



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

0-12

For the meeting of: October 4, 2016

Date: August 9, 2016

To: Board of Supervisors

From: Connie Beck, Director  
Department of Health and Human Services-Public Health

*For Connie Beck*

Subject: Request to Exercise the First Option to Extend Lease at 908 Seventh Street, Eureka with Idelle M. Abrahamsen, Trustee of the Myron and Idelle Abrahamsen 1994 Family Trust

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approves the Department of Health and Human Services' (DHHS) request to exercise the first option to extend the lease at 908 Seventh Street, Eureka with Idelle M. Abrahamsen, Trustee of the Myron and Idelle Abrahamsen 1994 Family Trust (Lessor) for the period of February 1, 2017 through January 31, 2022;
2. Authorizes Public Works-Real Property Division to send a notice to Lessor that the county is exercising the first option to extend the lease; and
3. Directs the Clerk of the Board to return one executed agenda to Public Works-Real Property Division.

SOURCE OF FUNDING:

Public Health

DISCUSSION:

On April 11, 2006 (item C-8), the Board approved the lease at 908 Seventh Street, Eureka, arising from a

Prepared by: Michelle Tucker, ASO

CAO Approval

*Cheryl I. Dillingham*

REVIEW:	Auditor <i>MBH</i>	County Counsel	Personnel	Risk Manager <i>KW</i>	Other
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TYPE OF ITEM:

Consent

Departmental

Public Hearing

Other

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT**

Upon motion of Supervisor *Sundberg* Seconded by Supervisor *Bass*

Ayes *Sundberg, Fennell, Lovelace, Bohn, Bass*

Nays

Abstain

Absent

PREVIOUS ACTION/REFERRAL:

Board Order No. C-10, C-13, C-8

Meeting of: 6/21/05, 10/18/05, 4/11/06

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: *Oct. 4, 2016*

By: *Kathy Hayes*

Kathy Hayes, Clerk of the Board

Request for Proposal (RFP), with Idelle M. Abrahamsen, Trustee of the Myron and Idelle Abrahamsen 1994 Family Trust. The lease commenced on February 1, 2007 and continues through January 31, 2017. The lease provides two consecutive options to extend the lease term for a period of five-years each which may be provided by providing ninety-day written notice to the Lessor prior to the expiration of the lease.

DHHS continues to require space at the 908 Seventh Street lease site, which co-locates approximately sixty-five DHHS-Public Health program staff and provides a venue for offering health education and prevention services to the public. Therefore DHHS requests the Board to approve exercising the first option to extend the lease at 908 Seventh Street for the time period of February 1, 2017 through January 31, 2022.

FINANCIAL IMPACT:

The cost of the lease is \$1.83 per square foot (\$21,164.60) per month or \$253,975.20 annually, plus \$.28 per square foot (\$3,215.42) per month for operating expenses. The lease has an annual Consumer Price Index (CPI) adjustment not to exceed five-percent (5%), adjusted on a base rental amount of \$1.49 per square foot. The payment for operating expenses has an annual adjusted actual cost, not to exceed a five-percent (5%) increase.

The lease costs include 11,550 square feet of space, the tenant improvements that were required by DHHS per the prior related RFP, forty-one (41) dedicated parking spaces, janitorial and maintenance services. In the event the county terminated the lease prior to expiration, the county would be responsible for the monthly cost of the lease until a new tenant could be found for the premises.

These costs are included in the fiscal year 2016-17 county approved budget in fund 1175, budget unit 414 – Healthy Communities, Public Health. There is no impact to the county’s General Fund.

Exercising the first option to extend the lease supports the Board’s Strategic Framework by continuing to create opportunities for improved safety and health and protecting vulnerable populations.

OTHER AGENCY INVOLVEMENT:

Public Works-Real Property Division

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve exercising the first option to extend the lease. However, DHHS does not recommend this alternative because multiple DHHS-Public Health programs would then be required to find adequate replacement office space to carry on operations.

ATTACHMENTS:

Attachment 1: Lease at 908 Seventh Street, Eureka with Idelle M. Abrahamsen, Trustee of the Myron and Idelle Abrahamsen 1994 Family Trust

LEASE

This Lease made this day of April 11, 2006 ("Effective Date"), by and between Idelle M. Abrahamsen, Trustee of the Myron and Idelle Abrahamsen 1994 Family Trust, (hereinafter called "Landlord"), and the County of Humboldt, a political subdivision of the State of California, (hereinafter called "Tenant").

ARTICLE 1

REAL PROPERTY, BUILDING, AND PREMISES

1.1 Lease of Premises. Landlord leases to Tenant and Tenant leases from Landlord those certain premises described in Exhibit A attached hereto ("Premises"), which consist of the building commonly known as 908 Seventh Street, Assessor's Parcel No. 001-205-010 in the City of Eureka, County of Humboldt ("Building"). Subject to verification as provided in Subsection 1.4.2, the Rentable Area (as defined in Section 1.4) and Usable Area (as defined in Section 1.4) of the Premises are 11,550 square feet and 11,550 square feet, respectively. The Building, the areas servicing the Building (including any adjacent parking structure and parking area), and the land on which the Building and those areas are located (as shown on the site plan attached to this Lease as Exhibit B) are sometimes collectively referred to as the "Real Property".

1.2 Appurtenant Rights. Tenant shall have the right to the non-exclusive use, in common with others, throughout the term of this Lease, of all elevators, easements and service alleys surrounding the Building, telephone equipment rooms, delivery and loading areas and facilities of the Building and the appurtenances thereto, as the same may exist from time to time. Such use shall be for Tenant and its customers, agents, employees, permitted assignees and subtenants, licensees and invitees. Landlord covenants that it shall not erect any structures on and within the subject Real Property which would materially interfere with the light and air now enjoyed by the Premises during the term of this Lease.

1.3 Preparation of Premises; Acceptance. The rights and obligations of the parties regarding the construction of the Premises before the Commencement Date of this Lease Term are stated in the Leasehold Improvement Agreement attached to this Lease as Exhibit C. If this Lease conflicts with the Leasehold Improvement Agreement, the Leasehold Improvement Agreement shall prevail. Landlord hereby represents and warrants to Tenant that Landlord shall complete the Building and the Premises in accordance with the terms and conditions of the Leasehold Improvement Agreement even in the event that Landlord fails to obtain financing for some or all of the improvements.

1.3.1 Prevailing Wage. Landlord acknowledges and agrees that all work on building modifications performed by Landlord at the request of Tenant shall be governed by and performed in accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.). These provisions are not applicable to modifications costing not more than One Thousand Dollars (\$1,000.00).

In the event the Landlord fails to pay prevailing wages or fails to comply with the Labor Code, Landlord shall be liable for all penalties, shortfall in wages and increased costs. Landlord shall hold County harmless for any penalties, shortfall in wages or any increase costs due to the Landlord's failure to pay prevailing wages or failure to comply with the Labor Code.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Humboldt County Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft, classification, or type of workman needed to execute the aforesaid structural modifications from the director of the State Department of Industrial Relations. Landlord herein agrees

that Landlord shall post, or cause to be posted, a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates. Copies of said prevailing wage rates may be obtained by contacting the Department of Public Works.

#### 1.4 Rentable Area and Usable Area.

1.4.1 Standard of Calculation. For purposes of this Lease, "Rentable Area," "Rentable Square Feet," "Rentable Square Footage," "Usable Area," "Usable Square Feet," and "Usable Square Footage" shall be calculated under the Building Owners and Managers Association International standards (BOMA).

1.4.2 Verification of Rentable Area and Usable Area. Within thirty (30) days after completion of construction of the Premises as provided in Exhibit C, Landlord's architect shall calculate and certify in writing to Landlord and Tenant the Rentable Area and Usable Area of the Premises and the Rentable Area of the Building. If Tenant disagrees with the determination of the Rentable Area or Usable Area of the Premises or the Rentable Area of the Building as calculated by Landlord's architect, Tenant shall provide Landlord with written notice of Tenant's disagreement ("Tenant's Notice of Disapproval") within thirty (30) days after the date on which Tenant receives the calculation by Landlord's architect. The parties shall diligently attempt in good faith to resolve the disagreement over the Rentable Area or Usable Area of the Premises or the Rentable Area of the Building within thirty (30) days after the date on which Landlord receives Tenant's Notice of Disapproval. If the parties are unable to resolve the disagreement within that period of time, the dispute shall be resolved by arbitration under Article 23, except that the arbitrator must be a licensed architect with a minimum of five (5) years' experience in designing office buildings similar to the Building, and the arbitrator must render a final decision within forty-five (45) days after the date on which the arbitrator is selected.

1.4.3 Adjustment of Rent. On the final determination of the Rentable Area of the Premises and the Building, if the Rentable Area of either is different from that stated in Section 1.1, Rent that is based on the Rentable Area shall be recalculated in accordance with that final determination. On the recalculation of Rent as provided in this Subsection 1.4.3, the parties shall execute an amendment to this Lease stating the recalculated Rent. Execution of that amendment shall not be a condition precedent to the effectiveness of the recalculated Rent. If there is a dispute over the Rentable Area of the Premises or the Building that has not been settled as provided in Subsection 1.4.2 by the date on which Tenant is required to begin paying Rent under this Lease, Tenant shall pay to Landlord the Rent stated in Section 4.1 until final determination of the Rentable Area of the Premises. If the Rent after final determination of the Rentable Area of the Premises is more than the Rent specified in Section 4.1, the deficiency must be paid by Tenant to Landlord, without interest, within thirty (30) days after that final determination. If the Rent after final determination of the Rentable Area of the Premises is less than the Rent in Section 4.1, Landlord shall credit the overpayment made by Tenant to the next Rent due, without interest.

## ARTICLE 2

### TERM

2.1 Term. The term of this Lease ("Lease Term") shall commence on the Commencement Date provided for in Section 2.2 below and shall end upon the expiration of ten (10) years following said Commencement Date plus the number of days between the Commencement Date and the first day of the next successive calendar month if the Commencement Date occurs on a day other than the first day of a calendar month ("Lease Expiration Date"), subject to any option, renewal or extension rights of Tenant as provided for in this Lease.

2.2 Commencement Date. The Lease Term shall commence on the later of the following dates (the "Commencement Date"): (a) November 1, 2006; or (b) the date that is the earlier of the day on which Tenant commences operation of its business in the Premises or the day that is the first Monday

following the elapse of thirty (30) days following written notice from Landlord that the work to be done in the Premises by Landlord pursuant to the provisions of Exhibit C is substantially completed.

Notwithstanding the foregoing, if Landlord provides written notice more than thirty (30) days prior to the date stated in subclause (a) of the preceding sentence that the work to be done in the Premises by Landlord is substantially completed and if Tenant commences operation of its business in the Premises prior to the date stated in said subclause (a), then this Lease shall commence on the date that Tenant commences operation of its business in the Premises. Upon the determination of the Commencement Date, Landlord and Tenant shall execute a written acknowledgment of the Commencement Date and shall attach it to this Lease as Exhibit D.

**2.3 Substantial Completion of Landlord's Work.** The work to be done in the Premises by Landlord pursuant to the provisions of Exhibit C shall be "substantially completed" when Landlord has delivered to Tenant a temporary or final certificate of occupancy for the Premises and Landlord's work has been substantially performed, although minor details or adjustments that do not interfere with Tenant's use of such space may have not been completed. Landlord shall diligently pursue completion of any minor details or adjustments that have not been performed at the time Landlord gives the aforesaid notice of substantial completion to Tenant. Evidence of when the Landlord's work has been substantially performed shall be a certificate to that effect signed by Landlord's architect and County Public Works Director. The County Public Works Director shall execute the certificate within two (2) business days following delivery by Landlord and the Public Works Director may only refuse to sign if a material and substantive defect in the Premises exists which justifies refusal, and the reason(s) for said refusal are stated in writing. Landlord agrees to use its best efforts to provide Tenant with at least thirty (30) days' advance notice of the date on which the Premises are expected to be substantially completed.

**2.4 Delay in Commencement.** If Landlord, for any reason whatsoever, fails to give Tenant notice by December 1, (2007) that the Landlord's work in the Premises pursuant to Exhibit C is substantially completed, as provided for above, then the Tenant may: (a) terminate this Lease by giving Landlord five (5) days prior written notice of its intention to do so; or (b) extend Landlord's time for completion thereof and delivery of possession to Tenant, and withhold from the first rental payment and subsequent rental payments as may be necessary, as liquidated damages, an amount equal to one and one-half times the Rent otherwise due for each day after said date during which Landlord has failed to give Tenant such notice of substantial completion. Notwithstanding the foregoing, if Landlord, for any reason whatsoever, fails to give Tenant notice that the Landlord's work in the Premises is substantially completed by January 1, 2007, Tenant at its option shall have the right, by giving Landlord five (5) days' prior written notice of its intention to do so, to immediately cancel this Lease, and recover the additional sum of three (3) months' rent from Landlord, as liquidated damages. This agreement for liquidated damages is entered into because the amount is manifestly reasonable under the circumstances at the time of this Lease, and it would be extremely difficult or impossible to determine, with any degree of accuracy, the actual damages caused by such delay. Landlord's obligation to complete Landlord's work in the Premises within the time specified in this Section 2.4 shall not be extended except in the event delays in performing the work are caused by Tenant (Tenant's agents, employees, retained contractors or representatives), strikes, lockouts, fires, floods, earthquake, vandalism or other casualty, war, or civil disorder. In the event such delays are incurred Landlord shall have a period of time equivalent to the period of such delay to complete Landlord's work in the Premises pursuant to the provisions of Exhibit C.

**2.5 Option To Extend Term.** Landlord grants to Tenant two (2) consecutive options to extend the Lease Term ("Extension Option") for a period of five (5) years each ("Option Term"), subject to the conditions described in this Section 2.5.

**2.5.1 Conditions of Option.** The Extension Option may be exercised only by written notice delivered by Tenant to Landlord as provided in Subsection 2.5.3 and only if, as of the date of delivery of the notice, Tenant is not in material default under this Lease after the expiration of any applicable cure periods. If Tenant properly exercises the Extension Option, the Lease Term, as it applies to the entire Premises then leased by Tenant, shall be extended for the Option Term. If Tenant exercises

the first Extension Option, Landlord shall, prior to the commencement of the first option term, repaint the interior of the Premises and install new carpeting throughout the Premises in a manner acceptable to Tenant; no such obligation shall exist for the second Extension Option in the event the second Extension Option is exercised by Tenant.

