



# COUNTY OF HUMBOLDT

For the meeting of: 4/2/2019

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File #: 19-384

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**To:** Board of Supervisors

**From:** Public Works

**Agenda Section:** Consent

**SUBJECT:**

Lease with David G. Katz and Anne Braak-Katz Trust at 3156 Redwood Drive in Redway to provide offices for Planning and Building Department and 2<sup>nd</sup> District Supervisor, Estelle Fennell

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Approve the lease with David G. Katz and Anne Braak-Katz Trust at 3156 Redwood Drive in Redway for office space for the Department of Planning and Building Department and 2nd District Supervisor, Estelle Fennell;
2. Authorize the Chair of the Board to sign two (2) originals of the lease; and
3. Direct the Clerk of the Board to return one (1) executed original of the lease to Public Works - Real Property - for transmittal to Lessor.

**SOURCE OF FUNDING:**

Building Inspector (1100 262)

**DISCUSSION:**

The residents of southern Humboldt County have expressed a desire for local services from the Humboldt County Planning and Building Department. Opening an office in southern Humboldt County will allow the department to rotate staff from building inspection, plan check, permitting, code enforcement, current planning, cannabis planning and advance planning for local consultation and permit issuance.

It is envisioned that the office will be occupied two to three (2-3) days per week with each of the different units being represented at least every other week, if not weekly. The office will be staffed by at least one team lead (or manager) and at least one other staff member. A regular schedule for days and hours of operation will be established and made available to the public.

The proposed location will also be utilized by 2nd District Supervisor, Estelle Fennell, as her new office, replacing her Americans with Disability Act (ADA) non-compliant office in Garberville as a reason for her move. Supervisor Fennell typically has office hours on Fridays. This shared use allows

a complementary use of the office space.

**FINANCIAL IMPACT:**

The cost of the Lease is One Thousand Seven Hundred Dollars (\$1,700) per month for the use of approximately Six Hundred Seventy-Two Square Feet (672 sf) for three (3) years with two (2) one-year options. Total rent for three (3) years will be Sixty-One Thousand Two Hundred Dollars (\$61,200). Total costs of ADA barrier removal is estimated at Sixteen Thousand Dollars (\$16,000). Planning and Building will pay a one-time amount of Seven Thousand Dollars (\$7,000) as shared costs for these ADA barrier removal, with the owner covering the remaining balance of Nine Thousand Dollars (\$9,000). Infrastructure start-up costs (desks, telephones, computers, photocopier, etc.) are estimated to cost Twenty-Five Thousand Dollars (\$25,000). Planning and Building staff will be bring a supplemental budget to your Board at a later date to cover these new costs.

**STRATEGIC FRAMEWORK:**

This action supports your Board's Strategic Framework by providing community-appropriate levels of service and streamlining county permit processes.

**OTHER AGENCY INVOLVEMENT:**

None

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

The Board could choose not to approve the lease; however, this is not recommended as the public's need for Building and Planning services in the southern Humboldt County area will be restricted to Eureka.

**ATTACHMENTS:**

1. Lease
2. Exhibit A
3. Exhibit B - ADA Access Compliance Assessment

**PREVIOUS ACTION/REFERRAL:**

Board Order No.: N/A

Meeting of: N/A

File No.: N/A

## LEASE

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This Lease is made and entered into this 2 day of April, 2019, by and between the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY, and David G. Katz and Anne Braak-Katz, as trustees under the David G. Katz and Anne Braak-Katz Trust dated September 4, 2001, hereinafter referred to as LESSOR;

WHEREAS, COUNTY desires to lease premises for COUNTY offices and LESSOR desires to lease the premises described herein to COUNTY;

NOW, THEREFORE, it is mutually agreed as follows:

1. PREMISES

LESSOR leases to COUNTY and COUNTY leases from LESSOR the following described premises located in Redway, County of Humboldt, State of California:

Approximately 672 square feet of office space at 3156 Redwood Drive, Redway, California as shown on Exhibit A, including five (5) off-street parking spaces - which is attached hereto and incorporated herein.

2. USE OF PREMISES

The premises shall be used by the COUNTY to provide staff offices, meeting space and direct public access to conduct Permit and Planning services, and office space for a Humboldt County Board Supervisor.

3. QUIET ENJOYMENT

Subject to the provisions of this Lease and conditioned upon performance of all the provisions performed by COUNTY hereunder, LESSOR shall secure to COUNTY during the term the quiet and peaceful possession of the premises and all rights and privileges appertaining thereto.

