

**COMMERCIAL BROKERAGE AGREEMENT
BETWEEN
THE COUNTY OF SAN MATEO
AND
CORNISH & CAREY COMMERCIAL,
NEWMARK KNIGHT FRANK**

THIS AGREEMENT, entered into and effective as of July 1, 2012, by and between the COUNTY OF SAN MATEO, a political subdivision of the state of California, hereinafter called "County" or "Owner" and CORNISH & CAREY COMERCIAL, NEWMARK KNIGHT FRANK, hereinafter called "Contractor" or "Broker"

WITNESSETH:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of providing real estate brokerage services in connection with the real property and improvements commonly known as Circle Star Plaza, One and Two Circle Star Way, San Carlos, California (the "Property").

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

- Exhibit A—Services and additional contract terms
- Exhibit B—Payments and rates
- Attachment I—§504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B."

4. **Term and Termination**

The term of this Agreement, and any early termination or extension hereof, and any payments that may be due hereunder, shall be as set forth in Exhibit A.

5. **Intentionally Omitted**

6. **Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. **Intentionally Omitted**

8. **Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. **Insurance**

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. Contractor shall provide thirty (30) days' notice in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.
- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and

all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Permits/Licenses

During the term of this Agreement, Contractor or its employees or principals, shall hold and maintain, at Contractor's sole cost and expense, all licenses and permits, including any broker's licenses, that may be required or appropriate to hold in order to lawfully and fully provide the services to be provided hereunder.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.

- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
- i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

14. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of the Exhibit shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) (a) transmitted via facsimile to a facsimile telephone number listed below or (b) transmitted via email; and (2) either deposited in the United States mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt for transmittal, charges prepaid, addressed as follows:

In the case of County, to:

Office of the County Manager
Redwood City, Ca 94063
400 County Center, 1st Floor
Attention: Peggy Jensen

Copy to:


County Counsel
400 County Center, 6th Floor
Redwood City, CA 94063
Attention: Eugene Whitlock

In the case of Contractor, to:

Jack Troedson
Executive Vice President
Cornish & Carey Commercial
Newmark Knight Frank
245 Lytton Avenue, Suite 150
Palo Alto, CA 94301

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By:  _____
County Manager

Date: July 24, 2012

CORNISH & CAREY COMERCIAL,
NEWMARK KNIGHT FRANK

 _____
Contractor's Signature

Date: 7-16-12

EXHIBIT A

**BROKERAGE SERVICES AGREEMENT
SPECIFIC TERMS AND CONDITIONS**

1. BASIC TERMS. This Section 1 contains the basic terms of the Brokerage Services Agreement (the "Agreement") between the Owner and the Broker to which this Exhibit A is an attachment. All other Sections of this Exhibit A are to be read in conjunction with the basic terms contained in this Section 1.

1.1 Effective Date: July 1, 2012

1.2 Owner/County: COUNTY OF SAN MATEO

Office of the County Manager
400 County Center, 1st Floor
Redwood City, Ca 94063
Attention: Peggy Jensen

1.3 Broker/Contractor: CORNISH & CAREY COMERCIAL
NEWMARK KNIGHT FRANK

1.4. Property: The real property and improvement thereon commonly known as Circle Star Plaza, One and Two Circle Star Way, San Carlos, California

1.5 Commission: As set forth in Exhibit B and in Sections 3 and 6, hereafter

1.6 Term: Six (6) months commencing on the Effective Date

1.7 Key Agents: Jack Troedson
Kristoph Lodge
Josh Rowell

2. EXCLUSIVE BROKER; TERM.

2.1 Engagement. Broker is engaged as, and shall provide services as, Owner's exclusive real estate broker in connection with the leasing and/or sale of the Property under the terms and conditions set forth in the Agreement, for the term set forth in 1.6 of this Exhibit A, unless sooner terminated pursuant to the provisions hereof. Broker accepts such engagement and agrees to use its best efforts to lease or sell the Property, as may be directed by Owner, during the Term of the Agreement. Owner agrees to cooperate with Broker in leasing or selling the Property and to refer to Broker all inquiries of anyone interested in the lease or purchase of the Property.

