

LEASE

_____ LARRY MARKS acting by and through the Marin County Free Library, _____

LESSEE and its agents, employees and invitees have the non-exclusive right with others designated by LESSOR to the free use of the common areas in the Building and of the land on which the Building is located for the common areas' intended and normal purpose. Common areas include elevators, sidewalks, parking areas, driveways, hallways, stairways, public bathrooms, common entrances, lobby and other similar public areas and access ways.

3. **Term:**

The term of this LEASE shall be for a period of ten (10) years commencing March 1, 1997 and ending at midnight February 29, 2007.

4. **Rent:**

Rental shall be paid by the LESSEE to LESSOR on the first day of each month during said term as follows:

LESSEE shall pay to LESSOR as rental for the first year of the term FIFTEEN THOUSAND THREE HUNDRED DOLLARS (\$15,300.00) in lawful money of the United States, in monthly installments of ONE THOUSAND TWO HUNDRED SEVENTY FIVE DOLLARS (\$1,275.00) payable in advance on the first day of each calendar month. Rent shall be paid at the address set out after the signature of LESSOR in this lease, or at such other place as LESSOR shall direct.

Rental payable hereunder for any period of time less than one month shall be determined by prorating the monthly rental herein specified based on the actual number of days in the month. Rental shall be paid to LESSOR at the address specified in Paragraph 9 or to such other address as the LESSOR may designate by a notice in writing.

5. **Rent Increases:**

On **March 1, 1998**, and on each and every **March 1** thereafter during the term hereof, the monthly rent shall be increased by the percentage increase, if any, in the CPI's **December** index for the year over that which existed for the previous year, or a maximum of five percent (5%), whichever is less. If index figures are not available for adjustment purposes when rent payments otherwise become due, said rent payments shall be made at the then current rate and adjusted retroactively when said index figures are available. It is herein understood and agreed that in no event will the rent determined by application of the CPI on any **December 1** be less than the monthly rent in effect during the preceding year.

For the purposes of this section, the term "CPI" shall be understood to mean the Consumer Price Index All Items for the San Francisco-Oakland-San Jose area, 1967 = 100, as published by the Bureau of Labor Statistics of the United States Department of Labor in the Monthly Labor Review. In the event that said CPI is no longer available, the Index designated by the Bureau of Labor Statistics as replacing said CPI, or the most comparable substitute shall be utilized for yearly rental adjustments.

6. Early Termination:

On or after March 1, 1999 and each year thereafter, LESSEE may cancel the entire premises by giving written notice to the LESSOR at least one hundred twenty days prior to the date when such termination shall become effective.

9. **Notices:**

All notices and correspondence herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, certified and postage prepaid and addressed as follows:

To the LESSOR:

Larry Marks
870 Sutro Avenue
Novato, CA 94947

and to the LESSEE:

Marin County Free Library
Joseph Murphy
3501 Civic Center Drive, Suite 404
San Rafael, CA 94903

and to

Marin County Public Works Department
Real Estate Section
P.O. Box 4186, Civic Center Branch
San Rafael, CA 94913-4186

Rental warrants shall be made payable to LESSOR and mailed to above address.

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices and correspondence shall be mailed to either party may be changed by giving written notice to the other party.

10. **Time Limit and Delivery:**

If LESSOR is unable to deliver possession of the premises to LESSEE at the commencement of the term, March 1, 1997, for any reason whatsoever, this agreement shall not be void or voidable for a period of thirty (30) days thereafter, nor shall LESSOR be liable to LESSEE for any loss or damage resulting therefrom, but the monthly rent shall abate until LESSOR delivers possession of the premises to LESSEE.

If LESSOR is unable to deliver possession of the premises to LESSEE within thirty (30) days after the commencement date, March 1, 1997, this LEASE may be terminated by LESSEE by written notice to LESSOR at any time thereafter prior to the date possession is delivered to LESSEE.

Upon delivery of possession of the premises LESSEE shall not be required to pay rent until the construction of the tenant improvements specified in paragraph 17 is completed and the premises are available for occupancy by LESSEE, unless construction of said tenant improvements exceeds thirty (30) days. Rent payments shall begin no later than (30) days subsequent to delivery of premises by LESSOR.

