



# County of Santa Cruz

PROBATION DEPARTMENT

P.O. BOX 1812, SANTA CRUZ, CA 95061-1812

(831) 454-2150 FAX: (831) 454-3035

JOHN P. RHOADS  
CHIEF PROBATION OFFICER

August 6, 1999

Agenda: August 17, 1999

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, California 95060

## **Approve and Authorize Chief Probation Officer to Sign Real Property Lease Agreements for Challenge Grant Day Treatment Program Sites in Santa Cruz and Watsonville**

Dear Board Members:

Included in the County Administrative Officer's FY 1999-2000 supplemental budget report was the acceptance of funds from the State Board of Corrections-Juvenile Crime Enforcement and Accountability Challenge Grant program, which established two day treatment centers for Probation Youth, one center in South County and one in North County. Each center includes school services, Probation supervision, drug and alcohol treatment, vocational services, mental health treatment, and recreational activities.

The Probation Department, in partnership with Children's Mental Health and the County Office of Education, and with assistance from the Department of Public Works, Real Property Division, has successfully located sites in Santa Cruz and in Watsonville for the day treatment centers.

The proposed site in Santa Cruz is located at 207-C McPherson Street, in an industrial area on the west side, near Mission Street. This site encompasses approximately 4,581 square feet of space, and was chosen for its general layout and proximity to public transportation. The County Department of Public Works, Real Property Division, has negotiated a 36-month lease agreement with Wave Crest Development, Inc., for the period October 1, 1999 through September 30, 2002. Monthly base rent is \$5,581, which includes construction of required tenant improvements to provide adequate classroom and office space. Additional costs for the tenant's pro-rata share of property taxes, utilities, insurances, and common area charges are estimated at \$837 per month. Approximate leased square footage for this site is 4,581.

The proposed site in Watsonville is located at 930-962-966 East Lake Avenue, in the back area of the East Lake Village Shopping Center, encompassing three suites. This site was also chosen for its general layout and access to public transportation. The Real Property Division has negotiated a 36-month lease with 6-C's East Lake Village Shopping Center for the period September 15, 1999 through September 14, 2002. Monthly base rent is \$4,942, which also

Board of Supervisors Agenda: August 17, 1999  
Challenge Grant Real Property Lease Agreements – Page 2

includes construction of required tenant improvements to provide adequate classroom and office space. Additional costs for the tenant's share of property taxes, utilities, insurances, and common area charges are estimated at \$415 per month. Approximate leased square footage for the Watsonville site is 4,153.

The City Manager and Chief of Police for the City of Watsonville and the City of Santa Cruz were contacted by the Chief Probation Officer and have approved the site locations in their respective jurisdictions. Both sites are appropriately zoned for general office use.

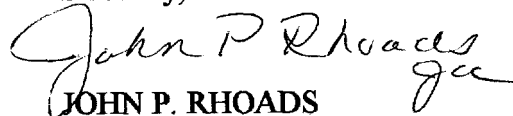
Costs for the leased office space are included in the Challenge Grant funding award, and there is no increase in county cost associated with these lease agreements.

At this writing, the North County lease agreement has been finalized and is available for your Board's review. Agreement on the terms of the South County lease has been finalized, however, the lease agreement document is currently in production and will be submitted to your Board on August 16, 1999.

IT IS THEREFORE RECOMMENDED that your Board:

- 1) Approve the attached ADM 29 Request for Approval of Agreement encumbering \$ 63,343 from funds available in appropriations account 574300-3810, Rents and Leases-Structures, to Wave Crest Development for Probation Challenge Grant office space at 207-C McPherson, Santa Cruz; and authorize the Chief Probation Officer to sign the lease agreement on behalf of the County; and
- 2) Approve the attached ADM 29 Request for Approval of Agreement encumbering \$ 53,155 from funds available in appropriations account 574300-3810, Rents and Leases-Structures, to 6-C's East Lake Village Shopping Center for Probation Challenge Grant office space at 930-962-966 East Lake Avenue, Watsonville; and authorize the Chief Probation Officer to sign the lease agreement on behalf of the County.

Sincerely,

  
JOHN P. RHOADS  
Chief Probation Officer

JPR:FN

RECOMMENDED:

  
SUSAN A. MAURIELLO  
County Administrative Officer

cc: County Administrative Officer  
County Counsel  
Auditor-Controller

Department of Public Works, Real Property Division  
Probation Department

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COUNTY OF SANTA CRUZ  
REQUEST FOR APPROVAL OF AGREEMENT

TO: Board of Supervisors  
County Administrative Officer  
County Counsel  
Auditor-Controller

FROM: Probation (Dept.)

\* John P. Rhoads (Signature) 8/6/99 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the Probation Department, Santa Cruz County (Agency)

c-d. EASTLAKE VILLAGE SHIPPING CENTER, 966 EASTLAKE AVE (Name & Address)

2. The agreement will provide lease agreement for office space at 930-962-966 East Lake Avenue  
Watsonville

3. The agreement is needed for Challenge Grant Program

4. Period of the agreement is from September 15, 1999 to September 14, 2002

5. Anticipated cost is \$ 4,942 base rent; \$415 NNN charges (Fixed amount; Monthly rate; Not to exceed)

6. Remarks: estimated. cost FY 1999-2000 is: 53,155 including base rent, NNN charges, and initial  
rent deposit Agenda 8/17/99

7. Appropriations are budgeted in 574300 Challenge Grant (Index#) 3810 (Subobject)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and 8/10/99 encumbered. Contract No. C091920 Date \_\_\_\_\_  
are not

GARY A. KNUTSON, Auditor - Controller

By Ronald J. Simon Deputy

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the  
Chief Probation Officer to execute the same on behalf of the County of Santa Cruz  
Probation Department (Agency). County Administrative Officer

Remarks: \_\_\_\_\_ (Analyst) By Date 8/10/99

Agreement approved as to form. Date \_\_\_\_\_

Distribution:

Bd. of Supv. - White  
Auditor-Controller - Blue  
County Counsel - Green \*  
Co. Admin. Officer - Canary  
Auditor-Controller - Pink  
Originating Dept. - Goldenrod

\*To Orig. Dept. if rejected.

ADM 29 (6195)

State of California )  
County of Santa Cruz ) ss

I, \_\_\_\_\_ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,  
State of California, do hereby certify that the foregoing request for approval of agreement was approved by  
said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered  
in the minutes of said Board on \_\_\_\_\_

\_\_\_\_\_ 19 \_\_ By \_\_\_\_\_ Deputy Clerk

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COUNTY OF SANTA CRUZ  
REQUEST FOR APPROVAL OF AGREEMENT

TO: Board of Supervisors  
County Administrative Officer  
County Counsel  
Auditor-Controller

FROM: Probation

*John P. Rhoads* (Signature) 8/6/99 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the Probation Department, Santa Cruz County (Agency) and Wavecrest Development, Inc. 530 Chestnut St., Santa Cruz CA 95060 (Name & Address)
2. The agreement will provide lease agreement for office space at 207-C McPherson St, Santa Cruz
3. The agreement is needed for Challenge Grant Program
4. Period of the agreement is from October 1, 1999 to September 30, 2002
5. Anticipated cost is \$ 5,581 base rent; \$837 NNN charges (Fixed amount; Monthly rate; Not to exceed)
6. Remarks: estimated cost FY 1999-2000 is: \$63,343 including base rent, NNN charges, and initial rent deposit *Agenda 8/17/99*
7. Appropriations are budgeted in 574300 Challenge Grant (Index#) 3810 (Subobject)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and have been encumbered.  
are not will be

Contract No. *CO 91919* Date *8/10/99*

GARY A. KNUTSON, Auditor - Controller

By *Paul J. Simon* Deputy

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the Chief Probation Officer to execute the same on behalf of the County of Santa Cruz

Probation Department (Agency).

County Administrative Officer

Remarks: (Analyst)

By *SPM* Date *8/10/99*

Agreement approved as to form. Date

Distribution:

Bd. of Supv. - White  
Auditor-Controller - Blue  
County Counsel - Green \*  
Co. Admin. Officer - Canary  
Auditor-Controller - Pink  
Originating Dept. - Goldenrod

To Orig. Dept. if rejected.

ADM - 29 (6/95)

State of California )  
County of Santa Cruz ) ss

I, \_\_\_\_\_ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing request for approval of agreement was approved by said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered in the minutes of said Board on \_\_\_\_\_

County Administrative Officer  
By \_\_\_\_\_ Deputy Clerk

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**STANDARD LEASE AGREEMENT**  
**(Multi-Tenant Absolute Triple Net)**



**ARTICLE ONE: BASIC TERMS**

This Article One contains the Basic Terms of this Lease between Wave Creat Development, Inc. (Landlord) 530 Chestnut St, Santa Cruz, Ca. 95060 and County of Santa Cruz (Tenant) Administration-Facilities, 701 Ocean Street, Santa Cruz, CA 95060. Other Articles, Sections and Paragraphs of the Lease referred to in this Article One explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

**Section 1.01. Date of Lease: August 6, 1999**

**Section 1.02. Property** The Property is an approximately four thousand six hundred fifty one (4,651) sq. ft., of office space, including 223 sq. Ft. of common area restroom, (Exhibit A), (the "Property"). The "Property" is a portion of Landlord's multi-tenant building consisting of 13,832 +/- square feet, known as 207 McPherson Street, Santa Cruz, California, 95060 (the "Project"). The Project includes the land, the building, common areas, and all other improvements located on the land (Exhibit A-1). Tenant Improvements shall be constructed by Landlord as provided in the Plans and Specifications by David B. Zulim, Inc. and approved by Tenant, Exhibit A.

**Section 1.03. Lease Term** (See Section 2.01): Three (3) years beginning on October 1, 1999 and ending on September 30, 2002. The Commencement Date shall be October 1, 1999 (the "Commencement Date").

**Section 1.04. Option to Extend** (See Section 2.05): One - three (3) year renewal option.

**Section 1.05. Permitted Uses** (See Section 5.01): General Office.

**Section 1.06. Rent and other Charges Payable by Tenant:**

(a) **Base Rent:** The Base Monthly Rent shall be Five Thousand Five Hundred Eighty One and no/100 Dollars (\$5,581.00) per month, for the first three years of the Lease Term, as provided in Section 3.01, and shall be increased on the first day of the option term (37th) month after the Commencement Date as provided in Section 3.02.

(b) **Other Charges:** Tenant shall pay its pro rata share, which is thirty three point six per cent (33.6%), of (i) Real Property Taxes (See Section 4.02); (ii) Utilities (See Section 4.03); (iii) Insurance Premiums (See Section 4.04); (iv) Common Area Charges (See Section 4.05); (v) Reserves (See Section 4.05); and (vi) Maintenance, Repairs and Alterations (See Article Six).

**Section 1.07. Rent Deposit** (See Section 3.03, 3.04). Tenant ☐ shall Pay to Landlord the sum of Five Thousand Five Hundred Eighty One no/100 Dollars (\$5,581.00) upon execution of this Lease to be used as provided in Section 3.03 below.

**ARTICLE TWO: LEASE TERM**

**Section 2.01. Lease of Property For Lease Term.** Landlord leases the Property to Tenant and Tenant leases the Property from Landlord for the Lease Term. The Lease Term is for the period stated in Section 1.03 above. The "Commencement Date" shall be the date specified in Section 1.03 above for the beginning of the Lease Term.

**Section 2.02. Early Occupancy.** Tenant shall be permitted to occupy the Premises prior to the Commencement Date. Such early entry shall be at Tenant's sole risk and subject to all the terms and provisions hereof, except for the payment of Base Monthly Rent or Additional Rent which shall commence on the Commencement Date.

**Section 2.04. Holding Over.** Tenant shall vacate the Property upon the expiration or earlier termination of this Lease. Tenant shall reimburse Landlord for and indemnify Landlord against all damages incurred by Landlord from any delay by Tenant in vacating the Property. If Tenant does not vacate the property upon the expiration or earlier termination of the Lease and Landlord thereafter accepts rent from Tenant, Tenant's occupancy of the Property shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy, except that the Base Rent then in effect shall be increased by eighteen percent (18%).

**Section 2.05. Option to Renew.** Provided Tenant is not in default in the performance of this Lease, Tenant shall have the Option to Renew the Lease for one (1) additional term of three (3) years commencing at the expiration of the initial Lease Term (the "Option Term"). The Option shall be exercised by written notice given to Landlord not less than ninety (90) days, nor more than one hundred eighty (180) days, prior to the expiration of the initial Lease Term.

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If notice ~~is~~ not given in the manner provided herein within the time specified, this Option shall expire.

ARTICLE THREE: BASE RENT

section 3.01. Time and ~~Manner~~ of Payment. Tenant shall pay Landlord the Base Rent in the amount stated in Paragraph 1.06(a) on the first day of the Lease Term and on the first day of each month thereafter, Tenant shall pay Landlord the Base Rent, in advance, without offset, deduction or prior demand. The Base Rent shall be payable at Landlord's address or at ~~such~~ other place as Landlord may designate in writing.

Section 3.02. ~~Cost~~ of Living Increases. The Base Rent shall be increased as of the first (1st) day of the Option Term, thirty seventh (37<sup>th</sup>) month and annually thereafter in accordance with the increase in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers, All Items for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84=100) (the "Index") as follows:

(a) The Base Rent in effect immediately before each Rental Adjustment Date shall be compared with the Index published on the month immediately preceding the last Adjustment Date to determine the percentage increase in the Base Rent, except that with respect to the first Adjustment Date (first day of the ~~thirty-seventh~~ (37<sup>th</sup>) month after the Commencement Date), the Index published on the month immediately preceding the Commencement Date shall be compared with the Index published on the month immediately preceding the first Adjustment Date to determine the initial percentage increase in the Base Rent. The increase in the Base Rent provided for in this Section 3.02 shall not be less than two (2) percent or more than four (4) percent, per annum, compounded annually.

(b) Tenant shall pay the new Base Rent from the applicable Rental Adjustment Date until the next Rental Adjustment date. Landlord's notice may be given after the applicable Rental Adjustment Date of the increase, and Tenant shall pay Landlord the accrued rental adjustment for the months elapsed between the effective date of the increase and Landlord's notice of such increase with the next installment of rent. If the format or components of the Index are materially changed after the Commencement Date, Landlord shall substitute an index which is published by the Bureau of Labor Statistics or similar agency and which is most nearly equivalent to the Index in effect on the Commencement Date. The substitute index shall be used to calculate the increase in the Base Rent unless Tenant objects to such index in writing within fifteen (15) days after receipt of Landlord's notice. If Tenant objects, Landlord and Tenant shall submit the selection of the substitute index for binding arbitration in accordance with the rules and regulations of the American Arbitration Association at its office closest to the Property. The costs of arbitration shall be borne equally by Landlord and Tenant.