4. TERM OF LEASE

The initial term of this Lease shall be for a period of Three (3) years, commencing upon receiving a Certified Access Specialist (CAsp) inspection report stating that the premises meets all applicable accessibility standards as identified and highlighted on the Americans with Disabilities Act (ADA) Access Compliance Assessment that the COUNTY provided to LESSOR, including but not limited to all local, state, and federal accessibility laws and regulations.

COUNTY has the option to extend the Lease, upon the same terms and conditions, for two (2) - one (1) year terms. Each option may be exercised by County giving LESSOR written notice of its intent to extend the Lease. The notice shall be in

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writing and shall be given to LESSOR ninety (90) days prior to the end of the initial term or any one (1) year term extension.

Any holding over with LESSOR'S consent beyond the term of this Lease shall be a month to month tenancy, with all the terms and conditions of this Lease, including but not limited to rent calculations.

### **5. RENT**

COUNTY shall pay to LESSOR as rent for the leased premises a monthly rental as follows:

One Thousand Seven Hundred Dollars (\$1,700.00) for the initial term and options.

Rent shall be paid in advance on the first day of each month, except in the event that COUNTY'S occupancy shall commence on a day other than the first day of the month, the rent for the first partial month shall be prorated at one-thirtieth (1/30) of the rental rate for each calendar day the premises are ready for occupancy during such month.

### **6. BUILDING STANDARDS AND COMPLIANCE WITH LAWS**

LESSOR covenants and warrants that the premises have been constructed and any remodeling done in accordance with all local, state and federal laws and regulations, including but not limited to, the Americans with Disabilities Act. LESSOR further agrees to comply with any federal, state or local licensing standards, any applicable accrediting standards, and any other applicable standards or criteria established locally or by the state or federal governments during the term of this lease including any term extensions. For clarity purposes only, LESSOR shall remove any accessibility barriers at LESSOR'S expense upon notice by the COUNTY.

COUNTY has obtained a ADA Access Compliance inspection and review for accessibility barriers (Assessment). The Assessment provided a report of accessibility barriers for remediation to be accomplished by the LESSOR at LESSOR'S expense. COUNTY has provided a copy of the report to LESSOR highlighting the accessibility work required to be performed, as described in Exhibit B – ADA Access Compliance Assessment, which is attached hereto and incorporated herein. Completion of work is subject to COUNTY's CASp inspection at COUNTY's expense.

LESSOR shall complete the accessibility barrier removal as specified in the Assessment and subsequent Inspection within thirty (30) days upon execution of this Lease. If the accessibility barrier removal is not completed within this time period, LESSOR shall be in default of this Lease. COUNTY reserves the rights to exercise COUNTY's remedies on LESSOR's default pursuant to the terms of this Lease.

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COUNTY shall make a one-time payment of Seven Thousand Dollars (\$7,000.00) to LESSOR in consideration of shared costs associated with the accessibility barrier removal, due on the commencement date of this Lease.

For work performed by LESSOR under the terms of this Lease, LESSOR hereby guarantees to COUNTY to rectify, at LESSOR's sole cost and expense, any defects, shrinkage, or faults in such work.

LESSOR shall supply and install fire extinguishers in compliance with current building and fire codes.

COUNTY shall have the right to terminate this Lease upon ten (10) days written notice if any of the above mentioned applicable laws, standards, or criteria are not complied with.

### 7. ACCESS

LESSOR shall notify COUNTY at least forty-eight (48) hours of any access required within said premises in the event of any modifications or inspections so as to allow the COUNTY to prepare for such access.

### 8. SMOKING

Pursuant to Humboldt County Code §971-1 et seq., smoking shall be prohibited in all COUNTY owned, leased, rented or controlled premises. LESSOR shall comply with said provision.

### 9. UTILITIES

COUNTY shall pay for its own electrical, gas, data and telephone services. LESSOR shall be responsible for refuse collection, water and sewer.

### 10. JANITORIAL

COUNTY shall be responsible for janitorial services.

