

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 13
Date: November 17, 2010

TO: Honorable Mayor and Members of the City Council

FROM: Charles Grimm, Assistant City Manager

SUBJECT: Lease Agreement Between the City of Escondido and San Diego North Economic Development Council

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2010-173 approving a three-year lease agreement ("Lease Agreement") with the San Diego North Economic Development Council ("SDNEDC") for the use of City-owned property at 700 West Grand Avenue in Escondido as a business incubator.

FISCAL ANALYSIS:

The lease rate is \$1 per year. There are two one-year options to renew the Lease Agreement at the end of the three-year term. Clients of SDNEDC will site their businesses in Escondido for a minimum of three years upon incubator program completion and the City will realize associated economic benefits therefrom.

PREVIOUS ACTION:

None

BACKGROUND:

The former Police Station at 700 West Grand Avenue has been vacant since May 2010 when police personnel moved into their new facility. Given its prime location at one of the gateways to Escondido, the City desires to sell the Premises after the real estate market recovers. In the meantime, the City has received a proposal from SDNEDC to rent the facility and to use it as a business incubator where it will sublease office space to start-up businesses. While the City will not be a party to the Sublease Agreement, SDNEDC expressly requires sublessee businesses locate within Escondido for a minimum of three years upon incubator program completion.

The purpose of the incubator is to identify early-stage sustainable business opportunities, and then assist client companies in the process of commercialization. The incubator aspires to have a positive impact on the community's economic health by maximizing the success of emerging companies. The incubator itself is a dynamic model of a sustainable, efficient business operation. SDNEDC will provide:

Lease Agreement for Business Incubator

November 17, 2010

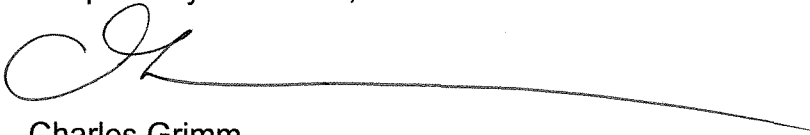
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- A financial plan that includes sustainability factors
- Identified outcomes and economic impact to the community
- Vision and focus
- An effective governance structure with policies and procedures
- Skilled management staff that provide entrepreneurial services to develop successful companies
- Client management tools to assist clients and entrepreneurs
- A management information system

SDNEDC will also provide management and support service to clients in the incubator, coordinate meetings and schedule education and training sessions.

A copy of SDNEDC's complete proposal is attached to this staff report as Attachment "1." A copy of the Lease Agreement is attached to Resolution No. 2010-173 as Exhibit "1" and a copy of SNDEDC's Sublease Agreement is attached to the Lease Agreement as Attachment "B."

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'C. Grimm', followed by a long horizontal line extending to the right.

Charles Grimm
Assistant City Manager



PROJECT PROPOSAL

Developing a Business Incubator in Escondido

Background

The objective of the Technology Incubator is to identify early-stage sustainable business opportunities, and then assist client companies in the process of commercialization.

The SDNEDC's goal is to provide the information and infrastructure that will create the maximum probability for commercial success. The SDNEDC will attempt to develop models based on the successful approach used by such companies as Garage.com, Vulcan Ventures, CMGI, and IdeaLabs, where initial investment, incubation, development, and commercialization are a coordinated effort involving all of the participants.

The SDNEDC believes that we can provide substantial long-term investment returns by accomplishing two complementary goals:

- Reducing financial risk by selecting the appropriate projects
- Maximizing the success of projects by developing the appropriate infrastructure around them

A wide range of Strategic Resources is necessary for early stage opportunities to be successful including; financing, strategic business advice, industry associated support, incubation etc. The SDNEDC will develop a network that can support businesses in a number of ways.

Description of the project

The guidelines for effective business incubation are based on two core principles: 1) The incubator aspires to have a positive impact on its community's economic health by maximizing the success of emerging companies and 2) The incubator itself is a dynamic model of a sustainable, efficient business operation. Based on these principles, a successful incubator should have the following: 1) a financial plan that includes sustainability factors, 2) identified outcomes and economic impact to the community, 3) vision and focus, 4) an effective governance structure with policies and procedures, 5) skilled and experienced staff that provide entrepreneurial services to develop successful companies, 6) client management tools to assist clients and entrepreneurs, and 7) a management information system.

The San Diego North Economic Development Council will provide management and support services to the clients in the incubator, coordinate meetings, and schedule education and training sessions and other services described in this document.



SAN DIEGO NORTH Economic Development Council

The Incubator will be staffed 5 days a week, from 9 am – 5 pm. Two staff members will be on site during the hours of operation to offer assistance and provide administrative support. In addition to paid staff, students or volunteers from the different educational partners will be present to assist clients with basic research and support services. One of the SDNEDC goals is to develop close relationships with the Escondido Library to integrate the work being done in the Incubator with classroom projects that will help students learn about technology, the environment and entrepreneurship.

The SDNEDC is talking with representatives of the Department of Defense about the creation of a robotic cluster in San Diego. The Incubator was mentioned as a possible community resource and great interest was expressed, especially related to the possible use of robotics integration. The assistance provided by the DOD would come as seed money for viable projects developed in the Incubator and possibly as financial support for the Incubator itself.

The San Diego North Economic Development Council is working with National University to provide a scalable High Performance Computing Center and Cloud Computing Utilization Center to the City of Escondido and North County as a whole. Utilization of this Center will be necessary for any start-up needing to run verification, virtualization, or other experimentation requiring massive amounts of computing power. The Center will house a dedicated server with a large pipeline feed into the TeraGrid National Computing Resource. This pipeline will allow the Incubator to tap into the Super Computer Centers across the county providing unlimited computing power.

The SDNEDC is also exploring the development of a Comprehensive Economic Development Strategy which will be a document that outlines regional assets and helps identify needs or gaps that impede economic growth. Once this document is complete and submitted to the Department of Commerce – Economic Development Administration, the City of Escondido would be eligible to receive funding to support the incubator and other economic development projects.

