

LEASE

Health Services Department
Emergency Medical Services
777 Arnold Drive, Suite 110,
Martinez, California

This lease is dated December 5, 2017, and is between 777 Arnold Drive, LLC, a California limited liability corporation (“**Lessor**”) and the County of Contra Costa, a political subdivision of the State of California (“**County**”).

Recitals

- A. Lessor is the owner of that certain premises located at 777 Arnold Drive, Martinez, California (the “**Building**”).
- B. Lessor desires to lease to County and County desires to lease from Lessor a portion of the Building consisting of approximately 10,948 rentable square feet of office and warehouse space in suite 110 on the first floor of the Building, and a Butler Building in the rear parking area (all together the “**Premises**”). The Premises is more particularly described in Exhibit A – Floor Plan. Along with the exclusive use of the Premises, the County will have non-exclusive use of 38 parking stalls.
- C. Simultaneous with the execution of this lease, Lessor and County are entering into a work letter that sets forth how tenant improvements in the Premises are to be constructed, who will undertake the construction of the tenant improvements, who will pay for the construction of the tenant improvements, and the time schedule for completion of the construction of the tenant improvements (the “**Work Letter**”). The Work Letter is part of this lease.

The parties therefore agree as follows:

Agreement

- 1. Lease of Premises. In consideration of the rents and subject to the terms herein set forth, Lessor hereby leases to County and County hereby leases from Lessor, the Premises.
- 2. Term. The “**Term**” of this lease is comprised of an Initial Term and, at County’s election, Renewal Terms, each as defined below.
 - a. Initial Term. The “**Initial Term**” is twelve years, commencing on the Commencement Date, as defined in the Work Letter.
 - b. Renewal Terms. County has two options to renew this lease for a term of five years for each option (each, a “**Renewal Term**”).

- i. Rent during each Renewal Period will be ninety percent (90%) of the then-fair market rental value of the Premises. The fair market rental value of the Premises will be established by the mutual agreement of the parties. If the parties fail to agree on the fair market rental value of the Premises by the date that is ninety days prior to the commencement of a Renewal Period, the parties will engage a real estate appraiser with knowledge of the commercial real estate market in the area to determine the fair market value of the Premises. The parties shall each bear one-half the cost of the appraiser.
- ii. County will provide Lessor with written notice of its election to renew the Lease at least six months, but no more than nine months, prior to the end of the Term. If County fails to provide such notice, its right to renew the Lease will not expire until fifteen working days after the County's receipt of Lessor's written demand that the County exercise or forfeit the option to renew.
- iii. Upon the commencement of a Renewal Term, all references to the Term of this lease will be deemed to mean the Term as extended pursuant to this Section.

3. Rent.

a. Initial Term: County shall pay rent ("**Rent**") to Lessor monthly in advance beginning on the Commencement Date. Rent is payable on the tenth day of each month during the Initial Term in the amounts set forth below:

<u>Months</u>	<u>Monthly Rent</u>
1- 12	\$14,910
13 - 24	\$14,910
25 - 36	\$15,960
37 - 48	\$15,960
49 - 60	\$17,010
61 - 72	\$17,010
73 - 84	\$18,060
85 - 96	\$18,060
97 - 108	\$19,110
109 - 120	\$19,110
121 - 132	\$20,160
133 - 144	\$20,160

Rent for any fractional month will be prorated and computed on a daily basis with each day's rent equal to one-thirtieth (1/30) of the monthly Rent.

- b. Rent Adjustment. If the actual cost of Tenant Improvements (as defined in the Work Letter) exceeds the Allowance (as defined in the Work Letter), the monthly Rent over the ten-year period that follows the final installation of the Tenant Improvements will be adjusted upward by an amount equal to the Rental Increase. The “**Rental Increase**” is an amount equal to the amount by which the cost of the Tenant Improvements exceeds the Allowance (the “**Excess Cost**”) multiplied by .0116108. For example, if the Excess Cost is \$100,000, the amount by which Rent would increase over the relevant ten-year period is \$1,161.08 (\$100,000 x .0116108). However, the excess costs of the Tenant Improvements cannot exceed \$800,000; any amount in excess of \$800,000 will be paid back to Lessor on the Commencement Date of this lease.