### 11. MAINTENANCE AND REPAIRS

During the term of this Lease or any extension thereof, LESSOR shall maintain the premises in good repair and tenantable condition so as to minimize breakdowns and loss of COUNTY'S use of the premises caused by deferred or inadequate maintenance. LESSOR shall be responsible for all maintenance and repairs to the premises including, but not limited to, the interior and exterior of the building, landscaping, parking lot with associated striping and sealing in accordance with LESSOR'S Land Lease provisions,

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heating and ventilation system, fire extinguishers, window glass, exterior and interior doors with associated fixtures, and flooring, except for the following:

- A. Light bulbs.
- B. Minor plumbing, such as repairing of faucets, toilets, and the unstopping of toilets and sinks.
- C. Any repairs caused by negligence of COUNTY personnel or clients.
- D. Any repairs to phone system, computers, or security system or installation thereof.

The heating and ventilation system shall be maintained and operated by LESSOR to provide at least the quantity of outdoor air required by the State Building Standards Code, Title 24, California Administrative Code, in effect at the time the building permit was issued.

The heating and ventilation system shall be inspected each year by a qualified inspector. LESSOR shall notify COUNTY when the inspection shall occur. LESSOR shall provide COUNTY with a copy of the inspection report within two (2) days of receipt by LESSOR. LESSOR shall correct any problems found during the inspection within ten (10) days of the date of the inspection.

LESSOR shall change the heating and ventilation filters quarterly.

LESSOR shall clean the heating and ventilation vents quarterly.

LESSOR shall service fire extinguishers at least annually and as requested by COUNTY if more frequent service is needed.

LESSOR shall have ten (10) days after notice from COUNTY to commence to perform its obligations under this section, except that LESSOR shall perform its obligations immediately if the nature of the problem presents a material hazard or emergency as determined by COUNTY. If LESSOR does not perform its obligations within the time limitations in this section, COUNTY, after notice to LESSOR, can perform the obligations and has the right to be reimbursed for the sum COUNTY actually and reasonably expends (including charges for COUNTY employees and equipment) in the performance of LESSOR'S obligations. If LESSOR does not reimburse COUNTY within ten (10) days after demand from COUNTY, COUNTY shall have the right to withhold from future rent due the sum COUNTY has expended until COUNTY is reimbursed in full. Any notice or demand concerning a material hazard or emergency may be made orally, by telephone or otherwise, provided that written confirmation is given within two (2) days after the oral notice or demand is made. Such confirmation shall be made as provided in section 28 of this Lease.

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### 12. IMPROVEMENTS AND ALTERATIONS

COUNTY may make non-structural alterations or improvements to the premises to accommodate COUNTY'S use of the premises at the sole cost and expense of the COUNTY. However, COUNTY shall not make any alterations or improvements to the leased premises without the prior written consent of LESSOR. Such consent shall not be unreasonably withheld. Upon termination of this Lease, the LESSOR may request the COUNTY to return the non-structural alterations or improvements to their original condition, at COUNTY's expense.

COUNTY, at its own cost, may install in the premises the equipment needed for telecommunication system and computer terminals including, but not limited to, the following:

- A. Telephone cable;
- B. Key system units;
- C. Intercom system;
- D. Telephones;
- E. Answering machines; and
- F. Security system.

Upon termination of this Lease, COUNTY shall have the right to remove from the premises any such equipment installed by COUNTY.

### 13. INSTALLATION AND REMOVAL OF TRADE FIXTURES

COUNTY may cause or permit to be installed and/or affixed to the premises such fixtures, signs and equipment as COUNTY deems desirable and all such fixtures, signs and equipment shall remain the property of COUNTY and may be removed at any time provided that COUNTY, at its expense, shall repair any damage caused by reason of such removal. All such fixtures, signs and equipment that are exterior to the building shall be approved by LESSOR prior to installation. Upon termination of this Lease, LESSOR may request any fixtures, signs or equipment not removed by the COUNTY, to be removed at COUNTY'S expense.

### 14. COUNTY'S RIGHT TO ERECT SIGNS

COUNTY shall have the exclusive right to erect and maintain upon the premises all signs that it deems appropriate. LESSOR agrees that no signs or advertising matter of any nature other than COUNTY'S shall be permitted upon any of the premises. LESSOR shall cooperate with COUNTY in obtaining any variances from restrictions placed on the use of signs by local authorities. LESSOR and COUNTY shall mutually agree as to the location, size, and style of any signs.

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### 15. REAL PROPERTY TAXES

LESSOR shall pay all real property taxes and general and special assessments levied and assessed against the premises.

