



County of Santa Cruz

PARKS, OPEN SPACE & CULTURAL SERVICES

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HARRY C. SAMUEL, DIRECTOR

March 29, 2001

AGENDA: April 24, 2001

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: Watsonville Veterans Memorial Building Lease

Dear Members of the Board:

During Budget Hearings your Board directed the Parks Department to return to your Board with a draft agreement with the City of Watsonville (City) for the leasing of the Watsonville Veterans Memorial Building (WVMB).

The City Council has approved a lease for the **first** floor of the WVMB for a period of 13 months with two separate options to renew the lease, each for five years (Attachment A). At the conclusion of the initial thirteen month period, the County and City will meet to discuss and review the arrangement and possible extension for an additional five years.

The City has recently expressed interest in also renting the second floor of the WVMB. It is suggested that the City be given the **first** right of refusal, between this date and June 30, 2001, for negotiating an agreement for rental of the second floor. We have also advised the City of the request made to the Board by the Ohlone Indian Council for leased space. The City has assured staff that when the 2nd floor becomes available, they will contact the Ohlone Indian Council to discuss their desire for leasing space in the building.

The lease provides for the City to use the building for a variety of recreational, cultural and public activities which comply with City ordinances and regulations and any applicable State laws. The City acknowledges that the primary function of the WVMB is for Veterans services. The Allied Veterans Council and other Veterans organizations will have priority use and free access to the building for veteran related services. One of the offices on the first floor will be utilized by the County Veterans Service Officer. Use of the office will be provided at no charge; utilities will be paid on a pro-rated basis. The lease also provides for County use of the building without charge for a period or periods of time not to exceed five days per month. In case of a County wide emergency the County has the right to utilize the building for the duration of the declared emergency.

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BOARD OF SUPERVISORS
WATSONVILLE VETERANS MEMORIAL BUILDING LEASE
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AGENDA: April 24, 2001

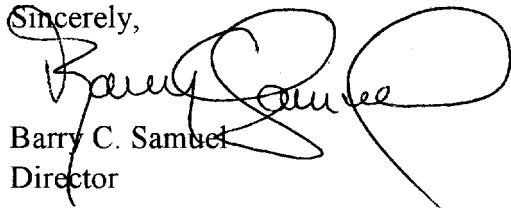
The lease includes a provision whereby the City shall work with the County to repair and/or upgrade the floor and lighting in the Main Hall/Auditorium. The City shall advance the cost of the repairs in an amount not to exceed \$75,000 and shall be reimbursed for said amount by the County before the term of the lease expires.

The lease will allow the City to provide recreational, cultural and public activities for the residents of the City and County.

It is therefore RECOMMENDED that your Board:

1. Approve the terms of the lease between the City of Watsonville and the County of Santa Cruz for the Watsonville Veterans Memorial Building; and
2. Direct County Parks to negotiate an amendment to the WVMB lease for use of the second floor with the City of Watsonville, and return to your Board on or before June 30, 2001 with a draft lease amendment for your Board's approval; and
3. Authorize the Director of County Parks to sign the lease on behalf of the County.

Sincerely,



Barry C. Samuel
Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Attachments: Lease

cc: CAO, Auditor-Controller, County Counsel, Parks, City of Watsonville

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**LEASE
BETWEEN THE COUNTY OF SANTA CRUZ AND
THE CITY OF WATSONVILLE
FOR WATSONVILLE VETERANS MEMORIAL BUILDING**

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1. Parties.

THIS LEASE, made and entered into this 1 day of May , b e t w e e n the **County of Santa Cruz**, a political subdivision of the State of California, hereafter referred to as "County" and the **City of Watsonville**, a municipal corporation, hereafter referred to as "City".

2. Premises.

County hereby leases to City, and City hereby hires and takes possession from County the Watsonville Veterans Memorial Building located at 215 East Beach Street, Watsonville, California, Assessor Parcel No. 017-033-I 3, on the terms and conditions as hereafter set forth and hereafter called "Premises" or "Vets Hall".

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3. Term.