The Rental Increase shall be terminated at the end of the ten-year period, and Rent will be payable in the amount set forth in paragraph 3.a.

4. Use. County may use the Premises for the purpose of conducting various functions of County and any other purpose permitted by law with the written approval of Lessor, which approval will not be unreasonably withheld or delayed.
5. Full Service Lease. This is a full service lease. Lessor shall pay all of the Building’s operating costs, including, but not limited to, all maintenance and repairs, real estate taxes, and building insurance. County will not reimburse Lessor for any of these costs.
6. Obligation to Pay Utilities and Janitorial Service. Lessor shall pay for all water, sewer, gas, electricity; refuse collection and janitorial services provided to the Premises. County will pay and provide restroom supplies to the premises. Lessor shall pay for all janitorial services provided to the Premises, which services are to conform to the specifications set forth in Exhibit B – Janitorial Specifications. Lessor shall furnish heating, ventilating and air conditioning for the comfortable occupancy of the Premises 24 hours per day, 7 days per week.
7. Maintenance and Repairs.
- a. Roof and Exterior of Premises. Lessor shall keep the roof and exterior of the Premises in good order, condition, and repair, and shall maintain the structural integrity of the Building, including the exterior doors and their fixtures, closers and hinges, exterior windows, glass and glazing, used in the Building. County shall maintain all locks and key systems used in the Premises.
- b. Interior of Premises. County shall keep and maintain the interior of the Premises in good order, condition and repair, but Lessor shall repair damage to the interior caused by its failure to maintain the exterior in good repair, including damage to the interior caused by roof leaks and/or interior and exterior wall leaks. The County may install and maintain an alarm system, if deemed necessary by County.

- c. Utilities. Lessor shall repair and maintain the electrical, lighting, water and plumbing systems in good order, condition and repair.
 - d. HVAC. Lessor shall maintain and repair the heating, ventilating, and air-conditioning (HVAC) systems.
 - e. Parking; Exterior Lighting; Landscaping. Lessor shall maintain the parking lot, exterior lighting system, and landscaping in good order, condition and repair.
 - f. Services by Lessor. If County determines that the Premises are in need of maintenance, construction, remodeling or similar service that is beyond Lessor's responsibilities under this lease, at County's request, Lessor shall perform such service at County's expense. In performing the service, Lessor shall consult with County and use either licensed insured contractors or employees of Lessor. Lessor shall obtain County's prior written approval of the scope, terms, and cost of any contracts. County may, by giving Lessor thirty (30) days prior written notice, change the level of service, terminate any or all service, or require that a service be performed by a different contractor.
8. Quiet Enjoyment. Provided County is in compliance with the material terms of this lease, Lessor shall warrant and defend County in the quiet enjoyment and possession of the Premises during the Term.
9. Subordination, Non-Disturbance and Attornment. If at any time Lessor has a loan that is secured by a lien of a mortgage or deed of trust encumbering the Building, Lessor shall cause the lender(s) holding such lien to execute and deliver to County a Subordination, Non-Disturbance and Attornment Agreement that is in substantial conformity with Exhibit C hereto.
10. Assignment and Sublease. County has the right to assign this lease or sublease the Premises or any part thereof at any time during the Term with the written approval of Lessor, which approval will not be unreasonably withheld or delayed. Upon the assignment of the lease by County, the County will have no further obligation under the lease.
11. Alterations; Fixtures and Signs. County may (i) make any lawful and proper minor alterations to the Premises and (ii) attach fixtures and interior signs in and on the Premises ("**County Fixtures**"). County may install signage on the existing monumental sign. Any County Fixtures will remain the property of County and may be removed from the Premises by County at any time during the Term. County is responsible for the cost of all alterations and County Fixtures. All alterations and County Fixtures are subject to Lessor's approval and must comply with existing code requirements.
12. Lessor's Furniture. Concurrently with the execution of this lease, Lessor shall grant, sell and convey to the County 9 cubicles work station, 5 office desks, 2 round tables, 1 small conference table and 6 chairs, and 1 large conference table and 10 chairs currently

located at the Premises (the “**Lessor’s Furniture**”). The sale will be evidenced by a bill of sale substantially in the form of Exhibit D. Lessor’s Furniture will be conveyed “as-is, where is” and “with all faults” and without representations or warranties of any kind. From and after Lessor’s delivery of the bill of sale, Lessor’s Furniture will be the County’s property.

