



COUNTY OF HUMBOLDT

AGENDA ITEM
NO. **C-17**

For the meeting of: May 24, 2016

Date: April 14, 2016

To: Board of Supervisors

From: Victor Zazueta, Director of Library Services *VZ*

Subject: Lease agreement with the McKinleyville Community Services District (MCSD)

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approves the Lease agreement with the MCSD for a term of five years for the use of its facility to provide library services to the McKinleyville community; and
2. Directs the Clerk of the Board to return one (1) original fully executed lease to Public Works-Real Property Division for transmittal to Lessor

SOURCE OF FUNDING: The facility is owned and maintained by the MCSD. The MCSD permits the use of their facility for the provision of library services to the McKinleyville community at no cost to the Humboldt County Library (HCL). The Library Fund pays for all annual operational cost. Any additional changes or modifications to the facility by the Humboldt County Library for its purposes are paid for by the Library Fund and are coordinated through Real Property with the approval of the MCSD.

DISCUSSION:

The McKinleyville branch of the HCL is located in a facility owned and maintained by the MCSD. This site is located at 1606 Pickett Road, McKinleyville. The original lease with MCSD expired on February 28, 2016. County has been occupying the space on a month-to-month basis since the expiration, while

Prepared by Victor Zazueta _____ CAO Approval *Cheryl D. Higgins*

REVIEW: Auditor *MJM* County Counsel *Sm* Personnel _____ Risk Manager *TH* Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
 Upon motion of Supervisor *Fennell* Seconded by Supervisor *Bass*
 Ayes *Sundberg, Fennell, Lovelace, Bohn, Bass*
 Nays _____
 Abstain _____
 Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

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

Dated: *May 24, 2016*
 By: *Kathy Hayes*
 Kathy Hayes, Clerk of the Board

MCSD was finalizing the updating of clauses contained in the lease. The County Library continues to occupy this site for its services. In addition, over the past five years this site has become a lively branch library with a very active and dedicated Friends of the Library group.

FINANCIAL IMPACT:

Approving this new lease agreement with the MCSD supports the Board's Strategic Plan for providing appropriate levels of service to the community.

OTHER AGENCY INVOLVEMENT:

Public Works-Real Property Division

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board's discretion.

ATTACHMENTS:

Attachment 1: Lease agreement.

LEASE

Effective this 6th of April 2016, the MCKINLEYVILLE COMMUNITY SERVICES DISTRICT (MCSD), herein called "Lessor," hereby leases to COUNTY OF HUMBOLDT, herein called "Lessee," the Premises located at 1606 Pickett Road, as described herein, on the following terms and conditions:

ARTICLE 1. LEASED PREMISES

- 1.1 Description of Premises. The leased premises (herein "Premises"), is located in McKinleyville, County of Humboldt, State of California, and constitutes the Library site described on Exhibits A & B, attached hereto, and includes that real property and all improvements thereon. Attached, as Exhibit C is a diagram of the Conference Room (the "Conference Room").

ARTICLE 2. PARKING AREA USE

- 2.1 Non-Exclusive Parking Rights. Lessee shall have the non-exclusive right to use, consistent with the defined use of the Premises, the parking area(s), (herein called "Parking Area") described as Library site on Exhibit B, attached hereto.

ARTICLE 3. TERM OF LEASE

- 3.1 Term. This Lease shall be for a term of five (5) years commencing upon approval of both the Board of Directors of Lessor and the Board of Supervisors for Lessee ("Commencement Date"), and ending at midnight on May 31, 2021, ("Termination Date"). This Lease completely replaces and supersedes the current existing lease agreement dated March 16, 2011, in its entirety.
- 3.2 Hold Over. Should Lessee hold over and continue in possession of said Premises after expiration of the term of this Lease, Lessee's continued occupancy of said Premises shall be considered a month-to-month tenancy subject to all terms and conditions of this Lease.

ARTICLE 4. CONSIDERATION

- 4.1 Consideration. In consideration for use of said Premises Lessee shall provide library services to the public. This Lease is contingent upon Lessee obtaining and maintaining funding. In the event Lessee does not receive sufficient funding to operate the library, Lessee may terminate this Lease upon provision of ninety (90) days written notice to Lessor. Lessee's failure to remain open to the public, for a

continuous period of sixty (60) days, shall be deemed an event of default under this Lease.

