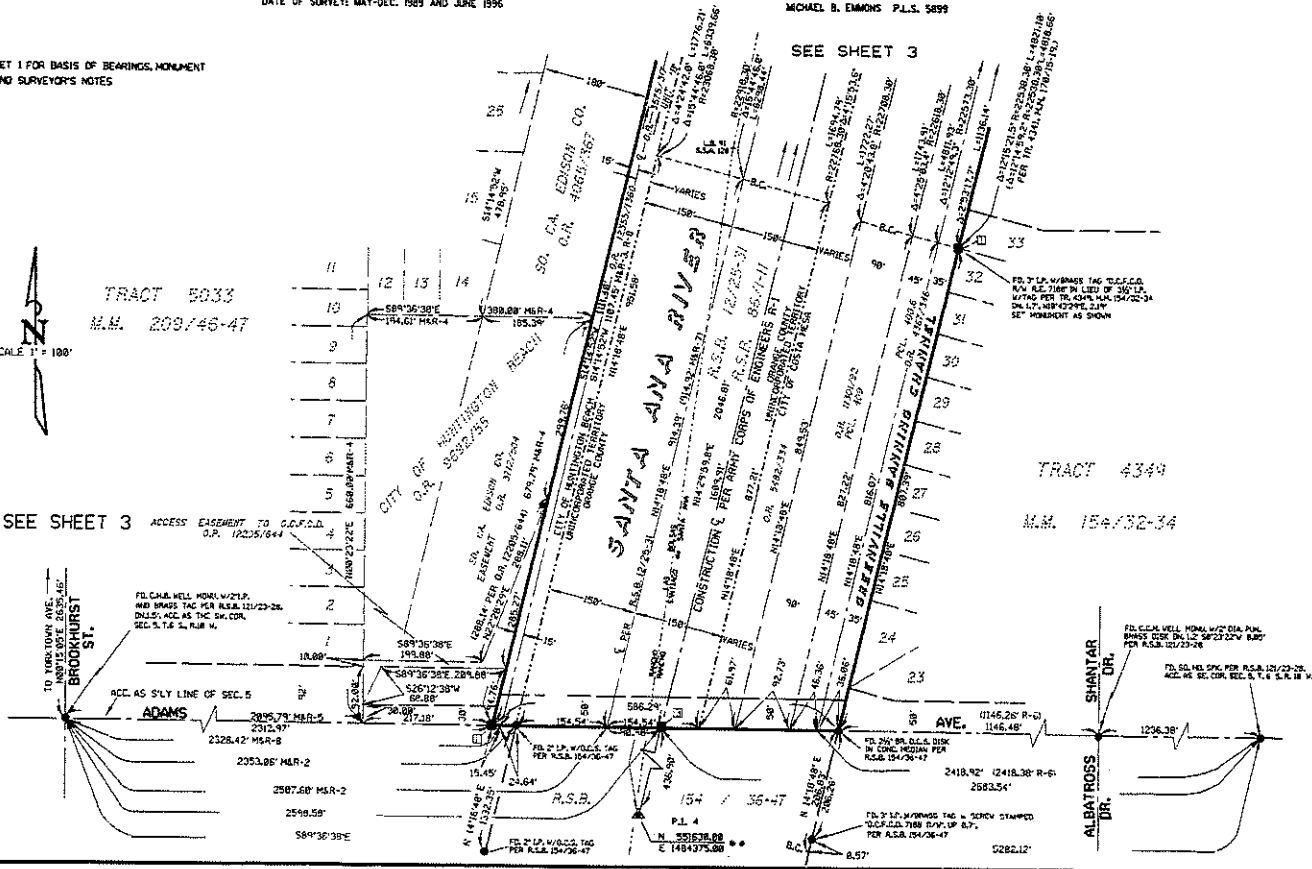
SEE SHEET 3



TRACT 5033
M.M. 209746-47

TRACT 4349
M.M. 154732-34

SEE SHEET 3



FILE C.M. WELL MON. W/21 P. AND BRASS TAG PER A.S.A. 12/23/26. DILLS. ACC. AS THE S.W. COR. SEC. 5, T. 2 S., R. 12 W.

FILE C.M. WELL MON. W/21 P. AND BRASS TAG PER A.S.A. 12/23/26. DILLS. ACC. AS THE S.W. COR. SEC. 5, T. 2 S., R. 12 W.

FILE 257 BR. D.C.A. PIN IN CONC. MOUNTAIN PER R.S. 194/36-47

FILE 317 W. WINGS TAG W. S. CH. V. STAMPED 12/23/26 7:58 P.M. UP 6.7' FOR A.S.A. 194/36-47

FILE 717 W. WINGS TAG 25.5' C.C. PIN. ACC. TO BE IN LINED BY 36' L.P. W. TAG PER THE COR. OF 194/32-34. DILLS. ACC. TO 229.21 P. SET MONUMENT AS SHOWN

P.L. 4
N. 305°38'08"
E. 1484975.00

2312.97'
2328.42' MSR-2
2053.86' MSR-2
2587.58' MSR-2
2549.58'
S89°36'38"E

0146.26' R-10
1146.46'
2418.92' (2418.38' R-6)
2683.54'

ADAMS AVE.
OCC. AS SLY LINE OF SEC. 5

SHANTAIR DR.
ALBATROSS DR.

CITY OF HUNTINGTON BEACH
C.R. 436017-3657

SANTA ANA RIVER
CITY OF FOUNTAIN VALLEY
C.R. 436017-3657

CITY OF COSTA MESA
C.R. 436017-3657

CITY OF FOUNTAIN VALLEY
C.R. 436017-3657

CONSTRUCTION PERMIT CORP. OF ENGINEERS ET AL.
N.E.S.A. 12/23/26

CITY OF FOUNTAIN VALLEY
C.R. 436017-3657

CITY OF FOUNTAIN VALLEY
C.R. 436017-3657

ACCESS EASEMENT TO C.C.F.D. C.R. 1223/644

FILE C.M. WELL MON. W/21 P. AND BRASS TAG PER A.S.A. 12/23/26. DILLS. ACC. AS THE S.W. COR. SEC. 5, T. 2 S., R. 12 W.

ADAMS AVE.

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