13. County’s Furniture. County shall pay for and install work station cubicles and all other furniture for its occupancy in the Premises.
14. Prior Possession. Prior to the Commencement Date, the County has the right to (i) install fixtures, telephone outlets and cabling, telephones, security systems, furniture, and other items in the Premises, and (ii) store supplies and equipment in the Premises, provided such work and storage can be effected without unduly interfering with Lessor’s completion of the tenant improvements.
15. Insurance.
 - a. Liability Insurance. Throughout the Term, County shall maintain in full force and effect, at its sole expense, a general self-insurance program covering bodily injury (including death), personal injury, and property damage, including loss of use. County shall provide Lessor with a letter of self-insurance affirming the existence of the aforementioned self-insurance program.
 - b. Self-Insurance Exclusion. County’s self-insurance does not provide coverage for (i) areas to be maintained by Lessor under this lease, or (ii) negligence, willful misconduct, or other intentional act, error or omission of Lessor, its officers, agents, or employees.
16. Surrender of Premises. On the last day of the Term, or sooner termination of this lease, County shall peaceably and quietly leave and surrender to Lessor the Premises, along with appurtenances and fixtures at the Premises (except County Fixtures), all in good condition, ordinary wear and tear, damage by casualty, condemnation, acts of God and Lessor’s failure to make repairs required of Lessor excepted. County is not responsible for painting or for repairing or replacing any floor coverings in the Premises upon the expiration or earlier termination of this lease.
17. Waste, Nuisance. County may not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing that may disturb the quiet enjoyment of any other occupant of the Building.
18. Inspection. Lessor, or its proper representative or contractor, may enter the Premises by prior appointment between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, holidays excepted, to determine that (i) the Premises is being reasonably cared for, (ii) no waste is being made and that all actions affecting the Premises are done in the manner best calculated to preserve the Premises, and (iii) County is in compliance with the terms and conditions of this lease.

19. Perilous Conditions. If the County's Director of Public Works becomes aware of a perilous condition on the Premises that, in his or her opinion, substantially and significantly threatens the health and safety of County employees and/or invitees (a "**Perilous Condition**"), the Director of Public Works, or his or her designee, will immediately notify Lessor of such Perilous Condition and Lessor shall use best efforts to immediately eliminate the Perilous Condition.

Lessor shall immediately address any condition reasonably constituting an emergency, whether Lessor learns of the condition through County or otherwise.

If Lessor fails to address a Perilous Condition within thirty-six (36) hours after County's notice or to immediately address an emergency situation, County may attempt to resolve the Perilous Condition or emergency situation. Lessor shall reimburse County for any costs incurred by County in addressing the Perilous Condition or emergency situation promptly upon receipt of County's invoice.

20. Destruction. If damage occurs that causes a partial destruction of the Premises during the Term from any cause and repairs can be made within sixty days from the date of the damage under the applicable laws and regulations of governmental authorities, Lessor shall repair the damage promptly. Such partial destruction will not void this lease, except that County will be entitled to a proportionate reduction in Rent while such repairs are being made. The proportionate reduction in Rent will be calculated by multiplying Rent by a fraction, the numerator of which is the number of square feet that are unusable by County and the denominator of which is the total number of square feet in the Premises.

If repairs cannot be made in sixty days after obtaining construction permits, County will have the option to terminate the lease or request that Lessor make the repairs within a reasonable time, in which case, Lessor will make the repairs and Rent will be proportionately reduced as provided in the previous paragraph.

This lease will terminate in the event of a total destruction of the Building or the Premises.