ARTICLE 5. USE OF PREMISES

- 5.1 Use. Said Premises shall, during the term of this Lease and any extensions thereof, be used to provide public library services to area residents and for no other purpose without the prior written permission from Lessor, which can be freely withheld in Lessor's discretion. Lessee shall be responsible for staffing the library, providing furniture, office equipment and materials, which shall all remain Lessee property. Ownership of all donated furniture, equipment, fixtures and other personal property shall, at all times, remain vested in the party to whom the donation was made (be it Lessor or Lessee) as designated by the donor.

Lessee shall determine the size of the collection and the hours of services offered in said Library at the Premises. The McKinleyville Library shall be treated in the same manner as the other County Library branches, receiving an equitable share of the County library resources based upon population served, resources available, and local demand for service.

Lessee is responsible to comply with all applicable permit requirements. Conditional use of the Conference Room is further described in Exhibit D.

- 5.2 Waste or Nuisance. Lessee shall not commit or permit the commission by others of any waste on said Premises; Lessee shall not maintain, commit, or permit the maintenance or commission of any nuisance as defined in Section 3479 of the California Civil Code on said Premises; and Lessee shall not use or permit the use of said Premises for any unlawful purpose.
- 5.3 Compliance With Law. Lessee shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities, federal, state, county or municipal, relating to Lessee's use and occupancy of said Premises whether such statutes, ordinances, regulations, and requirements be now in force or hereinafter enacted. Lessee's obligations shall include, without limitation, all alterations and modifications of the Premises required to enable Lessee to continue its use thereof for the purposes provided in the Lease. Costs and expenses necessary for such compliance shall be the responsibility of Lessee except for necessary costs or expenses incurred in major alteration or modification of the primary structure of the Premises' building, including ADA compliance issues, foundation, walls, flooring, HVAC system, plumbing, roof, landscaping, and parking lot, which shall be the responsibility of Lessor, and Lessor shall be fully responsible for making alterations and modifications to the Premises which may be required as a result of changes in the law.

ARTICLE 6. UTILITIES

- 6.1 Payment of Utility Charges. Lessee shall pay, and hold Lessor and the property of Lessor free and harmless from all charges for the furnishing of gas, water, electricity, telephone service, internet, and/or other public utilities to said Premises, and for the removal and disposal of garbage and rubbish from said Premises during the term of this Lease or any extension thereof.

ARTICLE 7. ALTERATIONS AND REPAIRS

- 7.1 Condition of Premises at Commencement; Notice to Lessor. Lessee's taking possession of the Premises shall be conclusive evidence as against the Lessee that the Premises was in good order and satisfactory condition when the Lessee took possession. At all times during the term of this Lease or any extension thereof, Lessee agrees to give Lessor prompt notice of any defective condition in or about the Premises.
- 7.2 Maintenance by Lessor. Lessor shall, at its own cost and expense, maintain in good condition and repair the major structural elements of the Premises which are defined to constitute the foundation, walls, windows, flooring, plumbing, HVAC system, roof, landscaping, and parking lot; provided, however, that Lessee shall pay the cost and expense of any structural repairs required because of the negligence or other fault of Lessee or its employees, agents or sublessee (if any sublessee is later permitted pursuant to the terms of this Lease). Lessor shall be responsible for providing limited janitorial services for the Premises not to exceed four (4) hours per week.
- 7.3 Maintenance by Lessee. Except as otherwise expressly provided in Section 7.2 of this Lease, Lessee shall at its own cost and expense keep and maintain all portions of said Premises as well as improvements of said Premises and all facilities appurtenant to said Premises in good order and repair and in as safe and clean a condition as they were when received by Lessee from Lessor, normal wear and tear excepted.
- 7.4 Alterations and Liens. Lessee shall not make or permit any other person to make any alterations to said Premises or to any improvement thereon or facility appurtenant thereto without first obtaining prior written consent of Lessor. Lessee shall keep the Premises free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted on said Premises at the instance or request of Lessee. Furthermore, any and all alterations, additions, improvements and fixtures, except furniture and trade fixtures, made or placed in or on said Premises by Lessee or any other person shall on expiration or sooner termination of this Lease become the property of the Lessor and remain in said Premises; provided, however, that Lessor shall have the option on

expiration or sooner termination of this Lease of requiring Lessee, at Lessee's sole cost and expense, to remove any or all such alterations, additions, improvements or fixtures from said Premises.