11. **Asbestos & Seismic:**

LESSOR hereby states that to the best of his knowledge there are no asbestos-containing materials in the building or on the land on which the building is constructed and the space will be operated and maintained free of hazard from Asbestos Containing Construction Materials (ACCM). LESSOR shall provide an opportunity for LESSEE to inspect and approve the premises for structural integrity, or any other pertinent problems, related to the proposed use prior to LESSEE'S occupancy.

12. **Condition of Premises:**

By taking possession of the Premises, LESSEE shall be deemed to have accepted the Premises as being in good order and repair, subject to any latent defects therein and "punch list" items noted by LESSEE. LESSEE shall keep and maintain the interior of the premises in good order, condition and repair, and shall surrender the Premises at the expiration of this Lease in good condition, normal wear and tear, damage by the elements or casualty excepted; but LESSOR shall repair damage to the interior caused by failure to maintain the exterior in good repair, including damage to the interior caused by roof leaks and/or interior and exterior wall leaks.

13. **Parking:**

LESSOR shall under any circumstance guarantee and provide fifteen (15) vehicle parking spaces, unreserved and unassigned, on those portions of the Common Areas designated for parking.

14. **Locks/Keys:**

LESSOR shall install new locks on doors to leased Premises and shall supply LESSEE with a total of five (5) Entry keys.

15. **Operating Expenses/ Real Estate Taxes:**

The monthly rental rate includes all operating expenses and real estate taxes associated with the building, except PG&E and telephone service, which shall be the sole responsibility of LESSEE. Any increases in operating expenses or real estate taxes shall not be passed through to the tenant during the term of this lease. LESSEE shall be considered the owner during the term of any leasehold improvements installed at LESSEE'S expense, and any such leasehold improvements shall be assessed to LESSEE for property tax purposes. LESSEE shall not remove from the premises any leasehold improvements installed by LESSEE without LESSOR'S prior written consent. All real property taxes shall be paid by LESSOR. No portion of said taxes or any increases shall be passed on to LESSEE during the lease term or option period.

16. **Janitorial, Repair and Maintenance:**

A. LESSEE shall be solely responsible for all janitorial services and shall maintain the premises free from toxic wastes and litter. LESSOR shall provide a three (3) cubic yard community dumpster for trash removal, limited to typical office trash only. Any collection of cartons, news periodicals or excessive amounts of trash will be taken care of by the LESSEE. The LESSOR shall be the sole judge of what is considered extraordinary amounts of trash and can require the LESSEE to provide their own trash collections.

B. LESSOR shall be responsible for routine servicing of the plumbing including, but not limited to the hot water heater, and electrical systems as well as routine servicing of the heating and ventilation system.

C. During the lease term, LESSOR shall maintain the leased premises in good repair and tenable condition, so as to minimize breakdowns and loss of the LESSEE's use of the premises caused by deferred or inadequate maintenance to County standards, including:

- (1) Generally maintaining the leased premises in good, vermin free, operating condition and appearance.
- (2) Furnishing prompt, good quality repair of the building, equipment, and appurtenances.
- (3) Furnishing preventive maintenance, including, but not limited to, manufacturers' recommended servicing of equipment such as heating, ventilating equipment, and fixtures.
- (4) Annual testing and maintenance of all fire extinguishes in or adjacent to the leased premises. The cost of said annual testing and maintenance of fire extinguishers shall be billed to LESSEE and LESSEE shall make full payment to LESSOR within thirty (30) days of receipt thereof.
- (5) Repairing and replacing parking lot bumpers and paving as necessary. Repainting directional arrows, striping, etc., as necessary.
- (6) Maintaining landscaped areas, including sprinklers, drainage, etc., on a weekly basis, in a growing, litter-free, weed free, and neatly mowed and/or trimmed condition.
- (7) Keeping all walkways, parking lots, entrances, and auxiliary areas free of snow, water, oil spills, debris, or other materials which may be hazardous to users of the building.
- (8) LESSOR shall be responsible for the correction of any code violations which may exist in the Premises, provided LESSOR shall not be liable for correction of code violations which arise out of and are directly related to a change in LESSEE's occupancy or use of said Premises.