Section 3.03. Rent Deposit. Upon the execution of this Lease, Tenant ☐ shall deposit with Landlord a cash Rent Deposit in the amount set forth in Section 1.07 above. Landlord may apply all or part of the Rent Deposit to any unpaid rent or other charges due from Tenant or to cure any other defaults of Tenant after reasonable notice to Tenant and opportunity to cure. If Landlord uses any part of the Rent Deposit, Tenant shall restore the Rent Deposit to its full amount within fourteen (14) days after Landlord's written request. Tenant's failure to do so shall be a material default under this Lease.

Section 3.04. Termination; Advance Payments. Upon termination of this Lease under Article Seven (Damage or Destruction) any other termination not resulting from Tenant's default, and after Tenant has vacated the property in the manner required by this Lease, an equitable adjustment shall be made concerning advance rent made by Tenant to Landlord.

ARTICLE FOUR: OTHER CHARGES PAYABLE BY TENANT

Section 4.01. Additional Rent. All charges payable by Tenant other than Base Rent are called "Additional Rent". Tenant's leased Property is part of a larger building, and Tenant shall pay to Landlord, its pro rata share, which is thirty three point six percent (33.6%), of costs for Property Taxee, Insurance Premiums, Common Area Utilities, Common Area Charges, Maintenance, Repaire, Alterations, and Reserves. Within ten (10) days after the end of each calendar year of the Lease Term, Landlord shall deliver to Tenant a statement setting forth, in reasonable detail, the actual costs paid or incurred by Landlord during the preceding calendar year and Tenant's pro rata share of those costs. Upon receipt of such statement, there shall be an adjustment between Landlord and Tenant, with payment to or credit given by Landlord (as the case may be) so that Landlord shall receive the entire amount of Tenant's share of such costs and expenses for such period and a new budget for the then current calendar year shall be provided to Tenant which shall set forth Tenant's new pro rata monthly amount due. Tenant shall pay all Additional Rent monthly in advance with the monthly installment of Base Rent. The term "rent" shall mean Base Rent and Additional Rent.

Section 4.02. Real Property Taxes.

(a) **Payment of Taxes.** Tenant shall pay to Landlord, as Additional Rent, all real property taxes on the Property during the Lease Term subject to Paragraph 4.01 above.

(b) Definition of "Real Property Tax." "Real property tax" means: (i) any fee, license fee, license tax, business license fee, commercial rental tax, Levy, charge, assessment, penalty or tax imposed by any taxing authority against the Property or land upon which the Property is located; (ii) any tax on the Landlord's right to receive, or the receipt of, rent or income from the Property or against Landlord's business of leasing the Property; (iii) any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Property by any governmental agency; (iv) any tax imposed upon this transaction or based upon a re-assessment of the Property due to a change in ownership or transfer of all or part of Landlord's interest in the Property; and (v) any charge or fee replacing any tax previously included within the definition of real property tax. "Real property tax" does not include Landlord's federal or state income, franchise, inheritance or estate taxes.

(c) **Personal Property Taxes.**

(i) Tenant shall pay all taxes charged against trade fixtures, furnishings, equipment or any other personal property belonging to Tenant. Tenant shall petition the taxing authority to have personal property taxed separately from the Property.

(ii) If any of Tenant's personal-property is taxed with the Property, Tenant shall pay Landlord the taxee for the personal property at least ten (10) days prior to the delinquency date of the Taxes.

**Section 4.03. Utilities.** Tenant shall pay, directly to the appropriate supplier, the cost of all natural gas, heat, light, power, newer service, telephone, water, refuse disposal and other utilities and services supplied to the Property. However, if any services or utilities are jointly metered with other property, Landlord shall make a reasonable determination of Tenant's proportionate share of the cost of such utilities and services and Tenant shall pay such share to Landlord with the next installment of Base Rent as provided in Section 4.01 above.

**Section 4.04. Insurance Policies.**

(a) **Liability Insurance.** During the Lease Term, Landlord shall maintain a policy of comprehensive public liability insurance at Tenant's expense, insuring Landlord against liability arising out of the ownership, use, occupancy or maintenance of the Property. The initial amount of such insurance shall be at least \$1,000,000.00 and shall be subject to periodic increase based upon inflation, increased liability awards, recommendation of professional insurance advisers, and other relevant factors. However, the amount of such insurance shall not limit Tenant's liability nor relieve Tenant of any obligation hereunder. The policy shall contain cross-liability endorsements, if applicable, and shall ensure Tenant's performance of the indemnity provisions of Section 5.05. Tenant shall, at Tenant's expense, maintain such other liability insurance as Tenant deems necessary to protect Tenant.

(b) **Hazard and Rental Income Insurance.** During the Lease Term, Landlord shall maintain policies of insurance at Tenant's expense covering loss of or damage to the Property in the full amount of its replacement value. Such policies shall provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risk), sprinkler leakage, earthquake, sprinkler leakage, and Inflation Guard endorsement, and any other perils (except flood and earthquake, unless required by any lender holding a security interest in the Property) which Landlord deems necessary. During the Lease Term, Landlord shall also maintain a rental income insurance policy at Tenant's expense, with loss payable to Landlord in an amount equal to one year's Base Rent, estimated real property taxes and insurance premiums. Tenant ☐ shall not do or permit to be done anything which invalidates any such insurance policies.

(c) **Payment of Premiums; Insurance Policies.** Subject to Section 4.06 Tenant shall pay, as Additional Rent, all premiums for the insurance policies covering the Property described in Paragraphs 4.04 (a) and (b). All insurance shall be maintained with companies holding a "General Policyholder's Rating" of not less than "A" and a financial rating of not less than Class "X" in the most current edition of Best's Insurance Reports. Tenant shall be liable for the payment of any deductible amount under Landlord's insurance policies.

(d) **Tenant's Insurance.** Landlord acknowledges that Tenant is a permissibly Self-Insured Public Entity as per Sections 990 and 990.4 of the Government Code with respect to liability insurance.

(e) **Waiver of Subrogation.** Unless prohibited under any applicable insurance policies maintained, Landlord and Tenant each hereby waive any and all

rights of recovery **against** the other, or against the officers, employees, agents or **representatives** of the other, for **loss** of or damage to **its** property or the property of **others** under **its** control, if such **loss** of damage is covered by any insurance policy in force (whether or not described in **this Lease**) at the time of such loss or damage. Upon obtaining the required policies of insurance, Landlord and Tenant **shall** give notice to the **insurance carriers** of this mutual waiver of subrogation.

Section 4.05. Common Area Charges. Common areas shall mean all areas within the Project which are available for the common use of all **tenants**, including but **not** limited to parking areas, driveways, walkways, hallways, lobby, and restrooms. Tenant **shall** have the nonexclusive right to **use the Common Areas** for the purposes intended, subject to such reasonable rules and regulations **as** Landlord may establish from time to time. Landlord shall establish a Reserve Fund (Reserves) for the major replacement of the parking area, exterior painting, HVAC, roof, and other such Common Area items that may or may not require replacement over the Tenant's Lease Term. Landlord shall maintain the Common Areas in good order, condition and repair and shall operate the Project, in Landlord's sole discretion, as an office building. Tenant shall pay, as Additional Rent, for its pro rata share of the Common Area **Charges**.

Section 4.06. Multiple Tenant Buildings; Rules and Regulations. Tenant **shall** also comply with Landlord's rules and regulations **respecting** the management, care and safety of the common **areas** of such buildings and **grounds**, including parking areas, landscaped areas, walkways, hallways, lobby, restrooms and other **facilities** provided for the common **use** and convenience of other occupants. Notice of such rules and regulations will be posted or given to Tenant, Exhibit "B". Tenant shall pay for any increase in the property insurance premiums for such buildings caused by Tenant's acts, omissions, **use** or occupancy of the Property.

Section 4.07. Late Charges. Tenant's failure to pay rent promptly may **cause** Landlord to incur unanticipated costs. The exact amount of such **costs** are impractical or extremely difficult to ascertain. Such costs **may** include, but are not limited to, processing and accounting charges and late charges which **may** be imposed on Landlord by any mortgage or trust deed encumbering the Property. Therefore, if Landlord does not receive any rent payment within ten (10) days after it becomes due, Tenant **shall** pay Landlord a late charge equal to ten percent (10%) of the overdue amount. The parties agree that **such** late charge represents a fair and **reasonable estimate** of the **costs** Landlord will incur by **reason** of such late payment. Late charges **shall** not be **assessed** with respect to the **first two months** rent **payments** provided Tenant exercise reasonable diligence to set up payments on its accounts payable **system**.

Section 4.08. Interest on Past Due Obligations. Any amount owed by Tenant to Landlord which is not paid when due shall bear interest at the rate of fifteen percent (15%) per annum from the due date of such amount. However, interest shall **not be** payable on late charges to be paid by Tenant under this Lease. The payment of interest on such amounts shall not **excuse** or cure any default by Tenant under this Lease. If the interest rate specified in this Lease is higher than the rate permitted by law, the interest rate is hereby **decreased** to the maximum legal interest rate permitted by law.

#### ARTICLE FIVE: USE OF PROPERTY

Section 5.01. Permitted Uses. Tenant may use the Property only for the Permitted **Uses** set forth in Section 1.05 above.

Section 5.02. Manner of Use. Tenant shall **not cause** or permit the Property to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation or order, which annoys or interferes with the rights of tenants of the development of **which** the Property is part, or which constitutes a nuisance or waste. Tenant shall promptly take all substantial and non-substantial actions necessary to comply with all applicable statutes, **ordinances**, rules, regulations, orders and requirements regulating the **use** by Tenant of the property, including the Occupational Safety and Health Act.

Section 5.03. Signs. Tenant **shall not** place any **signs** on the Property, nor replace any existing **signs** without Landlord's prior written consent. Landlord shall provide a building directory designating Tenant's location.

Section 5.04. Hazardous Materials. **As** used herein, the term "Hazardous Material" shall mean any substance or material which has been determined by any federal, state or local governmental authority to be capable of posing a risk of injury to health, safety or property. Without limiting the generality of the foregoing, the term "Hazardous Material" shall include all of those **materials** and substances defined **as** "Toxic Materials" in **Sections** 66680 through 66685 of Title 22 of the California Code of **Regulations**, Division 4, Chapter 30, **as** the **same** shall be amended from time to time, or any other materials requiring remediation under federal, state or local statute, ordinance, regulations or policies.

Tenant agrees to **use**, store and **dispose** of any "Hazardous Material" only in compliance with all governmental regulations. In particular, Tenant agrees not to keep any corrosive materials on the Property **or** **as** not to **cause** corrosion to Landlord's building.



Tenant shall promptly make all reports regarding the presence of **Hazardous Materials** required under law to be made and shall provide to Landlord copies of any and all reports required by such authorities. Tenant shall, immediately upon its knowledge thereof, notify Landlord of any inquiry, test, investigation, or enforcement proceeding against Landlord or the Property concerning a **Hazardous Material** on, on or adjacent to the **Property**. Tenant acknowledges that Landlord, as the owner of the Property, shall have the right, at Landlord's election, in its own name, to negotiate, defend, approve and appeal any action taken or order issued by an applicable governmental authority with regard to a **Hazardous Material** brought upon the Property by Tenant or during the tenancy of Tenant.

If Tenant's storage, use or disposal of any **Hazardous Material** in, on or adjacent to the Property results in any **contamination** of the Property, the soil or surface or ground water, requiring remediation under federal, state or local statutes, ordinances, regulations or policies, Tenant agrees to clean-up the contamination. Tenant further agrees to indemnify, defend and hold Landlord harmless from and against any claims, suits, causes of action, costs, fees, including attorney's fees and costs, arising out of or in connection with any clean-up work, inquiry or enforcement proceeding in connection therewith, and any **Hazardous Materials** currently or hereafter used, stored or disposed of by Tenant or its agents, employees, contractors or invitees on or about the Property. The obligation to indemnify set forth herein shall survive termination of this Lease.

Tenant shall surrender Property to Landlord upon the expiration or earlier termination of the Lease free of **Hazardous Materials** brought upon the Property by Tenant or its agents, employees, contractors or invitees and any contamination caused thereby, however, Tenant shall not be responsible for correcting any **Hazardous Materials** not caused by Tenant or its agents, employees, contractors or invitees. Landlord agrees to indemnify and hold Tenant harmless for **Hazardous Material** contamination of the Property prior to Tenant's occupancy.

Section 5.05. Indemnity. Tenant shall indemnify Landlord against and hold Landlord harmless from any and all costs, claims or liability arising from: (a) Tenant's use of the Property; (b) the conduct of Tenant's business or anything else done or permitted by Tenant to be done in or about the Property, including any contamination of the Property or any other property resulting from the presence or use of **Hazardous Material** caused or permitted by Tenant; (c) any breach or default in the performance of Tenant's obligations under this Lease; (d) any misrepresentation or breach of warranty by Tenant under this Lease; or (e) other acts or omissions of Tenant. Tenant shall defend Landlord against any such cost, claim or liability at Tenant's expense. As a material part of the consideration to Landlord, Tenant hereby assumes all risk of damage to property or injury to persons in or about the Property arising from any cause. Landlord shall indemnify Tenant against and hold Tenant harmless from any and all costs, claims or liability arising from: (a) any breach or default in the performance of Landlord's obligations under this Lease; (b) any misrepresentation or breach of warranty by Landlord under this Lease; or (c) any other acts or omissions of Landlord. Landlord shall defend Tenant against any such cost, claim or liability at Landlord's expense. As used in this Section, the term "Tenant or Landlord" shall include Tenant's or Landlord's employees, agents, contractors and invitees, if applicable.

Section 5.06. Landlord's Access. Landlord or its agent may enter the Property at all reasonable times. Landlord shall give Tenant prior notice of such entry, except in the case of an emergency.

Section 5.07. Quiet Possession. If Tenant pays the rent and complies with all other terms of this Lease, Tenant may occupy and enjoy the Property for the full Lease Term, subject to the provisions of this Lease.

