

LEASE

(This document is a lease of less than 99 years and not a conveyance subject to Transfer Return and fee per Sec. 77.21(1) Wis. Stats.)

This Lease entered into this _____ day of May, 2016, by and between **CAG Development LLC**, a Wisconsin corporation (the "Lessor"), and the **City of Madison**, a Wisconsin municipal corporation (the "City").

WITNESSETH:

WHEREAS, the Lessor is the owner of the commercial warehouse building located at 2422 Pennsylvania Avenue Madison, Dane County, Wisconsin (the "Building"), which Building is located on real property (the "Land") owned by the Lessor as described below

All of Lots 40, 41, 42, 43 and the North 29 feet of Lot 44, also the North 29 feet of Lot 4 and all of Lots 5, 6, 7 and 8, Madison Square Riley Plat, City of Madison, Dane County, Wisconsin.

RETURN TO: City of Madison
Office of Real Estate Services
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel No.: 251-0709-231-1908-0

WHEREAS, the City desires to lease a portion of the Building from the Lessor, and the Lessor desires to lease a portion of the Building to the City.

NOW, THEREFORE, it is mutually agreed as follows:

1. Leased Premises. The Lessor hereby leases to the City the northerly portion of Building, consisting of approximately 13,696 square feet, the exclusive adjacent fenced area, driveway access and 11 surface parking stalls in the adjacent parking facility as described in Exhibit A (collectively, the "Leased Premises").
2. Term. The initial term of this Lease (the "Initial Lease Term") shall be for a period of five (5) years, commencing on May 16, 2016 (the "Lease Commencement Date") and ending on May 31, 2021, unless extended by the City as hereinafter provided.
3. Option to Renew. If, at the end of the Initial Lease Term of this Lease, the City is not in default under the terms and conditions of this Lease, then the City shall have three (3) options to extend this Lease for an additional term of three (3) years each (individually "Option Term 1", "Option Term 2" and "Option Term 3" (collectively the "Option Terms"), under the same terms and conditions provided in the original Term of this Lease, except that monthly Rent during the Option Terms shall be as described in Paragraph 4 below. The Rent is payable on the first day of the month throughout Option Term 1, Option Term 2 or Option Term 3, as applicable.

If the City desires to renew this Lease, the City must give notice in writing to the Lessor a minimum of ninety (90) days prior to the expiration of the Initial Lease Term or then exercised Option Term. All notices under this paragraph shall be given as specified in Paragraph 25 of the Lease.

4. Rent. The first Rent payment shall be due upon the Lease Commencement Date in the amount of \$3081.60. Thereafter, The City shall pay to the Lessor monthly rent (“Rent”) in the amount of according to the below table. All subsequent Rent payments shall be due on or before the first day of each following month throughout the term of this Lease, including any Option Term. Payments are to be made payable to the Lessor and sent or personally delivered to the Lessor at the address specified in Paragraph 25.

Initial Lease Term	Per Sq. Ft. Rent	Annual Rental Rate	Monthly Payment
Month 1-partial month	not applicable	not applicable	\$3,081.60
Months 2-12 (11 months)	\$5.40	\$67,795.20	\$6,163.20
Months 13-24 (12 months)	\$5.56	\$76,177.15	\$6,348.10
Months 25-36 (12 months)	\$5.73	\$78,462.47	\$6,538.54
Months 37-48 (12 months)	\$5.90	\$80,816.34	\$6,734.70
Months 49-60 (12 months)	\$6.08	\$83,240.83	\$6,936.74
Option Term 1			
Months 61-72 (12 months)	\$6.26	\$85,738.06	\$7,144.84
Months 73-84 (12 months)	\$6.45	\$88,310.20	\$7,359.18
Months 85-96 (12 months)	\$6.64	\$90,959.50	\$7,579.96
Option Term 2			
Months 97-108 (12 months)	\$6.84	\$93,688.29	\$7,807.36
Months 109-120 (12 months)	\$7.05	\$96,498.94	\$8,041.58
Months 121-132 (12 months)	\$7.26	\$99,393.91	\$8,282.83
Option Term 3			
Months 133-144 (12 months)	\$7.47	\$102,375.72	\$8,531.31
Months 145-156 (12 months)	\$7.70	\$105,446.99	\$8,787.25
Months 157-168 (12 months)	\$7.93	\$108,610.40	\$9,050.87