- 7.5 Inspection by Lessor. Lessee shall permit Lessor or Lessor's agents, representatives, or employees to enter said Premises at all reasonable times which do not interfere with the Lessee's operation of a library, for the purpose of inspecting said Premises, to determine whether Lessee is complying with the terms of this Lease and for the purpose of doing other lawful acts that may be necessary to protect Lessor's interest in said Premises under this Lease or to perform Lessor's duties under this Lease.
- 7.6 Surrender of Premises. On expiration or sooner termination of this Lease, or any extensions or renewals of this Lease, Lessee shall promptly surrender and deliver said Premises to Lessor in as good condition as they were at the commencement of this Lease, reasonable wear and tear and repairs herein required to be made by Lessor excepted.

ARTICLE 8. HOLD HARMLESS/INDEMNIFICATION

- 8.1 Lessor's Hold Harmless/Indemnification. Lessor shall indemnify, defend and hold harmless Lessee and Lessee's officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorneys' fees, arising out of the negligent or willful acts of misconduct or omissions of Lessor (either directly or through or by Lessor's officers, agents or employees) in connection with Lessor's duties and obligations under this Lease and any amendments hereto, except such loss or damage which was caused by the negligence or willful misconduct of the Lessee (either directly or through or by Lessee's officers, agents or employees).
- 8.2 Lessee's Hold Harmless/Indemnification. Lessee shall indemnify, defend and hold harmless Lessor and Lessor's officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorneys' fees, arising out of the negligent or willful acts of misconduct or omissions of Lessee (either directly or through or by Lessee's officers, agents or employees) in connection with Lessee's duties and obligations under this Lease and any amendments hereto, except such loss or damage which was caused by the negligence or willful misconduct of the Lessor (either directly or through or by Lessee's officers, agents or employees).
- 8.3 Acceptance of insurance, if required by this Lease, does not relieve Lessor or Lessee from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by the parties' operations regardless if any insurance is applicable or not.

ARTICLE 9. LESSOR'S INSURANCE

- 9.1 Lessor's Insurance. This Lease shall not be executed by Lessee 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.
- 9.1.1 Without limiting Lessor's indemnification provided for herein, during the course of rendering any repairs to the Premises Lessor shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Lease and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of Lessor, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors.
- 9.1.2 Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.
- 9.1.3 Lessor is responsible for providing "All-Risk" Property Insurance for this location.
- 9.1.4 If required by California law, and in accordance with the statutory limits set forth therein. Said policy shall contain or be endorsed to contain a waiver of subrogation against Lessee, its officers, agents, and employees.

ARTICLE 10. LESSEE'S INSURANCE

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

- 10.1.1 Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 per occurrence for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.
- 10.1.2 Lessee is responsible for providing an "All-Risk" Property Insurance for the contents of the property at this location.
- 10.1.3 Lessee certifies that Lessee is aware of the provisions of Section 3700 of the California Labor Code and Lessee will comply with such provisions in connection with any work performed on the premises. Any persons providing services with or on behalf of Lessee shall be covered by workers' compensation (or qualified self-insurance).

ARTICLE 11. SPECIAL INSURANCE REQUIREMENTS

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

11.1 Lessor

- 11.1.1 The Comprehensive General Liability Policy shall provide that the Lessee, its officers, officials, employees, and volunteers are covered as additional insured for liability arising out of the operations performed by or on behalf of Lessee. The coverage shall contain no special limitations on the scope of protection afforded to the Lessee, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:
 - a. Includes contractual liability
 - b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
 - c. Is primary insurance as regards to County of Humboldt.
 - d. Does not contain a pro-rata, excess only, and /or escape clause.
 - e. Contains a cross liability, severability of interest or separation of insured's clause.
 - f. Shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to Lessee and in accordance with the Notice provisions set forth under Section 15.3. It is further understood that Lessor shall not terminate such coverage until it provides Lessee with proof satisfactory to Lessee that equal or better insurance has been secured and is in place.

g. Is primary coverage to Lessee, and insurance or self-insurance programs maintained by Lessee are excess to Lessor's insurance and will not be called upon to contribute with it.

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

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

11.2 Lessee

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

- a. Includes contractual liability
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Contains a cross liability, severability of interest or separation of insured's clause.
- d. The policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to Lessor and in accordance with the Notice provisions set forth under Section 15.3. It is further understood that Lessee shall not terminate such coverage until it provides Lessor with proof satisfactory to Lessor that equal or better insurance has been secured and is in place.
- e. Lessee shall furnish Lessor with certificates and original endorsements affecting the required coverage of this Lease by Lessor.