#### ARTICLE SIX: CONDITION OF PROPERTY; MAINTENANCE, REPAIRS AND ALTERATIONS

Section 6.01. Condition of Property. Prior to the Commencement Date, upon three (3) working days' notice from Landlord, Tenant shall conduct a walk-through inspection of the Property with Landlord and complete a punch-list of items needing additional work by Landlord. Other than the items specified in the punch-list, by taking possession of the Property, Tenant shall be deemed to have accepted the Property in good, clean and completed condition and repair, subject to all recorded matters, laws, ordinances, and governmental regulations and orders. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Property or the continued suitability of the Property for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Property and is not relying on any representation of Landlord or Landlord's Agents. Tenant shall maintain the Property in good order and condition.

Section 6.02. Exemption of Landlord from Liability. Landlord shall not be liable for any damage or injury to the person, business (or any loss of income therefrom), goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers or any other person in or about the Property, whether such damage or injury is caused by or results from (a) fire, electricity, water, gas or rain; (b) the breakage, leakage, obstruction or other defects of

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pipes, wires, appliances, plumbing, or lighting fixtures or any other ~~cause~~; (c) conditions arising ~~in or about the~~ Property or upon other portions of any building of which the Property is a part, or from other ~~sources or places~~; or (d) any act or ~~omission~~ of any other tenant of any building of which the Property ~~is~~ a part. Landlord shall ~~not~~ be liable for any such damage or injury even though the cause of or the means of repairing such damage or injury are ~~not~~ accessible to Tenant. The provisions of this Section 6.02 shall ~~not, however,~~ exempt Landlord from liability for Landlord's ~~negligence or~~ willful misconduct.

Section 6.03. Landlord's Obligations.

(a) Except as provided in Article Seven (Damage or Destruction), Landlord shall keep the following in good order, condition and repair: the foundations, exterior walls and roof of ~~the~~ Property and all components of electrical, mechanical, plumbing, and facilities located in the Property ~~which~~ are concealed or used in common by tenants of the Project. However, Landlord shall ~~not be~~ obligated to maintain or repair windows, doors, plate glass or the interior surface of exterior walls. Landlord shall ~~make~~ repairs under this Section 6.03 within a reasonable time after receipt of written ~~notice~~ from Tenant of the need for ~~such repairs~~.

(b) Tenant shall pay ~~or~~ reimburse Landlord for all costs Landlord ~~incurs~~ under Paragraph 6.03(a) above ~~as~~ Common Area costs as provided for in Section 4.05 of the Lease.

Section 6.04. Tenant's Obligations.

(a) Except as provided in Section 6.03, Article ~~Seven~~ (Damage or Destruction) and Article Eight (~~Condemnation~~), Tenant shall keep the all portions of ~~the~~ Property (including all structural, ~~non~~ structural, interior, exterior, ~~systems,~~ and equipment) in good order, condition and repair (including ~~interior~~ repainting and refinishing, as needed), during the Lease Term. It is the intention of Landlord and Tenant that, at all times during the Lease Term, Tenant shall maintain the Property in an attractive, first-class and fully operative condition.

(b) Tenant ~~shall~~ fulfill all of Tenant's obligations under this Section 6.04 at ~~Tenant's sole~~ expense. If Tenant fails to maintain, repair or replace ~~the~~ Property as required by this Section 6.04, Landlord ~~may, on ten (10) days'~~ prior notice (except ~~that no~~ notice shall be required in case of emergency) enter the Property and perform ~~such~~ repair and maintenance on behalf of Tenant. In such ~~case,~~ Tenant shall reimburse Landlord for all ~~costs so incurred~~ immediately upon demand.

Section 6.05. Alterations, Additions, and Improvements.

(a) Tenant ~~shall~~ not make any alterations, additions, or improvements to the Property without Landlord's prior written ~~consent~~, except for non-structural alterations which do not exceed Twenty five Thousand Dollars (\$25,000.00) in cost cumulatively over the Lease Term and which are ~~not visible~~ from the ~~outside~~ of any building of ~~which the~~ Property ~~is~~ part. Landlord ~~may~~ require Tenant to provide demolition and/or lien and completion ~~bonds~~ in form and amount satisfactory to Landlord. Tenant shall promptly ~~remove~~ any alterations, additions, and improvements constructed in violation of this Section 6.05(a) upon Landlord's written request. All alterations, additions and improvements ~~will~~ be accomplished in a good and workmanlike ~~manner, in conformity with all applicable~~ laws and regulations, and by a contractor approved by Landlord. Upon completion of any ~~such~~ work, Tenant shall provide Landlord with "~~as~~ built" plans, copies of all ~~construction contracts,~~ and proof of payment for all labor and materials.

(b) Tenant shall pay ~~when~~ due all claims for labor and material furnished to the Property. Tenant shall give Landlord at least twenty (20) days' prior written notice of the commencement of any work on the Property, regardless of whether ~~Landlord's~~ consent to ~~such~~ work ~~is~~ required. Landlord ~~may~~ elect to record and post ~~notices~~ of non-responsibility on the Property.

Section 6.06. Condition upon Termination. Upon the termination of the Lease, Tenant shall surrender the Property to Landlord, broom clean, and in the ~~same~~ condition as received except for ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. In addition, Landlord may require Tenant to ~~remove~~ any alterations, additions or ~~improvements~~ (whether or not made with Landlord's consent) prior to the termination of the Lease and to restore the Property to its prior condition, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to ~~remove~~ shall become Landlord's property and shall be surrendered to Landlord upon the termination of the Lease, except that ~~Tenant may~~ remove any of Tenant's equipment which can ~~be removed~~ without material damage to the Property. Tenant shall repair, at Tenant's expense, any damage to the Property caused by the removal of any ~~such~~ equipment. In no event, however, ☐ shall Tenant ~~remove~~ any of the following ~~materials~~ or equipment without Landlord's prior written consent: any power wiring or power ~~panels~~; lighting or lighting fixtures; window ~~coverings~~; carpets or other floor coverings/ heaters; ~~air conditioners~~ or any heating or air conditioning equipment; fencing or security ~~gate~~; or other similar building operating equipment.

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ARTICLE SEVEN: **DAMAGE OR DESTRUCTION**

Section 7.01. **Partial Damage to Property.**

(a) Tenant shall **notify** Landlord **in** writing immediately upon the occurrence of any damage to **the** Property. If **the** Property **is** only partially damaged (i.e., less than fifty percent (50%) of the Property is untenable as a result of such damage or less than fifty percent (50%) of Tenant's operations are materially impaired) and if there is sufficient insurance to repair the damage this Lease shall **remain** in effect and Landlord shall repair the damage as **soon** as reasonably possible.

(b) If the insurance proceeds received **by** Landlord are **not sufficient** to pay the entire cost **of** repair, or if **the** damage was **due to a cause not covered** by insurance **this** Lease shall terminate as of the date the damage occurred. Landlord shall notify Tenant within thirty (30) days after receipt of notice **of** the occurrence of the damage, whether the Landlord's **insurance** will **repair** the damage **OK** whether the Lease shall terminate. **In** such event Landlord shall not be obligated to repair or restore the Property and Tenant shall have no right to continue this Lease.

(c) If the damage to the Property occurs during the last **six (6) months of** the Lease **Term** and **such** damage will require more than thirty (30) days to **repair**, either Landlord or Tenant may elect to terminate this Lease as of the date the damage occurred, regardless of the sufficiency of any insurance proceeds. The party electing to terminate this Lease shall **give** written notification to **the** other party of **such** election **within** thirty (30) days after Tenant's **notice** to Landlord of the occurrence of the damage.

Section 7.02. **Total or Substantial Destruction.** **If the Property is** totally or substantially destroyed by any cause whatsoever, this Lease shall terminate as of the date the destruction occurred regardless of whether Owner receives **any** insurance proceeds. If the destruction was caused **by an act or omission** of Tenant, Tenant shall pay Landlord **the** difference between the actual cost of **rebuilding** and any insurance proceeds received by Landlord.

Section 7.03. **Temporary Reduction of Rent.** If the Property is partially damaged and Landlord's **insurance** will **repair** or restore the Property pursuant to **the** provision **6** of **this Article** Seven, any rent payable during the period of such damage, repair and/or restoration shall be reduced according to the **degree**, if any, to which Tenant's **use** of the Property is impaired, provided that Landlord **receives** such relief from Landlord's insurance. **However, the** reduction shall not exceed the sum of **six month's** payment of Base Rent. Except for such **possible** reduction in Base Rent, Tenant shall not be entitled to any compensation, reduction, **OK** reimbursement from Landlord or Landlord as a **result** of any damage, destruction, repair, or restoration of or to the Property.

Section 7.04. **Waiver.** Tenant agrees that the provisions of Section 7.02 above shall govern the rights and **obligations** of Landlord and Tenant **in** the event of **any** substantial or total destruction to the Property.

ARTICLE EIGHT: **ASSIGNMENT AND SUBLETTING**

Section 8.01. Landlord's Consent Required. No portion of **the** Property **OK** of Tenant's interest in this Lease **may** be acquired by any other person or entity, whether by sale, **assignment**, **mortgage**, sublease, **transfer**, operation of law, or act of Tenant, without Landlord's prior written consent which shall **not** be unreasonably withheld, except **as** provided **in** 8.02 below. Any attempted transfer without **consent** shall be void and constitute a non-curable breach of **this** Lease. If Tenant **is** a partnership, any cumulative transfer of more than twenty percent (20%) of the partnership **interests** shall require Landlord's consent. If Tenant is a **corporation**, any **change in ownership** of a controlling interest of the **voting stock** of the corporation shall require Landlord's **consent**.

Section 8.02. Tenant Affiliate. Tenant may assign this Lease **or** sublease **the** Property, without Landlord's consent, to any corporation which **is** controlled by or **is** under common control with Tenant, **OK** to **any** corporation resulting from **the** merger of **OK** consolidation with Tenant ("Tenant Affiliate"). **In** such case, any Tenant's Affiliate shall assume in writing all of **Tenant's** obligations under **this** Lease.

Section 8.03. **No Release of Tenant.** No transfer permitted by this Article Eight, whether with **OK** without Landlord's consent, shall release Tenant **OK** change **Tenant's** primary liability to pay the rent and to perform all other obligations of Tenant under **this** Lease. Landlord's acceptance of rent from any other person is **not** a waiver of any provision of this Article **Eight**. Consent to one transfer **is** not a **consent** to any subsequent transfer. If Tenant's transferee **defaults** under this Lease, Landlord **may** proceed directly **against** Tenant **without** pursuing remedies against the transferee. Landlord **may** consent to subsequent assignments **OK** modifications of this Lease by Tenant's transferee, without notifying Tenant or **obtaining** its **consent**. Such action shall not **relieve** Tenant's liability under this Lease.

**Section 6.04. No Merger.** No merger shall result from Tenant's sublease of the Property under this Article Eight, Tenant's surrender of this Lease or the termination of this Lease in any other manner. In any such event, Landlord may terminate any or all subtenancies or succeed to the interest of Tenant or sublandlord thereunder.

ARTICLE NINE: DEFAULTS; REMEDIES

**Section 9.01. Covenants and Conditions.** Tenant's performance of each of Tenant's obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Property is conditioned upon such performance. Time is of the essence in the performance of all covenants and conditions.

**Section 9.02. Defaults.** Tenant shall be in material default under this Lease:

(a) If Tenant abandons the Property or if Tenant's vacation of the Property results in the cancellation of any insurance described in Section 4.04;

(b) If Tenant fails to pay rent or any other charge when due;

(c) If Tenant fails to perform any of the Tenant's non-monetary obligations under this Lease for a period of thirty (30) days after written notice from Landlord; provided that if more than thirty (30) days are required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30) day period and thereafter diligently pursues its completion. However, Landlord shall not be required to give such notice if Tenant's failure to perform constitutes a non-curable breach of this Lease. The notice required by this Section is intended to satisfy any and all notice requirements imposed by law or Landlord and is not in addition to any such requirement.

(d) If substantially all of Tenant's assets located at the Property or if Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days. If a court of competent jurisdiction determines that any of the acts described in this subparagraph (d) is not a default under this Lease, and a trustee is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord shall receive, as Additional Rent, the difference between the rent (or any other consideration) paid in connection with such assignment or sublease and the rent payable by Tenant hereunder.

(e) If any guarantor of the Lease revokes or otherwise terminates, or purports to revoke or otherwise terminate, any guaranty of all or any portion of Tenant's obligations under the Lease. Unless otherwise expressly provided, no guaranty of the Lease is revocable.

**Section 9.03. Remedies.** On the occurrence of any material default by Tenant subject to any notice and opportunity to cure provided in Section 9.02 above, Landlord may, at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have:

(a) Terminate Tenant's right to possession of the Property by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Property to Landlord. In such event, Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including (i) the worth at the time of the award of the unpaid Base Rent, Additional Rent and other charges which Landlord had earned at the time of the termination; (ii) the worth at the time of the award of the amount by which the unpaid Base Rent, Additional Rent and other charges which Landlord would have earned after termination until the time of the award exceeds the amount of such rental loss that Tenant proves Landlord could have reasonably avoided; (iii) the worth at the time of the award of the amount by which the unpaid Base Rent, Additional Rent and other charges which Tenant would have paid for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Tenant proves Landlord could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by Landlord in maintaining or preserving the Property after such default, the cost of recovering possession of the Property, expenses of reletting, including necessary renovation or alteration of the Property, and any real estate commission paid or payable. As used in subparts (i) and (FL) above, the "worth at the time of the award" is computed by allowing interest on unpaid amounts at the rate of fifteen percent (15%) per annum, or such lesser amount as may then be the maximum lawful rate. As used in subpart (iii) above, the "worth at the time of the award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1%. If Tenant shall have abandoned the Property, Landlord shall have the option of (i) retaking possession of the

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Property and recovering from Tenant the amount specified in this Paragraph 9.03(a), or (ii) proceeding under Paragraph 9.03(b);

(b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the property. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder!

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Property is located.

Section 9.04. Automatic Termination. Notwithstanding any other terms or provision hereof to the contrary, the Lease shall terminate on the occurrence of any act which affirms the Landlord's intention to terminate the Lease as provided in Section 9.03 hereof, including the filing of an unlawful detainer action against Tenant. On such termination, Landlord's damages for default shall include all costs and fees; the obtaining of relief from any stay in bankruptcy restraining any action to evict Tenant; or the pursuing of any action with respect to Landlord's right to possession of the Property. All such damages ☐ offered (apart from Base Rent and other rent payable hereunder) shall constitute pecuniary damages which must be reimbursed to Landlord prior to assumption of the Lease by Tenant or any successor to Tenant in any bankruptcy or other proceeding.