The revenue plan is that each company occupying space in the Incubator will pay a monthly lease rate. The lease rates outlined below are the minimum monthly rates to be paid one month in advance. Unless space occupied is separately metered, gas and electric are charged pro-rata per square foot and will be billed on a quarterly basis. However, special circumstances may be negotiated (suggested)

- Work Station (150 sq. ft.) - \$400
- Executive Suite (500 sq. ft.) - \$1,500
- Engineering Suite (500 sq. ft. plus high speed computer with CAD software) - \$2,500
- Wet Lab (500 sq. ft. plus high speed computer with wet lab access)- \$3,500

We anticipate that in year one, 15 incubator companies will occupy space with a breakdown of: 8 companies with work stations, 3 companies with executive suites, two companies using the engineering suite and one company needing wet lab space. In year two we expect to add 10 additional companies all using work stations.



Project partners

Another key objective of the SDNEDC is to assist local business start-ups with technical expertise, access to educational/research institutions, financial resources, and workforce development programs. The partners in the Technology Incubator include California State University San Marcos, National University, UCSD, San Diego State University, MiraCosta College, Palomar College, CONNECT, Clean Tech San Diego, as well as our regional business partners such as AT&T, SDG&E, Cox Communications, NRG Energy, and others.

SDNEDC President/CEO Gary Knight will engage the National University Community Research Institute (NUCRI) to provide an Interdisciplinary Incubator Resource Team to the SDNEDC project. The Incubator Resource Team will be led by Dr. Thomas MacCalla, Executive Director of the NUCRI, and will include notable internal/external practitioners, and scholars. NUCRI's nucleus resource team members include:

1. Dr. Kevin Franklin, High Performance Computing and Leadership Consultant, who also was the former Deputy Director of the San Diego Supercomputer Center (SDSC) and collaborated with the UC San Diego Connect Incubator while he was there.
2. Dr. Ahmad Housseini, Dean, National University School of Business and Management and former Dean Emeritus, School of Business and Economics, Sonoma State University
3. Dr. Mohammad Amin, Associate Professor, National University School of Engineering and Technology and holder of three patents
4. J. Stewart Borie, President of the Entrust Environmental Corporation in Encinitas and former CFO and Director of the Border Environmental Commerce Alliance (BECA) in Chula Vista, California, an early cross-border technology-based environmental incubator in Chula Vista, California.

Dennis Guseman, Ph.D. – Dean of the College of Business Administration

Dennis Guseman earned his Doctorate in Business Administration, with a concentration in Marketing from the University of Colorado at Boulder. He has over 25 years experience in academia and is the recipient of the prestigious Outstanding Professor Award from Cal State Bakersfield. Dr. Guseman has published two textbooks and numerous articles in professional journals. He has also done extensive consulting for regional and national companies to develop strategic and marketing plans.

The Senior Experience Program

The Senior Experience Program matches consulting teams of students with projects submitted by local businesses and organizations. Students gain by working as consultants on rigorous, real-world projects that require teamwork and application of classroom knowledge. Businesses gain by receiving concentrated attention from bright, energetic teams that provide a fresh, independent look at their projects. Each student team works under the supervision of a faculty member.

The nature of the problems or projects chosen for the Senior Experience varies according to the organization. For instance, a student consulting team might be asked to:

- Diagnose the causes of an accounting, finance, operations or an information systems problem, evaluate possible solutions and make a recommendation or possibly implement the chosen alternative



- Conduct a feasibility study or write a business plan for producing a new product, entering a new market, building a new facility
- Analyze manufacturing processes, customer service workflows or human resources program

Action Plan

The SDNEDC will provide clients access to shared office support and management consulting services. Shared office support typically involves use of a copier, secretarial services, FAX machine, telephones, and receptionist services with costs built into the rent. The Incubator will be staffed 8 hours a day, 5 days a week from 9 am – 5 pm. Two staff members will be on site during the hours of operation to offer assistance and provide administrative support. The tenants will have keys assigned to them to facilitate use of the facility on an as-needed basis during non-business hours. All tenants will be required to sign in and out to insure security along with all visitors and non-staff personnel.

In addition to paid staff, students or volunteers from the different educational partners will be present to assist clients with basic research and support services. Every two weeks, at various times of the day, experts in finance, legal, engineering, science and other related fields will be on site to lend assistance and answer questions. If more expert assistance is needed, the clients will contract directly with these or other experts at discounted rates to be established. The clients will always have the right to work with people of their own choosing and are not obligated to use the experts we provide.

Networking can be a critical component for new business start-ups. The network can be as formal as organized training or educational sessions where tenants come together to discuss mutual problems or just a place where they can share business experiences and technical advice, make valuable business contacts, and support one another as they strive to build successful firms

5. Project Terms

The City of Escondido would agree to lease the currently empty building at 700 West Grand Avenue, Escondido, CA 92025 for \$1 (one dollar) a year for a minimum of 3 years with two option years at the same rate. The City also would agree to provide maintenance and upkeep on the building. The SDNEDC will pay operational costs associated with running the Technology Incubator. The SDNEDC will recruit companies to occupy space in the building and charge a lower than market rate rent to use the space and access resources and services provide in-common to all tenants. The types of services include:

Specific Services

- Business Plan Review and Evaluation
- Financial Ratio Analysis
- Cash Flow Analysis
- Business Valuations
- Venture Capital Research



SAN DIEGO NORTH

Economic Development Council

- Corporate Expansions
- Financial and Investment Planning
- Optimum Debt/Equity Structure
- Deal Structuring
- Market and Feasibility Studies
- Direct Mail Forecasting
- Radio, TV, Print, Internet, and Direct Mail Marketing Internet Strategies
- Access to university/college resources including research collaboration opportunities, student interns, MBA student support teams, etc.
- Product marketing & manufacturing strategy support
- Prototyping, and software & web development
- Strategic partnerships, licensing opportunities, and client development
- Legal advice on governance, IP, licensing, corporate law, deal structuring

Deadline

The City of Escondido should express their willingness to participate in the project before October 31, 2010, at the latest..