11.3 Lessee and Lessor

11.3.1 The Lessee and Lessor agree that insurance carried or required to be carried by either of them against loss or damage to property by fire, flood,

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

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

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

ARTICLE 12. SIGNS AND TRADE FIXTURES

- 12.1 Installation and Removal of Trade Fixtures. Lessee shall have the right at any time and from time to time during the term of this Lease and any renewal or extension of such term, at Lessee's sole cost and expense, to install and affix in, to, or on said Premises such items, herein called "trade fixtures" for use by Lessee as Lessee may, in its sole discretion, deem advisable. Any and all such trade fixtures that may cause structural damage upon removal must be approved by Lessor prior to installation. Any and all trade fixtures that cannot be removed without structural damage to said Premises or any building or improvements on said Premises shall, subject to Section 12.2 of this Lease, remain the property of Lessor and may not be removed by Lessee at any time or times prior to the expiration or sooner termination of this Lease.
- 12.2 Un-removed Trade Fixtures. Any trade fixtures described in this Article that are not removed from said Premises by Lessee within thirty (30) days after the expiration or sooner termination, regardless of cause, of this Lease shall be deemed abandoned by Lessee and shall automatically become the property of Lessor as owner of the real property to which they are affixed.
- 12.3 Signs. Lessee may not install, or permit any other person to install, any sign, awning, canopy, marquee, or other advertising on any exterior wall, door, or window of the Premises without Lessor's (General Manager) prior written consent. On the expiration or sooner termination of this Lease, or any extension thereof, Lessor may remove and destroy any items which were permitted to be installed according to the terms of this section unless removed as set forth in Section 12.1.

ARTICLE 13. DESTRUCTION AND CONDEMNATION

- 13.1 Partial Destruction. If, during the term of this Lease or any renewals or extensions thereof, the Premises are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, Lessor shall, as conditioned herein, restore the Premises to substantially the same condition as they were in immediately before destruction if the restoration can be made under the existing laws and can be completed within two (2) years after the date of the destruction, except that Lessor shall have no obligation to restore any improvements upon the Premises unless such restoration can be accomplished with the use of insurance proceeds or other funding, not involving use of Lessor's funds or other assets. Such destruction shall not terminate this Lease. If the restoration cannot be made in the time stated in this section, then within fifteen (15) days after the parties determine that the restoration cannot be made in the time stated in this paragraph, either party can terminate this Lease immediately by giving written notice to the other party. If either party fails to terminate this Lease and if restoration is permitted under the existing laws, including any laws limiting use of Lessor's funds to restore the Premises, Lessor shall restore the Premises within a reasonable time and this Lease shall continue in full force and effect as provided herein. If the existing laws do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party.
- 13.2 Insurance Proceeds. Any insurance proceeds received by Lessor because of the total or partial destruction of said Premises or the building on said Premises shall be utilized by Lessor or Lessee, as the case may be, to restore the Premises.
- 13.3 Lessor's Restoration. Should Lessor be required under Section 13.1 of this Lease to repair and restore said Premises to their former condition following partial or full destruction of said Premises:
- 13.1.1 Lessee shall not be entitled to any damages for any loss or inconvenience sustained by Lessee by reason of the making of such repairs and restoration; and
- 13.1.2 Lessor shall have full right to enter said Premises and take possession of so much of said Premises, including the whole of said Premises, as may be reasonably necessary to enable Lessor promptly and efficiently to carry out the work of repair and restoration.
- 13.4 Condemnation. Should, during the term of this Lease or any renewal or extension thereof, title and possession of all of said Premises be taken under the power of eminent domain by any public or quasi-public agency or entity, this Lease shall terminate as of the date actual physical possession of said Premises is taken by the agency or entity exercising the power of eminent domain and both Lessor and Lessee shall thereafter be released from all obligations. If a lesser portion of the Premises is taken, the Lease will terminate as to the part taken, except that if the

remaining portion is not reasonably suitable for Lessee's continuing use, then Lessee shall have the option to terminate the Lease in its entirety.

- 13.5 Condemnation Award. Should, during the term of this Lease or any renewal or extension thereof, title and possession of all or any portion of said Premises be taken under the power or eminent domain by any public or quasi-public agency or entity, the compensation or damages for the taking shall belong to and be the sole property of the Lessor, except that Lessee shall be entitled to that portion of the compensation which represents the value of Lessee's improvements or alterations made to the Premises by Lessee in accordance with this Lease, which improvements or alterations Lessee has the right to remove from the Premises, but elects not to remove.