### 16. HOLD HARMLESS/INDEMNIFICATION

A. LESSOR shall indemnify, defend and hold harmless COUNTY and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with LESSOR'S duties and obligations under this Lease and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

B. COUNTY shall indemnify, defend and hold harmless LESSOR and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with COUNTY'S duties and obligations under this Lease and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of LESSOR.

C. Acceptance of insurance, if required by this Lease, does not relieve LESSOR from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by LESSOR'S operations regardless if any insurance is applicable or not.

### 17. LESSOR'S INSURANCE

This Lease shall not be executed by COUNTY and LESSOR is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, are filed with the Clerk of the Humboldt County Board of Supervisors.

Without limiting LESSOR'S indemnification provided for herein, LESSOR shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Lease and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of LESSOR, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors.



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A. Comprehensive or Commercial General Liability Insurance

Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.

B. Property Insurance

LESSOR is responsible for providing "All-Risk" Property Insurance for this location.

C. Workers' Compensation Insurance Coverage

If required by California law, and in accordance with the statutory limits set forth therein. Said policy shall contain or be endorsed to contain a waiver of subrogation against COUNTY, its officers, agents, and employees.

18. COUNTY'S INSURANCE

Without limiting COUNTY'S indemnification provided herein, COUNTY shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Lease and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of COUNTY, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors:

A. Comprehensive or Commercial General Liability Insurance

Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 per occurrence for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.

B. Property Insurance

COUNTY is responsible for providing an "All-Risk" Property Insurance for the contents of the property at this location.

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### C. Workers' Compensation Insurance Coverage

County certifies that County is aware of the provisions of Section 3700 of the California Labor Code and County will comply with such provisions in connections with any work performed on the premises. Any persons providing services with or on behalf of COUNTY shall be covered by workers' compensation (or qualified self-insurance).

### 19. SPECIAL INSURANCE REQUIREMENTS

Said policies shall, unless otherwise specified herein, be endorsed with the following provisions:

#### A. LESSOR

1. The Comprehensive General Liability Policy shall provide that COUNTY, its officers, officials, employees, and volunteers are covered as additional insured for liability arising out of the operations performed by or on behalf of LESSOR. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability.
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Is primary insurance as regards to County of Humboldt.
- d. Does not contain a pro-rata, excess only, and/or escape clause.
- e. Contains a cross liability, severability of interest or separation of insureds clause.
- f. Shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under section 28 of this Lease. It is further understood that LESSOR shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.
- g. Is primary coverage to COUNTY, and insurance or self-insurance programs maintained by COUNTY are excess to LESSOR'S insurance and will not be called upon to contribute with it.

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2. LESSOR shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Lease by COUNTY. The endorsements shall be on forms as approved by COUNTY'S Risk Manager or County Counsel. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved by COUNTY. If LESSOR does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Lease, take out the necessary insurance, and LESSOR agrees to pay the cost of said insurance. COUNTY is also hereby authorized with the discretion to deduct the cost thereof from the monies owed to LESSOR under this Lease.

3. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and LESSOR shall be required to purchase additional coverage to meet the aggregate limits set forth above.

### B. COUNTY

1. The Comprehensive General Liability Policy shall provide that LESSOR, its officers, officials, employees, and volunteers are covered as additional insured for liability arising out of the operations performed by or on behalf of COUNTY. The coverage shall contain no special limitations on the scope of protection afforded to LESSOR, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability.
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Contains a cross liability, severability of interest or separation of insureds clause.
- d. The policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to LESSOR and in accordance with the Notice provisions set forth under section 28 of this Lease. It is further understood that COUNTY shall not terminate such coverage until it provides LESSOR with proof satisfactory to LESSOR that equal or better insurance has been secured and is in place.
- e. COUNTY shall furnish LESSOR with certificates and original endorsements effecting the required coverage of this Lease by LESSOR.

### C. COUNTY AND LESSOR

1. COUNTY and LESSOR agree that insurance carried or required to be carried by either of them against loss or damage to property by fire, flood,

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earthquake, acts of terrorism, acts of war or other casualty shall contain a clause whereby the insurer waives its right to subrogation against the other party, its elected officials, directors, employees, volunteers, and agents and each party shall indemnify the other against any loss or expense, including reasonable attorney's fees resulting from the failure to obtain such waiver.

2. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

3. Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to LESSOR, COUNTY, their officers, officials, employees, and volunteers.