7. Contact Person

San Diego North Economic Development Council
Gary Knight
President & CEO
100 N Rancho Santa Fe Road, Suite 124
San Marcos, CA 92069
760-598-9311 ext. 203
garyknight@sandiegonortherdc.org
www.sdnedc.org

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE, ON BEHALF OF THE
CITY, A LEASE AGREEMENT FOR OFFICE
SPACE AT 700 WEST GRAND AVENUE, IN
THE CITY OF ESCONDIDO

WHEREAS, Escondido Police personnel vacated commercial space at 700 West Grand Avenue (the "Premises") in May of 2010; and

WHEREAS, the San Diego North Economic Development Council ("SDNEDC") submitted a proposal to the City to use the Premises as a business incubator where SDNEDC will identify sustainable start-up businesses and assist them with commercial growth; and

WHEREAS, in exchange for SDNEDC'S rent-free occupancy of the Premises, SDNEDC will require sublessee businesses that complete the incubator program to locate within Escondido for a minimum of three (3) years upon program completion; and

WHEREAS, this City Council desires at this time and deems it to be in the best public interest to approve the lease agreement ("Agreement") with SDNEDC.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor and City Clerk are authorized to execute, on behalf of the City, an Agreement with SDNEDC, in substantially the form attached to this Resolution as Exhibit "1," and incorporated by this reference, and subject to final approval as to form by the City Attorney.

**CITY OF ESCONDIDO
LEASE AGREEMENT**

PREMISES:

700 West Grand Avenue
Escondido, CA 92025

LESSEE:

San Diego North Economic Development Council

TERM: Three (3) Years

CITY OF ESCONDIDO
LEASE AGREEMENT INDEX

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Exhibit A Premises
Exhibit B Sublease Agreement



CITY OF ESCONDIDO
LEASE AGREEMENT

This Agreement is made this _____ day of _____, 2010.

Between: CITY OF ESCONDIDO
a municipal corporation
201 N. Broadway
Escondido, California 92025
("CITY")

And: San Diego North Economic Development Council
XX
XX
("LESSEE")

Witness that whereas:

- A. CITY desires to rent to Lessee and Lessee desires to rent from CITY certain public property located at 700 West Grand Avenue, for the purpose of operating a consulting business. The Property is described in Exhibit "A," which is incorporated by this reference.

NOW THEREFORE, it is mutually agreed by and between CITY and LESSEE as follows:

1. DEFINITION OF TERMS. The following words in this Lease Agreement shall have the significance attached to them in this clause unless otherwise apparent from their context.
 - a. "Lease" means this Lease Agreement.
 - b. "Premises" means the real property described in Exhibit "A."
 - c. "Lease Administrator" means the City of Escondido-Real Property Agent, or upon written notice to Lessee, such other person as shall be designated from time to time by CITY.

- d. "LESSEE" means the San Diego North Economic Development Council, and does not include its heirs, assigns, or successors-in-interest.
- e. "SUBLESSEE" means any person or entity that leases space on the Premises directly from LESSEE.
2. ADMINISTRATION. This Lease shall be administered on behalf of CITY by the Lease Administrator, whose address is:

City of Escondido
Engineering – Real Property
201 North Broadway
Escondido, CA 92025

and on behalf of Lessee by San Diego North Economic Development Council, whose address is:

XX
XX

3. TERM. The term of this Lease shall be three (3) years, commencing on November 1, 2010.
4. TERMINATION OF LEASE.

4.1 Each party shall have the right to terminate this Lease without cause for any reason by giving ninety (90) days prior written notice to the other party.

4.2 CITY shall have the right to terminate this Lease by giving seven (7) days prior written notice to LESSEE for any of the following events:

4.2.1 LESSEE'S failure to comply with the following clauses in this Lease:

Acceptance and Maintenance, Paragraph 12

Alterations, Paragraph 13

Use, Paragraph 14

Occupancy, Assignment and Subletting, Paragraph 15

Conduct, Paragraph 16

Insurance, Paragraph 22

Americans with Disabilities Act (ADA), Paragraph 30

4.2.2 If the CITY discovers at any time during the lease term that the LESSEE or any other party has used, is using, or will use the Premises in an unlawful manner or for an unlawful purpose, or in any manner that is inconsistent with any provision of this Lease.

5. OPTIONS TO RENEW. LESSEE shall have two (2) one (1) year options to renew this Lease upon CITY'S written consent. If LESSEE desires to renew this Lease, LESSEE shall provide written notice to CITY of LESSEE'S intent to renew not less than sixty (60) days prior to the expiration of the initial Lease term or first renewal year. CITY shall respond to LESSEE'S renewal request in writing within thirty (30) days of receiving such notice. CITY reserves the right to modify the rent rate for each renewal year at the Lease Administrator's discretion.

6. VACATION OF PREMISES.

6.1 Upon termination of this Lease for any reason, LESSEE shall peaceably vacate, and shall cause its SUBLESSEES to peaceably vacate, and deliver the Premises to CITY in the same condition as Lessee found them upon its acceptance of the Premises hereunder, excepting ordinary wear and tear, conditions caused by acts of God and improvements made in accordance with Section 13 herein.

6.2 Upon such termination, LESSEE shall immediately:

6.2.1 Arrange and pay for the disconnection of all utilities and services ordered by LESSEE;

6.2.2 Provide a written statement to the Lease Administrator of LESSEE'S new address for purpose of refunding monies, if any, due LESSEE under this Lease; and

6.2.3 Deliver any keys for the Premises to the Administrator or send said keys by certified mail to the address stated in Paragraph 2 above.

7. RENT. In consideration of the possession and use of the Premises, LESSEE shall deliver and pay rent to CITY during the term of this Lease in the amount of ONE DOLLAR (\$1.00) per year.

8. COST OF LIVING ADJUSTMENT. Not applicable to this lease.
9. SECURITY DEPOSIT. No security deposit shall be required under this Agreement.
10. UTILITIES PAYMENTS. LESSEE agrees to provide and pay for all utilities and services necessary for the occupancy and use of the Premises, including, but not limited to: gas, water, electricity, trash, sewage charges or septic service, and telephone.
11. TAXES, ASSESSMENTS, AND FEES.
- 11.1 The terms of this Lease may result in the creation of a possessory interest. If such a possessory interest is vested in LESSEE, LESSEE may be subjected to the payment of personal property taxes levied on such interest. LESSEE shall be responsible for the payment of, and shall pay before delinquent, all taxes, assessments, and fees assessed or levied upon LESSEE, on said Premises or any interest therein, on any buildings, structures, machines, appliances, or other improvements of any nature whatsoever, or on any interest therein.
- 11.2 LESSEE further agrees not to allow such taxes, assessments, or fees to become a lien against said premises or any improvement thereon. Nothing herein contained shall be deemed to prevent or prohibit LESSEE from contesting the validity of amount of any such tax, assessment, or fee in any manner authorized by law.
12. ACCEPTANCE AND MAINTENANCE.
- 12.1 LESSEE hereby acknowledges that LESSEE has inspected the Premises, that LESSEE accepts said Premises "as is" and "where is," that the Premises are in a good and sanitary order, condition, and repair. LESSEE hereby accepts the Premises as such.
- 12.2 LESSEE agrees to take good care of the Premises and all improvements, alterations, fixtures, and appurtenances thereon. LESSEE agrees to make all repairs in and about the Premises, including painting, which may be necessary to preserve them in good order and condition. Said repairs, if any, shall be made in a good and professional manner, and at least equal to the condition and quality of the repaired items at the inception of this Lease. LESSEE shall promptly pay the expenses of such repairs. LESSEE agrees to be solely responsible for all costs of maintenance and repair.