D. During the term of the Lease LESSEE shall be responsible for the maintenance and repair of the following:

- (1) Furnishing and promptly replacing any inoperative light bulbs, fluorescent tubes and ballasts as required.
- (2) Repairing and replacing as necessary intrabuilding network cable and inside wire cable used for voice and data transmission.
- (3) Repairing and replacing floor covering as necessary.

E. LESSOR shall provide prompt repair or correction on any damage except damage arising from a willful or negligent act of the LESSEE's agents, employees or invitees.

F. The interruption or curtailment of any service caused by any event beyond the control of LESSOR for a period less than thirty (30) days shall not constitute constructive eviction and shall not entitle LESSEE to the abatement of rent or to any other claim against LESSOR, nor shall any such interruption be grounds for termination of this Lease, provided LESSOR exercises reasonable diligence to remedy such interruption.

G. In case LESSOR, after notice in writing from the LESSEE requiring the LESSOR to comply with the requirements of this paragraph in regard to a specified condition, shall fail, refuse or neglect to comply with such notice, or in the event of an emergency constituting a hazard to the health or safety of the LESSEE's employees, property, or invitees, the LESSEE may terminate this lease without further obligation or perform such maintenance or make such repair at its own cost and, in addition to any other remedy the LESSEE might have, may withhold rent due and deduct the amount thereof, including necessary costs incurred by the LESSEE required for the administration of such maintenance and repairs, from the rent that may then be or thereafter become due hereunder.

17. Tenant Improvements:

A. LESSOR shall at its own expense upon completion of LESSEE's Tenant Improvements but prior to occupancy paint or repaint the interior of the leased premises and carpet the leased premises excepting the bathroom. The selected carpet or other floor covering to be installed shall be approved by LESSEE prior to installation but the cost incurred by LESSOR for the purchase and installation thereof shall not exceed \$3,400.

18. Alterations:

LESSEE shall not make or permit to be made any alterations, additions, improvements or changes in the premises without the prior written consent of LESSOR, which consent shall not be unreasonably withheld. Subject to the services to be rendered by LESSOR as set forth in paragraphs 15 and 16, LESSEE shall, at LESSEE'S own expense, keep the premises in good order, condition and repair during the term, including the replacement of all broken glass with glass of the same size and quality under the supervision and with the approval of LESSOR if glass is broken as a result of LESSEE'S negligence or conduct. If LESSEE does not make repairs promptly and adequately, LESSOR may, but need not, make repairs, and LESSEE shall pay promptly the reasonable cost thereof. At any time or times, LESSOR, either voluntarily or pursuant to governmental requirement, may, at LESSOR'S own expense, make repairs, alterations

or improvements in or to the building or any part thereof, including the premises, and, during such operations, LESSOR may close entrances, doors, or other facilities, all without any liability to LESSEE by reason of interference, inconvenience or annoyance; provided that LESSEE shall have reasonable access to the premises.

19. **Use:**

LESSEE shall use and occupy the premises for Public Library and related purposes and for no other purpose without the prior written consent of LESSOR, which consent shall not be unreasonably withheld.

20. **Waste, Nuisance, Compliance with Laws:**

LESSEE shall not commit or allow the commission of any waste upon the premises, or any public or private nuisance, or any other act or thing that may disturb the quiet enjoyment of any other tenants in the building. LESSEE shall not use the premises or allow their use, in whole or in part, for any purpose or use that is in violation of any of the laws, ordinances, regulations or rules of any public authority applicable to the premises.

21. **Inspection:**

LESSOR reserves the right to enter the premises by prior appointment only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, holidays excepted, and to employ the proper representative or contractor in order to see that the property is being reasonably cared for in full compliance with the terms and conditions of this Lease.