2.2 Lease with Subsequent Sale. In the event a Lessee or any successor or assign of Lessee, purchases the Property during the term of the lease, any extension thereof, or within ninety (90) days after the termination of the Lease, Lessor shall pay a Commission to Broker equal to the amount set forth in Section 1.5. If the sale occurs prior to the expiration of the lease, the sales commission shall be reduced by an amount equal to that portion of the lease commission attributable to the unexpired term of the lease.

2.3 Any and all terms of any lease or sale of the Property, as well as any decision or determination as to whether or not to sell or lease the property, or any portion thereof, shall remain the sole and exclusive discretion of the County.

3. COMMISSION.

3.1 During Term. Owner shall pay Broker, for services rendered during the Exclusive period, the commission set forth in Exhibit B or Section 2.2, above, if, during the Term:

A. (i) a third party tenant satisfactory to Owner is procured by Broker, or any third party; (ii) such tenant and Owner enter into a written lease, upon terms and conditions satisfactory to Owner in its sole discretion, covering all or part of the Property; and (iii) such lease is fully executed by Owner and such tenant (together with any lease guaranties required by Owner), the tenant occupies its premises and the lease commences as provided for in the lease.

or if:

B. (i) a third party purchaser satisfactory to Owner is procured by Broker, or any third party; (ii) such purchaser and Owner enter into a written purchase and sale agreement, upon terms and conditions satisfactory to Owner in its sole discretion, covering all or part of the Property; and (iii) such purchase and sale is fully executed by Owner and such purchaser takes title to the Property pursuant thereto.

3.2 Time of Payment. The lease commission due hereunder shall be paid as follows: 50% within 30 days of the execution of a Lease by Owner and the Lessee; and 50% within 30 days of the commencement of the lease.

3.3 Notwithstanding any other provision of the Agreement, this Exhibit A, or any other Exhibit or attachment to the Agreement, Broker shall not be entitled to any compensation or broker's fee in connection with any lease or sale to any of the following:

- (i) A division or department of the County
- (ii) An agency or entity for which the Board of Supervisors serves as the governing body;
- (iii) A non-profit, government, or public Agency, District, Board, or Commission, procured by the County as a tenant or purchaser;
- (iv) A sale-leaseback arrangement wherein the third Party purchaser is a non-profit or governmental entity which is procured by the County; provided, however, in such a situation, the County and the Broker will discuss and may make arrangements for the Broker to be appropriately compensated for the services provided by Broker during the term of this Agreement.

3.4 After Expiration of Term or Earlier Termination of Agreement. Owner shall also pay Broker a commission if, within sixty (60) days after the expiration of the Term or earlier termination of this Agreement, all or part of the Property is leased to (or Owner enters into a contract to lease all or part of the Property thereafter resulting in a lease of the Property) with any person or entity with whom Broker is involved in pending and active negotiations for a lease of space in the Property at the time of termination or expiration of the Term of this Agreement, provided further that Broker continues to have through the closing an active role in the negotiation and closing of the lease of the Property, and the tenant subsequently occupies its premises and the lease commences as provided for in the lease. Broker shall, as a condition precedent to its rights and Owner's obligations hereunder, submit a written list of such persons or entities with whom Broker claims to have pending and active negotiations (containing full and complete names, addresses, telephone numbers and primary contact persons) together with copies of written proposals to and from such parties, to Owner no later than five (5) days following the expiration of the Term or earlier termination of this Agreement. Pending and active negotiations shall mean that, prior to receipt of a notice of termination or expiration of the Term of this Agreement, Broker has submitted a written lease proposal to a prospective tenant, with Owner's knowledge, after having shown the Property to the prospective tenant and after having had at least one (1) meeting with the prospective tenant to discuss the essential business terms and conditions of a proposed lease. If Broker fails to submit that list within such time period, Broker shall not be entitled to any commission under this Section 3.3 or otherwise. .

3.5 No Commission. Notwithstanding any other provision herein, Broker shall not be entitled to any commission in the event of a default by Broker under this Agreement.

3.6 No Additional Payments. The compensation to Broker provided herein includes all costs, taxes, fees and charges, and no additional payments shall be made by Owner to Broker in connection with any lease or sale.