5. Operating and Maintenance Expenses. Rent shall include, without limitation due to enumeration, all real estate taxes, assessments; all utility connections, maintenance and use costs including without limitation all fire and extended coverage insurance premiums; snow removal, Building repair and maintenance costs, including those related to base Building systems (i.e., fire alarm, sprinkler and electrical systems); roof repair and replacement; HVAC expenses, parking expenses, management and administration fees.
6. City Expenses. The City shall be responsible only for the following costs and expenses associated within the Leased Premises: (a) janitorial service (b) telephone and data/computer installations and services (c) electrical, heating and air conditioning use charges (c) water and sewerage use charges and (d) storm water charges. The Leased Premises shall be separately metered for such utility services, except for storm water charges which shall be prorated based on the space occupied by the City and the total space of the Building. The City is responsible for refuse and recycled material removal.
7. Use and Hours of Operation. The Leased Premises shall be used for the Metro Transit's storage of equipment and vehicles relating to its building and grounds division, including but not limited to, maintenance operations, equipment and supply storage.
8. Lessor's Work. The Lessor agrees to perform at its sole expense certain improvements (the "Lessor's Work") to the Leased Space and Building, as outlined in Exhibit B of this Lease and described below as follows:
 - a. Create a floor to ceiling insulated demising wall to separate the City's Leased Premises from the adjacent space in the dock area.
 - b. Install a 12' by 12' steel drive-in door in the area as noted in Exhibit B. This door will be electronically wired so it can be opened via a remote control.
 - c. Insert an 8' by 8' opening in the wall as noted in Exhibit B so the adjacent area can be accessed with trucks.
 - d. Overlay or remove the existing flooring in the area noted on Exhibit B with new linoleum flooring approved by the City.
 - e. Install a light in the ceiling in the area that is being walled off by the loading docks as noted in Exhibit B.
 - f. Replace the existing water heater with a new 40 gallon energy efficient water heater.
 - g. Add "Metro Transit" to half of the pylon sign and on the canopy outside the entrance noted on Exhibit B.
 - h. Remove the area that was previously rented by the library from the separate utility meters per Exhibit B, since it is now being rented by another user.
 - i. Build a handi-cap accessible shower in the area noted on Exhibit B at City's cost. The cost will not exceed \$9100 and will be due and payable upon 30 days from the completion of work as

determined by the City's architect. The Lessor shall forward the detailed invoices and the City will approve which bid to go with.

The Lessor's Work shall be substantially complete on or before July 1, 2016, unless a later date is otherwise agreed to by the parties.