12.3 In the event LESSEE fails to properly maintain the premises as required by CITY, then CITY may notify Lessee in writing of said failure. In the event LESSEE fails to perform said maintenance within thirty (30) days after such notice by CITY, CITY may perform such maintenance, and the cost thereof including, but not limited to, the cost of labor, material, and equipment, shall be paid by Lessee to CITY within ten (10) days from receipt by LESSEE of a cost statement from CITY.

12.4 Noncompliance by LESSEE or SUBLESSEES with any provision of this clause shall allow the CITY to immediately terminate this Lease, pursuant to Paragraph 4.2 above.

13. ALTERATIONS.

13.1 LESSEE shall make the alterations and improvements to the Premises, at LESSEE'S sole cost and expense, that LESSEE reasonably believes are necessary to operate said consulting business. Any and all alterations and improvements made to the Premises must first be approved in writing by the Lease Administrator.

13.2 Any improvements made with the consent of the Lease Administrator shall become a fixture to the realty and shall remain on and be surrendered with the Premises upon termination of this Lease.

13.3 Noncompliance by LESSEE or SUBLESSEES with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.

14. USE. LESSEE agrees to use the Premises as follows:

14.1 To provide business consulting services to SUBLESSEES, in accordance with the provisions and requirements contained in any permits required by the City of Escondido Planning Division and in accordance with the Sublease Agreement attached and incorporated hereto as Exhibit "B."

- 14.2 LESSEE shall not use, nor permit the use of, the Premises other than as described in Paragraph 15.1 above. In any case where LESSEE is, or should reasonably be, in doubt as to the propriety of any particular use, LESSEE may request, and will not be in breach or default if LESSEE abides by, the written determination of the Lease Administrator that such use is or is not permitted.
- 14.3 Noncompliance by LESSEE or SUBLESSEES with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
15. OCCUPANCY, ASSIGNMENT AND SUBLETTING. The Premises shall only be occupied by LESSEE and LESSEE'S SUBLESSEES. LESSEE agrees to sublease the premises in accordance with the Sublease Agreement. LESSEE shall not assign this Lease or any interest therein without the prior written consent of the Lease Administrator. Any such assignment without the CITY'S consent shall be void and shall, at the option of CITY, terminate this Lease. LESSEE'S noncompliance with this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
16. CONDUCT.
- 16.1 LESSEE, SUBLESSES and their guests shall at all times conduct themselves in a quiet and dignified manner so as to cause no annoyance or inconvenience to neighbors of LESSEE.
- 16.2 LESSEE and SUBLESSEES shall not violate, or permit the violation of, any CITY or County ordinance, or state or federal law, in or about the Premises.
- 16.3 Noncompliance by LESSEE or SUBLESSEES with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
17. PETS. No pets or livestock of any kind may be kept on the Premises without the prior written consent of the Lease Administrator.

18. NOTICES. Any notice required or permitted to be given by this Lease must either be personally served on the other party or served by certified mail, return receipt requested, to the addressee. Notices served by mail shall be sent to the address listed above in Paragraph 2. A change of either party's address must also be immediately served in the manner described above.
19. RIGHT OF INSPECTION. CITY reserves the right for its agents or employees to enter upon and inspect the Premises at any reasonable time to ascertain if LESSEE is complying with the provisions of this Lease.
20. AUDIT. CITY reserves the right for its agents or employees to conduct financial audits, not more than once yearly, of LESSEE'S financial records that are in any way associated with the Premises. CITY shall provide at least three (3) days advance notice to LESSEE of CITY'S intent to inspect such records.
21. RIGHT TO SHOW PREMISES. CITY reserves the right, during the last sixty (60) days of this Lease, or any extension thereof, to conduct an "open house" of the Premises in order to facilitate re-renting or selling the Premises. Said "open house" shall not exceed four hours total duration (maximum of two separate days), and when possible, be scheduled from 3 p.m. to 5 p.m., Monday through Friday.
22. INSURANCE.
- 22.1 LESSEE must have insurance in the following amounts at all times during this Agreement:
- 22.1.1 General liability insurance with at least \$1 Million combined single-limit coverage per occurrence for bodily injury and property damage; and
- 22.1.2 Automobile liability insurance of \$1 Million combined single-limit per accident for bodily injury and property damage; and
- 22.1.3 Workers' compensation and employer's liability insurance as required by the California Labor Code, as amended, or certificate of sole proprietorship
- 22.2 Each insurance policy required above must be acceptable to the City Attorney:

- 22.2.1 Each policy must name the CITY specifically as an additional insured under the policy on a separate endorsement page, with the exception of the workers' compensation policy.
- 22.2.2 Each policy must provide for written notice within no more than thirty (30) days if cancellation or termination of the policy occurs. Insurance coverage must be provided by an A.M. Best's A-rated, class V carrier or better, admitted in California, or if non-admitted, a company that is not on the Department of Insurance list of unacceptable carriers.
- 22.2.3 All non-admitted carriers will be required to provide a service of suit endorsement in addition to the additional insured endorsement.
- 22.3 LESSEE agrees to deposit with CITY, on or before the effective date of this Lease, one Certificate of Insurance for each of the policy or policies necessary to satisfy the insurance provisions of this Lease and to keep such insurance in effect during the entire term of this Lease. Said Certificate of Insurance shall be reviewed by, and acceptable to, the City Attorney, prior to commencement of the Lease Term. LESSEE will also deposit with the CITY within 60 days of the Effective Date of this Lease, an Additional Insured Endorsement naming CITY specifically and separately as a "additional insured", with the exception of the worker's compensation policy. The appropriate endorsements described in Paragraph 22.2 above shall follow within sixty (60) days. Noncompliance by LESSEE with any provision of this Clause shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
- 22.4 CITY shall retain the right at any time to review the coverage, form and amount of the insurance required hereby. If, in the opinion of the Lease Administrator, the insurance provisions in this Lease do not provide adequate protection for CITY and for members of the public using the Premises, CITY may require LESSEE to obtain insurance sufficient in coverage, form and amount to provide adequate protection from and against the kind and extent of risks which exist or are foreseeable at the time a change in insurance is required. CITY'S requirements shall be reasonable, but shall be designed to assure adequate protection of the CITY'S interests. The Lease Administrator shall notify LESSEE in writing of changes in the insurance requirements and, if LESSEE does not deposit with CITY within sixty (60) days of receipt of such notice a new Certificate of Insurance for each policy or policies of