ARTICLE 14. DEFAULT, ASSIGNMENT AND TERMINATION

- 14.1 Subleasing or Assigning as Breach. Lessee shall not encumber, assign, or otherwise transfer this Lease, any right or interest in this Lease, or any right or interest in said Premises or any of the improvements that may now or hereafter be constructed or installed on said Premises without the prior express written consent of Lessor, which may be withheld in Lessor's complete and absolute discretion. Neither shall Lessee sublet said Premises or any part thereof without the prior written consent of Lessor, which may be withheld in Lessor's complete and absolute discretion. A consent by Lessor to one assignment, one subletting, or occupation of said Premises by another person shall not constitute consent to any such action involving others. Any encumbrance, assignment, subletting, or transfer without the prior written consent of Lessor, whether it be voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of Lessor, terminate this Lease.
- 14.2 Default by Lessee. Should Lessee default in the performance of any of the covenants, conditions, or agreements contained in this Lease, then Lessee shall have breached the Lease and shall be in default unless such default is cured within ten (10) days of written notice from Lessor to Lessee. In the event of any default, not cured by Lessee within the time limits herein set forth, Lessor may, reenter and regain possession of said Premises in the manner provided by the laws of unlawful detainer of the State of California then in effect. In addition, Lessor may, in the event of default by Lessee, elect to exercise any of the remedies described in California Civil Code sections 1951.2 and 1951.4.
- 14.3 Cumulative Remedies. The remedies given to Lessor in this Article shall not be exclusive but shall be cumulative and in addition to all remedies now or hereafter allowed by law or elsewhere provided in this Lease.

- 14.4 Waiver of Breach. The waiver by Lessor of any breach by Lessee of any of the provisions of this Lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee either of the same or another provision of this Lease.
- 14.5 Termination by Lessee. Lessee reserves the right to terminate this Lease without cause, upon provision of ninety (90) days written notice to Lessor.

ARTICLE 15. MISCELLANEOUS

- 15.1 Force majeure – Unavoidable Delays. Should the performance of any act required by this Lease to be performed by either Lessor or Lessee be prevented or delayed by reason of an act of God, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, or any other cause except financial inability not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.
- 15.2 Attorney's Fees. Should any litigation be commenced between the parties to this Lease concerning said Premises, this Lease or the rights and duties of either in relation thereto, the party, Lessor or Lessee, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum for attorney's fees in such litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.
- 15.3 Notice. Except as otherwise expressly provided by law, any and all notices or other communications required by this Lease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of such personal service, when deposited in the United States mail, first class postage prepaid, addressed as follows:

To Lessee:

County of Humboldt
Real Property Division
1106 Second Street
Eureka, CA 95501

To Lessor:

McKinleyville Community Services District
General Manager
P.O. Box 2037
McKinleyville, CA 95519

Insurance Notices:

County of Humboldt
Attn: Risk Manager
825 Fifth Street, Room 131
Eureka, CA 95501

Either party, Lessee, or Lessor, may change its address for the purpose of this section by giving written notice of such change to the other party in the manner provided in this section.

- 15.4 Binding On Successors. This Lease shall be binding on and shall inure to the benefit of the successors and assigns of the parties hereto, Lessor and Lessee, but nothing in this section contained shall be construed as a consent by Lessor to any assignment of this Lease or any interest therein by Lessee except as provided in Article 14 of this Lease.
- 15.5 Partial Invalidity. Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.
- 15.6 Sole and Only Agreement. This instrument constitutes the sole and only agreement between Lessor and Lessee respecting said Premises, the leasing of said Premises to Lessee, or the lease term herein specified, and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. Any agreements or representations respecting said Premises or their leasing by Lessor to Lessee not expressly set forth in this instrument are null and void.
- 15.7 Nuclear Free Contractor. Lessor certifies by its signature below that Lessor is not a Nuclear Weapons contractor, in that Lessor is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. Lessor agrees to notify Lessee immediately if it becomes a nuclear weapons contractor, as defined above. Lessee may immediately terminate this Lease if it determines that the foregoing certification is false or if Lessor becomes a nuclear weapons contractor.
- 15.8 Smoking. Pursuant to Humboldt County Code Section No. 971-1 et seq., Lessee owned, leased or occupied premises are smoke free. Lessor shall comply with the ordinance.