#### 2.5.2 Option Rent.

**2.5.2.1 First Option Term.** Commencing on the first day of the First Option Term and continuing each year thereafter of the First Option Term, annual rent shall be adjusted by the percentage increase or decrease in the revised Consumer Price Index for all items (1982-1984=100) U.S. City Average, West Cities Size B-C, as published by the United States Department of Labor, Bureau of Labor Statistics (called "the Index" in this Lease) for the prior calendar year. In calculating this percentage increase, the most current Index immediately preceding the date of annual adjustment during the extended term shall be used. In the event the Index is either unavailable, is no longer published, or is calculated on a significantly different basis following the date of this Lease, the most comprehensive official Index published which most closely approximates the rate of inflation shall be substituted in place of the Index. September, 2006 shall be the base month for this adjustment. On adjustment of the rent in accordance with this paragraph, Landlord shall execute a letter stating the adjustment. Regardless of the CPI percentage change, the increase or decrease for any one year will be capped at five percent (5%).

**2.5.2.2 Second Option Term.** The rent payable by Tenant during the second Option Term shall be equal to the Fair Market Rental Value of the Premises as of the commencement of the second Option Term. For purposes of this Section 2.5.2.2, Fair Market Rental Value of the Premises shall be the rental rate, including all escalations, at which tenants lease comparable space as of the commencement of the second Option Term. For this purpose, "comparable space" shall be office space that is: (a) not subleased; (b) not subject to another tenant's expansion rights; (c) not leased to a tenant that holds an ownership interest in the landlord; (d) not leased to a tenant under a renewal or an extension of a lease; (e) comparable in size, location, and quality to the Premises; (f) leased for a term comparable to the second Option Term; and (g) located in comparable buildings.

**2.5.3 Exercise of Option.** The Extension Options must be exercised by Tenant, if at all, only at the time and in the manner provided in this Subsection 2.5.3.

**2.5.3.1 Exercise of First Option.** If Tenant wishes to exercise its Extension Option with respect to the first Option Term, Tenant shall deliver written notice to Landlord no less than ninety (90) days before the expiration of the initial Lease Term.

**2.5.3.2 Exercise of Second Option.** If Tenant wishes to exercise its Extension Option with respect to the second Option Term, Tenant shall deliver written notice to Landlord no less than ninety (90) days before the expiration of the first Option Term. The parties shall have thirty (30) days after Landlord receives the option notice in which to agree on the rent for the second Option Term. If the parties agree on the rent for the second Option Term during that period, they shall promptly execute an amendment in accordance with Section 2.5.4. If the parties are unable to agree on the rent in accordance with Section 2.5.2.2 within that period, then within ten (10) days after the expiration of that period each party, at its cost and by giving notice to the other party, shall appoint a real estate appraiser with a California General Certification and at least five (5) years' full-time commercial appraisal experience in the area and market segment in which the Premises are located to appraise and set the rent in accordance with Section 2.5.2.2 for the second Option Term. If a party does not appoint an appraiser within ten (10) days after the other party has given notice of the name of its appraiser, the single appraiser appointed shall be the sole appraiser and shall set the rent for the second Option Term. If the two appraisers are appointed by the parties as stated in this Section, they shall meet promptly and attempt to set the rent. If they are unable to agree within thirty (30) days after the second appraiser has been appointed, they shall attempt to elect a third appraiser meeting the qualifications stated in this



Section within ten (10) days after the last day the two appraisers are given to set the rent. If they are unable to agree on the third appraiser, either of the parties to this Lease by giving ten (10) days' notice to the other party can file a petition with the American Arbitration Association solely for the purpose of selecting a third appraiser who meets the qualifications stated in this Section. Each party shall bear half the cost of the American Arbitration Association appointing the third appraiser and of paying the third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either party. Within thirty (30) days after the selection of the third appraiser, a majority of the appraisers shall set the rent for the second Option Term. If a majority of the appraisers are unable to set the rent within the stipulated period of time, the three appraisals shall be added together and their total divided by three; the resulting quotient shall be the rent for the Premises during the second Option Term. In setting the minimum monthly rent for the second Option Term, the appraiser or appraisers shall consider the use to which the Premises is restricted under this Lease (if any) and shall not consider the highest and best use for the Premises without regard to the restriction on use of the Premises contained in this Lease (if any). If, however, the high appraisal is more than ten percent (10%) higher than the middle appraisal, the high appraisal shall be disregarded; likewise, if the low appraisal is more than ten percent (10%) lower than the middle appraisal, the low appraisal shall be disregarded. If either the high appraisal or low appraisal is disregarded, the remaining two appraisals shall be added together and their total divided by two; the resulting quotient shall be the rent for the Premises during the second Option Term. If both the high and low appraisals are disregarded, the rent shall be set at the amount determined by the middle appraisal, unless either Landlord or Tenant can demonstrate that said amount is fifteen percent (15%) or greater above, or below, Fair Market Rental Value, in which case the aggrieved party may commence (and shall unilaterally bear all costs associated with commencing) a claim with the American Arbitration Association to have the rental rate reviewed and set by the selected arbitrator. In the event arbitration is commenced pursuant to the previous sentence of this Section, all appraisals conducted pursuant to this section shall be admissible as evidence (in addition to any others conducted by qualified appraisers the parties may unilaterally wish to obtain) and the arbitrator shall uphold the middle appraisal as the value unless clear and convincing evidence demonstrates that the middle appraisal is fifteen percent (15%) or greater above or below Fair Market Rental Value. Consistent with Section 2.5.2.2 of this Lease, in no event shall the rent for the second Option Term be set at an amount which equals less than the rental rate due and applicable during the second year of the Initial Lease Term (without reduction for the ten percent (10%) rental credit set forth in Section 4.3). After the rent for the second Option Term has been set, the appraisers shall immediately notify the parties. If Tenant objects to the rent that has been set, Tenant shall have the right to have the Lease expire at the end of the first Option Term. Tenant's election to allow this Lease to expire at the end of the first Option Term must be exercised within thirty (30) days after receipt of notice from the appraisers of the rent.

2.5.4 Amendment to Lease. If Tenant timely exercises its Extension Options, Landlord and Tenant shall promptly execute an amendment to this Lease extending the Lease Term on the terms and conditions set forth in this Section 2.5. Execution of that amendment shall not be a condition precedent to the effectiveness of the Option Term.

2.6 Holding Over. Any holding over by Tenant shall not be nor be construed to be a renewal of the term of this Lease but shall constitute a month to month tenancy which may be terminated by either party upon ninety (90) days prior written notice to the other party, and shall otherwise be on the same terms and conditions herein set forth.

### ARTICLE 3

#### USE OF PREMISES

3.1 Tenant's Use. The Premises shall be used for any lawful purpose.

## ARTICLE 4

## RENT

4.1 Definition of "Rent"--Limited Setoff. Tenant shall pay to Landlord rent ("Rent") in equal monthly installments of Eighteen Thousand, Five Hundred and Ninety-Five Dollars and Fifty Cents (\$18,595.50), (which equals One and 61/100 Dollars (\$1.61) per sq. ft. of the Rentable Area [i.e., \$1.61 multiplied by 11,550 sq. ft. equals 18,595.50]) in advance on or before the first day of every calendar month during the Lease Term, without any setoff or deduction except as provided in Section 4.3, Section 5.1 and Section 20.2. Commencing on the first day of the second year and continuing each year thereafter during the initial term and first option term, annual rent shall be adjusted by the percentage increase or decrease in the revised Consumer Price Index for all items (1982-1984=100) U.S. City Average, West Cities Size B-C, as published by the United States Department of Labor, Bureau of Labor Statistics (called "the Index" in this Lease) for the prior calendar year. In calculating this percentage increase, the most current Index immediately preceding the date of annual adjustment during the extended term shall be used. In the event the Index is either unavailable, is no longer published, or is calculated on a significantly different basis following the date of this Lease, the most comprehensive official Index published which most closely approximates the rate of inflation shall be substituted in place of the Index. September, 2006 shall be the base month for this adjustment. On adjustment of the rent in accordance with this paragraph, Landlord shall execute a letter stating the adjustment. Regardless of the CPI percentage change, the increase or decrease for any one year will be no more than five percent (5%). Rental adjustment shall be based on a monthly rental rate of One Dollar Forty Nine Cents per sq. ft. of rentable area. Payment shall be made at the address set forth in Section 19.3 or at any other place that Landlord may from time to time designate in writing.

4.2 Initial Payment; Proration. The Rent for the first full calendar month of the Lease Term shall be paid on the Commencement Date. If any payment date (including the Lease Commencement Date) for Rent, falls on a day other than the first day of that calendar month, or if any Rent payment is for a period shorter than one calendar month, the Rent for that fractional calendar month shall accrue on a daily basis for each day of that fractional month at a daily rate equal to 1/365 of the total annual Rent. All other payments or adjustments that are required to be made under the terms of this Lease and that require proration on a time basis shall be prorated on the same basis.

4.3 Rent Credit. The Rent for the first full 12 months of the Lease shall be decreased by ten percent (10%).

4.4 Operating Expenses. Tenant shall pay to Landlord in equal monthly installments, Twenty Eight Cents (\$.28) per sq. ft. per month for operating expenses (i.e., \$0.28 multiplied by 11,550 sq. ft. equals \$3,234.00 per month) to be added to monthly rental payment. Commencing on the first day of the second year of the initial term of the Lease, and any option terms, the cost of operating expenses shall be adjusted to increase or decrease according to actual costs. Regardless of the actual cost, the increase for any one year will be no more than five percent (5%). Landlord shall execute a letter stating adjustment. Operating expenses shall consist of security system monitoring, property taxes, water usage, sewer usage, landscaping, refuse disposal, property insurance and property maintenance, which is defined to include each of the maintenance and repair obligations assigned to Landlord pursuant to Section 5.1 of this Lease, below.

## ARTICLE 5

## MAINTENANCE

5.1 Maintenance of Building and Premises. Except as otherwise provided in this Lease, during the Lease term, Landlord, at its expense, agrees to maintain the Building and the Premises, including landscaping, in good condition appropriate for a building of this type and condition as of the



Commencement Date of this Lease and in this location. Subject to all terms and conditions of this Lease regarding Landlord's and Tenant's respective obligations in the event of damage or casualty to the Building or Premises, this obligation shall include, without limitation, the maintenance and repair of any air conditioning, heating, ventilating, elevator, sprinkler, sewage, electrical, water supply or steam system, foundation, superstructure, structural roof, roofing membrane, exterior walls, and other structural members and parts of the Building, all ordinary maintenance of the exterior portions of the Building such as painting and/or washing the exterior walls and windows, maintaining the exterior portions of the Building, polishing or waxing any exterior components, rubbish removal and all interior maintenance, repair and replacement, including, without limitation, the replacement of fluorescent lighting ballasts and restroom supplies. Landlord's repair and maintenance obligations shall specifically exclude any repairs necessitated by intentional or negligent acts or omissions of Tenant, its employees, agents, customers, invitees, patrons, contractors, representatives or assigns, to the extent Landlord is not reimbursed for the costs and expenses associated with said repairs pursuant to insurance policies specifically procured in accord with the terms and provisions of this Lease; any such repairs necessitated by negligent acts or omissions of Tenant, its employees, agents, customers, invitees, patrons, contractors, representatives or assigns, shall be the responsibility of Tenant. In addition, Landlord shall provide, for the use by Tenant and its customers, agents, employees, assignees, subtenants, licensees and invitees during Tenant's normal business hours (i.e., 7:00 a.m. - 7:00 p.m.) as the same may be reasonably established from time to time, building utility services and elevators and building maintenance personnel who shall be available to the Tenant and capable of performing, in a reasonably prompt manner after Landlord's receipt of notice from Tenant, the services or work required. Landlord shall have thirty (30) days after notice from Tenant to perform its obligations under this Section, except that Landlord shall perform its obligations as soon as reasonably possible if the nature of the problem presents a material hazard or emergency or substantially interferes with Tenant's use of the Premises, and in no event later than three (3) business days after notice from Tenant. If Landlord does not perform its obligations within the time limitations in this Section, Tenant can perform the obligations and have the right to be reimbursed for any sum Tenant reasonably expends in the performance of Landlord's obligations. If Landlord does not reimburse Tenant within fifteen (15) days after demand from Tenant, Tenant shall have the right to withhold from future Rent due the sum Tenant has expended until Tenant is reimbursed in full; any dispute regarding Tenant's withholding of funds shall be subject to the arbitration provisions stated in Article 23 of this Lease.

5.2 Maintenance by Tenant. Tenant shall be responsible for the maintenance, including repair and/or replacement desired by Tenant, of its interior signs, light bulbs, furnishings and all other personal property used in connection with the Premises, and the repair of items necessitated by intentional or negligent acts or omissions of Tenant, its employees, agents, customers, invitees, patrons, contractors, representatives or assigns, to the extent Landlord is not reimbursed for the costs and expenses associated with said repairs pursuant to insurance policies specifically procured in accord with the terms and provisions of this Lease. Tenant shall not be responsible for any of the items which are Landlord's responsibilities.

## ARTICLE 6

### UTILITIES, SERVICES AND TAXES

6.1 Tenant to Pay Utilities. Tenant shall be solely responsible for and directly pay and maintain accounts with each utility service provider for all electricity, gas, and telephone/computer, DSL and other technology services supplied to the Premises.