4. DUTIES AND AUTHORITY OF BROKER. Owner shall from time to time prescribe for use by Broker in connection with its duties hereunder lease rates, terms, concessions, allowances,

and forms to apply regarding the leasing of space in the Property. Broker shall use all of such information and materials then prescribed for use in connection with its efforts hereunder. Broker shall endeavor to keep the Property fully leased and shall perform the following duties:

- 4.1 Leasing. Broker shall negotiate all new leases with new tenants covering space in the Property. Broker shall obtain and provide to Owner a current and accurate financial statement relating to each prospective tenant, and shall complete a lease analysis form, which shall be submitted to Owner with Broker's recommendation regarding Owner's execution of a lease with such prospective tenant. Owner reserves the right to determine all terms, conditions, and provisions of any lease and to reject any lease in its discretion. Broker shall perform other reasonable leasing activities upon Owner's request.
- 4.2 Key Agents. Broker shall assign those Key Agents designated in Section 1.7 to be primarily responsible for performing the duties of Broker hereunder during the entire Term hereof.
- 4.3 Deposits. Broker is authorized to conditionally accept a deposit from any prospective tenant in connection with the presentation of a proposed written offer to Owner, but Owner shall not thereby incur any liability or obligation to such proposed tenant, Broker, or any other third party.
- 4.4 Advertising. Broker is authorized to advertise, at its sole expense, the Property and to place "For Lease" or "Available" signs on the Property, subject to Owner's reasonable control over the content, type and location of such signs. Owner and Broker agree to cooperate so as to keep each other informed prior to the publication or distribution of any publicity releases relating to the Property. Broker shall not publish, display or distribute any advertisement or release without Owner's prior written consent. Advertising and promotional materials shall be prepared in full compliance with federal, state, and municipal laws, ordinances, and regulations pertaining to fair housing or otherwise affecting the leasing and/or advertising of the Property.
- 4.5 Monthly Report. Broker shall prepare and furnish to Owner, as soon as possible after the end of each month during the Term and in no event later than the fifteenth (15th) day of the month, a monthly report, in reasonable detail, summarizing Broker's activities hereunder and the results obtained therefrom for the previous month. The report shall be in a form reasonably acceptable to Owner and shall include such information regarding advertising, people contacted, expenses incurred, property showings and related matters as Owner requests.
- 4.6 Marketing Plan. Within thirty (30) days of the Effective Date of the Agreement, Broker in cooperation with the Owner shall prepare and provide to Owner a marketing plan for the leasing of space within the Property. Said marketing plan shall be in a form reasonably acceptable to Owner. Broker shall update such marketing plan if and when reasonably requested to do so by the Owner.

4.7 No Representations. Broker shall make no written representations or warranties of any kind, express or implied, concerning the Property or any other matter without the prior written consent of Owner.

5. INDEMNITY. Owner shall indemnify, hold harmless and defend Broker from all losses, damages, costs, claims and liabilities (including without limitation court costs and reasonable attorneys' fees relating thereto) caused solely by any materially incorrect information supplied by Owner concerning the Property. Broker shall indemnify, hold harmless and defend Owner from all losses, damages, costs, claims and liabilities (including without limitation court costs and reasonable attorneys' fees relating thereto) arising out of or related to: (a) any misrepresentation or failure to disclose material information regarding the Property to a prospective tenant by Broker or any agent or representative of Broker; (b) any material fact known by Broker relating to any tenant or proposed transaction which Broker fails to disclose to Owner; (c) any breach of or default under this Agreement by Broker; and/or (d) any act or omission by Broker inconsistent with or outside the scope of this Agreement and the limited authority conferred hereby. Broker shall pay any and all costs, taxes, fees, and charges that may be imposed by others on the solicitation, listing, brokerage, advertising and negotiating of the transactions contemplated by this Agreement.
6. DEFAULT; TERMINATION. If either party fails to fully and timely perform any covenant set forth herein or fails to satisfy any condition specified herein or if any representation or warranty by such party is determined to be false, misleading, or erroneous in any material respect (a "Default"), then the party not in default shall have the right to terminate this Agreement if the Default is not cured within ten (10) days after written notice thereof to the defaulting party (unless the default is non-curable, in which case no cure period shall exist). The dissolution, termination, merger, consolidation, reorganization, bankruptcy, insolvency, or assignment for the benefit or the creditors of Broker, or termination or suspension of Broker's real estate broker's license, or cessation on Broker's part to continue to do business shall effect an immediate termination of this Agreement without notice. In the event of a termination for a Default by Broker, Owner shall not be liable to Broker for any commission or other fee or expense hereunder; otherwise, Owner shall not be liable to Broker for any commission or other fee hereunder except to the extent set forth in Section 3.2.
7. REPRESENTATIONS AND WARRANTIES OF BROKER. To induce Owner to enter into this Agreement, Broker makes the following representations and warranties, which shall survive the expiration or earlier termination of this Agreement:
 - 7.1 Organization. Broker is duly organized, validly existing and in good standing under the laws of and is qualified to do business in the State of California. Broker has all power and authority required to execute, deliver and perform this Agreement.
 - 7.2 Manner of Performance. Broker is experienced in the business of leasing space in real property similar to the Property in the State of California.
 - 7.3 Authorization. The execution, delivery and performance of this Agreement has been duly authorized by all necessary action on the part of Broker.