- 15.9 Time of Essence. Time is expressly declared to be of the essence of this Lease.
- 15.10 Modification. This Lease may not be altered, changed, or amended except by an instrument in writing signed by Lessee and Lessor.
- 15.11 Lessor Not Officer, Employee, Or Agent of County. While engaged in carrying out and complying with the terms and conditions of this Lease, the relationship of the parties shall be that of independent contractor and neither party shall be considered to be an officer, employee, or agent of the other party.
- 15.12 Jurisdiction and Applicable Laws. This Lease shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this Lease shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§ 394 and 395.

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Executed on April 6, 2016, at McKinleyville Humboldt County, California.

LESSOR: MCKINLEYVILLE COMMUNITY SERVICES DISTRICT
George Wheeler
George Wheeler, President MCSD Board of Directors

INSURANCE CERTIFICATES REVIEWED AND APPROVED
BY Colt Clark
Finance Director

LESSEE: COUNTY OF HUMBOLDT

(SEAL)
ATTEST:
CLERK OF THE BOARD
BY Air Huntwell

APPROVED AS TO FORM:
COUNTY COUNSEL
BY N/A
DEPUTY

INSURANCE CERTIFICATES
REVIEWED AND APPROVED
BY K. K. Gaudin
RISK MANAGER

COUNTY OF HUMBOLDT
BY Mark Lamb
CHAIRPERSON,
BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT
STATE OF CALIFORNIA

LEGAL DESCRIPTION

ALL THAT REAL PROPERTY SITUATED IN THE COUNTY OF HUMBOLDT, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE LANDS DEEDED TO THE COUNTY OF HUMBOLDT AS SHOWN ON THE RECORD OF SURVEY DATED AUGUST, 1992 AS RECORDED MARCH 30, 1993 IN BOOK 54 OF SURVEYS AT PAGE 2, HUMBOLDT COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 'A':

COMMENCING AT THE NORTHEAST CORNER OF SAID LANDS; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LANDS SOUTH 0°09'30" WEST 152.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST LINE SOUTH 0°09'30" WEST 88.00 FEET; THENCE LEAVING SAID EAST LINE NORTH 89°50'30" WEST 68.00 FEET; THENCE NORTHERLY ALONG A LINE LYING WESTERLY OF, PARALLEL WITH AND 68.00 FEET DISTANT MEASURED AT RIGHT ANGLES FROM SAID EASTERLY LINE NORTH 00°09'30" EAST 88.00 FEET; THENCE SOUTH 89°50'30" EAST 68.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,984 SQUARE FEET OF LAND, MORE OR LESS

PARCEL 'B'

COMMENCING AT THE AFOREMENTIONED POINT OF BEGINNING OF SAID PARCEL 'A'; THENCE WESTERLY ALONG THE NORTH LINE OF SAID PARCEL 'A' NORTH 89°50'30" WEST 68.00 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHWEST CORNER OF SAID PARCEL 'A'; THENCE SOUTHERLY ALONG THE WEST LINE OF THE SAID PARCEL 'A' SOUTH 00°09'30" WEST 88.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 'A'; THENCE LEAVING SAID WEST LINE NORTH 89°50'30" WEST 150.82 FEET TO A POINT LYING ON THE WEST LINE OF SAID LANDS DEEDED TO THE COUNTY OF HUMBOLDT; THENCE NORTHERLY ALONG SAID WEST LINE THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 11.65 FEET;
 - 2) THENCE NORTH 89°50'30" WEST 0.96 FEET;
 - 3) THENCE NORTH 00°33'20" WEST 76.35 FEET;
- THENCE LEAVING SAID WEST LINE SOUTH 89°50'30" EAST 152.77 FEET TO THE POINT OF BEGINNING

CONTAINING 13,386 SQUARE FEET OF LAND, MORE OR LESS.