insurance incorporating such changes, this Lease shall be deemed in default without further notice to LESSEE and may be forthwith terminated by the Lease Administrator, pursuant to Paragraph 4.2 above.

- 22.5 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 provisions and requirements of this Lease. Notwithstanding said policy or policies of insurance, LESSEE shall be obligated for the full and total amount of any damage, injury or loss attributable to any act or omission of it or its agents, customers or guests in connection with this Lease or with use or occupancy of the Premises.
- 22.6 Noncompliance by LESSEE with any provision of this Paragraph 22 shall allow the Lease Administrator to terminate this Lease pursuant to Paragraph 4.2 above.
23. INDEMNIFICATION. LESSEE shall defend, indemnify, and hold harmless CITY, its officers, agents, and employees from and against any and all claims, demands, and liabilities for loss of any kind or nature which CITY, its officers, agents, or employees may sustain or incur or which may be imposed upon them or any of them for injury to or death of persons or damage to property as a result of, arising out of, or in any manner connected with this Lease or with the occupancy and use of the Premises by LESSEE, SUBLESSEES, their invitees, visitors, or any other persons whatsoever. LESSEE further agrees to pay any and all costs and expenses, including, but not limited to, court costs and reasonable attorney's fees incurred by CITY on account of any such claims, demands, or liabilities. However, the provisions of this Agreement shall not be construed to indemnify CITY for claims or acts arising from CITY'S sole negligence.
24. ATTORNEY'S FEES, COSTS AND EXPENSES. In the event litigation or other proceeding is required to enforce or interpret any provision of this Lease, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.
25. NONDISCRIMINATION. LESSEE herein covenants that this Lease is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of physical or mental disabilities, race, color, creed, religion, sex, marital status, national origin or ancestry in the use, occupancy, tenure or enjoyment of the leased premises. LESSEE shall not establish or

permit any such practice of discrimination or segregation with reference to the selection, location, number, or use of occupancy by customers, tenants or vendees in the leased premises.

26. SUPERSEDURE. This Lease, upon becoming effective, shall supersede any leases or rental agreements heretofore made or issued for the Premises between the CITY and LESSEE.
27. HAZARDOUS AND/OR CONTAMINATED SOIL AND MATERIAL. LESSEE will not place or permit to be placed materials and/or contaminated soils on the premises which under federal, state, or local law, statute, ordinance, or regulations require special handling in collection, storage, treatment, and/or disposal. LESSEE also hereby covenants and agrees that, if at any time it is determined there are materials and/or contaminated soils located on the premises which under any environmental requirement require special handling in collection, storage, treatment, or disposal, LESSEE shall notify CITY. Within thirty (30) days after written notice to CITY or from CITY, LESSEE shall commence to take and thereafter diligently complete, at LESSEE'S sole expense, such actions as may be necessary to comply with environmental requirements.
28. LAW TO GOVERN; VENUE. This Lease Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of San Diego, North County Branch. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Southern District of California, in San Diego.
29. SPECIAL PROVISIONS. LESSEE hereby acknowledges that LESSEE waives all rights to any form of relocation assistance provided for by local, state, or federal law to which LESSEE may be entitled by reason of this Lease.
30. AMERICANS WITH DISABILITIES ACT (ADA). It is the duty of the LESSEE while operating under this Lease to comply with all local, state, and federal laws, including, but not limited to, the Americans with Disabilities Act and to indemnify CITY from any violation of any such law. Failure to comply with a provision of local, state, or federal law is grounds for the Lease Administrator's immediate termination of this Lease.

IN WITNESS WHEREOF, the parties below are authorized to act on behalf of their organizations, and have executed this Agreement as of the date set forth below.

CITY OF ESCONDIDO

Date: _____

By: _____
Mayor

Date: _____

By: _____
City Clerk

Date: _____

San Diego North Economic Development Council

By: _____

Print Name and Title

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
Jeffrey R. Epp, City Attorney

By: _____

EXHIBIT A

Legal Description

(To be added later)

SUBLEASE FOR CENTER FOR ENTREPRENOMICS

Escondido, CA 92025

THIS SUBLEASE is made at Escondido, CA on this ____ day of ____ **2010**, by and between San Diego North Economic Development Council, a California not-for-profit-corporation ("Landlord"), and _____. ("Tenant").

WITNESSETH:

That in consideration of the mutual promises, covenants, conditions, and terms to be kept and performed, it is agreed between the parties hereto as follows:

1. Business Assistance Program

The Landlord and Tenant understand that Landlord desires to assist and encourage Tenant's business by providing certain extraordinary business assistance services in addition to the Sublease of the Premises. These services are described in the materials provided to Tenant prior to the time of Tenant's acceptance of this Sublease, which materials (as may be amended from time to time by Landlord) are incorporated into this Sublease by reference. In addition, Tenant has received, prior to the execution of this Sublease, materials regarding eligibility and hiring practices and employment and financial reporting requirements. The parties agree that no default, defect, or omission by Landlord in the providing and performance of such services shall be deemed to be a default by Landlord under this Sublease.

2. Description

Landlord subleases to Tenant, and Tenant shall pay rent for the Premises identified as **office space** _____ "Premises"), at 700 West Grand Avenue, Escondido, CA 92025.

3. Term

Tenant shall sublease the Premises for a term of one (1) year commencing the **1st** day of _____ **2010**, and ending on the **31st** day of _____ **2011**. Landlord and Tenant shall each have the right to terminate this Sublease upon giving the other at least thirty (30) days written notice of their intent to terminate, such termination to be at the end of such thirty (30) day period or at such later date as is indicated in the notice to terminate, but not prior to the end of one complete billing cycle.