7.4 Validity. This Agreement constitutes a legal, valid and binding agreement of the Broker enforceable against Broker in accordance with its terms except as limited by bankruptcy, insolvency, receivership and similar laws of general application.

7.5 Licenses. During the entire term of this Agreement Broker shall cause all persons performing licensable activities to have and to maintain in full force and effect all licenses which are required by applicable law, and all permits necessary to perform its obligations under this Agreement, and shall pay all taxes, fees, or charges imposed on the business engaged in by Broker hereunder.

7.6 Conflicts of Interest. Key Agents have no real or apparent conflict of interest pertaining to this Agreement. Key Agents shall not accept any other leasing assignment in a competing property without the prior written consent of Owner. Broker will not act as a principal for its own account in any transaction involving the sale or lease of all or any portion of the Property by Owner, nor on behalf of any entity in which Broker has a financial or ownership interest, unless full written disclosure is made and the written consent of Owner is first obtained.

7.7 Independent Contractor. Broker's status under this Agreement is that of an independent contractor and not as an agent or employee of Owner.

7.8 Cooperation. Broker shall cooperate with Owner and Owner's property manager in connection with space planning to accommodate tenants, installation of tenant finish, and tenant move-in arrangements. Broker shall also cooperate with Owner's property manager in the preparation of annual budgets, including budgeting of lease-up of the Property, tenant improvement, and leasing costs.

8. MISCELLANEOUS.

8.1 Dual Agency. County acknowledges that Broker may be the agent of both County and any prospective lessees or purchasers. In a dual agency situation Broker has a fiduciary duty of utmost care, honesty and loyalty in the dealings with each party. In representing both parties, Broker will not without the permission of the respective party, disclose to the other party that the party will accept a price or terms less than the listing price and terms or that the other party will accept a price or terms greater than the price and term offered.

8.2 Time is of the Essence. Time is of the essence in each provision of the Agreement, including this Exhibit A and Exhibit B.

8.3 Other Brokers. Broker is not authorized and empowered to engage any other realtor, broker, or agent under or in connection with this Agreement without the prior specific approval of Owner; provided, however, Broker agrees to cooperate with other realtors, brokers, or agents in endeavoring to lease or sell the Property, and the amount of the commission provided to be paid hereunder by Owner shall constitute the entire amount

which, in the absence of an express written agreement of Owner to the contrary, Owner shall be obligated to pay, jointly to Broker and such cooperating realtor, broker or agent, with the division of such amount between Broker and such cooperating realtor, broker or agent to be upon such basis specified in Exhibit B or, if no division is so specified, then as they may agree. In the absence of the express written agreement of Owner as specified in the proviso clause of the preceding sentence, Broker agrees to indemnify, defend and save Owner harmless from any liability to any realtor, broker, or agent cooperating with or claiming under Broker.