LEGAL DESCRIPTION PREPARED BY:

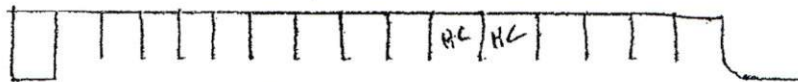
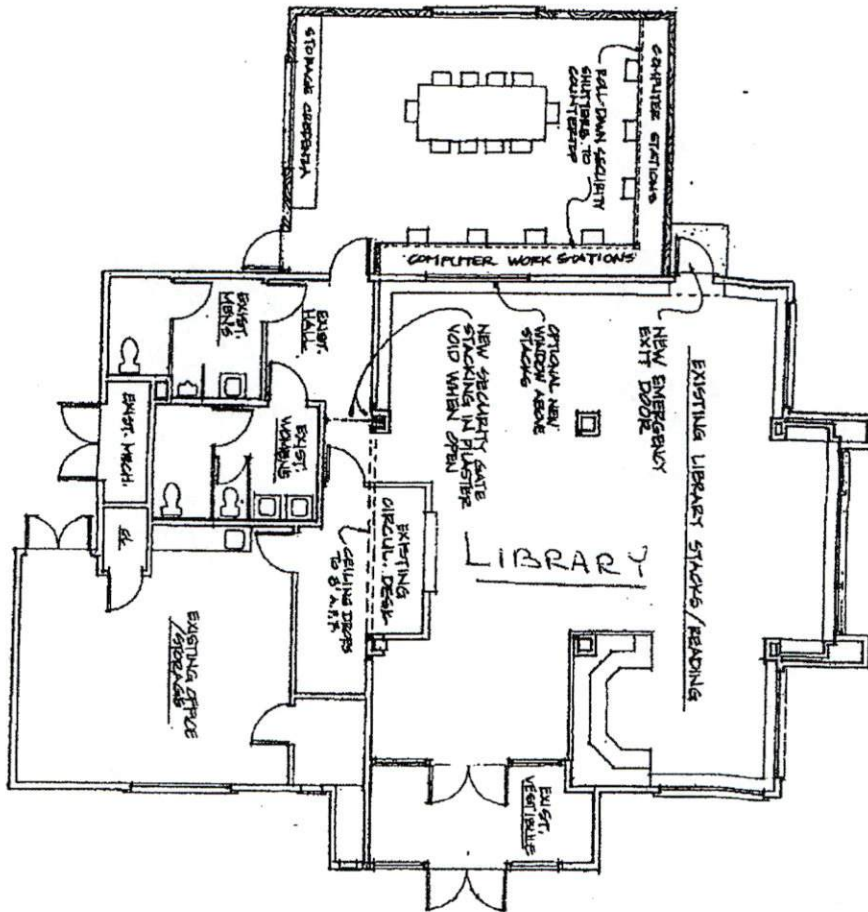
Philip A. Gutierrez Jr.
PHILIP A. GUTIERREZ JR.
L.S. 7245



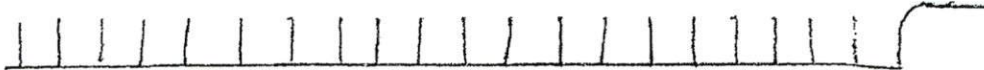


SCALE: 1/8" = 1'-0"