9. Assignment or Subletting. The City shall not assign, mortgage, pledge, sell, or in any manner transfer this Lease or any estate or interest hereunder and shall not sublet the Leased Premises or any part or parts thereof, without the prior written approval of the Lessor.
10. Maintenance by the Lessor. The Lessor shall keep the foundations; roof; sewer system; concrete floors, structural portions of the walls; and all other structural members, both interior and exterior, of the Leased Premises, in good order, condition and repair, and shall make any repairs/replacements and do such painting of the exterior as may be required. The term "repair" shall include replacements or renewals when necessary and all such "repairs" shall be equal in quality and class to the original work. The Lessor shall be responsible for washing all windows. Notwithstanding the foregoing, the City shall be responsible for the cost and expenses of repairs/replacements required by reason of acts or omissions of the City, the City's employees, agents, invitees, vendors, licensees or contractors. The City shall give the Lessor written notice of the necessity for repairs/replacements coming to the attention of the City, following which the Lessor shall have a reasonable time to undertake and complete such repairs.
11. Maintenance by the City. Except as may be covered by the Lessor's insurance policy for the Building, the City shall keep and maintain the interior of the Leased Premises in good order and condition. The City shall be responsible for cleaning the Leased Premises and maintenance and repair of any personal property installed within the Leased Premises. .
12. Insurance by Lessor. Beginning on the Lease Commencement Date and continuing throughout the term of the Lease, the Lessor shall maintain the following insurance coverages: A policy of comprehensive fire, extended coverage, vandalism, malicious mischief and other endorsements deemed advisable by the Lessor insuring the Leased Premises and all appurtenances thereto (excluding the City's inventory, trade fixtures, furniture, furnishings, equipment and personal property) for the full insurable replacement value thereof, with such a deductible not to exceed \$10,000. Additionally, the Lessor shall carry commercial general liability insurance, covering as insured the Lessor and naming the City, its officers, officials, agents and employees as additional insureds, with a minimum limit of \$1,000,000 per occurrence. This policy shall also be endorsed for contractual liability in the same amount, apply on a primary and noncontributory basis, and provide the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to the policy during the term of this Agreement. As evidence of this coverage, the Lessor shall furnish the City with a certificate of insurance on a form approved by the City, and, if requested by the City Risk Manager, Lessor shall also provide copies of additional insured endorsements or policy. If the coverage required above expires while this Lease is in effect, Lessor shall provide a renewal certificate to the City for approval.
13. Insurance by City. The City shall maintain, at its sole cost, throughout the Initial Lease Term and any extension thereof personal property insurance in an amount to cover any and all loss or damage to the City's personal property located within the Leased Premises.

14. Indemnification. The Lessor shall be liable to and hereby agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officials, officers, agents or employees for damages because of bodily injury, including death at any time resulting there from, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Lessor and/or its officials, officers, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of the Lease, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents, and employees. This paragraph shall survive termination of this Lease.
15. Compliance. The Lessor shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City of Madison, the County of Dane, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Leased Premises. The Lessor may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. The Lessor agrees that any such contest shall be prosecuted to a final conclusion as soon as possible and that it will hold the City harmless with respect to any actions taken by any lawful governmental authority with respect thereto.
16. Default by the City. Should the City be in default under the terms of this Lease, the City shall have thirty (30) days in which to cure the same after written notice by the Lessor to the City of such default. In the event the City fails to cure such default within thirty (30) days after said notice, this Lease shall, at the Lessor's written election, terminate. Notwithstanding the foregoing, if such default is not a health or safety violation and cannot, because of the nature of the default, be cured within said thirty (30) days, then the City shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the City immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.
17. Default by the Lessor. Should the Lessor be in default under the terms of this Lease, the Lessor shall have thirty (30) days in which to cure the same after written notice by the City to the Lessor of such default. In the event the Lessor fails to cure such default within thirty (30) days after said notice, this Lease shall, at the City's written election, terminate. Notwithstanding the foregoing, if such default is not a health or safety violation and cannot, because of the nature of the default, be cured within said thirty (30) days, then the Lessor shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the Lessor immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.
18. Estoppel Certificate. The City shall at any time, upon not less than ten (10) days after the giving of written notice by the Lessor, execute, acknowledge and deliver to the Lessor or to such person designated by the Lessor, a statement in writing (a) certifying that this Lease is in full force and effect and the date to which the rent and other charges are paid in advance, if any, (b) acknowledge that there are not, to the City's knowledge, any uncured defaults on the part of the

Lessor hereunder, nor any offsets, counterclaims or defenses to the Lease on the part of the City, or specifying such defaults if any are claimed, and (c) certifying as to any other matters as may be reasonably requested by the Lessor.