Section 9.05. Cumulative Remedies. Landlord's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

#### ARTICLE TEN: PROTECTION OF LENDERS

Section 10.1. Subordination. Landlord shall have the right to subordinate this Lease to any deed of trust encumbering the Property, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Tenant shall cooperate with Landlord and any lender which is acquiring a security interest in the Property or the Lease. Tenant shall execute such further documents and assurances as such lender may require, provided that Tenant's obligations under this Lease shall not be increased in any material way (the performance of ministerial acts shall not be deemed material), and Tenant shall not be deprived of its rights under this Lease. Tenant's right to quiet possession of the Property during the Lease Term shall not be disturbed if Tenant pays the rent and performs all of the Tenant's obligations under this Lease and is not otherwise in default. If any beneficiary elects to have this Lease prior to the lien of its deed of trust and gives written notice thereof to Tenant, this Lease shall be deemed prior to such deed of trust whether this Lease is dated prior or subsequent to the date of said deed of trust or the date of recording thereof.

Section 10.2. Attornment. If Landlord's interest in the Property is acquired by any beneficiary under a deed of trust or purchaser at a foreclosure ☐ Tenant shall attorn to the transferee of or successor to Landlord's interest in the Property and recognize such transferee or successor as Landlord under this Lease.

Section 10.3. Signing of Documents. Tenant shall ☐ sign and deliver any instrument or documents necessary or appropriate to evidence any such attornment or subordination or agreement to do so.

#### Section 10.4. Estoppel Certificates.

(a) Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) the last date of payment of the Base Rent and other charges and the time period covered by such payment; (iv) that Landlord is not in default under this Lease (or, if Landlord is claimed to be in default, stating why); and (v) such other representations or information with respect to Tenant or the Lease as Landlord may reasonably request or which any prospective purchaser or encumbrancer of the Property may require. Tenant shall deliver such statement to Landlord within ten (10) days after Landlord's request. Landlord may give any such statement by Tenant to any prospective purchaser or encumbrancer of the Property. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

(b) If Tenant does not deliver such statement to Landlord within such ten (10) day period, Landlord, and any prospective purchaser or encumbrancer, may conclusively presume and rely upon the following facts: (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (ii) that this Lease has not been canceled or terminated except as otherwise represented by Landlord; (iii) that not more than one month's Base Rent or other charges have been paid in advance; and (iv) that Landlord is not in default under the Lease. In such event, Tenant shall be estopped from denying the truth of such facts.

Initials:  JPR

ARTICLE ELEVEN: **LEGAL COSTS**

Section 11.01. Legal Proceedings. Tenant shall indemnify Landlord against and hold Landlord ~~harmless~~ from all **costs**, expenses, demands and liability incurred by Landlord if Landlord becomes or ~~is~~ made a party to any **claim** or **action** (a) instituted by Tenant other than against the Landlord, or by any third party ~~against~~ Tenant, or by or against any person holding any **interest** under or using the Property by **license** of or agreement with Tenant) (b) for foreclosure of any lien for labor or **material** furnished to or for Tenant or such other person; (c) ~~otherwise~~ arising out of or **resulting** from any act or **transaction** of Tenant or ~~such~~ other **person**; or (d) necessary to protect Landlord's interest under **this** Lease in a bankruptcy proceeding, or other proceeding under Title 11 of the **United States Code**, ~~as~~ amended. Tenant **shall** defend Landlord ~~against~~ any such claim or action at Tenant's **expense** with counsel reasonably acceptable to Landlord or, at Landlord's election, Tenant shall reimburse Landlord for any legal fees or **costs** incurred by Landlord in any such claim or action.

ARTICLE TWELVE: **MISCELLANEOUS PROVISIONS**

Section 12.01. Non-Discrimination. Tenant **promises**, and it ~~is~~ a condition to the continuance of this Lease, that there will be no **discrimination** against, or segregation of, any person or group of persons on the **basis** of race, color, **sex**, creed, national **origin** or ancestry in the leasing, **subleasing**, transferring, occupancy, tenure or **use** of the Property or any portion thereof.

## Section 12.02. Landlord's Liability; Certain Duties.

(a) As **used** in **this** Lease, the term "Landlord" **means** only the current owner or owners of the fee title to the Property or Project at the **time** in **question**. Each Landlord **is obligated** to perform the **obligations** of Landlord under **this** Lease only during the time such Landlord **owns** ☐ such interest or title. Any Landlord who **transfers** its title or interest **is** relieved of all liability with respect to the obligations of Landlord under this Lease to be performed on or after the **date** of transfer. However, each Landlord shall deliver to **its** transferee all funds that Tenant previously **paid** if ☐ such funds have not yet been applied under the **terms** of the Lease.

(b) Tenant shall **give** written **notice** of any failure by Landlord to perform any of **its** obligation under this Lease to Landlord and to any beneficiary under any deed of trust encumbering the Property ~~whose~~ name and address have been **furnished** to Tenant in writing. Landlord **shall** not be in default under **this** Lease unless Landlord (or such beneficiary) **fails** to cure ☐ such non-performance within thirty (30) **days** after receipt of Tenant's notice. However, **if** such non-performance ~~reasonably~~ **requires** more than thirty (30) days to cure, Landlord shall not be in default if such **cure** ~~is~~ commenced **within** such thirty (30) day period and thereafter diligently pursued to completion.

(c) **Notwithstanding** any term or **provision** herein to the contrary, the **liability** of Landlord for the performance of **its** duties and obligation under **this** Lease is **limited** to Landlord's **interest** in the Property and the Project, and **neither** the Landlord nor its partners, shareholders, officers or other principals shall have any personal **liability** under **this** Lease.

Section 12.03. Severability. A **determination** by a court of competent **jurisdiction** that any **provision** of **this** Lease or any part thereof **is** illegal or unenforceable **shall** not cancel or invalidate the remainder of **such** **provision** or **this** Lease, **which** shall **remain** in full force and effect.

Section 12.04. Interpretation. The captions of the **Articles** or Sections of this Lease are to **assist** the parties in reading this Lease and are not a part of the terms or **provisions** of this Lease. Whenever required by the context of **this** Lease, the **singular** shall include the plural and the plural shall include the **singular**. The masculine, feminine and neuter genders shall each **include** the other. In any **provision** relating to the conduct, acts or **omissions** of Tenant, the term "Tenant" shall include Tenant's agents, employee, **contractors**, **invitees**, **successors** or others **using** the Property with Tenant's **expressed** or implied **permission**.

Section 12.05. Notices. All **notices** required or permitted under **this** Lease shall be in **writing** and shall ~~be~~ personally delivered or **sent** by certified **mail**, return receipt requested, postage **prepaid**. Notices to Tenant shall be delivered to the address **specified** in **Article** One, **above**, except that upon Tenant's taking **possession** of the Property, the Property shall be Tenant's address for notice **purposes**. Notices to Landlord shall **be** delivered to the address **specified** in **Article** One, **above**. All **notices** shall **be** **effective** upon delivery or attempted delivery in accordance with this Section **12.06**. Either party may change its notice **address** upon written notice to the other party.

Section 12.06. Waivers. All waiver must be in writing and signed by the waiving party. Landlord's failure to enforce any **provisions** of this Lease or Landlord's acceptance of **rent** shall not be a waiver and **shall** not prevent Landlord from **enforcing** that **provision** or any other **provision** of **this** Lease in

the future. No statement on a payment check from Tenant or in a letter accompanying a payment check shall be **binding** on Landlord. Landlord may, with **or** without notice to Tenant, negotiate such check without being bound to the **conditions** of such statement.

Section 12.07. No Recordation. Tenant shall not record this Lease without prior written consent from Landlord. However, either Landlord or Tenant may require that a "Memorandum" of **this** Lease executed by both parties be recorded. The party requiring such recording shall pay all transfer taxes and recording fees.

Section 12.08. Binding Effect; Choice of Law. **This** Lease binds any party who legally **acquires** any **rights** or interest in **this** Lease from Landlord or Tenant. However, Landlord shall have no obligation to Tenant's **successor unless** the **rights** or interests of Tenant's **successor** are acquired in accordance with the terms **of** this Lease. The **laws** of the State of California **shall** govern **this** Lease.

Section 12.9. Joint and Several Liability. All parties **signing** this Lease **as** Tenant shall be jointly and severally liable for all obligations of Tenant.

Section 12.10. Survival. All representations and warranties of Landlord and Tenant shall survive the termination of this Lease.

ARTICLE THIRTEEN: **COMPLIANCE**

The parties hereto agree to comply with **all** applicable federal, ☐ state and **local laws, regulations, codes, ordinances and administrative orders** having jurisdiction over the parties, property or the **subject** matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment In Real Property Tax Act, the **Comprehensive Environmental Response Compensation and Liability Act**, and The Americans With Disabilities Act.

Landlord and Tenant have signed this Lease on the dates specified adjacent to **their** signatures below and have initialed all pages to this **Lease**.

LANDLORD  
Maynard F. Hanson and Carol C. Hanson  
Revocable Living Trust

TENANT  
County of Santa Cruz

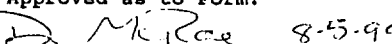
By:   
Maynard F. Hanson, Trustee

By: \_\_\_\_\_  
County Department Head,

By:   
Carol C. Hanson, Trustee

Date: 8/6/99

Date: 8-12-89

Approved as to Form:  
 8-15-99  
Chief Assistant County Counsel

Date: \_\_\_\_\_

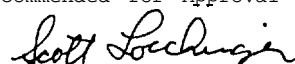
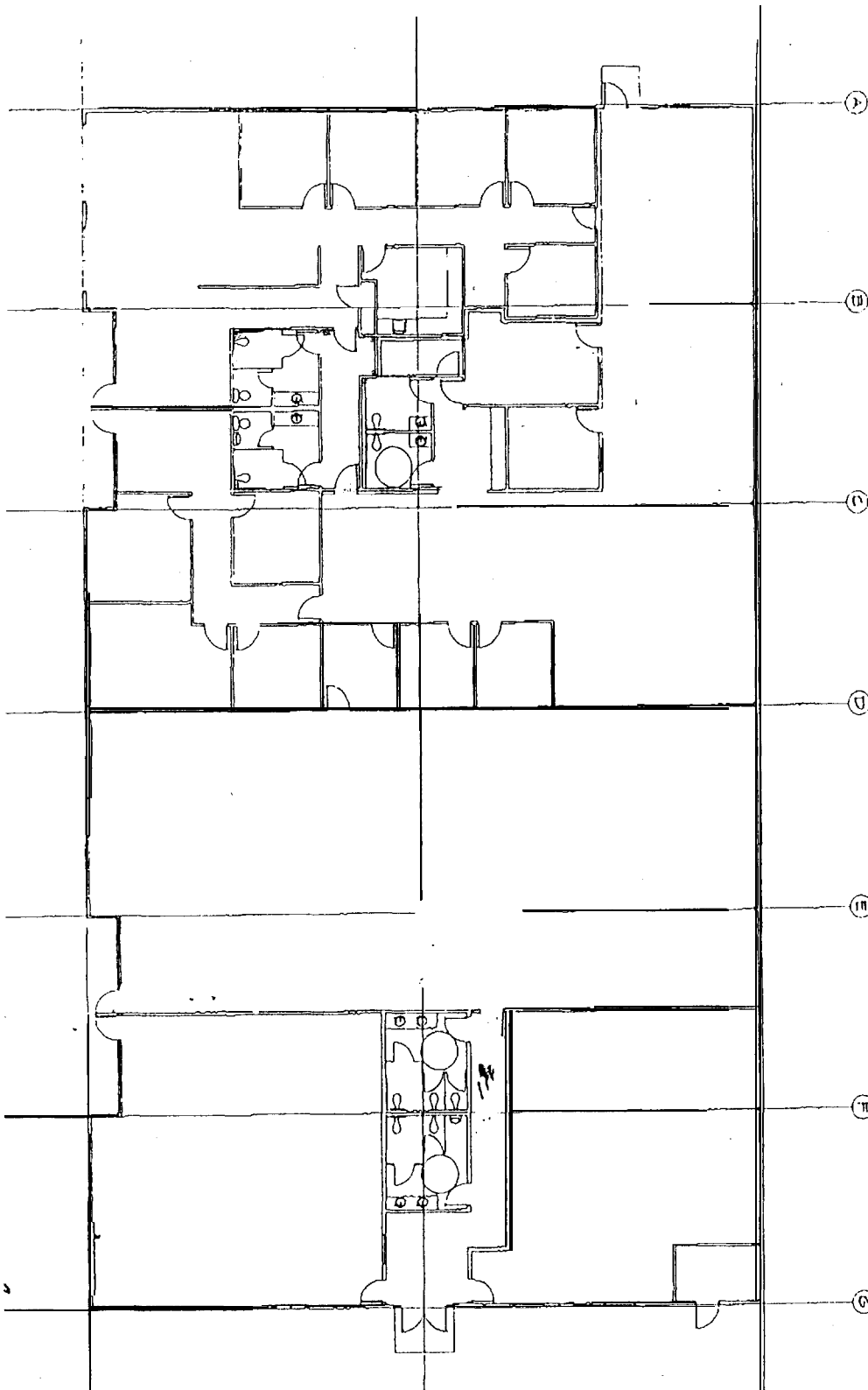
Recommended for Approval  
  
Scott Loichinger, Chief  
Real Property Division  
Date: 9-5-99

Exhibit "A"