6.2 Failure to Furnish Utilities. Except as hereinafter provided, Landlord shall not be liable for any failure to furnish any of such services or utilities when such failure is caused by strikes, lockouts, other labor troubles or other conditions beyond Landlord's reasonable control (financial inability excepted), and Tenant shall not be entitled to any damages nor shall any such failure relieve Tenant of the obligation to pay Rent, or constitute or be construed as a constructive or other eviction of Tenant. Notwithstanding the foregoing, Rent of any kind provided in this Lease shall be equitably abated in the

event Landlord, for whatever reason, is unable to supply any of the Building's sewer, electrical, heating, air conditioning (to the extent such services exist as of the Commencement Date), water or other systems serving the Premises for a period of twenty-four (24) hours, unless the damage or defective condition relating to such systems is caused by: (a) Tenant, its employees, agents, contractors, patrons, licensees or invitees; or (b) strike, lockout or other labor troubles; or (c) other conditions beyond Landlord's reasonable control including, without limitation, fire, flood, earthquake, terrorism, vandalism or other (financial inability excepted). If the damage or defective condition is caused by one of the above listed reasons, then the amount of such abatement shall be agreed upon by Landlord and Tenant or, in the event Landlord and Tenant are unable to agree on such abatement, the amount shall be determined in an arbitration proceeding (pursuant to the terms of Article 23) according to the extent to which such unavailability interferes with Tenant's normal business operations on the Premises. If Landlord's failure to furnish any such services or utilities to the Premises or to supply any of the Building's sewer, electrical, heating, air conditioning, water or other systems serving the Premises for any period of time is caused by any negligence or willful act of Landlord, or Landlord's agents or contractors, there shall be an immediate abatement of Rent for the period of such failure or lack of supply. In the event of any stoppage or interruption of services, Landlord shall use its best efforts to restore said services as soon as possible. Tenant, however, shall have the right, at its option, to terminate this Lease if any such stoppage or interruption of said services continues for any reason for more than thirty (30) consecutive days.

6.3 Security Services. Landlord shall provide security services for the Building and Real Property in accordance with the specifications attached to this Lease as Exhibit E. Subject to the terms and conditions of the Leasehold Improvement Agreement, Tenant shall have the right to install or have installed in the Premises, a card key access system or other security system.

6.4 Janitorial Services. Landlord agrees to provide reasonable bonded cleaning service consistent with first class buildings for the Premises and the Building and appurtenances thereto, including the elevators and stairways. Such services shall include those set forth in Exhibit E attached hereto and incorporated herein by this reference. Tenant shall have the right for any reason whatsoever or for no reason, upon thirty (30) days written notice to Landlord, to assume responsibility for providing janitorial service and supplies, and in said event, the rent due under this Lease shall be reduced Twelve Cents (\$ .12) per Rentable Square Foot.

6.5 Property Taxes. Subject to Landlord's right(s) to recoup said costs in accord with Lease Section 4.4, above, Landlord shall pay all real property taxes and general and special assessments levied and assessed against the premises (exclusive of Tenant's personal property).

6.6 Landlord to Pay Utilities. Subject to Landlord's right(s) to recoup said costs in accord with Lease Section 4.4, above, Landlord shall pay all water, sewer, refuse disposal and monthly alarm service monitoring supplied to the Premises.

6.7 Refuse Disposal. Subject to Landlord's right(s) to recoup said costs in accord with Lease Section 4.4, above, Landlord agrees to provide adequate refuse disposal to accommodate number of employees and visitors for the Premises.

## ARTICLE 7

### ALTERATIONS AND IMPROVEMENTS

During the term of this Lease, Tenant shall make no alterations, installations, additions, or improvements to the Premises costing more than Ten Thousand Dollars (\$10,000.00) without submitting to Landlord plans and specifications therefor and obtaining Landlord's written consent, which consent will not be unreasonably withheld or delayed. So long as any alterations, installations, additions or improvements to the Premises requested by Tenant will not decrease the value of the Premises and are constructed in accord with all applicable laws and regulations, Landlord, without the obligation to incur

any costs or expenses, shall cooperate with Tenant in securing building and other permits and authority necessary from time to time for any work permitted under this Lease. Tenant may at any time remove any equipment and trade fixtures installed by Tenant in the Premises, so long as any damage to the Premises caused by removal is repaired by Tenant, at Tenant's sole cost and expense. Improvements made by Tenant at any time to the Premises during the term of this Lease shall become the property of Landlord.

## ARTICLE 8

### PARKING

Included in Tenant's rental herein is the right of Tenant's customers and invitees to have the right to use free of charge the greater of: 3 parking spaces for each 1,000 square feet of Rentable Area (including all Option Space and Expansion Space occupied by Tenant) in the parking area associated with the Building in those spaces closest to the south and east side of the Building, or (ii) 41 parking spaces in the parking area associated with the Building in those spaces closest to the south and east side of the Building. Tenant shall have the right to require Landlord to appropriately designate one hundred percent (100%) of the spaces as reserved for employees and customers of Tenant. In the event Tenant elects to construct improvements to/on the Premises and, as a result thereof, available parking will be decreased, Landlord shall be relieved from the obligations created by this Article 8.

## ARTICLE 9

### INSURANCE AND INDEMNITY

#### 9.1 Landlord's Insurance.

9.1.2 THIS LEASE SHALL NOT BE EXECUTED BY TENANT and the Landlord is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.

9.1.3 Without limiting Landlord's indemnification provided herein, Landlord shall obtain and maintain, throughout the period of this Agreement, the following policies of Insurance placed with insurers 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 Landlord, its agents, employees or subcontractors.

9.2 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. 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. Said policy shall contain, or be endorsed with, the following provisions:

(a) The Tenant, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of Landlord. The coverage shall contain no special limitations on the scope of protection afforded to the Tenant, its officers, agents, and employees.

(b) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for nonpayment of the premium) to Tenant by mail.

(c) 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.

(d) For claims related to this project, the Landlord's insurance is primary coverage to the Tenant, and any insurance or self-insurance programs maintained by the Tenant are excess to Landlord's insurance and will not be called upon to contribute with it.

(e) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to Tenant, its officers, employees, and agents.

9.3 Fire and Extended Coverage Insurance. At all times during the term of this Lease, Landlord shall keep the Building (excluding the land) insured against damage and destruction by fire, vandalism, and other perils covered by the broadest extended coverage endorsement obtainable with insurance companies acceptable to Tenant and licensed to do business in the State of California, in the amount of 90% of the full replacement value of the Building (excluding the land) in its entirety, including debris removal. The insurance policies required above shall provide that the replacement cost of the Building (excluding the land) shall be redetermined by Landlord subject to approval by Tenant in intervals of no more than one year. The insurance policies shall include an endorsement entitled "Average Clause (Stipulated Amount) and Waiver of Inventory and Appraisal Clause", and in the event such endorsement is not obtainable, Tenant shall not be responsible to Landlord for any coinsurance penalties assessed by any insurance company because of the failure of Landlord to carry sufficient insurance for the Building. Such insurance shall name Tenant as an additional insured and other tenants may be added as additionally insured.

9.4 Proceeds. Any moneys collected from the insurance company or companies pursuant to Section 9.3 hereof from damage or destruction to the Building, or any part thereof, shall be used and applied in accordance with Article 10 entitled "Destruction and Untenantability of Premises."

9.5 Other Insurance Matters.

9.5.1 Landlord shall furnish Tenant with certificates and original endorsements effecting the required coverage prior to occupancy of the premises by Tenant. The endorsements shall be on forms as approved by the Tenant's Risk Management or Tenant's Counsel. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved by Tenant.

9.5.2 In the event Tenant receives a thirty (30) day written notice of cancellation concerning any of the required policies, or should Landlord fail to have in effect the required coverage at anytime during this lease, Tenant may give notice to Landlord to reinstate or acquire the affected coverage. Should Landlord fail to reinstate or acquire the affected coverage within ten (10) days of Tenant's notice to reinstate or acquire the affected coverage, Tenant may either terminate the lease, reinstate or acquire the affected coverage, and Landlord shall reimburse Tenant for the necessary cost at Tenant's option.

9.6 All coverages shall be with insurance carriers licensed and admitted to do business in California. All coverages shall be with insurance carriers acceptable to Tenant.

9.7 Tenant's Insurance. Without limiting Tenant's indemnification provided herein, Tenant shall obtain and maintain, throughout the period of the agreement, the following policies of insurance placed with insurers 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 Tenant, its agents, employees or subcontractors.

9.8 Comprehensive or Commercial General Liability Insurance Comprehensive or Commercial Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in the amount of \$1,000,000 per occurrence. 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. Said policy shall contain, or be endorsed with, the following provisions:

(a) The Landlord, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of Tenant. The coverage shall contain no special limitations on the scope of protection afforded to the Landlord, its officers, agents, and employees.

(b) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of the premium) to Tenant by mail.

(c) 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.

(d) For claims related to this project, the Tenant's insurance is primary coverage to the Landlord, and any insurance or self-insurance programs maintained by the Landlord are excess to Tenant's insurance and will not be called upon to contribute with it.

(e) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to Landlord, its officers, employees, and agents.

9.9 Workers' Compensation Coverage Tenant is in compliance with the provisions of the California Labor Code Section 3700, which requires every employer to be insured against liability for workers' compensation and employers' liability or to undertake self-insurance in accordance with the provisions of that code.

9.10 Hold Harmless/Indemnification Clause.

9.10.1 Pursuant to Government Code section 895.4, the parties to this Lease shall indemnify, defend and hold harmless the other parties hereto and their respective officers, agents, and employees, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including reasonable attorney's fees, which arise by the virtue of its own acts or omissions (either directly or through or by their respective officers, agents or employees) in connection with its duties and obligations under this Lease and any amendments hereto.

9.10.2 Acceptance of insurance required by this Lease does not relieve Landlord or Tenant from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered as a result of Landlord's or Tenant's respective acts or omissions regardless if any insurance is applicable or not.

ARTICLE 10

DESTRUCTION AND UNTENANTABILITY OF PREMISES

10.1 Loss -- Insured or Uninsured. Subject to the options to terminate hereinafter provided in this Article 10, if during the Lease Term, the Building or any portion thereof is damaged by fire, earthquake or other casualty or peril, Landlord shall with all due diligence (upon receipt of insurance

proceeds) repair or rebuild the Building and the Premises to the condition at least equal to that existing immediately prior to said damage. In connection therewith, Landlord shall use any such insurance proceeds for such purpose, together with any insurance proceeds received by Tenant by reason of insurance on improvements made by it in excess of the actual amount needed to replace or restore Tenant's improvements, fixtures and equipment, provided that any such proceeds received by Tenant shall only be used for the replacement or restoration of Tenant's improvements, fixtures and equipment. If, by reason of the provisions of any mortgage or deed of trust executed by Landlord encumbering the Building, insurance proceeds are required to be made payable to the lienholder and/or the policies of insurance placed in its custody, Tenant hereby consents thereto, provided that the lienholder in question shall first agree in writing with Landlord to make the proceeds of said insurance available for the repair and restoration of the Building.

10.2 Major Damage. For purposes of this Article 10, "major damage" to the Building resulting from fire, earthquake or any other casualty or peril is defined as damage to such extent that the estimated cost of full repair of such damage is greater than fifty percent (50%) of the then full replacement value of the Building as required for purposes of the then existing insurance policies provided for in Article 9. Any other damage to the Building from any such casualty or risks shall be deemed to be "non-major."

10.3 Tenant's Option to Terminate in Certain Events. If during the Lease Term the Building or any portion thereof receives damage to such an extent that the cost to repair the damage exceeds twenty percent (20%) of the then full replacement value of the Building and the effect of which is to render the Premises untenantable, in Tenant's opinion, for continued occupancy for a period of two hundred forty (240) days or more, then Tenant shall have the option to terminate this Lease upon thirty (30) days' notice to Landlord.

10.4 Landlord's Option to Terminate in Event of Major Damage to Building. If during the Lease Term the Building or any portion thereof receives major damage, Landlord shall have the option to terminate this Lease on sixty (60) days' written notice to Tenant, provided that Landlord also terminates the leases of all other tenants of the Building, in which event proration of Rent shall be made to be effective upon the date of such damage, and Landlord shall have no further obligations to Tenant. Notwithstanding the foregoing, Landlord shall have the absolute obligation to rebuild the Building after major damage in the manner set forth in Section 10.1 if either (a) the insurance proceeds are sufficient to pay for the estimated total cost of such rebuilding and Tenant does not elect to terminate this Lease under Section 10.3 above, or (b) Tenant gives notice, in writing, prior to the expiration of the 60-day period set forth above, that it desires to have the Building, or so much thereof as may be necessary to constitute a complete architectural unit, restored to a condition substantially similar to the condition of the Premises prior to the loss which will provide Tenant with suitable facilities, satisfactory in Tenant's sole opinion for its continued use of the Premises, and that Tenant will supply any additional funds (without contribution from Landlord), if any, that may be necessary, in addition to any insurance proceeds, to pay for such partial rebuilding. If Tenant gives such notice to Landlord, Tenant and Landlord shall each agree upon the plans and specifications for such rebuilding, the cost thereof, and the method by which Tenant shall supply to Landlord the additional funds necessary for such rebuilding, and the Interim Rent necessary during the term of such rebuilding, and the Rent paid by Tenant shall be equitably reduced in accordance with its contribution of additional funds toward such rebuilding by amortizing such contribution over the then remaining Term for a total abatement period not to exceed six (6) months. If Landlord and Tenant are unable to agree on any aspect of such rebuilding, the matter shall be submitted to arbitration in accordance with the provisions of Article 23.

10.5 Proration. In the event of termination pursuant to the provisions of this Article 10, Tenant shall surrender to Landlord possession of the Premises and shall pay to Landlord any Rent hereunder accruing prior to the date Tenant delivers its termination notice.

10.6 Abatement of Rent. In the event that after any damage or destruction this Lease is not



terminated in accordance with its provisions, Rent shall be equitably prorated and abated during the period commencing with the date of the casualty and continuing until such repairs are completed in the proportion that the Rent of the part usable by Tenant for the normal operation of Tenant's business on the Premises bears to the rental of the total space then leased by Tenant, taking into consideration the rental rate per square foot for the space for which the proration is made and any adverse effects and disruptions to Tenant's business caused during the period of such repairs. In no event shall the rental abatement period exceed six (6) months.

## ARTICLE 11

### EMINENT DOMAIN

11.1 Appropriation. In the event of any taking of or damage to all or any part of the Building or Premises, including any interest therein or appurtenant thereto, by reason of any exercise of the power of eminent domain, whether by a condemnation proceeding, inverse condemnation or otherwise, or in the event of any transfer, conveyance, or sale of all or any part of the Building or Premises, including any interest therein, or appurtenant thereto made in lieu of an exercise of the power of eminent domain (all of the foregoing being hereinafter referred to as "appropriation") prior to or during the Lease Term, the rights and obligations of Landlord and Tenant with respect to such appropriation, each time there is an instance of such appropriation, shall be governed by the provisions of this Article 11.