4. Rent / Additional Rent / Utilities

For the Premises and Term set forth above, the Tenant agrees to pay a total rent of _____). Rent to be paid in equal monthly installments of (_____) in advance on the first day of each calendar month. In the event possession is taken on a date other than the first day of the month, the rent shall be pro-rated for the period between the date of possession and the first of the next calendar month in order to place the rental payments on the foregoing schedule.

Tenant agrees to pay any and all charges incurred under separate agreement or otherwise for services furnished by Landlord as well as any other amounts due Landlord as additional rent which shall be paid along with the monthly installment of rent.

Subject to the provisions in Section 1 and the materials relating to extraordinary utilities and trash removal, the rent in the office space shall include the following: real property taxes and assessments, gas, water, and electricity.

4-a. Requirement to site in the City of Escondido upon graduation or exiting incubator

The Center for Entrepreneomics, as an incubation facility, hereby requires city graduation location a requirement for initial entry into the facility. Tenant agrees to site their business upon graduation in the City of Escondido for a period of not less than three years in consideration for occupying space in the Center for Entrepreneomics at reduced rent and for all assistance provide and for use of incubator resources.

Tenant agrees to reimburse Landlord for all costs, at true market rates (to be determined at time of exit or graduation), for services furnished by Landlord, and for the difference in rental rate during the length that tenant occupied space in the incubator and received services that assisted them in developing a business.

5. Insurance Costs of Lessor

Tenant shall pay, as additional rent, any increase in premiums for insurance against direct loss that may be charged during the term of this Sublease on the amount of insurance now carried by the Landlord on the Premises and on the improvements situated on the Premises resulting from the business carried on therein by the Tenant or from the character of its occupancy, even if the Landlord has consented thereto.

6. Security Deposit

As additional security for the faithful performance of its obligations hereunder, Tenant shall pay to Landlord the sum of **Seven Hundred and no/100 Dollars (\$700.00)**. Unless otherwise agreed by landlord and tenant in advance, in writing, Tenant shall pay the security deposit in one payment on or before the 1st day of _____ 2010. The security deposit may be applied by Landlord for the purpose of curing any default or defaults of Tenant under this Sublease, in which event Tenant shall replenish said deposit in full by promptly paying to Landlord the amount so applied. If Tenant has not defaulted or Landlord has applied the deposit to cure a default and Tenant has replenished same, then the deposit, or such applicable portion thereof, shall be repaid in Cash to Tenant promptly after the termination of this Sublease. The deposit shall not be deemed an advance payment of rent or a measure of Landlord's damages for and default by Tenant. No interest shall be paid on Tenant's security deposit.

7. Late Charges

Tenant agrees to pay a surcharge of fifteen percent (15%) on any amount ten (10) or more days past due, and a surcharge of twenty-five percent (25%) on any amount fifteen (15) or more days past due. All payments received shall be first applied to any past due amounts and then to current charges. No payment by Tenant or acceptance by Landlord of a lesser amount than the basic rent, additional rent, or other payments to Landlord due hereunder shall be deemed to be other than part payment of the full amount due. Landlord may accept such part payment without prejudice to Landlord's right to recover the balance due and payable or to pursue any other remedy provided in this Sublease.

8. Place of Payment

Any payment due from the Tenant to the Landlord under this Sublease shall be made the Landlord's office at 750 Grand Avenue, Escondido, CA 92025, or at such other place the Landlord designates from time to time in writing.

9. Holding Over

In the event that Tenant holds over after expiration of this Sublease without a written agreement between the parties to renew, extend, or otherwise renegotiate the leasehold such holding over shall be construed as a month-to-month tenancy on the terms and conditions, so far as applicable, of this Sublease.

10. Condition of Premises at Time of Leasing

The Tenant acknowledges that it has examined the Premises prior to the making of this Sublease and knows its condition, and that no representations as to its conditions or state of repair has been made by the Landlord or its agents that are not expressed in this Sublease. The Tenant hereby accepts the Premises in its present condition at the date of the execution of this Sublease.

11. Delay in Obtaining Possession

If the Tenant cannot take possession of the Premises at the time provided above because the Premises are not ready, or because another tenant is holding over, or because of any cause beyond the control of the Landlord, the Landlord shall not be liable in damages to the Tenant; but rent shall fully abate during the period of any such delay. Landlord shall not be liable for failure to deliver the Premises to Tenant on the beginning date of this Sublease for reasons beyond the Landlord's control.

12. Use and Occupancy

The Premises shall be used during the term of this Sublease for the business of Tenant described as _____ and for no other purpose. The Premises shall not be used, occupied, or kept in violation of any law, municipal ordinance, or regulation.

13. Unlawful or Dangerous Activity

Tenant shall neither use nor occupy the demised Premises or any part thereof for any unlawful, disreputable, or ultra-hazardous business purpose, nor operate or conduct business in a manner constituting a nuisance of any kind. Tenant shall immediately, on discovery of any unlawful, disreputable, or ultra-hazardous use, take action to halt such activity. Tenant agrees to comply with all applicable laws, ordinances, and regulations of the City of Escondido, the State of California, and the United States Government, and to conform to all reasonable rules and regulations which Landlord may establish; not to damage any part of the premises; and not to permit any employee, agent, customer, or visitor to be in violation of any obligation of Tenant under this Sublease.

14. Care of Premises

The Tenant shall not perform any act or carry on any practices that may injure the Building or be a nuisance to other tenants in the Building and shall keep the Premises clean and free from rubbish and dirt at all times.

15. Casualty

Subject to the conditions set forth in Section 15, if the Premises are damaged or destroyed, in whole or in part, during the Term of this Sublease, the Landlord shall repair and restore them to good and tenable condition with reasonable dispatch. If the Premises are untenable in whole, the rent shall abate in full until they are restored to good and tenable condition. If the premises are untenable in part, rent shall abate pro rata until they are restored to good and tenable condition. Provided that:

- (A) If delay in repair or restoration is caused by the Tenant failing to adjust its own insurance or to remove its damaged goods, wares, equipment, or other property within a reasonable time, the rent shall not abate during the period of such delay;
- (B) If casualty damage is caused by the negligent or willful acts of the Tenant, its agents or employees, there shall be no rent abatement;
- (C) If during the time of repair, the Tenant uses a portion of the Premises for storage, Tenant shall be liable for a reasonable storage fee;
- (D) In the event the Premises or the Building are destroyed to the extent of more than one-half its value, the Landlord may terminate the Sublease by a written notice to Tenant.