FLOOR PLAN



Parking



720 square foot Conference Room

Computer stations, WiFi, conference table, projector & screen

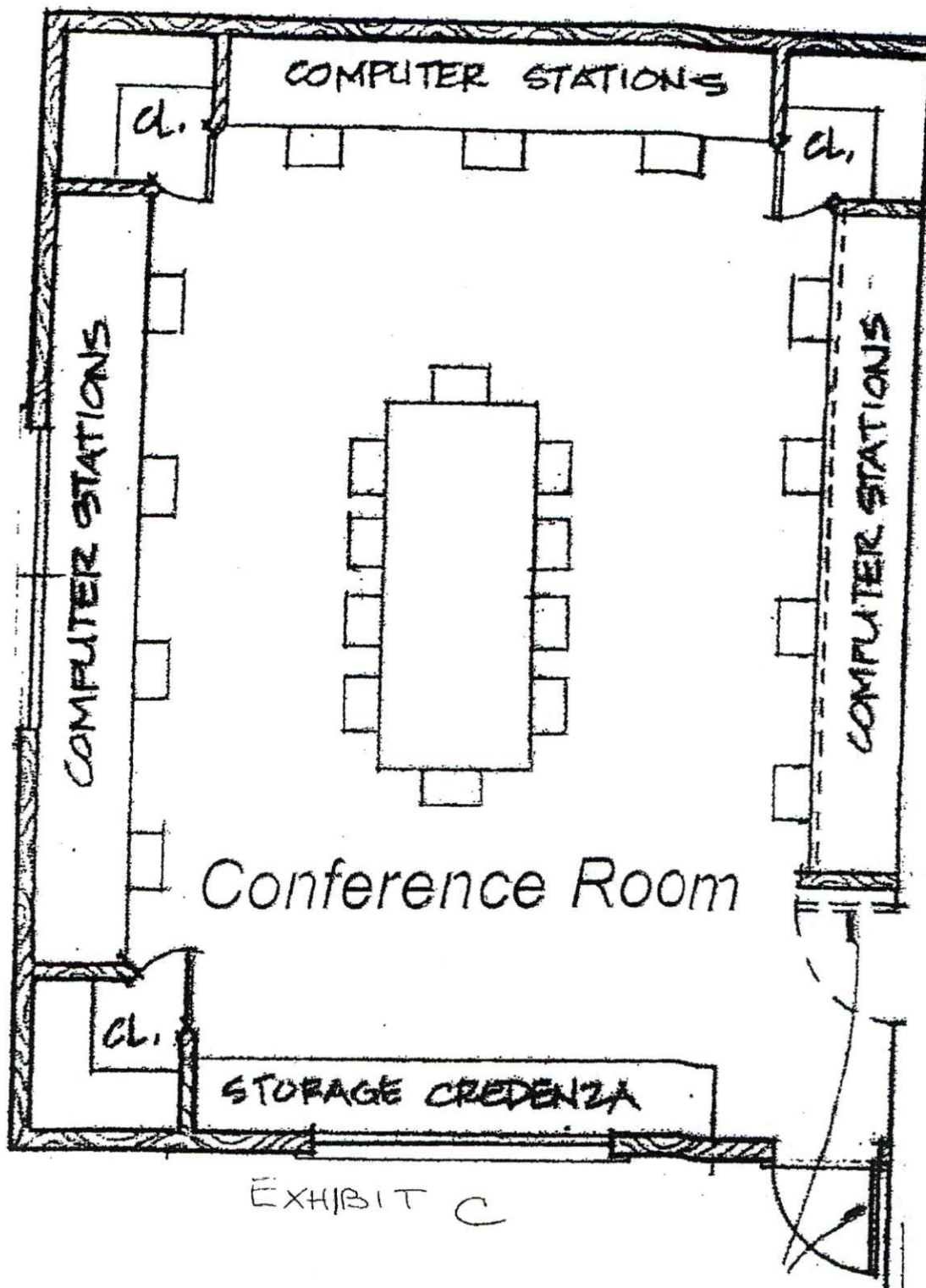


EXHIBIT D

McKINLEYVILLE LIBRARY Schedule for Use of Conference Room

1. The Lessee shall have exclusive use of the Conference Room located in the McKinleyville Library as follows:

Regular Library Hours:

Mondays	No usage		
Tuesdays	12:00 noon	to	5:00 pm
Wednesdays	12:00 noon	to	8:00 pm
Thursdays	10:00 am	to	5:00 pm
Fridays	12:00 noon	to	5:00 pm
Saturdays	10:00 am	to	5:00 pm
Sundays	No usage		

2. Lessor shall have exclusive use during all other times outside of regular library business hours as described in #1 above.
3. Lessor shall be responsible for keeping a schedule in the District Office.
4. Lessee may reserve Conference Room outside of the allotted exclusive use hours as written in #1 above with the following conditions:
 - a. Lessee may not collect fees for use of Conference Room outside of regular business hours. Lessee must gain prior approval from Lessor and agrees to inform Lessor of scheduled or ongoing use so Lessor may include such events on the Conference Room Facility use calendar. However, if Lessor, a Lessor-approved vendor, special event, or recreation program require use of the Conference Room during those times, except times granted to Lessee in #1 above, such use shall have priority over use of the Conference Room. Lessor shall give a minimum of three days notice to Lessee. Furthermore, Lessee agrees to reschedule, move, or make alternative arrangements for any cancellation resulting from such use at no cost to Lessor.
5. Lessor may reserve Conference Room during regular library business hours as written in #1 above with the following conditions:
 - a. Lessor shall give a minimum of three (3) days notice to Lessee
 - b. Lessor's use of Conference Room shall not interfere with Lessee's use of the remainder of the leased premises.
6. Acknowledging that the participants in Lessee's programs are a viable and important part of the community, Lessor shall consider, respect, and adhere to Lessee's scheduled and ongoing use of the Conference Room when scheduling and planning activities for the community. Furthermore, Lessor agrees that all such scheduling of the Conference Room for Lessor's recreation programs shall result in consultation with the McKinleyville Library Branch Manager and District's Parks and Recreation Director.