11.2 Date of Appropriation. For the purposes of this Article 11, the date of appropriation shall be the date upon which the condemning authority takes possession of all or any part of the Building or any interest therein or appurtenant thereto, or the date upon which Tenant is required by the condemning authority to commence vacating the Premises or any portion thereof, or any interest therein or appurtenant thereto, as a result of such appropriation, whichever date shall first occur.

11.3 Appropriation of All of the Building. In the event of appropriation of all of the Building, this Lease, subject to all provisions of this Article 11 pertaining to payments to be made shall terminate as of the date of such appropriation.

#### 11.4 Appropriation of Less Than All of the Building or Premises.

11.4.1 General Provisions. Except as provided below in this Section 11.4, in the event of appropriation of less than all of the Building or of the Premises, this Lease shall continue in full force and effect, except that, as to the portion of the Premises so appropriated, this Lease shall terminate as of the date of appropriation.

#### 11.4.2 Right to Terminate.

(a) If the appropriation shall render the Premises unavailable or unsuitable, in Tenant's sole opinion, to continue Tenant's normal use of the Premises, Tenant shall have the right to terminate this Lease. Exercise of such right by Tenant shall be made by written notice to Landlord on or before thirty (30) days after the date of Tenant's receipt of written notice of appropriation. Any such termination shall be effective as of the date of the appropriation.

(b) Subject to the provisions of Section 11.4.5, in the event that fifty percent (50%) or more of the rentable area of the Building (as it existed on the date of the appropriation) should become untenanted or unoccupied because the appropriation renders such space unavailable or untenanted, Landlord shall have the right to terminate this Lease, provided that Landlord also terminates the leases of all other tenants of the Building. Exercise of such right shall be made by notice to Tenant on or before thirty (30) days after the date of receipt of notice of appropriation.

11.4.3 Abatement of Rent. The Rent for the remainder of the Lease Term shall be prorated in the same proportion that part of the Premises usable by Tenant for the normal operation of its business bears to the total Premises immediately prior to the appropriation, taking into consideration the Lease rental rate per square foot for the space for which the proration is made. Rent shall also be abated for any portion of the Premises that is not appropriated but is rendered temporarily unusable by virtue of repairs or restoration necessitated by the appropriation of other space.

11.4.4 Restoration of Premises by Landlord. If this Lease is not terminated pursuant to Section 11.4.2 and subject to Section 11.4.5, Landlord will make any restoration of the remainder of the Building and the Premises necessitated by reason of the appropriation of less than all of the Building as promptly as reasonably practicable to as close to the same condition (as circumstances permit) as existed immediately prior to such appropriation.

11.4.5 Restoration of Premises with Tenant Funds. If Landlord would otherwise have the right to terminate the Lease pursuant to Section 11.4.2(b), Landlord shall not have the right to terminate this Lease if Tenant, within thirty (30) days after notice from Landlord that Landlord has elected to terminate this Lease pursuant to Section 11.4.2(b), notifies Landlord that Tenant desires to have the Building, or so much thereof as may be necessary to constitute a complete architectural unit, restored to a condition which will provide Tenant with suitable facilities in Tenant's sole opinion for its continued use of the Premises and that Tenant will supply any additional funds, if any, that may be necessary, in addition to the net amount of the award paid to Landlord under the provisions of Section 11.6, including severance damages (without offset for special benefits) after first deducting any and all amounts which constitute Tenant's share of the award pursuant to Section 11.6. In such event, Tenant and Landlord shall each agree upon the plans and specifications for such rebuilding, the cost thereof, and the method by which Tenant shall supply to Landlord the additional funds necessary for such rebuilding, and the Rent payable by Tenant shall be equitably reduced in accordance with its contribution of additional funds toward such rebuilding by amortizing such contribution over the then remaining Lease Term. If Landlord and Tenant are unable to agree on any aspect of such rebuilding, the matter shall be submitted to arbitration in accordance with the provisions of Article 23.

11.5 Amounts Payable by Reason of Termination. If this Lease is terminated pursuant to Section 11.4.2, the entire award (less any amounts separately awarded to Tenant under subsections (1) through (6) below, and less the reasonable expenses of Landlord and Tenant incurred in such appropriation proceedings which shall be paid to Landlord or Tenant, as applicable) made with respect to the appropriation shall be paid to Landlord; provided, however, Tenant and its representative shall have the right to participate in any negotiations with respect to the amount or allocation of such award. Payment from the award shall be made first to the senior mortgage holder on the Building in an amount necessary to repay its security interest and then Tenant shall have the right to make a separate claim in the condemnation proceedings and to share in the award which is paid by the condemnor or awarded by the court to the extent the court's award specifically includes sums for: (1) the fair market value of the unexpired portion of the Lease Term (including the option to extend the Lease Term pursuant to Section 2.5, as if such option was fully exercised by Tenant and including Tenant's right to terminate as set forth in Section 2.6) in excess of the Rent provided for herein, exclusive of any immovable trade fixtures or improvements; plus (2) any severance damages attributable to the unexpired Lease Term plus (3) the taking of the unamortized or undepreciated value of any fixtures owned by Tenant that Tenant has the right to remove at the end of the Lease Term and that Tenant elects not to remove; plus (4) reasonable removal and relocation costs for any fixtures that Tenant has the right to remove and elects to remove (if condemnor approves the removal); plus (5) relocation costs under Government Code section 7262 the claim for which Tenant may pursue by separate action independent of this Lease; plus (6) any other amount in addition to the foregoing which the court may specially allocate for detriment sustained by Tenant that does not reduce the amount of the award payable to the Landlord.

11.6 Damages if Lease Not Terminated. In the event of any appropriation of less than all of the Building or the Premises, if this Lease is not terminated pursuant to provisions of Section 11.4.2, the

entire award made with respect to the appropriation shall be paid to Landlord; provided, however, Tenant and its representatives shall have the right to participate in any negotiations with respect to the amount or allocation of such award. All of such award shall be used first to reimburse Landlord and Tenant for costs incurred in such appropriation proceedings, then shall be used to repair or restore the Building as provided in this Article 11, and any remaining balance shall be allocated between Landlord and Tenant prorata in accordance with Section 11.5.

11.7 Interest. Tenant shall be entitled to the share of any interest paid on any award to the extent the same is allocable to the amounts to which Tenant is entitled.

11.8 Abatement of Monetary Obligations of Tenant. In addition to any other abatement provided for in this Lease, all monetary obligations of Tenant hereunder shall be abated in an equitable amount based upon the interference with Tenant's normal business operations at the Premises commencing with the date of the appropriation and continuing during the period of any restoration and, in addition, for the remainder of the Lease Term to the extent that the Premises are not fully restored.

11.9 Proration and Refund of Payments. If this Lease is terminated pursuant to this Article 11, the Rent shall be prorated to the date of termination. Landlord shall repay to Tenant any Rent paid by Tenant for any period beyond the date of termination to the extent same is in excess of amounts then owed by Tenant to Landlord.

11.10 Date of Payments. All payments due Tenant from Landlord by reason of an appropriation shall be paid to Tenant without prior notice or demand and on or before the expiration of a period of ten (10) days from the date on which the amount of the award is finally determined and Landlord obtains, or has the right to obtain, whichever shall first occur, such award. If Landlord shall fail to make any such payments to Tenant on or before the expiration of such ten (10) day period, in addition to any and all other remedies available to Tenant under this Lease or otherwise, Landlord shall be obligated to pay interest to Tenant on the unpaid amount of such payments at the maximum rate permitted by law.

## ARTICLE 12

### COMPLIANCE WITH LAWS

12.1 Definition of "Laws and Orders." For purposes of this Article 12, the term "Laws and Orders" includes all federal, state, county, city, or government agency laws, statutes, ordinances, standards, rules, requirements, or orders now in force or hereafter enacted, promulgated, or issued. The term also includes government measures regulating or enforcing public access or occupational or health or safety standards for employers, employees, landlords, or tenants (including, without limitation, tenants that are public entities).

12.2 Compliance with Laws and Orders. Throughout the term of this Lease, Landlord, at Landlord's sole expense, shall comply with all Laws and Orders. Landlord shall promptly make all repairs, replacements, alterations, or improvements needed to comply with all Laws and Orders.

12.3 Rent Abatement. Subject to Subsection 20.2, Tenant's Rent shall be abated while Tenant's use and enjoyment of the Premises is disrupted by any work required by Section 12.2.

## ARTICLE 13

### SURRENDER

Tenant covenants that on the last day of the term or on the last day of a renewal or extension of this Lease, it will peaceably and quietly leave and surrender the Premises in as good condition as they now are, ordinary wear and tear, repairs and replacements required to be made by Landlord, loss by fire,

casualty and causes beyond Tenant's control, and alterations, additions and improvements herein permitted, excepted.

## ARTICLE 14

## SUBORDINATION

This Lease may, at the option of Landlord, be made subordinate to any first mortgage or first deed of trust now or hereafter placed upon or affecting the real property of which the Premises form a part, and to all renewals, modifications, replacements and extensions thereof; provided that as a condition of such subordination, and only if: (a) such mortgage or deed of trust shall contain a covenant which shall permit the proceeds of all insurance policies covering the Building, improvements, equipment and/or appurtenances thereto, whether such proceeds are to be held by Landlord or the first mortgage or beneficiary, to be paid and/or made available for repair, replacement and rebuilding as provided in this Lease; and (b) a separate written agreement is entered into by the mortgage named in any such mortgage, or by the trustee and the beneficiary named in any such deed of trust, and is recorded simultaneously with said mortgage or deed of trust, providing that notwithstanding any default in the mortgage or deed of trust and any foreclosure thereof, or the enforcement by the holder thereof of any rights or remedies, including sale thereunder, or otherwise, this Lease shall be recognized, remain in full force and effect, and the Tenant shall be permitted to remain in quiet and peaceful possession of the Premises throughout the term thereof, and any extension or renewal thereof, as long as Tenant shall not be in default under this Lease, or, if Tenant is in such default, as long as Tenant's time to cure such default shall not have expired. Such agreement shall be in the form of Exhibit G attached hereto. If Tenant has received the nondisturbance agreement in the form attached hereto as Exhibit G, Tenant shall, within thirty (30) days after Landlord's request, execute any further instruments or assurances in recordable form that Landlord reasonably considers necessary to evidence or confirm the subordination or superiority of this Lease to any such encumbrances or underlying leases. Such subordination instrument(s) shall be strictly limited to matters contained in the nondisturbance agreement, and no such instrument may increase any of Tenant's obligations or decrease any of Tenant's rights under this Lease. Tenant's failure to execute and deliver such instrument(s) shall constitute a default under this Lease only if Landlord has first delivered the nondisturbance agreement required hereunder to Tenant.

## ARTICLE 15

## TRANSFER OF TENANT'S INTEREST

Tenant shall have the right at any time and from time to time to assign or otherwise transfer all or any part of Tenant's interest in this Lease and to sublet the Premises, or any part thereof, provided that: (a) any assignment or subletting shall provide that the assignee or sublessee assumes and agrees to carry out and perform all of the terms and conditions of this Lease on the part of Tenant to be carried out and performed; (b) an executed copy of the assignment or subletting shall be delivered to Landlord; (c) the proposed use is consistent with the provisions of this Lease governing such matters; (d) the proposed new tenant can post (and prior to assignment does post) adequate security or collateral, placing Landlord in a position of first priority, to secure the new tenant's fulfillment of all obligations imposed by this Lease on Tenant (including, without limitation, all future rents) during the remainder of the term of the Lease (as well as any then unexercised extension or renewal term(s)); and (e) fifty percent (50%) of any rental revenue generated by Tenant as a result of any sublease which exceeds the rental amounts payable by Tenant to Landlord pursuant to this Lease shall be remitted to Landlord. Upon any assignment of Tenant's entire interest in this Lease meeting each of the requirements stated in provisions (a) through (d) of the previous sentence of this Article 15, Tenant shall be released from any further liability with respect thereto upon the written consent of Landlord, which consent Landlord agrees not unreasonably to withhold; Tenant shall remain directly liable to Landlord for any assignment of Tenant's interest in this Lease which does not meet each of the requirements stated in provisions (a)

through (d) of the previous sentence of this Article 15, and shall remain directly liable at all times during the term of any sublease. Landlord's consent shall not be deemed to have been given until Landlord signs and returns a formal assignment of Lease acknowledging the assignment and that said assignment satisfies the terms and conditions of this Article 15.

#### ARTICLE 16

##### QUIET ENJOYMENT AND TITLE

Landlord covenants and represents that it has full right and power to execute and perform this Lease and to grant the estate demised herein, and covenants that Tenant on paying the Rent herein reserved and performing the covenants hereof shall peaceably and quietly have, hold and enjoy the Premises and all appurtenances during the full term of this Lease or any extension or renewal thereof, and further covenants and represents that Landlord has a fee simple interest in the Premises. Landlord further covenants and represents that it will stand so seized on the first of the term and will then place Tenant in actual possession of the Premises with the improvements thereon and the appurtenances thereto all in conformity with law and in a safe, clean and tenantable condition and in good order and repair.

#### ARTICLE 17

##### ENVIRONMENTAL REPRESENTATIONS

17.1 Definition of "Hazardous Material." As used in this Article 17, the term "Hazardous Material" shall mean any hazardous or toxic substance, material, or waste that is or becomes regulated by the United States, the State of California, or any local government authority having jurisdiction over the Building. Hazardous Material includes:

(a) Any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675);

(b) "Hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code sections 6901-6992k);

(c) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect);

(d) Petroleum products;

(e) Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 United States Code sections 2011-2297g-4;

(f) Asbestos in any form or condition; and

(g) Polychlorinated biphenyls (PCBs) and substances or compounds containing PCBs.

17.2 Compliance with Laws. With respect to Landlord's use of the Premises, the Building and the Real Property prior to this Lease, Landlord represents and warrants to Tenant that to the best of Landlord's actual knowledge (which is defined as the actual knowledge of Tom Abrahamsen), as of the Effective Date of the Lease, the Premises, the Building and the Real Property are in compliance with all

federal, state and local laws, regulations and standards relating to the use, occupancy, production, storage, sale, disposal, or transportation of any Hazardous Materials ("Hazardous Substance Laws").