16. Loss Caused by Other Tenants

The Landlord shall not be liable to the Tenant for damages occasioned by the acts or omissions of persons occupying adjoining Premises or any part of its Building of which the Premises are a part, or for any loss or damage resulting to the Tenant of its property from bursting, stoppage, or leaking of water, gas, or sewer pipes.

17. Insurance to be Obtained by Tenant

The Tenant shall carry the following minimum amounts of insurance during the life of this Sublease with the Landlord listed as additional insured:

- (A) Comprehensive General Liability insurance issued by a reputable insurance company licensed to do business in California for bodily injuries, including those resulting in death, and property damage in an amount not less than a combined single limit of Three Hundred Thousand Dollars (\$ 300,000), and an additional Fifty Thousand Dollars (\$50,000) for Fire Legal Liability.
- (B) At the sole discretion of the Tenant, insurance for all contents, and Tenant's trade fixtures, machinery, equipment, furniture, furnishings, and inventory in the subleased Premises. Tenant must be advised the Landlord is not responsible for loss of business contents or business income of the Tenant.
- (C) Insurance for any leasehold improvements made by Tenant upon the Premises against all risks of direct physical loss, including water pipe and sprinkler breakage and damage. The insurance coverage shall be for not less than One Hundred Percent (100%) of the then current full replacement cost of such improvements with all proceeds of insurance payable to Landlord provided, however, that such proceeds shall be used to restore the improvements.

The insurance shall be in companies and in form, substance, and amount (where not stated above) satisfactory to the Landlord. The insurance shall not be subject to cancellation except after at least thirty (30) days prior written notice to the Landlord. Certificate of insurance together with satisfactory evidence of payment of the premiums thereon, shall be deposited with Landlord at the commencement date of this Sublease and renewals thereof not less than thirty (30) days prior to the end of the term of such coverage.

Should Landlord receive notice of cancellation of said insurance, it shall notify the Tenant to cease operations immediately and not to start again until Landlord receives new copies evidencing that insurance describe above is in full force and effect.

18. Indemnification

The Tenant shall indemnify and save the Landlord, Board of Directors and the President of the San Diego North Economic Development Council, and its agents/employees, the City of Escondido, its agents and employees, harmless from all claims or liabilities of any type of nature or any person, firm, or corporation, including any agents or employees of the Tenant, arising in any manner from the Tenant's performance of operations and business covered by this Sublease.

Landlord shall not be liable to the Tenant, or to any other person, for any damage to any person or property caused by act, omission or neglect of Tenant. Tenant agrees to indemnify or hold Landlord harmless from any such liability or claim of liability against Landlord, including attorney's fees.

19. Repairs and Alterations by Tenant

Tenant shall, at its own expense, keep the Premises in good repair, and will, at the expiration of this Sublease, deliver the Premises to the Landlord in like condition as when taken, reasonable use and wear thereof and damage by the elements excepted. The Tenant shall not make any alterations, additions, or improvements to the Premises without the Landlord's prior written consent. All alterations, additions, and improvements made by either party upon the Premises during the Term hereof, except movable office furniture and trade fixtures put in at Tenant's expense, shall become property of the Landlord at the expiration of the Term. Tenant covenants to pay as they become due all just claims for labor and materials used in making any such additions, alterations, or improvements and to indemnify and save Landlord and the Premises harmless of and from all costs, expenses, and damages, including reasonable attorney's fees and costs of suit arising out of or connected with any statutory or other liens against the Premises, the Building, or the Property for or on account of such labor and materials.

Tenant covenants both for itself and its servants, agents, and employees, to observe and keep all necessary rules and regulations of the Building which affect said Premises and will at its own cost and expense make any and all necessary alterations or changes in the Premises which may be necessary because of any act of the Tenant, its servants, agents, and employees, in violation of any law, ordinance, rule or regulation of any city, state, or government body. Upon the failure of the Tenant to make or proceed to make, any such changes or alterations within thirty (30) days after being required to by any other rule, regulation, or ordinance above referred to within ten (10) days of the receipt of said order or notice, then Landlord may enter the Premises at its option and do and perform said alterations or make such changes at the cost and expense of the Tenant, which said expense shall be deemed as rent and added to the next monthly installment of rent then accruing and be collectible as such.

20. Access to Premises and Common Areas

Landlord may enter the Premises at any reasonable time for any reasonable purpose. If the Landlord deems any repair necessary for which the Tenant is responsible, Landlord may demand that the Tenant perform the repair. If Tenant refuses or neglects to make the repair in a reasonable time, the Landlord may make the repair and charge the Tenant in accordance with Section 6. The Landlord may enter the premises at reasonable times to install or repair pipes, wires, or other appliances or to make any repair the Landlord deems essential to the use and occupancy of the other parts of the Building. Landlord shall give reasonable advance notice to Tenant of its intention to make non-emergency repairs.

In addition to the Premises, the Tenant shall have a non-exclusive right to access to such common areas as Landlord determines to be necessary to the use of the Premises as appropriate.

21. Advertising Displays

No sign or advertising shall be displayed upon the Premises unless approved in writing by the Landlord.

22. Nondiscrimination

The Tenant agrees not to discriminate against any client, employee, or applicant for employment or for services because of race, creed, color, national origin, sex, sexual orientation, or age, with regard to, but not limited to, the following: employment upgrading; demotion or transfer, recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services.

23. Assignment

The Tenant shall not assign, transfer, or mortgage this sublease or sublet the Premises in whole or in part without the Landlord's prior written consent. Any assignment or subletting shall not relieve Tenant of any of its obligations under this sublease.

24. Trash Service

Landlord agrees to provide at its cost a suitable trash receptacle and regularly scheduled pick-up sufficient to service Tenant in order to prevent the unsightly accumulation of trash and other debris. Tenant shall be responsible for trash collection charges that exceed a normal service minimum Charge. Tenant will dispose of all hazardous waste according to local laws and ordinances.