22. **Liens:**

LESSEE agrees to keep the premises and the property on which the premises are located free from liens arising out of any work performed, materials furnished, or obligations incurred by LESSEE. LESSEE shall keep LESSOR fully informed of any work or improvement on the premises and shall permit LESSOR to post and record notices of non-responsibility (when appropriate) within ten (10) days after the commencement of any work or improvement, so that LESSOR'S interest in the premises will not be subject to mechanic's liens.

23. **Indemnification:**

23 _____

23.02 LESSOR'S Indemnity: LESSOR indemnifies, defends, and holds LESSEE harmless from claims for personal injury, death, or property damage caused by the negligence or willful misconduct of LESSOR, its agents, employees or invitees. When the claim is caused by the joint negligence or willful misconduct of LESSOR and LESSEE or LESSOR and a third party unrelated to LESSOR, except LESSOR'S agents, employees, or invitees, LESSOR'S duty to defend, indemnify and hold LESSEE harmless shall be in proportion to LESSOR'S allocable share of the joint negligence or willful misconduct.

24. Hold Harmless:

To the extent permitted by law, LESSEE agrees to indemnify and hold harmless LESSOR from LESSEE's share of any and all claims, costs and liability for any damages, injury or death of any person or the property of any person, arising out of negligent acts, errors or omissions of LESSEE, its invitees, agents officers or employees.

To the extent permitted by law, LESSOR agrees to indemnify and hold harmless LESSEE from any and all claims, costs and liability for any damages, injury or death of any person or the property of any person, arising out of any cause whatsoever, save or except the sole negligence or willful misconduct of LESSEE, its invitees, agents officers or employees.

25. Insurance:

25.2 LIABILITY INSURANCE - LESSOR. LESSOR shall obtain and keep in force during the term of this Lease a policy of Combined Single Limit Bodily Injury and Property Damage Insurance, insuring LESSOR, but not LESSEE, against any liability arising out of the ownership, use, occupancy or maintenance of the Office Building in an amount not less than \$500,000.00 per occurrence.

25.3 PROPERTY INSURANCE. LESSOR shall obtain and keep in force during the term of this Lease a policy or policies of insurance covering loss or damage to the Office Building improvements, but not LESSEE'S personal property, fixtures, equipment, or LESSEE improvements, in an amount not to exceed the full replacement value thereof, as the same may exist from time to time, providing protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, flood (in the event same is required by a lender having a lien on the Premises) special extended perils ("all risk," as such term is used in the insurance industry), plate glass insurance and such other insurance as LESSOR deems advisable.

26. Subrogation:

LESSOR and LESSEE hereby waive all rights of subrogation which their respective insurers might have under all policies of insurance now existing or hereafter purchased during the term of either LESSOR or LESSEE, insuring or covering the premises or any portion thereof, or LESSEE's leasehold improvements, furniture, fixtures, personal property, business or operations in or about the premises.

27. Destruction:

In the event of partial destruction of the building during the term by fire or other cause LESSOR shall repair the same, provided that such repairs can be made within ninety (90) days (subject to delays beyond LESSOR'S control and delays in making insurance adjustments by LESSOR) and in that event such partial destruction shall not annul or void this Lease, except that LESSEE shall be entitled to a proportionate reduction of rent while such repairs are being made, such proportionate reduction to be based upon the extent to which the making of such repairs

interferes with the business carried on by LESSEE in the premises, as determined by mutual consent.

If such repairs cannot be made within ninety (90) days, either LESSOR or LESSEE may terminate this Lease. Such termination shall be effected by giving notice to the other party within thirty (30) after the damage occurs. If the Lease is not so terminated, LESSOR shall make such repairs within a reasonable time with this Lease continuing in full force and effect and the rent proportionately reduced while the repairs are being made.

In the event the building is destroyed to the extent of not less than one-third of the then-current replacement cost thereof (excluding foundations), LESSOR or LESSEE may elect to terminate this Lease, regardless of whether the premises are damaged, whether the partial destruction is caused by a casualty which is covered by insurance, or whether the repairs can be made within ninety (90) days. A total destruction of the building shall terminate this Lease.