17.3 Right of Offset. With respect to Tenant's obligations to pay rent under the Lease, Tenant may, upon fifteen (15) days' written notice to Landlord, offset payment of rent to Landlord for costs and expenses incurred by Tenant for any material breach of Landlord's representations and warranties set forth in this Article 17.

17.4 Termination of Lease. In the event that Hazardous Materials (excluding any such Hazardous Materials included in any cleaning supplies or other ordinary items located on the Premises and any and all Hazardous Materials deposited on the Premises by Tenant, its agents, employees, customers, patrons, contractors representatives or invitees) are found to be present on the Premises, the Building or the Real Property and existed on the Premises, the Building or the Real Property prior to the Commencement Date, such that the Premises, the Building and/or the Real Property are not in compliance with Hazardous Substance Laws, Tenant may, upon thirty (30) days' written notice to Landlord, terminate the Lease.

17.5 Indemnification. Landlord shall indemnify, defend with counsel reasonable and acceptable to Tenant, and hold Tenant fully harmless from any and all liabilities, damages, claims, penalties, fines, settlements, causes of action, cost or expense, including reasonable attorneys' fees, environmental consultant fees and laboratory fees and costs and expenses of investigating and defending any claims or proceedings (hereinafter collectively "liabilities") resulting from or attributable to: (a) the presence, disposal, release or threatened release of any Hazardous Materials that are on, from or affecting the Premises, the Building or the Real Property, including, without limitation, the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise, to the limited extent Landlord had actual knowledge of the existence of such Hazardous Materials and said Hazardous Materials were present on the Premises, the Building or the Real Property at, or prior to, the Commencement Date at levels sufficient to cause and give rise to the liabilities; (b) any personal injury (including wrongful death), or property damage (real or personal) arising out of or relating to any Hazardous Materials to the limited extent Landlord had actual knowledge of the existence of such Hazardous Materials and said Hazardous Materials were present on the Premises, the Building or the Real Property at, or prior to, the Commencement Date at levels sufficient to cause and give rise to the personal injuries (including wrongful death) or property damages (real or personal) claimed; (c) any lawsuits or administrative action brought or threatened, settlement reached or governmental order relating to any Hazardous Materials to the limited extent Landlord had actual knowledge of the existence of such Hazardous Materials and said Hazardous Materials were present on the Premises, the Building or the Real Property at, or prior to, the Commencement Date at levels sufficient to cause and give rise to the subsequent lawsuits or administrative actions; or (d) any violation of any laws applicable to any Hazardous Materials to the limited extent Landlord had actual knowledge of the existence of such Hazardous Materials and said Hazardous Materials were present on the Premises, the Building or the Real Property at, or prior to, the Commencement Date at levels sufficient to cause and give rise to violation(s) of law.

17.6 Survival. Landlord's indemnification obligations under Section 17.5 above shall survive the expiration or sooner termination of the term of this Lease.

17.7 Notices To Tenant and Landlord. The parties shall give each other written notice within three (3) calendar days after the date on which either party learns or first has reason to believe that: (a) there has or will come to be located on or about the Premises, the Building or the Real Property any Hazardous Materials; (b) any release, discharge or emission of any Hazardous Materials that has occurred on or about the Premises, the Building or the Real Property; (c) any (i) enforcement, cleanup, removal or other governmental or regulatory action has been threatened or commenced against Landlord or with respect to the Premises, the Building or the Real Property pursuant to any Hazardous Substances Laws; or (ii) any claim has been made or threatened by any person or entity against Landlord or the Premises, the Building or the Real Property on account of any alleged loss or injury claimed to result from the



alleged presence or release on the Premises, the Building or the Real Property of any Hazardous Materials; or (iii) any report, notice, or complaint has been made to or filed with any governmental agency concerning the presence, use or disposal of any Hazardous Materials on the Premises, the Building or any Real Property. Any such notice shall be accompanied by copies of any such claim, report, complaint, notice, warning or other communications that is in the possession of or is reasonably available to such party.

17.8 Audits. Landlord shall, upon completion of any environmental sampling and testing of the Premises, the Building or the Real Property, the surrounding soil in any adjacent areas, any groundwater located under or adjacent to the Premises, the Building or the Real Property, and/or adjoining property, provide Tenant with copies of all reports of the results of such environmental audit.

17.9 Clean-Up. If Landlord is responsible for the clean-up of any contamination of the Premises, the Building or the Real Property, Landlord shall carry out and complete, at its own cost and expense, any repair, closure, detoxification, decontamination, or other cleanup of the Premises, the Building or Real Property required by Hazardous Substance Laws. Should Landlord fail to implement and diligently pursue any such clean-up promptly upon receipt of notice thereof, then Tenant shall have the right, but not the obligation, to carry out such clean-up, and to recover all of the costs and expenses thereof from Landlord as a setoff against rental payments under the Lease if Tenant elects to cure.

#### ARTICLE 18

##### INSPECTION AND ENTRY BY OWNER

Landlord and its agents shall have the right at any reasonable time and upon at least twenty-four (24) hours' notice to Tenant, to enter upon the Premises so long as it does not interfere with the business activities of Tenant on the Premises, for the purpose of inspection, serving or posting notices, maintaining the Premises, making any necessary repairs, alterations or additions to any portion of the Premises to the extent required or permitted to Landlord under this Lease.

#### ARTICLE 19

##### NOTICE

19.1 Notices. All notices (including requests, demands, approvals, or other communications) under this Lease shall be in writing.

19.1.1 Method of Delivery. Notice shall be sufficiently given for all purposes as follows:

- (a) When personally delivered to the recipient, notice is effective on delivery.
- (b) When mailed first class to the last address of the recipient known to the party giving notice, notice is effective on delivery.
- (c) When mailed by certified mail with return receipt requested, notice is effective two (2) days following mailing.
- (d) When delivered by overnight delivery with charges prepaid or charged to the sender's account, notice is effective on delivery.

19.2 Refused, Unclaimed, or Undeliverable Notices. Any correctly addressed notice that is delivered pursuant to Section 19.1.1(b) or (d) is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice

was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

19.3 Addresses. Addresses for purposes of giving notice are set forth below:

Tenant	County of Humboldt Public Works Department 1106 Second Street Eureka, Ca. 95501
Landlord	Tom Abrahamsen, Manager Myron and Idelle Abrahamsen 1994 Family Trust Box 430 Bayside, CA 95524

## ARTICLE 20

### DEFAULTS; REMEDIES

20.1 Landlord's Default. Landlord shall be in default of this Lease if Landlord fails or refuses to perform any provisions of this Lease that Landlord is obligated to perform if the failure to perform is not cured within thirty (30) days after notice of default has been given by Tenant to Landlord, or such shorter period if specified in this Lease. If the default cannot reasonably be cured within thirty (30) days, Landlord shall not be in default of this Lease if Landlord commences to cure the default within the thirty (30) day period and diligently and in good faith prosecutes such cure to completion.

20.2 Tenant's Remedies on Landlord's Default. Tenant, at anytime after Landlord commits a material default, can terminate this Lease or can cure the default to the extent specifically permitted pursuant to the provisions of this Lease. If Tenant at anytime, by reason of Landlord's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Tenant shall be due from Landlord to Tenant within thirty (30) days of written notice that the sum was paid, and if paid at a later date shall bear interest at the maximum rate the Tenant is permitted by law to charge from the date the sum is paid by Tenant until Tenant is reimbursed by Landlord. If Landlord fails to reimburse Tenant as required by this paragraph, Tenant shall have the right to withhold from future Rent due the sum Tenant has paid until Tenant is reimbursed in full for the sum and interest on it. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Lease. In the event Landlord disputes that it is in default, Landlord shall have the right to initiate an arbitration proceeding in accordance with Article 23.

20.3 Tenant's Default. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

(a) The vacating for more than thirty (30) consecutive days or abandonment of the Premises by Tenant.

(b) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, including the payment of Rent, where such failure shall continue for a period of ten (10) days after written notice is given by Landlord to Tenant; provided, however, that if the nature of Tenant's default (specifically excluding the obligation to pay any monetary sum, including rent, called for by this Lease) is such that more than ten (10) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said ten (10) day period and thereafter diligently prosecutes such cure to

completion. The purpose of this notice requirement is to extend the notice requirements of the unlawful detainer statutes of California to the limited extent contemplated herein.

20.4 Landlord's Remedies on Tenant's Default. In the event of any default by Tenant which is not cured by Tenant, Landlord can terminate this Lease by giving Tenant thirty (30) days notice of termination. The purpose of this notice requirement is to extend the notice requirement of the unlawful detainer statutes of California. On termination of the Lease for default pursuant to this paragraph, Landlord shall have the right to recover from Tenant only the following amounts for any and all damages which may be the direct or indirect result of such default:

(a) The worth, at the time of the award, of the unpaid Rent that has been earned at the time of termination of this Lease;

(b) The worth, at the time of the award, of the amount by which the unpaid Rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Landlord proves could not have been reasonably avoided;

(c) The worth, at the time of the award, of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of the loss of Rent that Landlord proves could not have been reasonably avoided; and

(d) Any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default which Landlord proves could not have been reasonably avoided.

(e) Landlord shall have the option provided in Civil Code section 1951.4, which provides that, when a tenant has the right to sublet or assign (subject to reasonable limitations), the landlord may continue the lease in effect after the tenant's breach and/or abandonment and recover rent as it becomes due. Accordingly, if Landlord does not elect to terminate the Lease on account of any default by Tenant, Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

"The worth, at the time of the award," as used in "a" and "b" of this paragraph, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth, at the time of the award," as referred to in "c" of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

## ARTICLE 21

### SIGNING

Upon the Commencement Date of the Lease, Landlord shall provide: signage reasonably acceptable to Tenant (in conformance with all Laws and Orders (as defined in Article 12) identifying Humboldt County Department of Health and Human Services, Public Health Branch, Prevention Division, as the principal occupant of the Building; and (b) main entry door signage. The cost of the monument sign shall be Landlord's responsibility. The cost of the lettering for the monument sign and the main entry door shall be Landlord's responsibility. Signage shall conform to Attachment #4, Part II, Division 10.01 of Tenant's Request for Proposal.

## ARTICLE 22

## BROKERAGE

Neither party has had any contact or dealings regarding the Premises or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or finder's fee as a procuring cause of the Lease contemplated herein. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contract, dealing or communication, the party through whom the broker or finder makes his or her claim shall be responsible for said commission or fee and all costs and expenses (including reasonable attorneys' fees) incurred by the other party in defending against the same.

## ARTICLE 23

## DISPUTE RESOLUTION

23.1 Arbitration of Disputes. Any dispute that is required by the express terms of this Lease to be resolved by arbitration shall be resolved by neutral binding arbitration before a panel of three arbitrators unless otherwise agreed, to be held in accordance with, and said arbitrators to be appointed pursuant to the commercial/real estate arbitration rules of the American Arbitration Association. Judgment on the award rendered by the arbitrator(s) may be entered in any Court having jurisdiction over the dispute. All disputes which are not required to be resolved by the express terms of this Lease to be resolved by arbitration may be adjudicated by a court of competent jurisdiction.

23.1.1 Venue. Arbitration proceedings shall be held in Eureka, California, or another venue determined by mutual agreement of the parties. Any court proceedings may be commenced in Humboldt County, California, and shall be subject to all applicable laws governing jurisdiction and venue, including those governing potential changes of venue.

23.1.2 Demand and Limitation on Claims. Any demand for arbitration must be made in writing to the other party and to the American Arbitration Association. No demand for arbitration may be made after the date on which the institution of legal proceedings based on the claim, dispute, or other matter is barred by the applicable statute of limitations.

23.1.3 Provisional Remedies. The parties shall each have the right to file with a court of competent jurisdiction an application for temporary or preliminary injunctive relief, writ of attachment, writ of possession, temporary protective order, or appointment of a receiver if the arbitration award to which the applicant may be entitled may be rendered ineffectual in the absence of such relief or if there is no other adequate remedy. This application shall not waive a party's arbitration rights under this Lease.

23.1.4 Powers and Duties of Arbitrators. The arbitrators shall have the power to grant legal and equitable remedies, and award damages, that may be granted or awarded by a judge of the Superior Court of the State of California. The arbitrators shall prepare and provide to the parties a written decision on all matters subject to the arbitration, including factual findings and the reasons that form the basis of the arbitrators' decision. The award of the arbitrators shall be mailed to the parties no later than thirty (30) days after the close of the arbitration hearing. The arbitration proceedings shall be reported by a certified shorthand court reporter. Written transcripts of the proceedings shall be prepared and made available to the parties.

23.1.5 Discovery. The parties shall have the right to discovery in accordance with Code of Civil Procedure Sections 1283.05 and 1283.1 as long as the arbitrators' permission shall not be required to take a discovery deposition and neither party may take more than three depositions nor more than one

set of interrogatories or requests for admissions without the approval of the other party or the arbitrators. All discovery disputes shall be resolved by the arbitrators.

23.1.6 Application of California Evidence Code. The provisions of the California Evidence Code shall apply to the arbitration hearing.

23.1.7 Costs and Fees of Arbitrators. Costs and fees of the arbitrators shall be borne by the nonprevailing party unless the arbitrators for good cause determine otherwise.

23.1.8 Attorney Fees. The prevailing party shall be awarded reasonable attorney fees, expert and nonexpert witness expenses, and other costs and expenses incurred in connection with the arbitration, in accordance with Article 24, unless the arbitrators for good cause determine otherwise.

#### ARTICLE 24

##### ATTORNEY FEES AND COSTS

If either party undertakes litigation or arbitration against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to recover from the other party reasonable attorney fees, arbitration costs, and court costs incurred. The prevailing party shall be determined under Civil Code Section 1717(b)(1) or any successor statute.

#### ARTICLE 25

##### SMOKING

Pursuant to Humboldt County Code Section §971-1 et seq., COUNTY owned or leased premises are smoke free. Landlord and Tenant shall comply with said provision.

#### ARTICLE 26

##### NUCLEAR FREE CLAUSE

Landlord certifies by its signature below that Landlord is not a nuclear weapons contractor, in that Landlord 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. Landlord agrees to notify Tenant immediately if it becomes a nuclear weapons contractor, as defined above. Tenant may immediately terminate this lease if it determines that the foregoing certification is false or if Landlord becomes a nuclear weapons contractor.