The Lease shall commence May 1, 2001, and expire on June 30, 2002, unless sooner terminated under the provisions of this Lease.

City shall have two separate options to renew this Lease, each for a five (5) year term.

4. Rent.

City shall pay to County the sum of One (\$1 .00) Dollar per year in advance. All rent shall be paid to County at the address to which notices to County are given.

5. Use of Premises.

A. Permitted Uses.

Subject to the provisions of the next section, the Premises' first floor may be used for conducting a variety of recreational, cultural and public activities which comply with City ordinances and regulations and any applicable State laws. Such recreational uses mean indoor sports, including but not limited to basketball, volleyball and soccer. Cultural uses shall include meetings, classes, workshops, concerts and dances. Public rentals include rentals by corporations, agencies and private individuals for community related purposes.

City shall not, however, use or permit the Premises, or any part thereof to be used, for any other purpose or purposes without first obtaining the written consent of County.

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B. Veterans Services & Uses of the Vets Hall

City shall give priority use to Santa Cruz County veterans organizations.

C. Event Scheduling

County, City and/or City's designated representative, and county veterans organization(s) shall meet at least semi-annually to review agreements, schedules and make adjustments so that all parties are reasonably accommodated by the use of the Vets Hall.

The first meeting of the year shall include in its agenda the establishment of the master calendar for building use wherein City, veterans organizations and the County and/or their designated representative, shall prioritize and calendar their particular events and activities for the purpose of making the facility available to the community for rental.

Such schedule shall include allowance for the County to reserve and use the Premises for a period or periods of time, not exceeding five days per month without charge to the County. In the event either County or Veterans' Organizations do not choose to exercise their respective rights to use each such reserved time, each shall endeavor to notify the other at least 45 days in advance. The County, while using the facilities, will provide its own security services if necessary and will abide by the house keeping rules for the facility. In case of a county emergency, the County has the right to utilize the entire building for the duration of the declared emergency.

6. Remodeling and Repairs

A. Floors & Lighting Repairs & Repayment

City shall cooperatively work with County to repair and/or upgrade flooring and lighting in the Main Hall/Auditorium. The City shall advance the cost of the repairs in an

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amount not to exceed \$75,000. The County shall reimburse City for actual costs, not to exceed said \$75,000.00, before the expiration of the term of the lease.

B. Restrictions

Any repairs, remodeling or construction work by City on the Premises shall be first subject to written approval by County. City shall submit plans and specifications for improvements to the County Parks Director in such manner so as to reasonably describe the proposed.

C. ADA compliance.

County shall, entirely at its own expense, bring the first floor, its entrances and exits, and its interior components into substantial, good faith compliance with the Americans With Disabilities Act (ADA).

D. Ownership of Tenant Improvements.

All improvements on the Premises shall become County's property free of all claims to or against them by Tenant or any third person; except as provided in Paragraph (C) hereafter.

E. Protection of County Against Cost or Claim.

City shall pay or cause to be paid the total cost and expense of all works of improvements, as that phrase is defined in the mechanic's lien law in effect at the place of construction when the work begins. The County shall be notified, at least 7 days prior to the date of construction, so that the County can post a proper Notice of **Non-Responsibility**. No such payment shall be construed as rent. City shall not suffer or permit to be enforced against the Premises or any part of it any mechanic's,

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materialman's, contractor's, or subcontractor's lien arising from any work or improvement, however it may arise. However, City may in good faith and at City's own expense contest the validity of any such asserted lien, claim, or demand, provided City has furnished the bond required in California Civil Code Section 3143. City shall defend, indemnify and hold the County harmless against all liability and loss of any type arising out of work performed on the Premises by City, together with reasonable attorney's fees and all costs and expenses incurred by City in negotiating, settling, defending, or otherwise protecting against such claims. No consent given by County to City however shall be construed to make City a "participating owner" and therefore ineligible for the protection offered under Civil Code Section 3094 and 3129 (Notices of Nonresponsibility).

F. Notices of Completion.

On completion of any work of improvement, City shall file or cause to be filed a notice of completion. The City hereby appoints the County as City's attorney in fact to file the notice of completion on City's failure to do so after the work of improvement has been substantially completed.