### **20. PARKING**

The leased premise includes five (5) off-street parking spaces which are included in section 5 of this Lease. LESSOR shall be responsible for all maintenance and repair of the parking lot. LESSOR shall also be responsible for the parking spaces' compliance with all local, state and federal laws and regulations, including but not limited to, the Americans with Disabilities Act.

### **21. DESTRUCTION OF PREMISES**

In the event the premises are destroyed in whole or in part by fire or other casualty to the extent that they are substantially unusable, COUNTY reserves the right to forthwith terminate this Lease upon written notice within ten (10) days following the date of loss, subject to the corrective provisions in Section 11 of this Lease.

If such casualty occurs and a portion of said premises is still usable by COUNTY, the rent shall be prorated on a square footage basis of usable space until the premises are restored to their original condition. Payment of prorated rent shall not constitute a waiver of COUNTY'S right to terminate this Lease as provided in this section.

In the event that the premises are destroyed in whole or in part by fire or other casualty, and LESSOR determines the cost of restoring is prohibitive, LESSOR may terminate this Lease by notice in writing to COUNTY within ten (10) days following the date of loss. LESSOR'S option to rebuild shall not constitute a waiver of COUNTY'S right to terminate this Lease, as provided in this section.

### **22. USE UNLAWFUL OR PREMISES CONDEMNED**

If it becomes unlawful for COUNTY to conduct its intended operations on the premises, or if a portion of the premises or approaches thereto is condemned by public

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authority so that it becomes impossible to use the premises, or if any highway or street change is made diverting or re-routing traffic away from the premises so that the premises become impossible to use, COUNTY shall have the right at any time thereafter to terminate this Lease by giving LESSOR seven (7) days notice in writing of such termination.

### 23. PREMISES UNUSABLE

If a result of causes, such as flood, strikes, riots, insurrection, or other similar or different causes beyond the control of LESSOR and COUNTY, the premises shall become unusable from a practical standpoint for a period of ten (10) consecutive days or longer, then COUNTY may: (1) terminate the Lease upon seven (7) days written notice to LESSOR, (2) by notice in writing to LESSOR prorate the rent for the period of time the premises are unusable from a practical standpoint or (3) by notice in writing to LESSOR at any time prior to the date when this Lease would otherwise terminate, further extend this Lease without the requirement of the payment of rent for the period of time which the premises were unusable from a practical standpoint. The remedies set for this this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Lease.

### 24. NUCLEAR FREE CLAUSE

LESSOR certifies by its signature below that LESSOR is not a nuclear weapons contractor, in that LESSOR is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. LESSOR agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this Lease if it determines that the foregoing certification is false or if LESSOR becomes a nuclear weapons contractor.

### 25. LESSOR DEFAULT

LESSOR shall be in default of this Lease if it fails or refuses to perform any material provision of this Lease that it is obligated to perform if the failure to perform is not cured within ten (10) days after written notice of the default has been given by COUNTY to LESSOR. If the default cannot reasonably be cured within ten (10) days, LESSOR shall not be in default of this Lease if LESSOR commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default.

### 26. COUNTY'S REMEDIES ON LESSOR'S DEFAULT

COUNTY, at any time after LESSOR is in default, can terminate this Lease or can cure the default at LESSOR'S cost subject to the provisions in this Section. If

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COUNTY at any time, by reason of LESSOR'S default, pays any sum or does any act that requires the payment of any sum, the sum paid by COUNTY shall be due from LESSOR to COUNTY within ten (10) days of written notice of such sum, and if paid at a later date shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum is paid by COUNTY until COUNTY is reimbursed by LESSOR. If LESSOR fails to reimburse COUNTY as required by this section, COUNTY shall have the right to withhold from future rent due the sum COUNTY has expended until COUNTY is reimbursed in full for the sum and interest on it. Both parties agree to mediation before any withholding of rent payments. If COUNTY withholds rent payments under the provisions in this Section and it is later determined that LESSOR was not in default, COUNTY shall reimburse LESSOR within ten (10) days the withheld sum plus interest at the maximum rate COUNTY is permitted by law to charge. The remedies set forth in this section are in addition to and do not in any manner limit other remedies set forth in particular sections of this Lease.