19. No Waiver. Failure or delay on the part of either party to enforce any of the terms, covenants, conditions or agreements hereof shall not operate as a waiver thereof nor void or affect the right of the party to enforce the same upon any subsequent default or breach. Except as otherwise provided in this Lease, the rights and remedies herein granted are cumulative and are in addition to any given by statutes, rules of law or otherwise and the use of one remedy shall not be taken to exclude or waive the right to the use of another.
20. Rights Upon Expiration or Termination. Upon the expiration or termination of this Lease for any cause, the City's rights in the Leased Premises shall cease, and the City shall immediately surrender the Leased Premises, subject to the provisions of Paragraph 21.
21. Removal and Disposal of Personal Property. Upon the expiration or termination of this Lease, the City shall remove all of the City's personal property from the Leased Premises. If the City leaves any of its personal property on the Leased Premises, the Lessor shall have the right to dispose of said property, without liability, thirty (30) days after the City vacates or abandons the Leased Premises. Upon the expiration or termination of this Lease, all improvements made by the City to the Leased Premises shall become the property of the Lessor.
22. Hold Over. In the event the City shall continue to occupy or use the Leased Premises after the expiration of this Lease or any extension thereof, such holding over shall be deemed to constitute a tenancy from month to month, upon the same terms and conditions as herein provided, and in no event shall the tenancy be deemed to be year to year. The City shall not hold over without prior written consent of the Lessor.
23. Definition of Lessor and City. The terms "Lessor" and "City" when used herein shall mean either singular or plural, as the case may be, and the provisions of this Lease shall bind the parties mutually, their heirs, personal representatives, successors and assigns.
24. Notices. All notices to be given under the terms of this Lease shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For the Lessor: CAG Development LLC
2422 Pennsylvania Avenue-Suite 1
Madison, WI 53704

For the City: City of Madison Metro Transit
Attention: Charles Kamp
1245 E. Washington Avenue-second floor
Madison, WI 53704

With a courtesy copy to:
(which shall not constitute notice) City of Madison
Office of Real Estate Services
Attn.: Manager
215 Martin Luther King, Jr. Blvd.,
P. O. Box 2983
Madison, WI 53701-2983

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

25. Non-Discrimination. In the performance of its obligations under this Lease, the Lessor agrees not to discriminate because of race, religion, marital status, age, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs or student status. The Lessor further agrees not to discriminate against any contractor, subcontractor or person who offers to contract or subcontract for services under this Lease because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.
26. Accessibility. The Leased Premises shall conform where applicable to Chapter Section SPS 361.05 of the Wisconsin Administrative Code, Madison General Ordinance 39.05, and the Americans with Disabilities Act, regarding accessibility, with all costs of compliance to be paid by the City.
27. Signs. The City shall be permitted to install a sign on the exterior of the Building on the exterior loading dock wall as noted on Exhibit B, with a directional arrow pointing in the direction of the Leased Premises and saying Metro Transit. A rendering of this sign will be subject to the Lessor's written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any signs shall be in conformity with the provisions of Chapter 31, Street Graphics Control, Madison General Ordinances.
28. Severability. If any term or provision of this Lease or the application thereof to the City or the Lessor or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provisions to the City or the Lessor or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of the Lease shall be valid and be enforceable to the fullest extent permitted by law.
29. Entire Agreement. All terms and conditions and all negotiations, representations and promises with respect to this Lease are merged into this Lease. No alteration, amendment, change, or addition to this Lease shall be binding upon the parties unless in writing and signed by them.
30. Damage and Destruction. In the event the Building is damaged by any peril covered by standard policies of fire and extended coverage insurance to an extent which is less than twenty-five percent (25%) of the cost of replacement of the Leased Premises, the damage shall, except as hereinafter provided, promptly be repaired by the Lessor, at the Lessor's expense, but in no event shall the Lessor be required to repair or replace the City's inventory, trade fixtures, furniture,

furnishings, equipment or personal property. In the event: (a) the Building is damaged to the extent of twenty-five percent (25%) or more of the cost of replacement of the Building, the Lessor may elect either to repair or rebuild the Building, as the case may be, or to terminate this Lease upon giving notice of such election in writing to the City within ninety (90) days after the event causing the damage. If the casualty, repairing or rebuilding shall render the Leased Premises untenable, in whole or in part, a proportionate abatement of rent shall be allowed until the date the Lessor completes the repairs or rebuilding, and the Lease term shall be extended for a period equal to the period of repair.