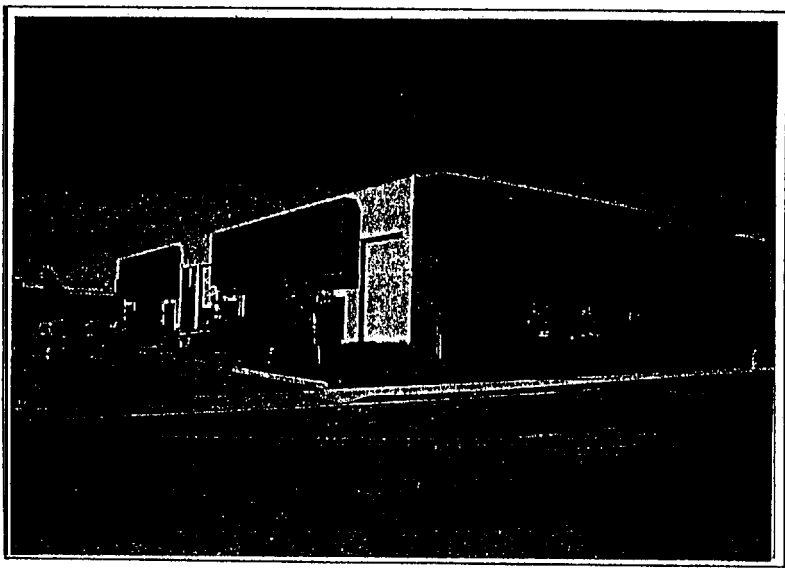
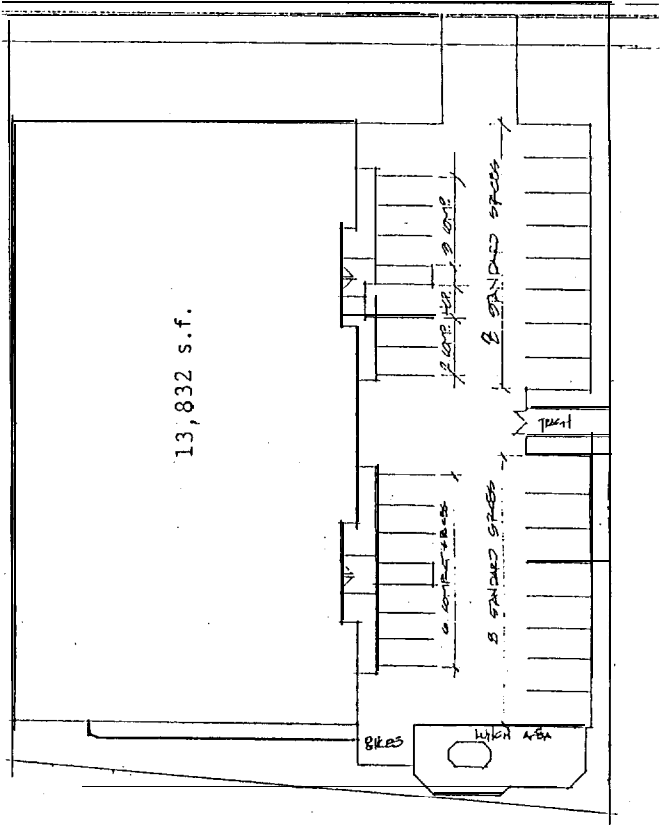


— Property  
— Common Area



Exhibit "A-1"

207 McPherson Street-



**EXHIBIT B****RULES AND REGULATIONS**

The following Rules and Regulations are prescribed by Landlord in order to provide and maintain, to the best of Landlord's ability, orderly, clean and desirable leased Property, Building and parking facilities for the tenants therein and to regulate conduct in and use of leased Property, the Building and parking facilities in such a manner as to minimize interference by others in the proper use of the Property by Tenant. In the following Rules and Regulations, all references to Tenant include not only the Tenant, but, also, Tenant's agents, employees, **invitees**, clients, customers, licensees, visitors, assignees, and/or sublessees:

1. Tenant shall not block or obstruct any of the entries, passages, doors, hallways, or stairways of the Building or parking area, or place, **empty**, or throw any rubbish, litter, trash, or material of any nature into such areas, or permit such areas to be used at any time except for ingress or egress of Tenant.
2. Tenant shall not place anything against or near glass partitions or doors or windows which may appear unsightly from outside the Property.
3. Tenant shall not go upon the roof of the Building or make any roof penetrations.
4. Tenant assumes any and all responsibility for protecting its Property from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Property closed. Additionally, Tenant shall assume responsibility for protecting the Building from theft, robbery, pilferage, and damage which includes keeping entrance and exit doors locked on non business hours. Landlord will not be responsible for lost or stolen personal property, equipment, money, or any articles taken from the Property, Building, or parking facilities regardless of how **or** when loss occurs.
5. The plumbing facilities, including without limitation toilet rooms, toilets, urinals, wash bowls and other apparatus, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be placed therein. The expense of any breakage, stoppage, or damage resulting from a violation of this rule shall be borne by Tenant.
6. Tenant shall permit Landlord, during the six **(6)** months prior to the termination of this Lease to show the Property during business or **nonbusiness** hours to prospective tenants and to advertise the Property for rent.
1. The common parking facilities are available for use by Tenant and all other tenants. Landlord reserves the right to assign or allocate parking in the event of conflicts, abuse or improper use of these common parking facilities. Tenant should utilize only those parking spaces immediately adjacent to the Property. Proper use of the common parking facilities **is** deemed to be that use which is occasioned by the normal in and out traffic required by the Tenant, in the normal course of the Tenant's business operations. Vehicles that are abandoned, disabled, have expired registration stickers, obstructing any means of ingress or egress to any leased Property, or in any way a general nuisance or hazard are subject to removal without notice by Landlord's designated towing service. All costs associated with such removal shall be at the Tenant's and/or the vehicle owner's expense.
8. Tenant shall not use the Property, the Building, or parking facilities for housing, lodging, or sleeping purposes.
9. No sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside of the Building without the prior written consent of the Landlord. Landlord shall have the right to remove, at Tenant's expense and without notice, any sign installed **or** displayed in violation of this rule. **All** approved signs shall be printed, painted, affixed or inscribed at the expense of Tenant by a person chosen by Landlord.
10. If Tenant requires telegraphic, telephonic, burglar alarm or similar services, it shall first obtain, and comply with Landlord's instructions in their installation.
11. Tenant shall not use or permit to be used in the Property any foul or noxious gas or substance, or permit or allow the Property to be occupied **OK** used in a manner offensive or objectionable to Landlord **or** other occupants of the Building by reason of noise, odors or vibrations, nor shall Tenant bring into or keep in or about the Property any **live** or dead animals **either** as pets and/or for laboratory purposes.

12. Tenant shall not install any radio **or** television antenna, loudspeaker or other devices on the roof or exterior walls of the Building, without written permission from Landlord, nor shall Tenant interfere with radio or television broadcasting or reception from or in the Building **or** elsewhere.

13. Landlord reserves the right to direct electricians as to where and how telephone, telegraph, computer wires are to be introduced to the Property. Tenant shall not cut or bore holes for wires or affix any floor covering to the floor of the Property in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.

14. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Landlord.

15. Tenant shall comply with all safety, fire protection and evacuation procedures and regulations established by Landlord or any governmental agency.

16. Landlord may waive any one or more of these Rules and Regulations for the benefit of Tenant or any other tenant, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of Tenant or any other tenant, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.

17. These Rules and Regulations are in addition to, and shall not in any modify or amend, in whole **or** in part, the terms, covenants, agreements and conditions of any lease of Property in the Building.

18. Landlord reserves the right to make such other reasonable Rules and Regulations as, in its judgment, may from time to time be needed for safety and security, for care and cleanliness of the Building and the Property and for the preservation of good order therein. Tenant agrees to abide by all the foregoing Rules and Regulations and any additional rules and regulations which are adopted.

19. Tenant shall be responsible for the observance of all of the foregoing Rules and Regulations by Tenants employees, agents, assignees, clients, customers, **invitees** and guests.

DATED: August 3, 1999

PREMISES: 930, 962 and 966 East Lake Avenue,  
Watsonville, California

## LEASE

THIS LEASE is entered into on the date of full execution by and between County of Santa Cruz (Tenant) whose address is 701 Ocean Street, Suite 410, Santa Cruz, California 95060 and SIX C'S - EAST LAKE VILLAGE SHOPPING CENTER, William J. Codiga, (Landlord), whose address is 966 East Lake Avenue, Watsonville, California 95076.

Landlord hereby leases to Tenant and Tenant hires from Landlord those certain premises situated in the County of Santa Cruz, State of California, commonly known as 930, 962 and 966 East Lake Avenue, Watsonville, California 95076, consisting generally of office space of approximately 800 square feet, 2,457 square feet and 896 square feet respectively and totaling 4,153 square feet which Gross Rentable Area shall be defined as that area computed by measuring from the outside finish of permanent outer building walls to the outside finish of any walls separating the demised premises from any public corridor and/or other permanent partitions, and to the centerline of partitions which separate the demised premises from adjoining rentable areas without deduction for columns and/or projections and features necessary to the building structure and/or architecture; and more particularly described in the attached Exhibit "A", on the following terms and conditions:

1. **TERM.** The term shall commence September 15, 1999 and shall expire September 14, 2002.

(Note: Tenant shall be allowed early occupancy of the premises commencing September 1, 1999 through September 14, 1999 free of minimum monthly rent. Tenant shall, however, be responsible for monthly additional rent per Item. 5 of this lease during this period. Should Tenant default on the terms and conditions of this lease during said early occupancy period, Tenant shall not only be responsible for all the provisions of this lease but also for minimum monthly rent and additional rent during said early occupancy period as well. Should Tenant open for business prior to September 14, 1999, this lease and all of its provisions shall be considered as of the date of such opening.

2. **POSSESSION.** If Landlord is unable to deliver possession of the premises by the date specified for the commencement of the term as a result of causes beyond its reasonable control, Landlord shall not be liable for any damage caused for failing to deliver possession, and this lease shall not be void or voidable. Tenant shall not be liable for rent until Landlord delivers possession of the premises to Tenant and the term shall be extended by the delay.

Notwithstanding the foregoing, Tenant shall be liable for minimum monthly rent and additional rent (consisting of real property taxes, insurance, and common area charges), for any period of time by which delivery of possession of the premises is delayed because of additions or changes to the work requested by Tenant. Any such sum shall be due and payable at the commencement of the term.

3. **ACCEPTANCE OF PREMISES.** By accepting possession of the premises on the commencement of the term, Tenant represents and acknowledges that Tenant has had full opportunity to and has in fact inspected the premises and accepts the same in their existing condition. A move-in report will be taken following tenant's acceptance of the premises. Prior to lease commencement, Landlord shall perform the following improvements to the Premises - (Tenant Improvements) - per Exhibit C attached.

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4. **MINIMUM MONTHLY RENT.** Tenant shall pay to Landlord minimum monthly rent, without deduction, offset, prior notice, or demand according to the following schedule:

Year One: \$4,942.00.00 per month.

Year Two: \$5,189.00 per month. 5% \$ 5,046 - (2.5%)

Year Three: \$5,448.00 per month. 5% \$ 5,218 (3 % )

Base monthly rent for any partial month shall be pro-rated at the rate of one-thirtieth of the minimum monthly rent per day.

5. **ADDITIONAL RENT:** Tenant shall be responsible for additional rent included but not limited to Items 13, 18 and 25 of this lease, estimated to be \$10 per square foot per ~~Additional~~ rent shall be paid on the first day of each month of the term of this lease.

6. **PREPAID RENT.** Upon full execution of this lease, Tenant shall pay to Landlord the amount of \$10,591.00, which shall constitute the first months minimum rent and additional rent and the last months minimum rent and additional rent. *why pay now for last month's rent?* *NO - this is wrong - why -*

7. **SECURITY DEPOSIT.** The security deposit for this Lease Agreement is waived, however, if Tenant is in default, Tenant must cure the default or compensate Landlord for all damage sustained by Landlord resulting from Tenant's default.

9. **USE.** Tenant shall use the premises for County Offices and related operations.

10. **LIMITATIONS ON USE.** Tenant's use of the premises as provided in this lease shall be in accordance with the following:

Cancellation of insurance: increase insurance rates Tenant shall not add, bring, or keep anything in or about the premises that will cause a cancellation of any insurance covering the building in which the premises are located. If the rate of any insurance carried by Landlord is increased as a result of Tenant's use, Tenant shall pay to Landlord within 10 days before the date Landlord is obligated to pay a premium on the insurance, a sum equal to the difference between the original premium and the increased premium.

Compliance with laws Tenant shall comply with all laws concerning the premises or Tenant's use of the premises, including, without limitation, the obligation at Tenant's cost to alter, maintain, or restore the premises in compliance and conformity with all laws relating to the condition, use, or occupancy of the premises during the term. Tenant shall comply with any and all reasonable rules and regulations of Landlord in connection with the premises or the building, which are now or hereafter in effect.

Waste: Nuisance Tenant shall not use the premises in any manner that will constitute waste, nuisance, or unreasonable annoyance (including, without limitation, the use of loudspeakers or sound or light apparatus that can be heard or seen outside the premises to owners or occupants of adjacent properties or other tenants in the building in which the premises are located. Tenant shall not use the premises for sleeping, washing clothes, cooking, or the preparation, manufacture, or mixing of anything that might emit any odor or objectionable noises or lights into the building in which the premises are located. No secondhand, store, auction, distress or fire sale, or bankruptcy or going-out-of-business sale may be conducted on the premises without Landlord's written consent. Tenant shall not sell or display merchandise outside the confines of the premises. Tenant shall keep the premises in good condition and repair, and clean, orderly, sanitary and free from objectionable odors, litter, and debris and from insects and other pests.

Hazardous and Toxic Substances

(Except for Landlord's knowledge of that certain *what?* Environmental Report currently on record with the County of Santa Cruz Environmental Health Department) to the best of Landlord's knowledge, after reasonable inquiry, no Hazardous Substances, as hereinafter

defined, are now located on the Premises described as Exhibit A which is attached to and made a part of this lease. *Is this an indemnification?*

**Definition of Hazardous Substances:** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, chemical, material or waste whose presence, nature, quantity and / or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment, or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance shall include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products or by-products thereof. Tenant shall not engage in any activity in, on or about the Premises which constitutes a Reportable Use (as hereinafter defined) of Hazardous Substances without the express prior written consent of Landlord and compliance a timely manner (at Tenants sole cost and expense) with all Applicable Requirements as defined in Item 10 (d). "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and (iii) the presence in, on or about the Premises of a Hazardous Substance with respect to which any Applicable Laws require that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Tenant may, without Landlords prior consent, but upon notice to Lessor and in compliance with all Applicable Requirements, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of the Permitted Use, so long as such USC is not a Reportable use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage or expose Landlord to any liability therefor. In addition, Landlord may (but without any obligation to do so) condition its consent to any Reportable Use of and Hazardous Substance by Tenant upon Tenants giving Landlord such additional assurances as Landlord, in its reasonable discretion, deems necessary to protect itself, the public, the Premises and the environment against damage, contamination or injury and / or liability therefor, including but not limited to the installation (and, at landlords option, removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and / or the deposit of an additional Security Deposit.

(b) **Duty to Inform Landlord:** If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises or the Building, other than as previously consented to by Landlord, Tenant shall immediately give Landlord written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to, or received from, any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to, such Hazardous Substance including but not limited to all such documents as may be involved in any Reportable Use involving the Premises. Tenant shall not cause or permit any Hazardous Substance to be spilled or released in, on, under or about the Premises (including, without limitation, through the plumbing or sanitary sewer system).