#### ARTICLE 27

##### MISCELLANEOUS

27.1 Word Usage. Unless the context clearly requires otherwise: (a) the plural and singular numbers shall each be considered to include the other; (b) the masculine, feminine, and neuter genders shall each be considered to include the others; (c) "shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "may" is permissive; (e) "or" is not exclusive; and (f) "includes" and "including" are not limiting.

27.2 Counting Days. Days shall be counted by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or a legal holiday as described in Government Code Sections 6700-6701, it shall be excluded. Any act required by this Lease to be performed by a certain day shall be timely performed if completed before 5 p.m. local time on that date. If the day for performance of any obligation under this Lease is a Saturday, Sunday, or a legal holiday, the time for performance of that

obligation shall be extended to 5 p.m. local time on the first following date that is not a Saturday, Sunday, or a legal holiday.

27.3 Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

27.4 Force Majeure-Specific Exceptions. Unless otherwise specified (including, without limitation Section 2.4), the time for performance of an obligation other than the payment of money under this Lease shall be extended for the period during which a party is prevented from performing by acts of God, government, or other force or event beyond the reasonable control of that party.

27.5 Binding on Successors. This Lease and all of the covenants, agreements, conditions and undertakings contained herein, shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto.

27.6 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect or be deemed to affect the meaning of any provisions hereof.

27.7 Entire Agreement. This Lease, including all exhibits, contains all of the terms, covenants, conditions and agreements between Landlord and Tenant relating in any manner to the rental, use and occupancy of the Premises. No prior agreement or understanding pertaining to the same shall be valid or of any force or effect, and the terms, covenants, conditions and provisions of this Lease cannot be altered, changed, modified or added to, except in writing and signed by Landlord and Tenant. All references herein, directly or indirectly, to the term of this Lease shall also be deemed to include any extensions or renewals thereof provided Tenant herein, unless expressly provided to the contrary.

27.8 Governing Law. This Lease shall be governed exclusively by its express provisions and by the laws of the State of California, and any action to enforce the terms of the Lease or breach thereof shall be brought in Eureka, California.

27.9 No Joint Venture. Nothing herein contained shall be deemed in any way or have any purpose whatsoever to constitute Landlord or Tenant a partner of the other in its business or otherwise, or a joint venturer or a member of a joint enterprise with the other.

27.10 Invalidity. If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons 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 this Lease shall be valid and shall be enforced to the fullest extent permitted by law.

27.11 Construction of Lease. This Lease shall be strictly construed neither against Landlord nor Tenant, but shall be construed according to the fair meaning of its terms. No remedy or election given by any provision in this Lease shall be deemed exclusive unless so indicated, but each shall, wherever possible, be cumulative with all other remedies in law or equity as otherwise specifically provided. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the words "he", "his" or "him" if used with reference to Landlord shall be deemed to include the neuter or feminine gender of such pronoun. "Landlord", except as specifically used to the contrary herein, shall include all grantors of the term, who shall be held bound jointly and severally hereby.

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//  
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IN WITNESS WHEREOF, the parties have executed this Lease the day and year first above written.

LANDLORD:

By: *Steve Abrahamson*

By: *Trustee*

ATTEST:  
CLERK OF THE BOARD

By: *[Signature]*  
APR 11 2009

COUNTY OF HUMBOLDT

By: *[Signature]*  
CHAIRMAN, BOARD OF SUPERVISORS  
COUNTY OF HUMBOLDT  
STATE OF CALIFORNIA

APPROVED AS TO FORM:

By: *[Signature]*  
Deputy County Counsel

INSURANCE CERTIFICATES  
REVIEWED AND APPROVED:

By: \_\_\_\_\_  
RISK MANAGER

CITY OF EUREKA

Attachment 1

COPY

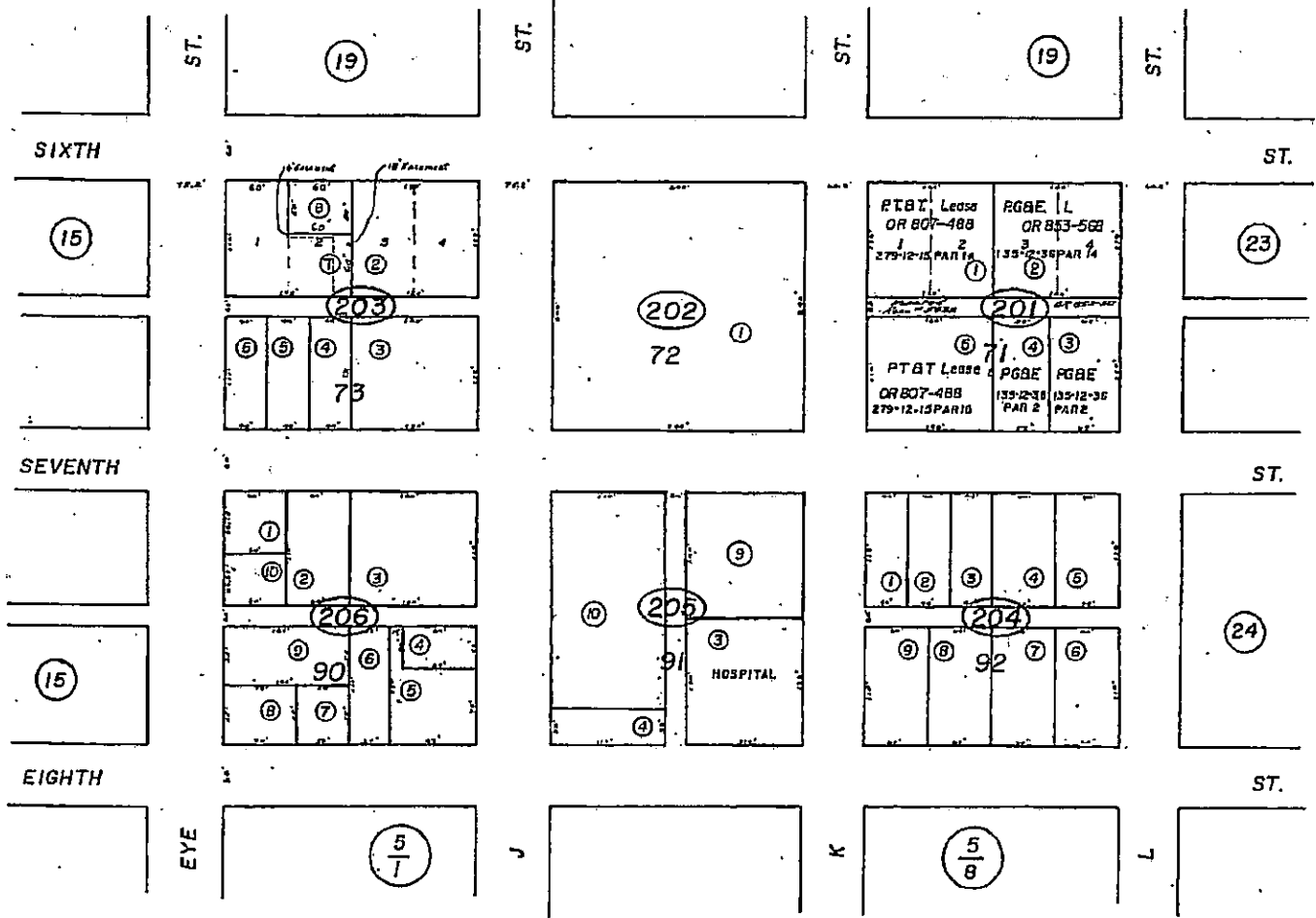
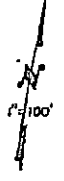


EXHIBIT A

COPY

Attachment

MARTHA JAIN  
ARCHITECT

822 "G" STREET  
SUITE 10  
ARCATA CA. 95521  
(707) 822-1924 PHONE/FAX

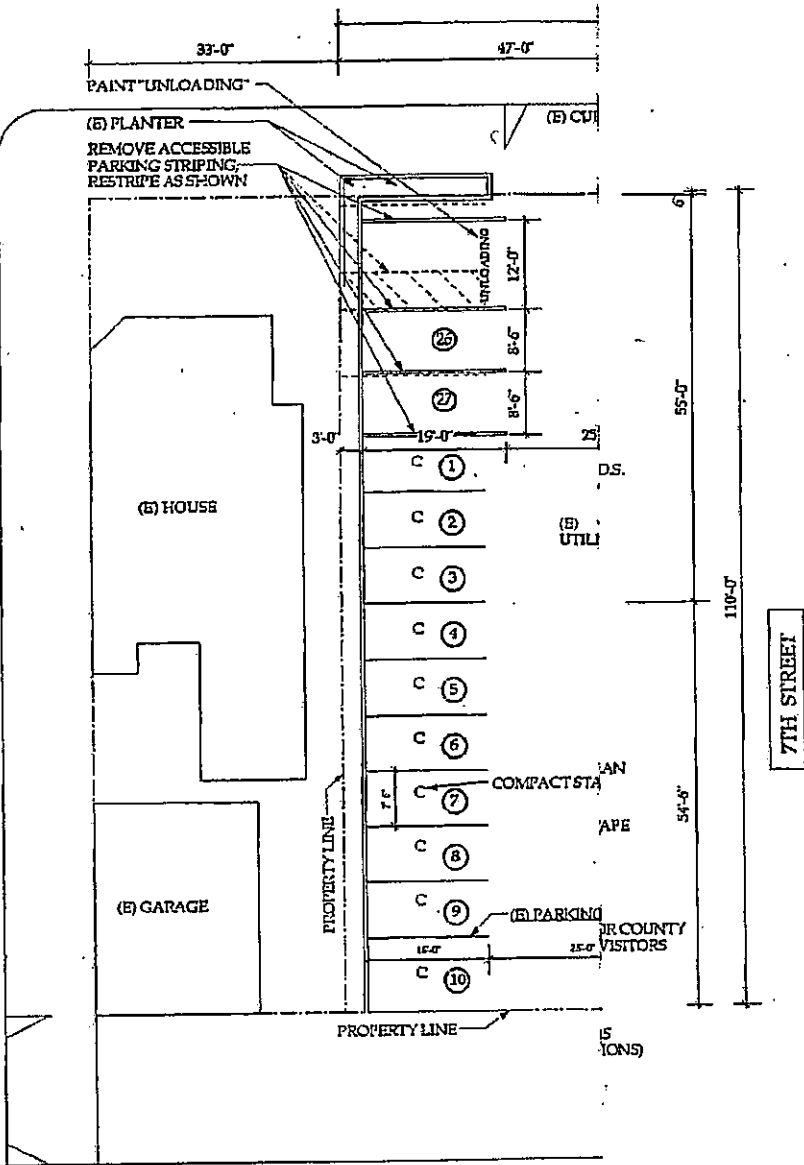
SEAL

PROJECT NUMBER  
DRAWN BY

908 7TH STREET:  
TENANT IMPROVEMENT  
FOR HHS:  
HEALTH EDUCATION

DRAWING TITLE  
SITE PLAN

SCALE  
REDUCED  
DATE  
3/23/06  
DRAWING NUMBER  
OSK-1  
(A 1.1)



PARCEL: 001-205-10  
ADDRESS: 908 7TH ST.  
ZONED OR-AR  
PARCEL SIZE: 207' X 110'  
AREA: 22,770 S.F.  
NO SET-BACKS EXCEPT AT ADJACENT LOT (1)

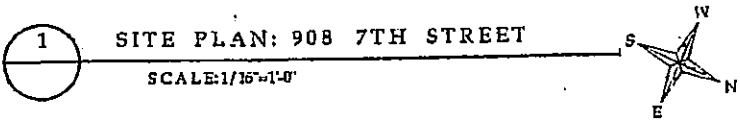


EXHIBIT B

LEASE  
EXHIBIT C

## LEASEHOLD IMPROVEMENT AGREEMENT

1. Construction of Building.

1.1 Building Improvements. Landlord shall construct the Building at Landlord's sole cost and expense, including, without limitation, the building shell, roof-mounted energy efficient HVAC units, an engineered HVAC system capable of delivering adequate heating and cooling in a sufficient number of zones to meet Tenant's needs (including vertical plenum drops but not distribution from said drops or horizontal distribution on the roof deck), roof insulation, fire sprinkler system including plugs ready to be dropped, adequate electrical power to the Building including switch gear at load and voltage engineered to meet Tenant's lighting, computer, telecommunication and other needs, utility services to the Building, including water, sewer, gas, cable television, and telecommunications ISDN, T1 and T3 service (but not distribution of said service within the Premises), a minimum of one restroom core to serve at least 200 employees in conformance with the California Plumbing Code, all site improvements including, without limitation, the parking lot and light standards, hardscape, landscape with automated sprinkler system, power transformers, utility distribution boxes, sewer and water laterals and underground drainage systems, permits, fees, demand charges, utility connection costs, and other improvements and costs pursuant to the Building Plans and Specifications (as defined below). The building improvements as depicted in the Building Plans and Specifications shall not be funded by any of the tenant improvement allowance.

1.2 Building Plans and Specifications; Construction Schedule. Landlord shall cause the Building, including, without limitation, the landscaping and paving around the Building, to be diligently constructed and completed in accordance with those certain plans and specifications attached to this Lease as Attachment C-1 and approved by Tenant (the "Building Plans and Specifications") and in accordance with the construction schedule attached hereto as Attachment C-2. Prior to the Effective Date of the Lease, Landlord shall furnish to Tenant evidence that sufficient funds will be available to complete the Building and the Premises. Such evidence shall be performance bond or bonds in the amount of one hundred percent (100%) of the total estimated construction cost of the Building, including the Premises, and shall be in the form attached hereto as Attachment C-3. Such construction shall be in full compliance with all laws, rules and regulations of all governmental authorities having jurisdiction and supervision over such construction and all restrictive covenants affecting the Building, and all such construction shall be done in a good and workmanlike manner using new materials free from any defects or deficiencies and free of any and all claims or liens arising out of any labor or materials used or purchased by Landlord in connection therewith that might otherwise affect any interest of Tenant in the Premises. Landlord shall obtain any and all certificates of occupancy and other governmental authorizations or permits which may be required as a condition to the construction and occupancy and use of the Premises and the Building.