31. Leased Premises Acquired by Eminent Domain. In the event of any condemnation or inverse condemnation of the Leased Premises or any part thereof, the entire compensation award therefore, including, but not limited to, all damages and compensation for diminution of value of the leasehold, reversion and fee, shall belong to the Lessor without any deduction there from for any present or future estate of the City, and the City hereby assigns to the Lessor all of its right, title and interest to any such award. However, the City shall have the right to recover from the condemning authority such compensation as may be separately awarded to the City for moving and relocation expenses.

In the event only a part of the Leased Premises is taken or condemned and the City, in its sole discretion, determines that the part of the Leased Premises remaining is not suitable for the same purpose and with substantially the same utility to the City as immediately prior to such taking, the City may terminate this Lease by giving the Lessor written notice of termination a minimum of thirty (30) days prior to the delivery of possession of the Leased Premises to the condemning authority.

In the event of a taking of any portion of the Leased Premises not resulting in a termination of this Lease, the Lessor shall use so much of the proceeds of the Lessor's award for the Leased Premises as is required therefore to restore the Leased Premises to a complete architectural unit, and this Lease shall continue in effect with respect to the balance of the Leased Premises, with a reduction of Rent in proportion to the portion of the Building taken, if any.

32. Lessor's Access. The Lessor agrees to provide reasonable access to the City prior to the Lease Commencement Date for purposes of facilitating the City's space planning, coordinating the City's plans with the Lessor's Work, and preparing to move the City's inventory, fixtures, furniture and equipment, including without limitation, placement of electrical and data outlets.
33. Quiet Enjoyment. The Lessor hereby covenants and agrees that if the City shall perform all of the covenants and agreements herein to be performed on the City's part, the City shall, at all times during the continuance hereof, have the peaceable and quiet enjoyment and possession of the Leased Premises without any manner of hindrance from the Lessor or any person lawfully claiming the Leased Premises.
34. Public Record. This Lease will be recorded at the office of the Dane County Register of Deeds after it is executed by the parties.

IN WITNESS WHEREOF, the parties have entered into this Lease as of the date first set forth above.


CAG Development LLC

 member
Chad Gebhardt, Member

Date: 5-18-16

State of Wisconsin)
)ss
County of Dane)

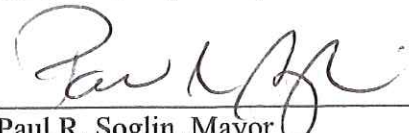
Personally came before me this 12th day of May, 2016, the above-named Chad Gebhardt, Member of CAG Development Inc. , a Wisconsin corporation, known to me to be the person who executed the above and foregoing instrument and acknowledged that he/she executed the foregoing instrument as such officer as the deed of such corporation, by its authority.

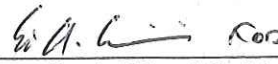

Notary Public, State of Wisconsin

Jennifer Wagner
(print or type name)
My Commission: 11-9-18

SEE SIGNATURES ON FOLLOWING TWO PAGES

CITY OF MADISON
a Wisconsin municipal corporation

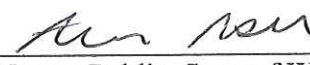
By: 
Paul R. Soglin, Mayor

By: 
Maribeth Witzel-Behl, City Clerk

State of Wisconsin)
)ss.
County of Dane)

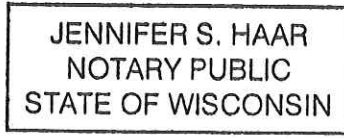
Personally came before me this 17th day of May, 2016, the above named Paul R. Soglin Mayor of the City of Madison, a Wisconsin corporation, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.