(c) **Indemnification:** Tenant shall indemnify, protect, defend and hold Landlord, its agents, employees, lenders and ground lessor, if any, and the Premises, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, loss of permits and attorneys and consultants fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Tenant or by anyone under Tenants control. Tenants obligations under this Item 10 (c) shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Tenant, and the cost of investigation (including consultants and attorneys fees and testing), removal, remediation, restoration and / or abatement thereof, or of any contamination therein involved, and shall survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant shall release Tenant

from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Landlord in writing at the time of such agreement.

(d) **Tenants Compliance with Requirements:** Tenant shall, at Tenants sole cost and expense, fully, diligently and in a timely manner, comply with all "Applicable Requirement", which term is used in this Lease to mean all laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Landlords engineers and / or consultants, relating in any manner to the Premises (including but not limited to matters pertaining to (i) industrial hygiene, (ii) environment conditions on, in, under or about the Premises, including soil and groundwater conditions, and (iii) the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill, or release of any Hazardous Substance), now in effect or which may hereafter come into effect. Tenant shall, within five (5) days after receipt of Landlords written request, provide Landlord with copies of all documents and information, including but not limited to permits, registrations, manifests, applications, reports and certificates, evidencing Tenants compliance with any Applicable Requirements specified by landlord, and shall immediately upon receipt, notify Landlord in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving failure by Tenant or the Premises to comply with any Applicable Requirements.

(e) **Inspection; Compliance with Law:** Landlord, Landlords agents, employees, contractors and designated representatives, and the holders of any mortgages, deeds of trust or ground leases on the Premises ("Lenders") shall have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Lease and all Applicable Requirements (as defined in Item 10 (d)), and Landlord shall be entitled to employ experts and / or consultants in connection therewith to advise Landlord with respect to Tenants activities, including but not limited to Tenants installation, operation, use, monitoring, maintenance, or removal of any Hazardous Substance in, on or from the Premises. The costs and expenses of any such inspections shall be paid by the party requesting same, unless a Default or Breach of this Lease by Tenant or a violation of Applicable Requirements or a contamination, caused or materially contributed to by Tenant, is found to exist or to be imminent, or unless the inspection is requested or ordered by a governmental authority as the result of any such existing or imminent violation or contamination. In such case, Tenant shall upon request reimburse Landlord or Landlords Lender, as the case may be, for the costs and expenses of such inspections.

(f) **Hazardous Substance Conditions:** If a Hazardous Substance Condition occurs, unless Tenant is legally responsible therefor (in which case Tenant shall make the investigation and remediation thereof required by Applicable Requirements and this Lease shall continue in full force and effect, but subject to Landlords rights under this Lease, Landlord may at Landlords option either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonable possible at Landlords expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to investigate and remediate such conditions <sup>EXCEEDS</sup> twelve (12) times the then monthly Base Rent or \$100,000.00 (whichever is greater), give written notice to Tenant within thirty (30) days after receipt by Landlord of knowledge of the occurrence of such Hazardous Substance Condition of Landlords desire to terminate this Lease as of the date sixty (60) days following the date of such notice. In the event Landlord elects to give such notice of Landlords intention to terminate this Lease, Tenant shall have the right within ten (10) days after the receipt of such notice to give written notice to Landlord of Tenants commitment to pay for the excess costs of (a) investigation and remediation of such Hazardous Substance Condition to the extent required by Applicable Requirements, over (b) an amount equal to twelve (12) times the then monthly Base Rent or \$100,000.00 (whichever is greater). Tenant shall provide Landlord with the funds required of Tenant or satisfactory assurance thereof within thirty (30) days following said commitment by Tenant. In such event this Lease shall continue in full force and effect, and Landlord shall proceed to make such investigation and remediation as soon as reasonably possible after the required funds are available. If Tenant does not give such notice and provide the required

*They can't fix something. What about insurance*

funds or assurance thereof within the time period specified above, this Lease shall terminate as of the date specified in Landlord's notice of termination.

**Signs** Tenant shall not place or allow to be placed any signs on the exterior of the premises, or which are visible from outside the premises, without the prior written consent of Landlord. Any sign that Landlord has approved shall be placed, constructed, and maintained by Tenant in compliance with all laws and Tenant shall obtain any required governmental approvals. Landlord makes no representation with respect to Tenant's ability to obtain such approval. Glass lettering shall not exceed 20% of total first floor glass area of store. All lettering shall be done by a professional lettering company after approval in writing by Landlord. Lettering shall be done in a tasteful Manner and shall be consistent in style and size. In the event Tenant violates any of the provisions of this paragraph, Landlord shall be entitled to injunctive relief to restrain such violation and, in addition thereto, shall be entitled to liquidated damages in the amount of \$50.00 per day throughout the period of the violation.

**Overloading** Tenant shall not do anything on the premises that will cause damage to the building in which the premises are located. The premises shall not be overloaded. No machinery, apparatus, or other appliance shall be used or operated in or on the premises that will in any manner injure, vibrate, or shake the premises. Tenant shall not overload the rear loading area with vendor or distribution vehicles.

**Merchant's Association** Tenant agrees to continuously during the entire term hereof maintain membership in the East Lake Village Mer Association. ~~DELETE~~

**Parking:** The parking area to the rear of the leased premises shall be used for parking by the Tenant, his agents and employees and delivery of merchandise to and from the premises; the front parking lot of the shopping center (adjacent to East Lake Avenue) shall be used for customer parking only, and not by Tenant, his agents and employees nor for delivery of merchandise to and from the premises; in any event, Tenant hereby agrees that Tenant's use of all parking lots shall be subject to reasonable regulations by Landlord by which regulations Tenant agrees to abide.

11. **CONTINUOUS OPERATION.** Tenant shall continuously use the premises for the use specified in this. Tenant agrees that Tenant shall throughout the entire term and any extensions hereof use said premises for the purpose herein above described in the preamble and shall occupy all of said premises and shall cause said premises to be open for business continuously five (5) days per week between the hours of 9:00 A.M. and 5:00 P.M., with the following exceptions; governmentally recognized holidays, December 24 and December 25. If the premises are destroyed or partially condemned and this lease remains in full force and effect, Tenant shall continue operation of its business at the premises to the extent reasonably practical from the standpoint of good business judgment during any period of reconstruction. Tenant shall at all maintain a staff of counselor / supervisors for supervision of its students and program participants so as not to adversely affect other Tenants or their customers, employees, agents or invitees. Landlord reserves the right to monitor Tenants operation regarding its effect on other Tenants, customers, employees, agents or invitees and to require Tenant to mitigate any adverse affect on such Parties should Tenants operation deem such action necessary.

13. **REAL PROPERTY TAXES.** Within twenty (20) days after receiving notice from Landlord, Tenant shall pay its proportionate share of all real estate property taxes, governmental fees, and assessments of every kind and nature levied against or in connection with the land, buildings, and other improvements with the shopping center during the term of this lease or any extension thereof, including any future parking or facilities required of Landlord by applicable governmental regulations.

Tenant's proportionate share for each tax year shall be the ratio of the total real property taxes that the total number of square feet in the premises bear to the total number of leaseable square feet in the building and other improvements in which the premises are located.

14. **PERSONAL PROPERTY TAXES.** Tenant shall pay before delinquency all-taxes, assessments, license fees, and other charges ("taxes") that are levied and assessed against



Tenant's personal property, equipment and trade fixtures installed or located in or on the premises, and that become payable during the term. On demand by Landlord, Tenant shall furnish Landlord with satisfactory evidence of these payments.

If any taxes on Tenant's personal property, equipment and trade fixtures are levied against Landlord or Landlord's property, or if the assessed value of the building and other improvements in which the premises are located is increased by the inclusion of a value place on Tenant's personal property, equipment and trade fixtures, and if Landlord pays the taxes on any of these items or the taxes based on the increased assessment of these items, Tenant, on demand, shall immediately reimburse Landlord for the sum of the taxes levied against Landlord, or the proportion of the taxes resulting from the increase in Landlord's assessment. Landlord shall have the right to pay these taxes regardless of the validity of the levy.

15. **MAINTENANCE BY TENANT.** Tenant shall at all times keep the lease premises in good order, condition and repair. This obligation shall include, but not be limited to, maintenance of exterior entrances, all plate glass, window moldings, partitions, doors, door jambs, door closures, door hardware, sub-floor, skylights, fixtures, equipment, electrical system, lighting, plumbing systems, plumbing fixtures, and all other portions of the premises which Landlord is not specifically obligated to maintain under the terms of the following paragraph. Tenant's obligation hereunder shall include the duty to make repairs or replacements where necessary according to the percentage of the expected useful life of the subject item represented by Tenant's term, but shall not include damage caused by unavoidable casualty to the extent covered by Landlord's insurance. Tenant shall be liable for any damage to the building in which the premises are located resulting from any act or omission of Tenant or its authorized representatives. Tenant shall maintain a contract of regular maintenance with a licensed contractor for the heating, ventilation and air conditioning equipment contained in the premises. — why isn't this included in NNN

16. **MAINTENANCE BY LANDLORD.** If Tenant refuses or neglects to properly maintain or repair the premises as required hereunder and to the reasonable satisfaction of Landlord as soon as possible after written demand, Landlord may make such repairs without liability to Tenant for any loss or damage that may accrue to Tenant's merchandise, fixtures or other property or to Tenant's business by reason thereof, and upon completion thereof, Tenant shall pay Landlord's costs for making such repairs plus 20% for overhead, upon presentation of bill therefore, as additional rent. Landlord shall be responsible for the repair and maintenance of the structural parts of the building and other improvements in which the premises are located, which structural parts include only the foundations, bearing and exterior walls (excluding all signs), roof, and plumbing, sewage systems and waste systems lying outside the premises, excluding any modifications or alterations made to same by Tenant.

17. **COMMON AREAS AND FACILITIES.** The term "common area" as used in this Lease shall mean tile parking areas, roadways, pedestrian sidewalks, hallways, corridors, loading docks, delivery areas, landscaped areas, and all other areas or improvements which may be provided by Landlord for the common use of the tenants of the center in which the premises are situated. The common area shall include roof overhangs, awnings, canopies, and any columns supporting them. Landlord hereby reserves the exclusive right to:

- a. To establish reasonable rules and regulations for the use thereof;
- b. To use or permit the use by others to whom Landlord may have granted such rights for promotional activities and outdoor sales;
- c. To close all or any portion thereof as may be necessary by Landlord to prevent a dedication thereof or the accrual of any rights by any person or the public thereof; and
- d. To change the layout of such common areas, including the right to reasonably add to or subtract from their shape and size, whether by the addition of building improvements or otherwise.

Landlord shall operate, manage, equip, light, repair and maintain said common areas owned by Landlord for their intended purposes in such manner as Landlord shall at

Landlord's sole discretion determine, and Landlord may from time to time change the size, location, nature and use of said common areas and may make installations therein and move and remove the same.

18. **OPERATING COSTS AND EXPENSES:** Tenant shall pay to Landlord as additional rent, at the times hereinafter set forth, without deduction, offset or abatement, Tenant's proportionate share of all direct costs and expenses of every kind and nature paid or incurred by Landlord in operating and maintaining the premises. Such costs and expenses shall include, without limitation, costs of cleaning, lighting, landscaping, providing security, providing public liability, property damage, fire and extended coverage, and such other insurance as Landlord deems appropriate, all wages and benefits (including premiums for workers compensation and other insurance) paid to or on behalf of employees, personal property taxes, supplies, fire protection and fire hydrant charges, water and sewer charges, utility charges, license and permit fees, reasonable depreciation of equipment used in operating and maintaining the common areas, and rent paid for leasing any such equipment., all costs of maintaining, repairing, resurfacing and replacing all common areas and all building exteriors, including all roof areas, overhangs, siding, glazing, doors, fiasco, awnings, sheet metal, gutters, heating venting and air conditioning equipment, lighting and utility installations plus Landlord's management and administrative expenses.

Tenant's estimated payment of additional rent shall be based on the proportion that Tenant's leased Premises bears in relation to the total leasable area of the total Project and shall be paid monthly or upon such other basis as Landlord shall require. Tenant may request in writing at any time an accounting of such additional rent from Landlord and Landlord shall provide an accounting to Tenant in an expedient manner.

19. **ALTERATIONS.** Tenant shall not make any alterations to the premises without Landlord's written consent. As a condition of consent, Landlord at his election can require Tenant to post a bond with landlord in the amount of the cost of construction to be done by Tenant. Any alterations made shall become the property of Landlord and shall remain on and be surrendered with the premises on expiration or termination of the term and, except that Landlord can elect within 30 days before expiration of the term, or within fifteen days after termination of the term, to require Tenant to remove any alterations that Tenant has made to the premises. If Landlord so elects, Tenant at its cost shall restore the premises to the condition designated by Landlord in its election, before the last day of the term, or within 30 days after notice of election is given, whichever is later. If Tenant makes any alterations to the premises as provided in this paragraph, the alterations shall not be commenced until five days after landlord has received notice from Tenant stating the date the installation of the alterations is to commence so that Landlord can post and record an appropriate notice of non-responsibility.

20. **MECHANIC'S LIENS.** Tenant shall pay all costs for construction done for it or caused to be done by it on the premises as permitted by this lease. Tenant shall keep the building, other improvements, and land of which the premises are a part free and clear of all mechanic's liens resulting from construction done by or for Tenant.

21. **UTILITIES AND SERVICES.** Tenant shall make all arrangements for and pay for all utilities and services furnished to or used by it, including, without limitation, gas, electricity, water, telephone service, and trash collection, and for all connection charges. Tenant agrees to pay his pro-rata share of any charges billed to the Landlord by any government agency for the use and rent of sewage facilities or any other service or assessment.

22. **LIABILITY INSURANCE.** Tenant hereby agrees to indemnify Landlord and to hold it harmless from any liability, claim for damages, or attorney's fees incurred by reason of any personal injury or death to any person, including any of Tenant's employees, agents, licensees, invitees or assigns, or any injury to property of any kind whatsoever, and to whomever belonging, including Tenant, from any cause or causes whatsoever, in any way connected with Tenant's use of the Premises, during the term of this Agreement or any extension thereof or any occupancy by Tenant hereunder. This indemnity shall include the obligation to defend Landlord from any such lawsuits or claims filed. Tenant's obligation under this paragraph shall not apply if such liability, loss, cost, damage or expense arises out of or relates to the grossly negligent or intentional act or acts of Landlord, or its

employees, agents, contractors, or prior tenants of the Premises, or to a breach by the Landlord of any terms, conditions or obligation on Landlord's part to be required or performed under the terms of this Agreement, or to any structural or latent defect or defects contained in the Premises.