1.3 Changes to Building Plans and Specifications. Landlord shall have the right to make changes in and additions to the Building Plans and Specifications; provided, however, that Tenant's prior written approval must be obtained in the case of any change or addition which shall:

(a) affect the location, size or treatment of the Building lobby, or the location or treatment of any entrance or access to the Premises or to the Building;

(b) affect the location of, or service provided by, the elevators in the Building or the interior treatment of elevator cabs;

(c) materially affect the ceiling heights or the location or size of any of the walls of, or any of the columns within, the Building, or materially reduce the usable or Rentable area of

any floor of the Building, except as may be necessary to comply with any applicable laws or requirements of public authorities;

(d) materially affect the Premises or the services provided by any Building facilities for Tenant's benefit;

(e) affect the number of floors in the Building or otherwise materially affect the height, shape, design, appearance, quality or material of the exterior of the Building; or

(f) impair the design, quality, functionality or performance of the Building or materially affect Tenant's use of the Premises or any other rights of Tenant under this Lease.

Tenant's approval or disapproval with respect to any change in, or addition to, the Building Plans and Specifications may be given by the Tenant's architect to Landlord's architect. Unless Tenant or Tenant's architect shall notify Landlord or Landlord's architect of Tenant's disapproval of a proposed change in, or addition to, the Building Plans and Specifications within ten (10) days after submission to Tenant's architect or revised drawings or specifications showing such change or addition, Tenant shall be deemed to have approved such change or addition.

## 2. Design and Construction of Premises.

2.1 Design Service. Landlord's architect shall be the architect of record for the tenant improvements. Tenant has provided Landlord with detailed specifications ("Program") for the tenant improvements. Based on said Program, Landlord's architect has developed schematic design drawings and other documents illustrating the scale and relationship of the tenant improvement project components including the illustration of the option area within the Building, which are attached hereto as Attachment C-4 ("Schematic Design Documents"). Landlord's architect has submitted to County Public Works a preliminary estimate of the construction cost based on estimated unit costs together with an estimated schedule for the work, attached hereto as Attachment C-5. The Schematic Design Documents and related work shall be completed at Landlord's sole cost and expense and shall not be funded by any tenant improvement allowance. Landlord shall provide the following additional professional architectural services to the County:

2.1.1 Design Development. Based on the approved Schematic Design Documents, estimated schedule and construction cost estimate, Landlord's architect shall prepare, for approval by Tenant, design development documents to fix and describe the size and character of the project as to architectural, structural, mechanical, electrical, telecommunications, data and other elements. In addition, the design development documents shall include the following details: (1) a specific electrical distribution and lighting plan; (2) a separate telecommunications and computer systems wiring plan; (3) millwork and cabinet elevation drawings and door details; (4) design development mechanical plans including a zoned HVAC system showing supply and return diffusers and location of controls; and (5) other details, including, without limitation, building security and safety system plans. Landlord's architect shall advise Tenant of any adjustments to the construction cost estimate and schedule set forth in Attachment C-5. The reasonable costs of the design development phase shall be funded by the tenant improvement allowance. The design development documents shall be delivered to County no later than March 20, 2006.

2.1.2 Construction Documents. Based on the approved design development documents, construction estimate and schedule, Landlord's architect shall prepare, for approval by Tenant, detailed engineered construction documents for the tenant improvements ("Premises Plans and Specifications"). At Tenant's option, Landlord's architect shall provide construction cost estimates, prepared by an independent qualified construction cost estimator, to Tenant at fifty percent (50%) and ninety percent (90%) completion of the construction documents. The cost of the Premises Plans and Specifications and the cost estimates shall be the responsibility of Tenant and shall be funded by the

tenant improvement allowance. The Premises Plans and Specifications shall be delivered to County no later than April 14, 2006.

2.2 Tenant Improvement Allowance. Tenant shall be entitled to an allowance of Fifty and 34/100 Dollars (\$50.34) per square foot of Rentable Area toward tenant improvements. Landlord shall construct the tenant improvements pursuant to the Premises Plans and Specifications. Landlord shall obtain at least three (3) competitive bids for the work of improvement described in the Premises Plans and Specifications in compliance with the Uniform Public Construction Cost Accounting Act, Public Contract Code (PCC § 22000 et seq.). Landlord shall provide said bids to Tenant for review. Landlord shall require all bidders to provide unit price guarantees, for a period not less than one year, for all materials, fixtures, finishes and labor which shall serve as the basis for change orders. Landlord shall agree to construct the tenant improvements for Tenant for the lowest qualified bid amount. Unforeseen conditions and other construction risk shall be Landlord's responsibility and shall not be funded by any tenant improvement allowance.

(A) Uniform Cost Accounting Bid Procedures (PCC § 22000 et seq.). Landlord shall comply with the bid procedures of the Uniform Public Construction Cost Accounting Act set forth in the Public Contracts Code § 22000 et seq.

(1) Bid Protest.

(a) Landlord shall notify Tenant within 24 hours of receipt of a bid protest in accordance with standard Public Bid policies. The notice shall be in writing and shall specify the name of the contractor protesting, the nature of the protest and the time in which the protest shall be resolved.

(b) The filing of a bid protest with Landlord shall not be cause for an extension or delay of Commencement Date specified in sections 2.1-2.4 of the lease.

(2) Substitution of Subcontractor.

(a) It shall be the responsibility of Landlord to comply with any request for substitution of subcontract in accordance with the procedures set forth in the Public Contracts Code §4107 et seq. Landlord shall notify Tenant within 24 hours of receipt of a request for a substitution of subcontractor. The notice shall be in writing and shall specify the name of the subcontractor to be substituted, the reason for the substitution, the nature of the substitution and if allowed, the time in which the substitution shall be effective.

(b) The filing of a request for substitution of subcontractor with Landlord shall not be cause for an extension or delay of Commencement Date specified in sections 2.1-2.4 of the lease.

2.2.1 Hold Harmless. Landlord shall indemnify and hold harmless and, at its own risk, cost, and expense, defend Tenant, its Board of Supervisors, officers, agents, employees, and volunteers from and against any and all liability expense, including defense costs, legal fees, and claims for damages arising from Landlord's negligence or intentional failure to comply with the Uniform Public Construction Cost Accounting Act including but not limited to any bid protest or substitution of subcontractor.

The tenant improvement allowance shall not be used for any of the building improvements which are depicted in the Building Plans and Specifications or for any of the items which are Landlord's responsibility. Landlord shall comply with the applicable provisions of California Labor Code sections 1720.2 and 1770 et seq., regarding general prevailing wages. Tenant shall have the right upon notice to Landlord to construct the tenant improvements and apply the tenant improvement allowance to the



actual cost thereof. Notwithstanding anything stated to the contrary herein, in the event the lowest qualified bid amount exceeds the tenant improvement allowance (including the excess tenant improvement allowance set forth in Section 2.4 below), Tenant shall have the right to: (a) pay the excess amount; (b) redesign the tenant improvements for rebidding purposes; or (c) terminate the Lease. Notwithstanding anything stated to the contrary herein, in the event the lowest qualified bid amount is less than the tenant improvement allowance (including the excess tenant improvement allowance set forth in Section 2.4 below), Tenant and Landlord agree to reduce Tenant's monthly payment amount to reflect the difference.

2.3 Premises Plans and Specifications. Landlord shall construct the Premises and perform the work and make the installations in the Premises in accordance with the approved Premises Plans and Specifications. Landlord shall, when construction progress so permits, notify Tenant in advance of the approximate date on which the Premises will be substantially completed in accordance with the Premises Plans and Specifications and will notify Tenant when the Premises are in fact so completed and ready for occupancy by Tenant. The Premises shall be deemed to be substantially complete when Landlord has procured a temporary or final certificate of occupancy for the Premises, although minor details or adjustments which do not materially interfere with Tenant's use of the Premises have not been completed. Landlord shall diligently pursue completion of any minor details or adjustments which have not been performed at the time Landlord gives such notice to Tenant. Tenant shall have the right to present to Landlord within thirty (30) days after the Premises are delivered to Tenant, or as soon thereafter as practicable, a written "punch list" which will consist of the items that have not been finished or furnished by Landlord in accordance with the provisions of the Premises Plans and Specifications. Upon presentation of the punch list to Landlord by Tenant, Landlord shall, with due diligence, proceed to complete all defective or incomplete items on the punch list. Landlord shall execute all of the items on the punch list to Tenant's satisfaction within fourteen (14) days of Landlord's receipt of the punch list. If Landlord fails to complete all of the items within such time frame, Tenant may complete such items and Landlord shall reimburse Tenant upon demand for the reasonable costs incurred by Tenant for such work. If such costs are not paid within ten (10) days after demand, such costs shall be credited to and deducted from Tenant's next monthly installments of Rent, payable hereunder. Evidence of when the Premises have been substantially completed shall be a certificate to that effect by both Landlord's architect and Tenant's architect. Upon completion of the work, Landlord shall file a Notice of Completion and provide Tenant with a lien indemnification to insure the removal of all mechanic's liens and verification that all vendors have been fully paid and all lien rights expunged.

2.4 Change Orders. If Tenant requests any change, addition, alteration or deletion in the tenant improvement work following approval of the design development documents, then Landlord shall promptly give Tenant a written estimate of the cost, if any, of the professional and other services required to prepare a change order and the time delay expected, if any, because of such request. If Tenant, in writing, approved such cost and/or delay within five (5) business days, then Landlord shall have the change order prepared, and the cost thereof shall be charged to the tenant improvement allowance, or, if the tenant improvement allowance was not sufficient to cover the cost to prepare the change order, then Tenant shall promptly forward a check made payable to Landlord. The delay, if any, associated with the change order request shall extend Landlord's time for completion of the tenant improvements. Promptly upon the completion of a change order, Landlord shall notify Tenant in writing of the cost which would be chargeable or creditable to Tenant by reason of the change order and the time delay expected because of the change order. Tenant shall, within five (5) business days, notify Landlord in writing whether it desires to proceed with the change order. If Tenant notifies Landlord that it desires to proceed with the change order, then the cost thereof shall be appropriately charged or credited to the tenant improvement allowance, or if the tenant improvement allowance is not sufficient to cover the cost of the change order, then Tenant shall forward a check made payable to Landlord in the amount of the change order cost upon completion of the change order work. The delay, if any, associated with the change order work shall extend Landlord's time for completion of the tenant improvements.

COPY

Attachment 1

LEASE  
ATTACHMENT C-1

Plans as submitted are to be kept on file with the County of Humboldt, Public Works Department located at 1106 Second Street, Eureka, CA. 95501.

Contract Dates

1210	Start	0	03APR08	25OCT08
1220	End	0		

1000	Interior Demo	20	03APR08	22APR08
1010	Patch Concrete	4	01MAY08	04MAY08
1020	Rough Carpentry	16	01MAY08	16MAY08
1030	Plumbing Top cut	10	22MAY08	02JUN08
1040	Rft Electrical	20	22MAY08	16JUN08
1070	Rft HVAC	20	22MAY08	16JUN08
1080	Door Frames	10	22MAY08	02JUN08
1280	Mechanical Inspection	1	18JUN08	18JUN08
1090	Building Inspection	7	20JUN08	28JUN08
1100	Drywall	20	29JUN08	27JUL08
1110	Paint	4	28JUL08	02AUG08
1120	Ceiling Grid	16	03AUG08	24AUG08
1130	Ceramic Floor Tile	10	03AUG08	16AUG08
1180	Finish Plumbing	7	17AUG08	25AUG08
1090	Finish Carpentry	7	28AUG08	04SEP08
1040	Casework	17	28AUG08	18SEP08
1170	Finish Electrical	16	28AUG08	14SEP08
1190	Finish HVAC	8	28AUG08	05SEP08
1180	Paint Demo, Frames & Trim	4	05SEP08	12SEP08
1240	Install Ceiling Panels	10	13SEP08	28SEP08
1140	VCT Flooring	8	18SEP08	28SEP08
1150	Carpel	16	28SEP08	18OCT08
1200	Cleaning	4	20OCT08	25OCT08

OWNER FURNISHES A DATA COMMUNICATIONS PREPARE NOV 1208

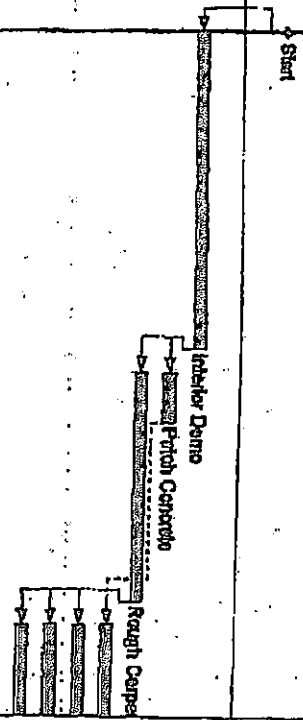
\* NOTE: THIS IS A DRAFT SCHEDULE INTENDS TO BE A START DURATION ONLY.

Start date	03APR08
Finish date	25OCT08
Start date	03APR08
Finish date	22MAY08
Page number	1A
© Finnegan Spectator, Inc.	

Mayan Construction  
Humboldt County Health Education

DRAFT

DRAFT



	Early bar
	Progress bar
	Critical bar
	Summary bar
	Start milestone point
	Finish milestone point

COPY

Attachment 1

**Contract Bond**

Bond No. Bd TO BE DETERMINED  
Premium: To Be Determined

KNOW ALL MEN BY THESE PRESENTS: That we, **Idelle M. Abrahamsen, Trustee of the Myron and Idelle Abrahamsen 1994 Family Trust**

(hereinafter called the Principal), as Principal, and Nationwide Mutual Insurance Company, an Iowa Corporation, (hereinafter called Surety), as Surety, are held and firmly bound unto

**County of Humboldt**

(hereinafter called the Obligee),

in the sum of To Be Determined Dollars (\$ ~~xxxxxxx~~), for the payment whereof to the Obligee, the principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal and the Obligee have entered into a certain contract (hereinafter called the contract), dated To Be Determined for the performance of the following described work, to-wit:

**Develop Office Space for the Humboldt County Department of Health and Human Services, Public Health Branch, Health Education Division at 908 Seventh Street Eureka, California.**

a copy of which contract is or may be attached hereto, and is hereby referred to.