25. Default

It is expressly understood and agreed that if the rents above, or any part thereof, shall be in arrears, or if default shall be made in any of the covenants of agreements herein contained to be kept by Tenant, Landlord may, at Landlord's election, give Tenant ten (10) days written notice of Landlord's intent to terminate said Sublease; provided however, that during said ten (10) day period, Tenant may correct defaults as set forth in said notice and avoid forfeiture thereof.

Upon termination of this Sublease pursuant to the preceding paragraph, Tenant shall peacefully surrender the premises to Landlord, and Landlord may upon such termination or at any time after such termination, without further notice, rent the Premises. If Tenant fails to peacefully surrender the Premises, the Landlord may repossess it by force, summary proceedings, ejectment, or otherwise and may dispossess Tenant and remove Tenant and all other persons and property from the Premises. At any time after such termination, Landlord may re-let the Premises or any part thereof in the name of Landlord or otherwise for such term (which may be greater or lesser than the period which would otherwise have constituted the balance of the term of this Sublease) and on such conditions (which may include concessions or free rent) as Landlord, in Landlord's discretion may determine and may collect and receive the rents therefor. Landlord shall in no way be responsible for or liable for any failure to re-let the Premises or any part thereof or for any failure to collect any rent due upon such re-letting.

No such termination of this Sublease shall relieve Tenant of Tenant's liability and obligations under this Sublease, and such liability and obligations shall survive any such termination. In the event of any such termination, whether or not the Premises or any part thereof shall have been re-let, Tenant shall pay to Landlord the rent required to be paid up by Tenant up to the time of such termination, and thereafter,

Tenant, until the end of what would have been the term of this Sublease in the absence of such termination shall be liable to Landlord for, and shall pay to Landlord as and for liquidated and agreed damages for Tenant's default;

- (A) The equivalent of the amount of rent which would be payable under this Sublease by Tenant if this Sublease were still in full force and effect, Less
- (B) The net proceeds of any re-letting effected pursuant to the provisions of the preceding subparagraph, after deducting all of Landlord's reasonable expenses in connection with such re-letting, including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation for such re-letting.

26. Landlord's Lien for Rent

Tenant hereby grants a lien to Landlord on Tenant's interest in all improvements, fixtures, or personal property, including inventory on the Premises. In the event Tenant fails to cure a default under this Sublease, Tenant authorizes Landlord to take possession of the property free and clear of Tenant's interest therein.

27. Cumulative Remedies

Remedies, rights, and benefits of this Sublease are cumulative and shall not be exclusive of any other remedy, right, or benefit contained herein or of any remedy, right, or benefit allowed by law.

28. Jurisdiction and Attorney's Fees

The prevailing party is entitled to any and all attorney fees or other costs incurred in enforcing the provisions set forth in this Sublease. This paragraph shall also apply to any court action or appeals therefrom.

29. Waiver

One of more waivers by the Landlord or Tenant of any of this Sublease's provisions shall not be construed as a waiver of a further breach of the same provision.

30. Bankruptcy and Insolvency

The Landlord may cancel this Sublease in the event that the estate created hereby is taken in execution or by other process of law; or, if the Tenant is declared bankrupt or insolvent according to law; or if any receiver is appointed for the business and property of the Tenant; or if any assignment is made of the Tenant's property for the benefit of creditors.

31. Rules and Regulations

Tenant, its agents, employees, and invitees will use the common areas of the Building (reception area, conference rooms, halls, steps, passageways, toilet rooms, delivery area, parking area, and so forth) subject to rules as the Landlord may make from time to time for the general safety and convenience of the occupants and tenants of the Building.

32. Substitute Space

It is understood that Landlord may substitute space within the Building of similar quality for the Premises subleased to the tenant. Landlord shall be responsible for all expenses in moving Tenant to the new Premises.

33. Quiet Enjoyment

Upon performing the foregoing covenants, the Landlord agrees that the Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises of the Term herein.

34. Partial Validity

If any provision of this Sublease shall be invalid, the remainder of this Sublease shall not be affected thereby.

35. Notice

Whenever this Sublease requires notice to be served on Landlord or Tenant, notice shall be effective the day after mailing, and shall be sufficient if mailed by first-class mail with postage fully paid, to the following address:

Tenant:

Landlord:

36. Amendments and Modifications

Except for the provisions in Section 1 relating to the Business Assistance Program, Landlord and Tenant agree that this Sublease contains the entire agreement, express or implied, of the parties hereto. There shall be no amendments or modifications to this Sublease, unless agreed to in writing, signed by Landlord and Tenant.

37. Binding Successors

This Sublease is binding on the respective heirs, successors, representatives, and assigns of the parties.

38. Applicable Law

This Sublease shall be constructed according to the laws of the State of California.

IN WITNESS WHEREOF, the parties have signed this Sublease in Escondido, California, the day and year written below.

LANDLORD: San Diego NorthTENANT:
Economic Development Council

Dated: 02/03/2010

Dated: 02/01/2010

By:

By:

President/CEO

CEO

DISCLAIMER

THIS AGREEMENT of understanding is prepared for the benefit of the INCUBATOR PROGRAM, hereinafter referred to as "Program," and _____ hereinafter referred to as "Business," both parties which desire to clearly understand the relationship developed for the benefit of promoting and assisting in this limited arrangement.

Program and Business are neither a partnership nor a venture of any description, in fact or law, but rather are independent entities forming a voluntary arrangement wherein Program is a general business advisor of Business. Business is under no compulsion or constraint to accept or implement the suggestions and advisement of Program.

Business specifically acknowledges and agrees that Program has no liability, past, present, or future, as to the final and ultimate decisions of Business, nor is Business compelled in any fashion to accept the advisement and suggestions of Program.

Program neither assumes nor authorizes Business to assume any liability of behalf of Program or suggest to third parties, either expressly or implied, that Program is in any way a principal, agent, or associated entity of Business, and

Business specifically acknowledges its responsibility for all decisions and business matters related to its operation and control.

The Business shall indemnify and save the Program; the Landlord; the President of the San Diego North Economic Development Council, Board of Directors and any of the programs' agents, advisors, representatives, and employees harmless from all claims or liabilities of any type of nature or any person, firm, or corporation, including any agents or employees of the Business, arising in any manner from the Business's performance of operations and business covered by this Sublease and this disclaimer.

Program and Business agree herein to represent accurately the relationship between Program and Business and to abide by these provisions.

Executed this _____, in Escondido, CA.