23. **TENANT'S PROPERTY AND FIRE INSURANCE.** Tenant at its cost shall maintain on all its personal property; equipment and trade fixtures, in, on, or about the premises, a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsement, to the extent of at least 100% of their full replacement value. The proceeds from any such policy shall be used by Tenant for the replacement of personal property or the restoration of Tenant's improvements or alterations. Tenant shall deliver to Landlord certificates of such fire insurance policies, which shall contain a clause requiring the insured to give Landlord ten days written notice of cancellation of such policies. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any damage to property of Tenant or of others located on the premises, nor for the loss of or damage to any property of Tenant or of others by theft or otherwise. Except in the case of Landlord's intentional misconduct or gross neglect, Landlord shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, gas, electricity, water, rain or leaks from any part of the premises, or the common areas, or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place or by any other cause of whatsoever nature. Landlord shall not be liable for any such damage caused by other tenants or persons in the premises, occupants of adjacent property, of the common area, or the public, or quasi-public work Landlord shall not be liable for any latent defect in the premises or in the building of which they form a part. All property of Tenant kept or stored on the premises shall be so kept or stored at the risk of Tenant only and Tenant shall hold Landlord harmless from any claims arising out of such damage to the same, including subrogation claims by Tenant's insurance carriers, unless such damage shall be caused by the willful act of gross neglect of Landlord, and through no fault of Tenant. *I thought we are self insured*

24. **PLATE GLASS INSURANCE.** Tenant acknowledges that it is self-insured and shall be responsible for all damage to plate glass contained in or on the Premises. Tenant shall indemnify Landlord from all liability caused by damage to plate glass contained in or on the Premises. *unless caused specifically by Landlord, his agents, employees etc?*

25. **LANDLORD'S INSURANCE.** Landlord shall maintain on the building and other improvements in which the premises are located policies of comprehensive public liability insurance, policy of standard fire and extended coverage insurance and such other insurance as Landlord deems appropriate. The insurance policy shall provide that any proceeds shall be made payable to Landlord.

26. **LIABILITY AND INDEMNITY.** Landlord shall not be liable to Tenant for any damage arising from intentional acts or negligence of other tenants or occupants of the building. Tenant shall indemnify, defend, protect, and hold Landlord harmless from and against any and all claims, losses, proceedings, damages, causes of action, liability, costs or expense, (including attorneys' fees) arising from or in connection with, or caused by (a) any act, omission or negligence of Tenant or any subtenant of Tenant, or their respective contractors, licensees, invitees, agents, servants or employees, wheresoever the same may occur, or (b) any use of the premises, or any accident, injury, death or damage to any person or property occurring in, on or about the premises, or any part thereof, and any service delivery facilities of any other portions of the center used by Tenant, excluding such claims, loss, proceedings, damages, causes of action, liability, costs or expenses (including attorneys' fees) arising from or in connection with, or caused by Landlord's active negligence or willful misconduct.

27. **WAIVER OF SUBROGATION.** Each Party hereby waives any and all rights of recovery against the other party or against any other tenant or occupant of the building in which the premises are situated, or against the officers, employees, agents, representative, customers and business visitors of such parties or of such other tenant or occupant of the building for loss or damage to said party or its property or the property of others under its control, arising from any cause insured against under the standard form of fire insurance policy with all permissible extension endorsements covering additional perils or under any other

policy of insurance carried by such party in lieu thereof, to the extent such loss or damage is insured against by such policy.

28. **DESTRUCTION.** If there is destruction of the building and other improvements in which the premises are located from any cause that exceeds 33-1/3% of the then replacement value of the building and other improvements, Landlord can elect to terminate this lease whether or not the premises are destroyed, as long as Landlord terminates the leases of all tenants of the building and other improvements. Upon giving of written notice to Tenant, the term of this lease shall expire by lapse of time upon the third day after such notice is given, and Tenant shall vacate the leased premises and surrender the same to owner. Nothing in this paragraph shall be construed as a limitation of Tenant's liability for such occurrence, should such liability otherwise exist.

If the premises or other building and other improvements in which the premises are located are totally or partially destroyed from any cause, rendering the premises totally or partially inaccessible or unusable, and Landlord does not elect to terminate this lease as provided above, then Landlord shall restore the premises or the building and other improvements in which the premises are located to substantially the same condition as existed before destruction, if the restoration can be made under the existing laws and can be completed within 180 working days after the date of destruction, Tenant shall be responsible for replacing any of Tenant's personal property, equipment or trade fixtures.

If the restoration cannot be made in the time stated above, then within 15 days after the parties determine that the restoration cannot be made within such time, Tenant can terminate this lease immediately by giving written notice to Landlord. If Tenant fails to terminate this lease and if restoration is permitted under the existing laws, Landlord, at its election can either terminate this lease or restore the premises or the building or other improvements in which the premises are located within a reasonable time and this lease shall continue in full force and effect. If the existing laws do not permit the restoration, either party can terminate this lease immediately by giving notice to the other party.

In case of destruction there shall be an abatement or reduction of rent between the date of destruction and the date of completion or restoration, based on the extent to which the destruction interferes with Tenant's use of the premises.

[Tenant waives the provisions of Civil Code Section 1932(2) and Civil Code Section 1933(4) with respect to any destruction of the premises.] —

29. **CONDEMNATION.** Should during the term of this lease or during the period of time between the execution of this lease and the date the term commences, title to all of the leased premises or so much thereof that a reasonable amount of reconstruction of the premises will not result in the premises being reasonably suitable for Tenant's continued occupancy for the use and purposes for which the premises are leased, be taken by any public or quasi-public entity under any statute or by right of eminent domain, or by private purchase in lieu thereof, then this lease shall terminate as of the date that possession of said premises, or part thereof, be taken.

If any part of the premises shall be so taken and the remaining part thereof (after reconstruction of the ten-existing building in which the premises are located) is reasonably suited for Tenant's occupancy, this lease shall, as to the part so taken, terminate as of the date that possession of said part be taken, and the rent shall be reduced in proportion to the amount of floor area taken.

All compensation awarded or paid upon such a total or partial condemnation shall belong to and be the sole property of Landlord.

30. **ASSIGNMENT.** Tenant shall not voluntarily assign or encumber its interest in this lease or in the premises, or sublease all or any part of the premises, or allow any other person or entity (except Tenant's employees) to occupy or use all or any part of the premises, without first obtaining Landlord's written consent.

31. **INVOLUNTARY ASSIGNMENT.** No interest of Tenant in this lease shall be assignable by operation of law (including, without limitation, the transfer of this lease by testacy or intestacy). Each of the following acts shall be considered an involuntary assignment:

(1) If Tenant is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which Tenant is the bankrupt; or, if Tenant is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

(2) If a writ of attachment or execution is levied on this lease;

(3) If, in any proceeding or action to which Tenant is a party, a receiver, holder or trustee is appointed with authority to take possession of the premises.

An involuntary assignment shall constitute a default by Tenant and Landlord shall have the right to elect to terminate this lease, in which case this lease shall not be treated as an asset of Tenant.

32. **DEFAULT.** In the event of default in the payment of any installment of rent, or in the performance of any other covenants or conditions of this lease, which default continues for three (3) days after notice and demand in writing by Landlord to correct such default, or if Tenant abandons the property prior to the expiration of the term provided for in this agreement, the Landlord may at his option terminate the lease and recover damages from Tenant, including (a) the worth at the time of award of the unpaid rent which has been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for such period that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform his obligation under this lease, or which the ordinary course of things would be likely to result therefrom.

<sup>600</sup> ~~Other~~ (Other than the payment of rent, in the event Tenant does not cure a default within fifteen (15) days of notice of such default by Landlord (such notice being evidenced in writing and being considered noticed as of the date of postmark by U.S. mail) Landlord can cure the default at Tenant's cost.) If Landlord by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid, and if paid at a later date shall bear interest at the rate of 10% per annum from the date the sum is paid by Landlord until Landlord is reimbursed by Tenant. The sum, together with interest on it, shall be additional rent.

If Tenant shall fail to <sup>20</sup>pay any monthly rent payment by the fifth day of the month, or any billed charges, within <sup>10</sup>days of billing date in which payment is due, a late charge shall be assessed equal to 10% of the payment. In addition, any rent not paid by such date shall bear interest until paid at the rate of 10% per annum plus the prevailing discount rate established by the Federal Reserve Bank of San Francisco. In the event that any check or other instrument tendered by Tenant is dishonored, in addition to late charges and interest as specified above, Tenant shall pay an additional fee of \$15.00 to reimburse Landlord for administrative costs incurred in connection with such dishonored instrument. In any such case of dishonored check, the Lessor may thereupon make a written demand upon Lessee to pay all sums thereafter due under this lease and any extensions hereof in cash, certified check or U.S. Postal Money Order and Lessee does hereby covenant and agree with Lessor that Lessee shall comply with any such demand. Following each second consecutive late payment of rent, Lessor shall have the option to require that beginning with the first payment of rent due following the date such late payment became due, rent shall no longer be paid in monthly installments but shall be payable three (3) months in advance. Nothing contained in this paragraph shall extend or otherwise alter Tenant's obligation to pay rent in advance on the first day of each month as provided in Paragraph 4 above <sup>20</sup>excepting that during the first ninety (90) days of the term of this lease,

Landlord shall waive the penalties contained in this Item 32 provided that Tenant furnishes to Landlord written evidence that appropriate direction has been given to Tenant's Accounts Payable department regarding the payment obligations contained in this Agreement.<sup>3</sup> Reasonable

33. **LANDLORD'S ENTRY ON PREMISES.** Landlord or its designee shall be permitted to enter upon the leased premises during normal business hours or in the event of an emergency to inspect the premises, to make repairs, additions or alterations to the premises, the building of which the premises form a part, or to exhibit the premises to prospective tenants, buyers or their agents, or to place "For Sale" signs at any time during the term, or "For Rent" signs during the last three months of the term, or during any period while Tenant is in default.

Landlord shall not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry on the premises as provided in this paragraph. Tenant shall not be entitled to an abatement or reduction of rent if Landlord exercises any rights reserved in this paragraph.

34. **SUBORDINATION.** This lease is and shall be subordinate to any encumbrance now of record or recorded after the date of this lease affecting the building, other improvements, and land of which the premises are a part. Such subordination is effective without any further act of Tenant. Tenant shall from time to time on request from Landlord execute and deliver any documents or instruments that may be required by a lender to effectuate any subordination. If Tenant fails to execute and deliver any such documents or instruments, Tenant irrevocably constitutes and appoints Landlord as Tenant's special attorney-in-fact to execute and deliver any such documents or instruments.

Within ten (10) days after receipt of a written request therefor by Landlord, Tenant agrees to execute and deliver in recordable form a stoppage certificate to any mortgagee or proposed mortgagee or purchaser to the Landlord certifying (if such be the case) that this lease is unmodified and in full force and effect (and if there has been modification, that the same is in full force and effect as modified and stating the modifications); that there are no defenses or offsets against the enforcement thereof or stating those claimed by the Tenant; and stating the date to which rentals and other charges are paid. Such certificate shall include such other information as may be reasonably required. The failure by the Tenant to deliver any such certificate within thirty (30) days shall be conclusive upon the Tenant that this lease is in full force and effect and has not been modified except as may be represented by Landlord. Notices of any default by Landlord shall be given by Tenant to any mortgagee of whom Tenant has been notified in writing, and said mortgagee shall have the right but not the obligation to cure said default.

35. **NOTICE.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid first class mail to the address set forth in the introductory paragraph of this lease. Either party may change its address by so notifying the other party, and notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this paragraph. Other modes of delivery may be utilized, provided such other delivery service can provide a proof of delivery.

36. **WAIVER.** The failure or delay of Landlord in enforcing any right or remedy in violation by Tenant of any term or condition of this lease shall not be deemed to be a consent by Landlord to such violation, and shall not bar, stop or prevent Landlord from enforcing such right or remedy either for such violation or for any subsequent breach of any term, condition or covenant hereof.

37. **LEGAL EXPENSES.** Tenant shall pay to Landlord all amounts for reasonable attorney's fees incurred by Landlord in connection with any breach or default under this lease or incurred in order to enforce the terms or provisions hereof. Such amount shall be payable upon demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any or its rights or remedies in or under this lease, the prevailing party shall be entitled to recover from the other party all costs incurred by said prevailing party in said action, including reasonable attorney's fees to be fixed by the court therein. NO

38. **SURRENDER OF PREMISES; HOLDING OVER.** On expiration or termination of the term, Tenant shall remove all personal property and shall surrender to Landlord the premises and all Tenant's improvements and alterations in good condition (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant), except for alterations that Tenant has the right to remove or is obligated to remove under the provisions of Paragraph 18 (Alterations).

If Tenant remains in possession of the premises after the expiration or termination of the term of this lease, with landlord's written consent, such possession shall be deemed to be a month-to-month tenancy only, and not a renewal of this lease or an extension for any further term. Such month-to-month tenancy shall be subject to the same terms and conditions as were applicable during the lease term, except (1) the base rent for each month of such tenancy shall be one hundred ten percent (110%) of the base rent payable during the last month of the lease term, which rent shall be in addition to all other charges set forth in this lease, and (2) all options, rights of first refusal, if any, granted under the terms of this lease shall be deemed terminated and shall be of no further effect during said month-to-month tenancy. If Tenant remains in possession of the premises after the expiration or termination of the term of this lease or any extension thereof, without Landlord's written consent, Tenant shall be liable to Landlord for all damages occasioned by such holding over, including claims by any prospective occupant of the premises for such delay.

39. **SALE BY LANDLORD.** In the event of the sale or conveyance by Landlord of the property containing the demised premises, such sale shall operate to release Landlord from any future liability upon any of the covenants or conditions, expressed or implied, contained in this Lease in favor of Tenant, and (iii) such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord. If any security be given by Tenant pursuant to Paragraph 8 (Security Deposit) of this Lease, Landlord may transfer or deliver the security, as such, to the purchaser of the property, and thereupon Landlord shall be discharged from any further liability with respect thereto.

40. Tenant shall continue to be liable for all rents payable hereunder beyond the term of this lease until Tenant has removed all personal property from the premises and surrendered the premises keys to the Landlord or Landlord's designated agent.

41. Rental payments are to be paid as follows: **SIX C'S – EAST LAKE VILLAGE SHOPPING CENTER, 236 Ocean Street, Santa Cruz, California 95060.**

42. **GENERAL CONDITIONS:**

(1) Time is of the essence of each provision of this lease. The parties hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that the failure to timely perform any of the obligations hereof by either party shall constitute a breach of and default under this lease by the party so failing to perform.