8.4 Confidentiality. As used herein, the term “**Confidential Information**” means any information which is acquired by Broker in carrying out its duties under this Agreement and which had not become part of the body of public information prior to its disclosure in violation of this Section 8.4, including without limitation information regarding the Property or any litigation pertaining thereto. Except as otherwise required by any law or court order, or as authorized or permitted by Owner, Broker shall not disclose or permit the disclosure of any Confidential Information to anyone other than Owner, Owner’s Representative, Owner’s counsel, or to persons designated by Owner’s counsel, except as reasonably required to carry out the duties of Broker under this Agreement. Broker shall not disclose information regarding the terms of any pending or existing lease or purchase transaction or any other Property information without the prior written approval of Owner.

8.5 Owner may give Broker copies of documents in connection with the Property. Upon termination of this Agreement, all information in the possession of Broker relating to the Property shall be returned to Owner; provided, however, that Broker may retain copies of any information which Broker reasonably considers necessary for Broker’s confidential business records. Broker shall take reasonable measures to avoid any unintentional or inadvertent disclosure of any Confidential Information to any unauthorized person by its employees, agents, or attorneys. Broker shall not use any Confidential Information for Broker’s own gain.

EXHIBIT B

BROKER COMPENSATION SCHEDULE FOR CIRCLE STAR PLAZA

Firm: Cornish & Carey Commercial Newmark Knight Frank

Contact Names: Jack Troedson, Kristoph Lodge and Josh Rowell

1) Inside and Outside Broker Leasing Commission

To Inside Broker (i.e., Contractor):

- a. \$ 0.75 per year, per rentable square foot for lease years one (1) through eight (8) inclusive

To Outside Broker:

- b. \$ 1.25 per year, per rentable square foot for lease years one (1) through eight (8) inclusive

Notwithstanding any other language in the Brokerage Agreement or any Exhibit thereto, no Commission shall owed or paid to Contractor for lease years beyond year eight.

2) Inside Broker Only

In the event that no Outside Broker is involved in the procurement of a tenant for a particular lease, compensation schedule for payment to Contractor will be:

- a. \$ 1.25 per year, per rentable square foot for lease years one (1) through eight (8) inclusive

Notwithstanding any other language in the Brokerage Agreement or any Exhibit thereto, no Commission shall owed or paid to Contractor for lease years beyond year eight.

3) Sales Commission

- a. Three Percent (3.0%) of Sales Price paid (Includes full Commission in the case of a Sale/leaseback).
- b. If a Purchase Option is negotiated as part of a lease with the buyer/Lessee, then the pro-rata share of any remaining Lease commission would be deducted from the total 3% sales commission.

**County of San Mateo
Contractor's Declaration Form**

I. CONTRACTOR INFORMATION

Contractor Name:	<u>Cornish & Carey Commercial NKF</u>	Phone:	<u>650-322-2600</u>
Contact Person:	<u>Jack Troedson</u>	Fax:	<u>650-321-0719</u>
Address:	<u>245 Lytton Avenue, Suite 150 Palo Alto, CA 94301</u>		

II. EQUAL BENEFITS (check one or more boxes)

Contractors with contracts in excess of \$5,000 must treat spouses and domestic partners equally as to employee benefits.

- Contractor complies with the County's Equal Benefits Ordinance by:
- offering equal benefits to employees with spouses and employees with domestic partners.
 - offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- Contractor does not comply with the County's Equal Benefits Ordinance.
- Contractor is exempt from this requirement because:
- Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to offer equal benefits when said agreement expires.

III. NON-DISCRIMINATION (check appropriate box)

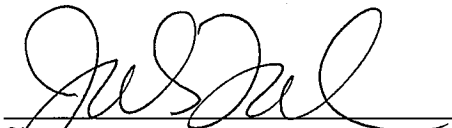
- Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

IV. EMPLOYEE JURY SERVICE (check one or more boxes)

Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.

- Contractor complies with the County's Employee Jury Service Ordinance.
- Contractor does not comply with the County's Employee Jury Service Ordinance.
- Contractor is exempt from this requirement because:
- the contract is for \$100,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to comply when the collective bargaining agreement expires.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.


Signature

7-16-12
Date

Jack S. Troedson
Name

Exec. VP
Title