Now, Therefore, the condition of the obligation is such that if the Principal shall faithfully perform the work contracted to be performed under said contract and shall pay or cause to be paid in full any loss directly arising by reason of failure of principal to faithfully perform such work, then this obligation shall be void, otherwise to remain in full force and effect.

Provided, However, the right of recovery shall be upon the following expressed conditions, the performance of each which shall be a condition precedent:

First: That in the event of any default on the part of the Principal, written notice thereof shall be delivered to the Surety as promptly as possible and in any event within ten (10) days after the Obligee shall become aware of such default, and upon the Obligee's becoming aware of such default no payments shall be made under the said contract without the written consent of the Surety. If the Principal shall abandon said contract, or be compelled by the Obligee to cease operations thereunder, the Surety shall have the option to proceed or procure to others to proceed with the performance of such contract, and all reserves, deferred payments, and other moneys provided by said contract to be paid to the Principal, shall be paid to the Surety, at the same times and under the same conditions as by the terms of said contract such moneys have been paid to the Principal had the contract been performed by the Principal, and the Surety shall be entitled thereto in preference to any assignee of the Principal, or any adverse claimant; but if the Obligee shall complete or relet the said contract, all reserves, deferred payments, or other moneys remaining after payment for such completion shall be paid to the Surety or applied as the surety may direct toward the settlement of any obligation or liability incurred hereunder.

Attachment C-3

COPY

Attachment 1

Second: That the Oblige shall faithfully perform all of the terms, covenants and conditions of said contract on the part of the Oblige contracted to be performed; and shall also retain that proportion which said contract specifies the Oblige shall or may retain the value of all work performed or materials furnished in the prosecution of said contract (not less, however, in any event, than ten per centum of such value), until the complete performance by the Principal of all the terms, covenants and conditions of said contract on the Principal's part to be performed, unless the Surety shall consent, in writing, to the payment of said final payment, reserves, or deferred payments; that the plans and specifications mentioned in said contract are not in any respect defective, and are and at all times will be kept adequate for the complete performance of said contract, and no change shall be made in such plans and specifications which shall increase the amount to be paid the Principal more than ten per centum of the penalty of this instrument, without the written consent of the Surety; that the obligation of the Surety is, and shall be construed strictly as, one of suretyship only; that this instrument shall be executed by the Principal before delivery, and shall not, nor shall any interest therein or right of action thereon, be assigned without the prior consent, in writing, of the Surety.

Third: That the Surety shall not be liable for any damages resulting from strikes or labor difficulties, or from mobs, riots, civil commotion, public enemy, fire, the elements, shifting of elements, acts of God, or defect or fault in the plans or specifications referred to in said contract, or for repair, or reconstruction of any work or materials damaged or destroyed by any of said causes; nor for damages arising out of injuries to persons or property or for the death of any person or persons, or under or by virtue of any statutory provision for damages or compensation for injury to or the death of any employee; nor for the infringement or validity of any patent; nor for the efficiency or wearing qualities of any work done or materials furnished or the maintenance thereof or repairs thereto; nor for the furnishing of any bond or obligation other than this instrument; nor for damages caused by delay in completing the work, except for damages provided for in said contract which have actually been sustained and proved and in such event, liability hereunder for such damages shall not exceed ten per centum of the penalty of this bond.

Fourth: If there be more than one Oblige named on this bond, then it is understood that the rights of the Obliges or any of them under this bond are conditioned upon the faithful performance by or on behalf of the owner of all of the conditions of the contract by him to be performed at the time and in the manner therein set forth.

Fifth: That no action, suit or proceeding shall be had or maintained against the Surety under this bond unless it shall be brought or instituted and process served upon the Surety within six (6) months after the Principal shall have ceased performing the work specified in the contract and in no event after six (6) months subsequent to that date, time or period fixed in the contract for the completion of the work specified therein and unless the principal shall be made a party to any such suit or action, and be served with process commencing the same if the Principal can with reasonable diligence be found.

Signed, sealed and dated this \_\_\_ day of TBD, 2006.

Countersigned

By: \_\_\_\_\_

\_\_\_\_\_  
Nationwide Mutual Insurance Company

By: \_\_\_\_\_, Attorney-in-Fact

C-3



PROJECT: Humboldt County Health Education Branch			Building SF	11,550
ARCHITECT: Martha Jain				
Division	Description	Company	Division total	Cost/SF
01-000	General Conditions (see GenCon sheet)	Mayan	32,880	2.85
01-010	Install Owners NIC Items	NIC		0.00
01-200	Utilities Fees (water, sewer, PG&E)	Existing N/A	0	0.00
01-250	Building Permit	City of Eureka	5,650	0.49
02-100	Exterior Demo-	Mayan	2,625	0.23
02-700	Site Improvements: Entry, H.C., Paving		2,300	
	Adder: Re-seal and stripe lot add \$13680			
	* Chain link trash enclosure		1,400	0.12
	* HC Signage/Parking Striping		1,030	0.09
02-800	Landscaping and Hardscapes		3,320	0.29
02-840	Satellite Mount	Mayan	400	0.03
02-900	Interior Demo	Mayan	26,092	
03-300	Concrete: Trench and slab repairs @ 200 sq. ft.	Mayan	1,600	
06-100	Rough Carpentry	Labor - Mayan	9,820	0.85
		Materials	10,910	0.94
06-200	Finish Carpentry- Misc Labor	Mayan	4,678	0.41
06-400	Casework/Countertops		18,680	1.62
07-200	Insulation (reuse existing) in work areas		2,975	0.26
07-620	Sheet Metal Flashing-Misc		500	0.04
07-800	Skylights	one 2X6 + Lab	1,000	0.09
07-900	Sealants		350	0.03
08-200	Doors/Frames/Hardware - re-use most existing		10,700	0.93
	1-Entry/ 11-new/ 2-rated/ Knox Box + Hardware			
	Entry Security.	3-exterior card readers	4,500	
08-500	Windows	Allow 5 new to match existing	4,800	0.42
08-800	Interior Security Counter Glass	Lobby	800	0.07
09-250	Gypsum Drywall- 14K @ walls/ 1K @ Lids	600sq ft @ gyp/act	35,050	3.03
09-300	Ceramic Tile	new toilet rms and shower + W.C.	16,885	1.46
09-540	Acoustical Suspended Ceiling		19,400	
	Re-use existing, 4478 sq ft new/ 582 sq ft 24X24			
09-650	Resilient Floor /VCT approx 864 sq ft	Allowance	5,184	0.45
09-680	Carpet- approx 9847 sq. ft.	Allowance	39,388	
09-900	Painting- Interior, ext a work areas, power wash ext		33,200	2.87
	Adder: re-paint exterior add \$6000			
09-950	Wall Coverings	Not Used	0	
10-400	Building Signage-Exterior and Interior	Identification and Directory	7,405	0.64
10-520	Fire Extinguishers(8 x 175.00) + 300 lab	Mayan	1,700	0.15
10-600	Toilet Partitions	Existing	0	0.00
10-800	Toilet Accessories- Grabs, Mirrors, Dispensers	5-grabs/ 12-disp/ 28 sq ft mir	2,600	0.23
11-452	Appliances- Ref, Stove, Micro, GB	Allowance (400 for lab)	2,650	0.23
12-300	Window Treatment (Interior Only)	Exterior use existing	800	0.07
12-600	Owners Cubicals- assist and coordinate	Mayan	3,580	
14-200	Elevator- update phone and infrared	Dover	2,500	
15-400	Plumbing- Brk sink/ M&W toilets/DE/ Shower/		10,925	0.95
15-800	HVAC- Use existing system, re-route	Allow 56hr=3640 + 3200 mar	6,840	0.59
	Thermostats and Re-locate exstg computer conditioner		700	
16-000	Electrical- Use Exstg Panels and Lights		110,260	9.55
	Data, Satellite, Phone, Security, Fire, Strobes, Projector,			
	Misc connections at foundry equip			0.00
			s-t	
			446,077	38.62

Humboldt County Health\_081006.xls

Attachment C-5

Mayan Construction

Estimate - GSI Format

8/11/05

Contingency		5.00%	22,304	1.93
		s-t	468,381	40.55
Overhead	Overhead	8.00%	37,470	3.24
		s-t	505,851	43.80
Profit	Profit	9.00%	45,527	3.94
		s-t	551,378	47.74
Bond < If Req add 1.5%		0.00%	0	0.00
<b>TOTAL</b>			<b>551,378</b>	<b>47.74</b>



**LEASE  
EXHIBIT D**

Landlord acknowledges that the work to be done on the premises by Landlord pursuant to the provisions of Exhibit C is substantially completed.

Landlord and Tenant agree that the commencement date of the Lease is  
FEBRUARY 1, 2008.

LANDLORD:

BY Idelle M. Abrahamson

COUNTY OF HUMBOLDT:

BY Charles J. Ma  
Public Works Director

EXHIBIT E  
SECURITY

## 16.01 Security Electronics

## A. Access Control

1. Provide an electronic security system that is integrated with the building security.
2. System Type:
  - a. Building access, COUNTY lease area access and certain interior staff/public access shall be provided by electric card swipe type security hardware with key override option.
    - (1) Refer to Division 8 security hardware.
3. System Scope
  - a. Lock/unlock control for secure access into COUNTY lease areas.
  - b. Lock/unlock control of security doors to allow passage across the interior staff/public security envelope.
    - (1) Include a remote release control function from secure side of reception area for, but not necessarily limited to:
      - i. Public lobby/public restrooms access.
      - ii. Public lobby/conference room access.
      - iii. Public lobby/staff area access.
  - c. Intrusion alarms to detect unauthorized persons entering the building after business hours.
    - (1) Alarms shall be transmitted to a central station for after-hour monitoring.
    - (2) Provide electronic security monitoring for, but not necessarily limited to:
      - i. Building access
      - ii. COUNTY area access.

## B. Duress Alarms

1. Alarms shall be internally monitored and transmit to specified locations to be determined.
  - a. Allow for three (3) monitoring locations.
2. Provide duress buttons at specified locations to be determined.

Allow for twelve (12) duress button locations.

Owner

Idella Abramson, Trustee

Date

4-4-06

**LEASE  
EXHIBIT F****JANITORIAL SERVICES REQUIRED****Daily Service Five (5) Days Per Week**

1. Replace lights as needed
2. Empty all waste baskets and other waste containers
3. Damp clean lobby counters
4. Clean and sanitize rest room fixtures, mirrors, chrome pipes, etc.
5. Clean splash marks from walls of rest rooms
6. Mop hard surface areas, bathrooms, break areas, food service, and lunch room
7. Refill soap, towel and paper containers
8. Clean and sanitize drinking fountains
9. Clean entrance glass
10. Damp clean table tops in break rooms
11. Clean kitchen sinks and counters
12. Sweep entryways
13. Spot clean carpets of small spills, footprints, etc.
14. Keep janitor closets clean and orderly
15. Plumb toilets as needed

**Twice Weekly Service**

1. Dust all desks, chairs, tables, filing cabinets and other office furniture
2. Vacuum all carpeting completely

**Monthly Service**

1. Vacuum dust and dirt accumulation from air-conditioning vents
2. Brush down cobwebs inside building
3. Dust blinds
4. Dust high areas
5. Dust top of desk cabinets, files, chair rungs, baseboards, and picture frames (Hi-Lo)
6. Vacuum upholstered furniture
7. Clean hand marks from walls, doors, and woodwork
8. Clean lobby directories and fire extinguisher glass
9. Buff Floors

**Quarterly Service**

1. Wash outside windows
2. Change HVAC filters

**Twice a Year Service**

1. Wash inside windows and partitions

**Annual Service**

1. Clean blinds
2. Clean carpets

The above are considered the minimum standard janitorial items. Landlord is responsible for providing all services to the health and cleanliness of the leased facility.

**BREAKROOM AREA/REST ROOMS****Nightly**

1. Dust mop
2. Wet mop food service and kitchen
  - a. sweep and mop under all counters and sink area (including refrigerator)
3. Wet mop traffic aisles in dining room
4. Collect trash
5. Spot clean glass as needed

**Monthly**

1. Vacuum air vents

**Quarterly**

1. Scrub and wax floor
2. Scrub bathroom floors

**Annually**

1. Strip seal and wax floors (2x)

EXHIBIT G

Recorded at the request of:

Public Works Director  
County of Humboldt  
1106 Second Street  
Eureka, California 95501

When recorded return to:

(space above this line for recorder's use)

**NONDISTURBANCE AND ATTORNMENT AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_ ("Mortgagee") and the County of Humboldt, a political subdivision of the State of California ("County");

WITNESSETH:

WHEREAS, Mortgagee is the beneficiary of a Deed of Trust ("Mortgage") on certain real property ("Property") described in said Mortgage located in the City of \_\_\_\_\_, County of Humboldt, State of California, which Mortgage is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ of the Official Records of the County of Humboldt.

WHEREAS, County has leased a portion of the Property from \_\_\_\_\_ ("Lessor") by lease agreement dated \_\_\_\_\_, 20\_\_, ("County Lease"). ("County Lease" as used herein includes any extension or renewal thereof.)

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

1. Provided County is not in default under the terms of the County Lease, then:

(a) The right of possession of County to the leased premises and County's rights arising out of the County Lease shall not be affected or disturbed by Mortgagee in the exercise of any of its rights under the Mortgage or the note secured thereby;

(b) Any sale of any portion of the premises described in the County Lease pursuant to the exercise of any rights and remedies under the Mortgage or otherwise, shall be made subject to the

Lease and the rights of County thereunder; County will attorn to the Mortgagee or any purchaser at such sale and the County Lease shall continue in accordance with its terms between County and Mortgagee or such purchaser.

2. Mortgagee or such purchaser shall not be bound by any payment of rent or additional rent made by County to Lessor for more than one month in advance.

3. The Lease shall be subject and subordinate to the lien of the Mortgage and to all the terms, conditions, and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof, including any increases therein or supplements thereto.

4. The foregoing provisions shall be self-operative.

5. This agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

Mortgagee: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

County: COUNTY OF HUMBOLDT, a political subdivision of the State of California

By: \_\_\_\_\_

Public Works Director