### **27. TERMINATION**

COUNTY reserves the right to terminate this Lease, upon ten (10) days written notice, for any cause or reason provided by the Lease itself, by law, or upon the happening of one or more of the following:

- A. The making by LESSOR of any general assignment for the benefit of creditors.
- B. The failure of LESSOR to pay promptly when due all charges, fees, or other payments in accordance with this Lease.
- C. The failure of LESSOR to remedy any default, breach, or violation of county, municipal, federal and/or state laws or regulations by LESSOR or its employees.
- D. The violation of any of the provisions of this Lease.
- E. The building becomes damaged due to fire, flood, earthquake, or any other natural disaster as referenced in Section 21 of this Lease.
- F. Intentionally supplying COUNTY with false or misleading information or misrepresenting any material fact on its application or documents or in its statement to or before COUNTY, or intentional failure to make full disclosure on its financial statement or other documents.

### **28. NOTICE**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in

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writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

LESSOR: David G. Katz, trustee  
288 F Street  
Arcata, CA 95521

COUNTY: County of Humboldt  
Public Works  
Real Property Division  
1106 Second Street  
Eureka, CA 95501

All insurance notices shall also be sent to:

County of Humboldt  
Human Resources – Risk Management Services  
825 Fifth Street, Room 100  
Eureka, CA 95501

Each party may at any time change its address for notice by giving written notice of such change to the other party in the manner provided in this section.

29. ASSIGNMENT

This Lease shall not be assigned by either party without the written consent of the other party. Such consent shall not be unreasonably withheld.

30. LEASE MODIFICATION

This Lease may be modified only by subsequent written agreement signed by COUNTY and LESSOR.

31. LESSOR NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY

While engaged in carrying out and complying with the terms and conditions of this Lease, LESSOR is an independent contractor and not an officer, employee, or agent of COUNTY.

32. ATTORNEY'S FEES

If either party shall commence any legal action or proceeding, including an action for declaratory relief, against the other by reason of the alleged failure of the other to

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perform or keep any provision of this Lease to be performed or kept, the party prevailing in said action or proceeding shall be entitled to recover court costs and reasonable attorney's fees (including reasonable value of services rendered by County Counsel) to be fixed by the court, and such recovery shall include court costs and attorney's fees (including reasonable value of services rendered by County Counsel) on appeal, if any. As used herein, "the party prevailing" means the party who dismisses an action or proceeding in exchange for payment of substantially all sums allegedly due, performance of provisions allegedly breached, or other considerations substantially equal to the relief sought by said party, as well as the party in whose favor final judgment is rendered.

### 33. WAIVER OF BREACH

The waiver by COUNTY of any breach of any provisions of this Lease shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this Lease.

### 34. REMEDY FOR BREACH

In the event of breach of this Lease by LESSOR or COUNTY, COUNTY and/or LESSOR shall have all rights and remedies provided by law.

### 35. SURRENDER OF PREMISES

At the termination of this Lease, COUNTY shall surrender the building to LESSOR in good condition and repair, except for normal wear and tear. COUNTY shall be under no obligation to repair or restore the whole or any portion of the building which may be damaged by reason of fire, earthquake, the elements or other casualty.

### 36. BINDING EFFECT

All provisions of this Lease shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

### 37. JURISDICTION AND APPLICABLE LAWS

This Lease shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this Lease shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§394 and 395.

### 38. PREMISES INSPECTION BY CERTIFIED ACCESS SPECIALIST

The Premises have not undergone inspection by a Certified Access Specialist.



## LEASE

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A Certified Access Specialist (CAsp) has inspected the subject premises and determined whether the subject premises complied with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CAsp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CAsp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CAsp inspection, the payment of the fee for the CAsp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

### 39. INTERPRETATION

As this Lease was jointly prepared by both parties, the language in all parts of this Lease shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

### 40. COUNTERPARTS

This Agreement, and any amendments hereto, may be executed in one (1) or more counterparts, each which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. A signed copy of this Agreement, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement, and any amendments hereto, for all purposes.

[Signatures on Following Page]

LEASE

IN WITNESS WHEREOF, this Lease has been executed by the parties hereto upon the date first written above.

COUNTY OF HUMBOLDT:

LESSOR:

BY: Rex Boh  
CHAIRMAN  
TITLE: BOARD OF SUPERVISORS  
COUNTY OF HUMBOLDT

BY: D. David Katz  
NAME: David G. Katz  
Trustee as aforesaid

(SEAL)

BY: Anne Braak-Katz  
NAME: Anne Braak-Katz  
Trustee as aforesaid

ATTEST: [Signature]  
TITLE: CLERK OF THE BOARD *Ryan Sharp, Deputy*