Notary Public, State of Wisconsin
Ashleigh Hadler
(print or type name)
My Commission: exp 5/18/18


State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 13th day of May, 2016, the above named Eric A. Chasterton for Maribeth Witzel-Behl, City Clerk of the City of Madison, a Wisconsin corporation, acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.




Notary Public, State of Wisconsin
Jennifer S. Haar
(print or type name)
My Commission: 2-2-2019

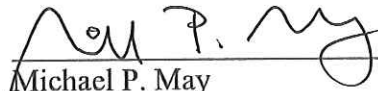
Approved:



David Schmiedicke
Finance Director

5/13/16
Date

Approved as to form:



Michael P. May
City Attorney

5/16/16
Date

Approved:



Eric Veum
Risk Manager

5/13/16
Date

Execution of this Lease is authorized by Resolution Enactment No. RES-16-00329_, File No. 42489, adopted by the Common Council of the City of Madison on May 3, 2016.

Drafted by the City of Madison Office of Real Estate Services

Project No. 11015

EXHIBIT A

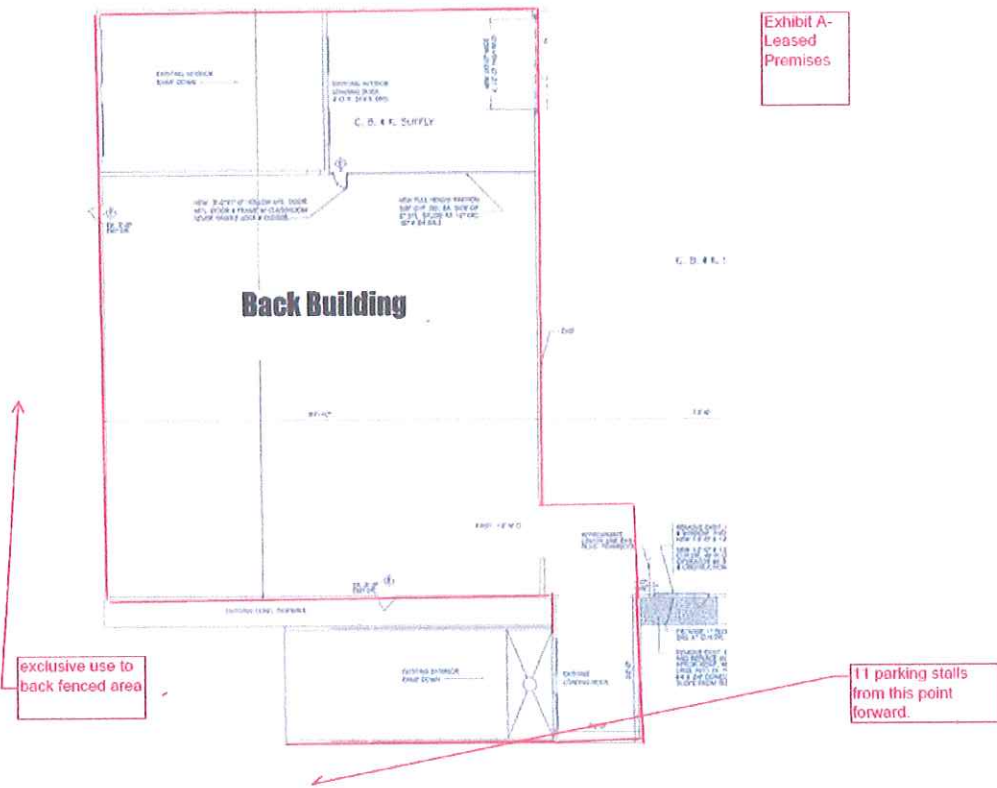


EXHIBIT B-LESSOR'S WORK