(2) If either party is a corporation, that party shall deliver to the other party on execution of this lease a certified copy of a resolution of its board of directors authorizing the execution of this lease and naming the officers that are authorized to execute this lease on behalf of the corporation.

(3) This lease shall be binding on and inure to the benefit of the parties and their successors, except as provided in Paragraph 29 (Assignment).

(4) Rent and all other sums payable under this lease must be paid in lawful money of the United States of America.

(5) Each party shall be responsible for the payment of any commission or finder's fee due to any real estate broker, finder, or other person, with whom that respective party has entered into an agreement.

(6) All exhibits referred to are attached to this lease and incorporated by reference.

(7) This lease shall be construed and interpreted in accordance with the laws of the State of California.

(8) This lease contains all the agreements of the parties and cannot be amended or modified except by a written agreement.

(9) The captions of this lease shall have no effect on its interpretation.

(10) "Party" shall mean Landlord or Tenant; and if more than one person or entity is Landlord or Tenant, the obligations imposed on that party shall be joint and several.

(11) The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.

(12) This lease has been the subject of negotiation by all parties hereto, and the parties therefore expressly agree that this lease and all provisions contained herein shall not be construed in favor of or against any party by reason of that party having prepared this lease or any draft or any part hereof.

(13) The submission of this lease by Landlord to Tenant does not constitute a reservation of or an option for the premises, and this lease becomes effective as a lease only upon the execution hereof by Landlord and Tenant, and delivery to each party of a fully executed lease, and upon Landlord's receipt from Tenant of all monies required upon execution of this lease.

(14) Except where permitted in this lease agreement, Tenant and its agents, employees and assigns hereby agree to maintain as confidential the terms and conditions of this agreement, unless Landlord grants its permission in writing that Tenant, its agents, employees and assigns may disclose the terms and conditions of this agreement.

(15) At the conclusion of this lease Tenant, not being in default, may remove its personal property provided premises is restored to a "vanilla shell" condition, with all work being performed in a workmanlike fashion.

(16) Tenant shall continue to be liable for all rents and costs due under this lease, until Tenant returns keys to landlord or landlords designated agent after the expiration or earlier termination of this lease.

(17) Each individual executing this Lease on behalf of such party represents and warrants that he or she is duly authorized to execute and deliver this Lease on behalf of said party.

43. **FRUSTRATION OF PURPOSE:** Landlord and Tenant both represent and acknowledge that the terms and provisions of this lease were freely negotiated between the parties and that Landlord consented to this lease on the expectation that the terms and conditions of the tenancy would be determined by those negotiations and the provisions of this lease. If during the term of this lease any statute, ordinance or regular law becomes enacted or promulgated which alters the rent provisions set forth in this lease, then unless Tenant waives the provisions of any such statute, ordinance or regulation, and such waiver is lawful and binding, then Landlord shall have the right to terminate this lease by giving Tenant 90 days written notice of termination.

SIX C'S - EAST LAKE VILLAGE SHOPPING CENTER-Landlord

By: \_\_\_\_\_  
 William J. Codiga, its duly authorized representative                      Date



COUNTY OF SANTA CRUZ-Tenant

By: \_\_\_\_\_  
 John P. Rhodes, Chief Probation Officer, Probation Department Date

By: \_\_\_\_\_  
 Chief Assistant County Counsel Date

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

Approved as to Form

\_\_\_\_\_  
 Assistant County Counsel Date

Recommended for Approval

\_\_\_\_\_  
 Chief Real Property Dept DATE

FROM: OAKTREE PROPERTY COMPANY

FAX NO.: 831 768 9087

Aug. 04 1999 11:35AM P2

### Rules and Regulations

- a. Landlord reserves the right from time to time for public welfare or benefit of all the Tenants of the Project to amend or supplement the following rules and regulations and to adopt additional rules and regulations applicable to the Leased Premises. Reasonable notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to Tenant.
- b. Tenant agrees as follows:
  - (1) All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by Landlord.
  - (2) The delivery or shipping of merchandise, supplies and fixtures to and from the Leased Premises shall be subject to such rules and regulations as in the judgment of Landlord are necessary for the proper operation of the Leased Premises or the Project.
  - (3) All garbage and refuse shall be kept in the kind of container specified by Landlord, and shall be placed outside of the Leased Premises prepared for collection in the manner and at the times and places specified by Landlord. Tenant shall pay the cost of removal of Tenant's refuse or rubbish.
  - (4) No aerial, satellite dish, telephone wire, coaxial cable or other line shall be erected on the roof or exterior walls of the premises, or the grounds, without in each instance, the written consent of the Landlord. Any aerial, satellite dish, telephone wire, coaxial cable or other line so installed without such written consent shall be subject to removal without notice at any time and Tenant shall pay with the next rent due the cost of removal and roof repair.
  - (5) No loudspeakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard of or seen outside of the Leased Premises without prior written consent of Landlord. Additionally, Tenant shall conduct its business in a quiet and orderly manner so as not to create unreasonable or unrelated noise.
  - (6) The outside areas immediately adjoining the premises shall be kept clean and free from dirt and rubbish by Tenant to the satisfaction of Landlord and Tenant shall not place or permit any obstructions or merchandise in such areas except with Landlord's specific written approval.
  - (7) Tenant and Tenant's employees shall park automobiles in Project in areas specifically designated by Landlord.
  - (8) The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. The expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant, who caused same, or whose employees, agents or invitees caused same.

FROM : OAKTREE PROPERTY COMPANY

FAX NO. : 831 768 9087

Rug. 04 1999 11:36AM P3

- (9) Tenant shall use at Tenant's cost such pest extermination contractor as Landlord may direct and at such intervals as Landlord may require.
- (10) Tenant shall not burn any trash or garbage of any kind in or about the Leased Premises or Project.
- (11) All public entrances and exits to the Leased Premises shall be kept unobstructed and open to the public during normal business hours.
- (12) Tenant shall not cause or permit any obnoxious or foul odors that disturb the public or other tenants. Should such odors be evident, Tenant shall be required to take immediate steps to remedy same upon written notice from Landlord.
- (13) No pets belonging to Tenant or Tenant's employees will be permitted to wander or roam within the Common Areas or Facilities.
- (14) Any restaurant or business that prepares food must show a certificate of compliance with applicable governmental and health regulations and must maintain same, including regularly scheduled cleaning of any hood/vent used in the restaurant operation upon Landlord's request.

FROM : OAKTREE PROPERTY COMPANY FAX NO. : 831 768 9087 Rug. 04 1999 11:36AM P4

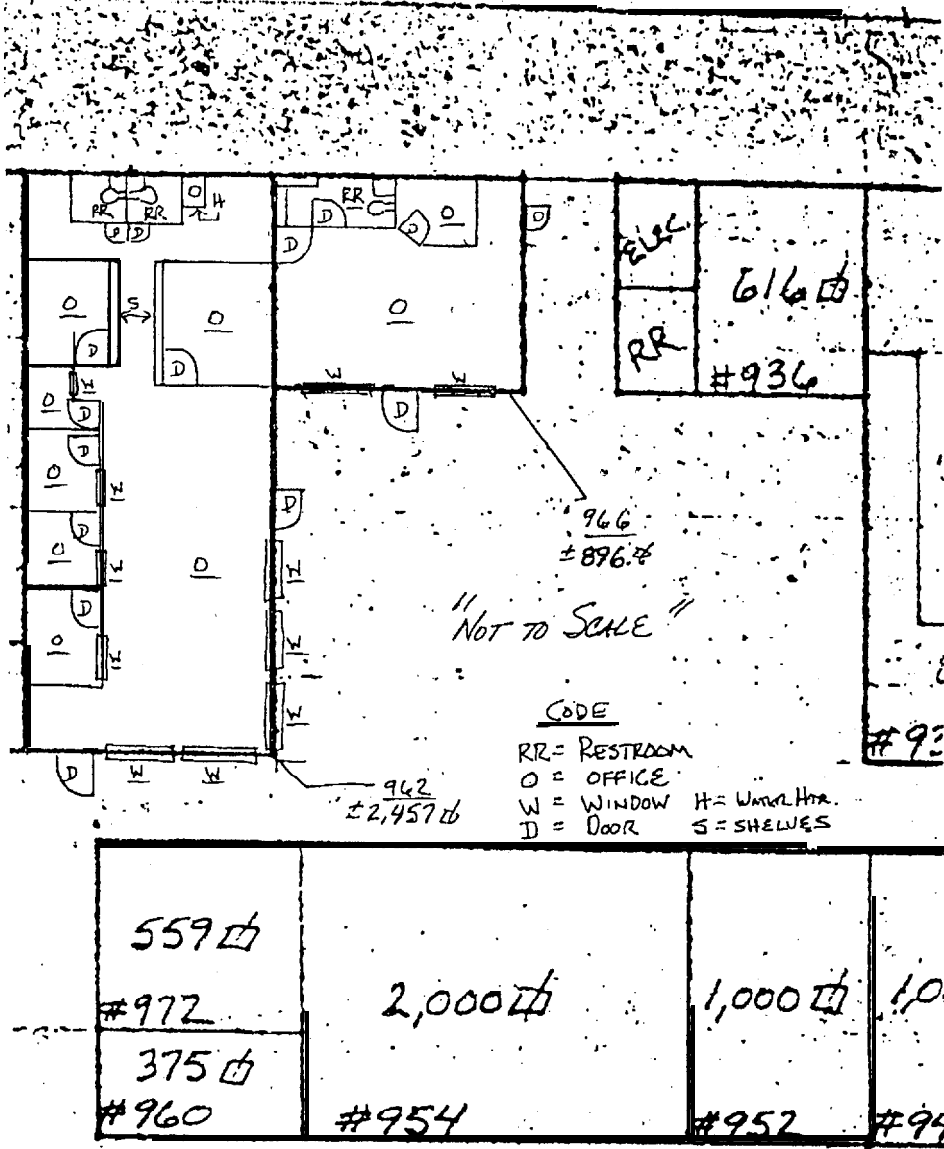


EXHIBIT "A"

FROM : OAKTREE PROPERTY COMPANY

FAX NO. : 831 768 9887

Aug. 04 1999 11: 37AM P5

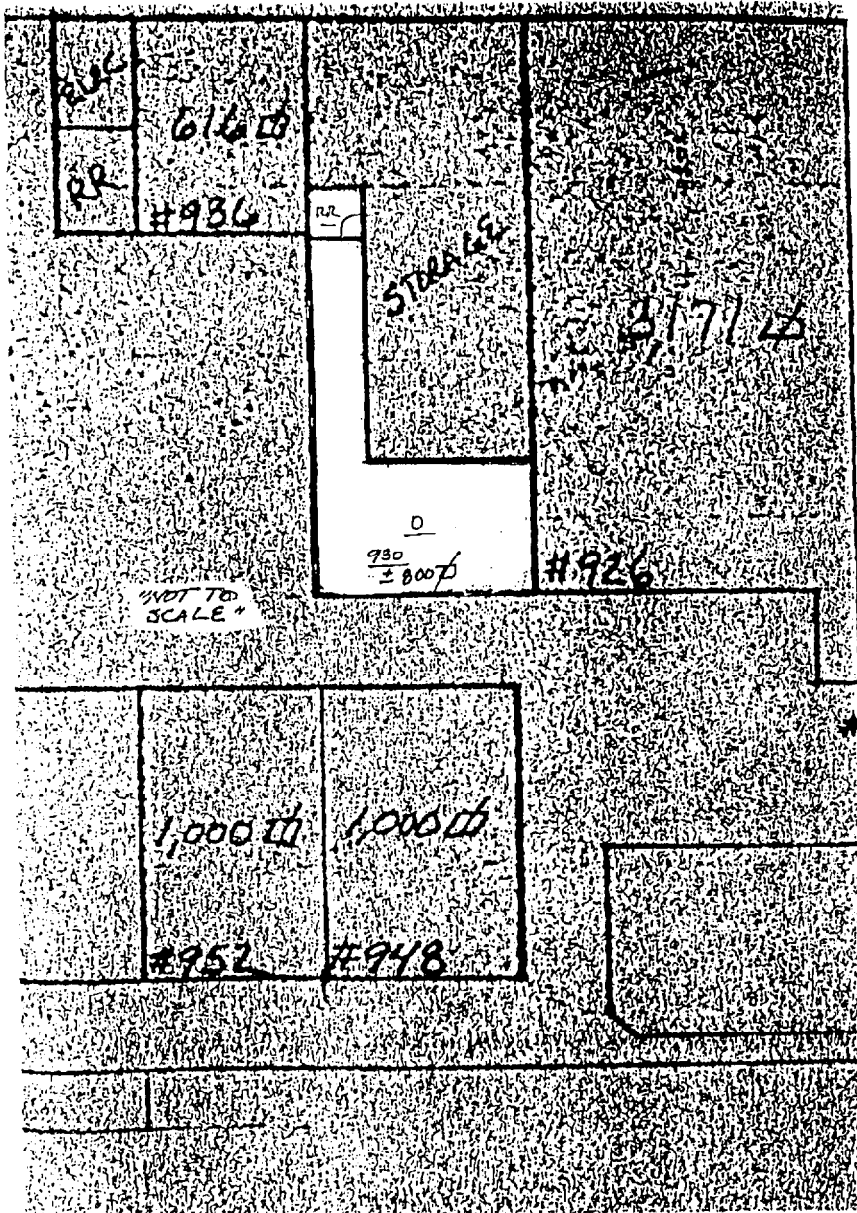


EXHIBIT "A"

FROM : OAKTREE PROPERTY COMPANY

FAX NO. : 831 768 9087

Rug. 04 1999 11: 39AM P6

This exhibit "C" is hereby made a part of that certain lease by and between SIX C'S EAST LAKE VILLAGE SHOPPING CENTER (Landlord) and SANTA CRUZ COUNTY (Tenant) for 930, 962 and 966 East Lake Avenue, Watsonville, California dated August 3, 1999.

1. Improvements: Per Item 3 of this lease, Landlord shall perform the following improvements prior to the commencement of this lease..

- insure all restrooms meet current applicable governmental requirements.
- install door between kitchen and restroom area in 962 East Lake Avenue.
- install drop ceiling with acoustical tile in restroom and kitchen areas in 962.
- install door from kitchen area to conference room in 962.
- install door and 3 x 5 window between office in 962 and 966.
- install counter with cabinets above in kitchen area of 962.
- install wall for computer equipment separation in restroom of 966.
- install lockable locksets on all doors.
- install new carpet and base in 930 and 966.
- paint interior of all offices.
- insure full function of all electrical, heating, ventilation and air conditioning systems.