G. City's Right to Remove Furniture, Fixtures and Equipment.

At the normal expiration of the Lease term, provided City is not in default, City shall have the right to remove any and all furniture, fixtures and equipment purchased by City at City expense.

7. No Subordination

County shall not subordinate title to the Premises to any security transaction. The Premises are now and shall remain free and clear of any liens, encumbrances, or other City obligations to third persons.

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8. Utilities.

City shall pay for water, gas, heat, light, power, telephone service, garbage, and all other services supplied to the Premises by County or others, including installation and connection of such services from the main source thereof. City may charge County or other users of facilities, proportional utility fees based on the number of days facility is used within the monthly billing period of utility. City will also provide janitorial services and may charge Veteran's Service office for said service.

9. Compliance with Rules, Regulations, and Laws.

In the use and occupancy of the Premises and in the conduct of all business, activities and transactions thereon, City will comply with all applicable laws, ordinances, rules, regulations, and applicable orders of the County of Santa Cruz, City or any governmental subdivision, body, or authority, including all federal, state, and municipal laws and ordinances.

10. Repairs.

The County shall be responsible to service, maintain and repair the building structure, its exterior walls and roof, HVAC, rough plumbing, electrical and infrastructure. The City shall maintain the glazing, doors, and finish electrical and plumbing.

11. Holding Over

If City shall hold possession of the Premises after the term of this Lease between County and City, City shall become a tenant from month to month upon the terms and conditions specified herein or as amended and agreed between County and City, and shall continue to be such tenant until the tenancy shall be terminated by County on thirty (30) days notice or until City shall have given at least (30) days notice of City's

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intention to terminate the tenancy. The provision of this Lease, so far as applicable, shall govern such tenancy. The events scheduled beyond the term of this lease shall be negotiated between the City and the County during the month of June 2001.

12. Abandonment

City shall not vacate or abandon the Premises at any time during the term thereof; if City shall abandon, vacate or surrender the Premises or be involuntarily dispossessed by process of law, or otherwise, any personal property belonging to City and left on the Premises shall be deemed to be abandoned and at the option of County shall become County's property free from all claims of City.

13. Signs, Posters, Buildings.

No advertising signs, posters, or similar devices shall be erected, displayed or maintained in, on, about, or above the Premises or the structures thereon without the written approval of the County Parks Director.

14. Taxes.

City will pay all taxes, assessments and licenses required by a governmental subdivision, body, or authority on or in respect to its use and occupation of the Premises, including but not limited to:

A. Personal Property Taxes.

Any improvements or property placed on the Premises by City or any person with its permission; and

B. Possessory Use Tax.

The use, occupancy or possessor-y rights of City in the Premises. Pursuant to Section 107.6 of the State Revenue and Taxation Code, the County hereby gives notice that the property interest to City under this Lease may be subject to property taxation as

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a possessory interest and the City acknowledges that it shall be subject to payment of property tax if a possessor-y interest tax is levied on the property interest.

15. Waiver of Damages and Indemnification.

County shall not be liable to City for any injury or damage that may result to any person or property on the Premises by or from any cause whatsoever, except as results from County's own negligence. Without limiting the generality of the foregoing waiver, it is expressly extended to injury or damage caused by water leakage of any character from the roof(s), wall(s), basement, or any other part of the property, or caused by gas, oil, electricity, or any other cause in or about the Premises or the building(s). City shall hold County harmless from, and defend County against, any and all claims or liability for any death or injury to any person or damage to any property, whatsoever, occurring in, on or about the Premises or any part thereof, or occurring in, on about any other areas of facilities of the building, including without limiting the generality of the foregoing, walkway(s), stairways, or passageways if such death, injury or damage shall be caused in part or in whole, directly or indirectly, by the act, negligence or fault of, or omission of any duty, with respect to the same or by City, its agents, servants, employees, or invitees.

16. Insurance.

A. Fire and Property Damage.

County shall procure and keep in force all risk, fire and extended coverage and boiler and machinery insurance upon all structural improvements on the Premises. City shall be responsible for any and all fire insurance coverage for personal contents.