In the event of termination of this Lease pursuant to any of the provisions of this Paragraph 25, rent and LESSEE's portion of any service cost shall be apportioned on a per diem basis and shall be paid to the date of the casualty. In no event shall LESSOR be liable to LESSEE for any damages resulting from the happenings of such casualty or from the repairing or reconstruction of the premises or of the building, or from the termination of this Lease as herein provided.

28. Eminent Domain:

If the whole or any substantial part of the building or appurtenant real property shall be taken or condemned by any competent authority for any public use or purpose, the term of this Lease shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose, provided, that at LESSOR'S option this Lease shall not terminate if LESSEE's premises are not taken and if LESSEE's access to and use of its premises are not materially and detrimentally affected by the taking. Current rent shall be apportioned as of the date of such termination. LESSEE shall be entitled to make a claim for the value of LESSEE's trade fixtures, equipment, furniture, furnishings and personal property and for LESSEE's moving expenses.

29. Assignment and Subletting:

LESSEE shall not assign this Lease, or any interest herein, and shall not sublet the premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and employees of LESSEE expected) to occupy or use the premises, or any portion thereof, without the prior written consent of LESSOR, which consent shall not be unreasonably withheld. A consent to one assignment, subletting occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by any other person. Any such assignment or subletting without such consent shall be void, and shall, at the option of LESSOR, terminate this Lease. Any transfer or assignment of this Lease by operation of law without written consent of LESSOR shall make this Lease voidable at the option of the LESSOR.

Every assignment of Lease shall recite that it is and shall be subject and subordinate to the provisions of this Lease, and the termination of this Lease shall constitute a termination of every such assignment or Lease.

30. **Signs:**

LESSEE shall not place any signs, lettering or marks whatsoever on the interior or exterior of the doors windows, or about the premises without LESSOR'S prior written approval of the size, style, design, color, material, manner of applying or fastening and location thereof, and the person or firm who shall install or apply the same. Said permission shall not be unreasonably withheld.

31. **Holding Over:**

Any holding over after the expiration of the term shall be with the written consent of LESSOR and shall be construed to be a tenancy from month to month. LESSOR reserves the right to increase monthly rent during this holding over period.

32. **Surrender of Possession:**

Upon termination or expiration of this Lease, LESSEE will peacefully surrender to the LESSOR the leased premises in as good order and condition as when received, except for reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which LESSEE has no control or for which LESSOR is responsible pursuant to this Lease. The LESSEE shall have no duty to remove any improvements or fixtures placed by it on the premises or to restore any portion of the premises altered by it, save and except in the event LESSEE elects to remove any such improvements or fixtures and such removal causes damages or injury to the leased premises, and then only to the extent of any such damage or injury.

33. **General Provisions:**

This Lease contains all of the terms, covenants and conditions agreed to by LESSOR and LESSEE and it may not be modified orally or in any manner other than by an agreement in writing signed by all of the parties to this Lease or their respective successor in interest.

Each term and each provision of this Lease performable by LESSOR or LESSEE shall be construed to be both a covenant and a condition.

The covenants and conditions hereof, subject to the provisions as to subletting and assignment, shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties.

When the context of the Lease requires, the masculine gender includes the feminine, a corporation or a partnership, and the singular number includes the plural.

The captions of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

This Lease shall be governed by and construed in accordance with the laws of the State of California.

Time is of the essence as to all of the provisions of this Lease.

State and Federal Acts: Title 24 (State of California) and the Americans with Disabilities Act (Federal Civil Rights legislation) require all buildings to be accessible to handicapped individuals. LESSOR warrants the building and the premises of which this lease is a part complies with the State and Federal Acts.

34. Trade Fixtures:

LESSEE shall retain title to all of LESSEE'S trade fixtures, equipment, furniture, furnishings and personal property. LESSEE may, upon the expiration or sooner termination of this Lease, remove all of LESSEE's trade fixtures, equipment, furniture, furnishings and personal property.

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

LESSOR:

LESSEE:

COUNTY OF MARIN

Larry Marks

By: _____
Chairman, Board of Supervisors

Date

ATTEST:

Clerk