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B. General Liability Insurance.

During the rental term, City, at City's sole expense, shall secure and maintain in force such policies of insurance as will protect it and County from claims for damages or bodily injury, including death, and for the loss or damage to property which may arise from operations of this Lease. Such insurance shall contain statements that:

- A. these policies shall also apply to County, as an Additional Named Insured;
- B. the insurance afforded by these policies applies severally as to each insured, except that the inclusion of more than one insured shall not operate to increase the limit of the company's liability, and the inclusion hereunder of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included;
- C. the insurance shall be primary insurance over any other insurance carried by City, which other insurance shall be considered excess only;
- D. the above policies specifically include coverage indemnifying County as set forth in this Lease;
- E. the policies may not be canceled, nor the coverage reduced until thirty (30) days after a written notice of such cancellation or reduction in coverage is delivered to County at the address contained herein;
- F. the insurance companies named herein waive any and all right of subrogation against County.

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- G. City or insurance company shall notify County Risk Manager of any claims as a result of management and operations of the Veteran's Memorial Building.
- H. Such liability insurance shall be written with limits of at least One Million (\$1,000,000) Dollars combined single limits, and shall be written by companies acceptable to County. The limit of liability insurance coverage shall be adjusted commensurate with inflation and other liability factors upon adoption of resolution of the County Board of Supervisors. Endorsements and Certificates of Insurance evidencing the above obligations shall be delivered to the County Parks Director on execution of the Lease Agreement.

All policies required to be maintained by City pursuant to the terms of this Lease shall be issued by companies authorized to do business in the State of California with a financial rating of at least A plus three A status as rated in the most recent edition of Best Insurance Reports. City shall pay premiums **therefor** and shall deliver annually to County endorsements naming the County as additional insured as to the liability policy. If City fails or refuses to procure or maintain the insurance coverage required hereunder, or fails or refuses to furnish County with proof that coverage has been procured and is in full force and paid for, County shall have the right, at County's election and without notice to City, but without any obligation to do so, to procure and maintain such coverage. City shall reimburse County on demand for any premiums County so pays in connection with such procurement.

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H. Self-Insurance. With County's prior consent, City may satisfy its obligations with respect to casualty and liability insurance hereunder by maintaining a funded self-insurance plan acceptable to County in its sole discretion, which acceptance shall not be unreasonably denied.

17. Destruction of Premises.

In the event the structure on the premises is destroyed to the extent of fifty (50%) or more of the replacement cost thereof, City may elect to terminate this lease. A total destruction of the structure on the premises shall terminate this lease.

18. Breach.

After service of ten (10) days written notice thereof by County or City, any one of the following shall constitute a breach of this Lease by City:

- 1. The appointment of a Receiver to take possession of all or substantially all of the assets of City; or
- 2. A general assignment by City for the benefit of creditors; or
- 3. Any action taken or suffered by City under any insolvency or bankruptcy; or
- 4. A default in the payment of the rent herein reserved or any part thereof, for a period of twenty (20) days; or
- 5. A default in the performance of any other covenant or condition of this Lease on the part of City to be performed for a period of twenty (20) days.

19. Litigation Expenses.

If either party shall bring an action against the other by reason of the breach of any covenant, warranty, or condition hereof, or otherwise arising out of this Lease, whether for declaratory or other relief, the prevailing party in such suit shall be entitled

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to its costs of suit and reasonable attorney fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing Party" within the meaning of this paragraph shall include without limitation a party who brings an action against the other after the other's breach of default, if such action is dismissed upon other's breach or default, if such action is dismissed upon the other's payment of the sums allegedly due or performance of the covenant's allegedly breached, or if the plaintiff obtains substantially the relief sought by it in the action.

20. Surrender of Premises

City agrees to surrender the Premises at the expiration or termination of the tenancy herein created in the same condition as the Premises were in at the beginning of the tenancy, reasonable use and wear thereof and damage by act of God or the elements excepted. The voluntary or other surrender of this Lease by City or a mutual cancellation thereof shall not work a merger, and shall, at the option of County, terminate all or any existing subleases or subtenancies, or may, at the option of County, operate as an assignment to City of any or all such subleases or subtenancies.

21. Discrimination.

City shall not itself nor shall it allow its permitted users to discriminate in the use or occupancy of the premises based on age, race, gender, sexual preference, ethnicity or religion.

22. Waiver.

Any waiver, expressed or implied, by either party of any breach by the other party of any agreement, term or condition of this Lease shall not be, or be construed to be, a waiver of any subsequent breach of a like or other agreement, term of conditions hereof; and the acceptance of rent hereunder shall not be, or be construed to be, a

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waiver of any breach of any agreement, term or condition of this Lease, except as to the payment of rent so accepted. The rights and remedies of either party under this Lease shall be cumulative and in addition to any and all other rights and remedies which either party has or may have.

23. Quiet Enjoyment.

County covenants and warrants that upon City's paying the rent and observing and performing all of the terms, covenants, and conditions on City's part to be observed and performed hereunder, City shall and may peaceably and quietly enjoy the Premises hereby demised, subject nevertheless to the terms and conditions of this Lease.

24. Notices.

All notices, consents, waivers, or other communications which this Lease requires or permits either party to give to the other shall be in writing and shall be served personally and forwarded by registered or certified mail, return receipt requested, made upon or addressed to the respective parties as follows:

To County: Parks Director
County of Santa Cruz
979 1 7th Avenue
Santa Cruz, CA 95062

To City: City Clerk
City of Watsonville
215 Union Street, 2nd Floor
P. O. Box 50,000
Watsonville, CA 95077

or such other address as may be contained in a notice from either party to the other given pursuant to this paragraph.

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25. Right of County to Enter for Inspection.

County shall have the right to enter upon the Premises at all reasonable times during the term of this Lease for the purpose of making any inspection it may deem expedient to the proper enforcement of this Lease.

26. Condemnation.

If the whole or any substantial part of the Premises shall be taken by any paramount public authority under the power of eminent domain, then the term of this Lease shall cease as the part so taken from the date the possession of that part shall be taken for any public purpose, and from that day City shall have the right either to cancel this Lease or to continue in the possession of the remainder of the Premises under the term herein provided, except that the square foot rental shall be reduced in proportion to the amount of the Premises taken.

Damages awarded for such taking shall be awarded to the County. The City waives any claim or interest in the remaining term of the leasehold. Provided, however, that County shall not be entitled to any portion of the award made for loss of business installation, relocation, or improvements belonging to City.

27. Miscellaneous

All the provisions of this Lease shall be deemed and construed to be "covenants" as though the words imported such covenants were used in each separate paragraph hereof, except when expressed as conditions.

This Lease shall be construed and enforced in accordance with the laws of the State of California. This Lease and the covenants and agreements herein contained shall bind and inure to the benefit of the parties hereof, their heirs, successors, executors, administrators, and when permitted, assigns.

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Time is of the essence of this Lease. Whenever consent or approval of either party is required, that party shall not unreasonably withhold such consent or approval. City shall deliver to County on execution of this Lease, a certified copy of a resolution of its governing body authorizing the execution of this Lease and naming the officers that are authorized to execute this lease on behalf of the corporation.

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28. **Complete Agreement.**

This Lease: contains all the agreements of the parties and cannot be amended or modified except by a written agreement.

29. **Signatures.**

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

"County" COUNTY OF SANTA CRUZ, a political subdivision of the State of California,

By: _____
Barry C. Samuel, Director
Santa Cruz County Department of Parks, Open Space & Cultural Services

"City" CITY OF WATSONVILLE, a municipal corporation

By: Marcela Tavantzis
~~Carlos J. Palacios, City Manager~~
MARCELA TAVANTZIS, ASSISTANT CITY MANAGER

ATTEST:

Jana L. Roberts
City Clerk / DEPUTY

APPROVED AS TO FORM:

[Signature]
City Attorney

[Signature] 4-12-01
County Counsel

Janet McKinley 4-13-2001
County Risk Management