21. Hazardous Material. Lessor warrants to County that Lessor does not have any knowledge of the presence of Hazardous Material (as defined below) or contamination of the Building or Premises in violation of environmental laws. Lessor shall defend, save, protect and hold County harmless from any loss arising out of the presence of any Hazardous Material on the Premises that was not brought to the Premises by or at the request of County, its agents, contractors, invitees or employees. Lessor acknowledges and agrees that County has no obligation to clean up or remediate, or contribute to the cost of clean-up or remediation, of any Hazardous Material unless such Hazardous Material is released, discharged or spilled on or about the Premises by County or any of its agents, employees, contractors, invitees or other representatives. The obligations of this Section shall survive the expiration or earlier termination of this lease.

“Hazardous Material” means any substance, material or waste, including lead based paint, asbestos and petroleum (including crude oil or any fraction thereof), that is or becomes designated as a hazardous substance, hazardous waste, hazardous material, toxic substance, or toxic material under any federal, state or local law, regulation, or ordinance.

22. Indemnification.

- a. County. County shall defend, indemnify and hold Lessor harmless from County’s share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys’ fees, caused by the willful misconduct or the negligent acts, errors, or omissions of County, its officers, agents or employees in using the Premises pursuant to this lease, or the County’s performance under this lease, except to the extent caused or contributed to by (i) the structural, mechanical, or other failure of buildings owned or maintained by Lessor, and/or (ii) the negligent acts, errors, or omissions of Lessor, its officers, agents, or employees.
- b. Lessor. Lessor shall defend, indemnify and hold County harmless from Lessor’s share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys’ fees, caused by the willful misconduct or the negligent acts, errors or omissions of Lessor, its officers, agents, employees, with respect to the Premises, or Lessor’s performance under this lease, or the Lessor’s performance, delivery or supervision of services at the Premises, or by the structural, mechanical or other failure of buildings owned or maintained by Lessor, except to the extent caused or contributed to by the negligent acts, errors, or omissions of County, its officers, agents, or employees.

23. Default.

The occurrence of any of the following events is a default under this lease:

- a. County.
 - i. County’s failure to pay Rent within ten business days after receipt of a written notice of failure (a “**Notice**”) from Lessor to County; provided, however, that County will have additional time if its failure to pay Rent is due to circumstances beyond its reasonable control, including, without limitation, failure of the County’s Board of Supervisors to adopt a budget. In no event may such additional time exceed seventy-five days from receipt of a Notice.
 - ii. County’s failure to comply with any other material term or provision of this lease if such failure is not remedied within thirty days after receipt of a Notice from Lessor to County specifying the nature of the breach in reasonably sufficient detail; provided, however, if such default cannot reasonably be remedied within such thirty day period, then a default will not be deemed to occur until the occurrence of County’s failure to comply within the period of

time that may be reasonably required to remedy the default, up to an aggregate of ninety days, provided County commences curing such default within thirty days and thereafter diligently proceeds to cure such default.

b. Lessor.

- i. Lessor's failure to complete the Tenant Improvements in accordance with the Work Letter.
- ii. Lessor's failure to perform any other obligation under this lease if such failure is not remedied within thirty days after receipt of a Notice from County to Lessor specifying the nature of the breach in reasonably sufficient detail; provided, however, if such breach cannot reasonably be remedied within such thirty day period, then a default will not be deemed to occur until the occurrence of Lessor's failure to perform within the period of time that may be reasonably required to remedy the breach, up to an aggregate of ninety days, provided Lessor commences curing such breach within thirty days and thereafter diligently proceeds to cure such breach.

24. Remedies.

- a. Lessor. Upon the occurrence of a default by County, Lessor may, after giving County written notice of the default, and in accordance with due process of law, reenter and repossess the Premises and remove all persons and property from the Premises.
- b. County. County may terminate this lease in accordance with Section 16 of the Work Letter. Such termination is effective on the effective date of the written notice. In addition upon the occurrence of any other default by Lessor, County may (i) terminate this lease by giving written notice to Lessor and quit the Premises without further cost or obligation to County or (ii) proceed to repair or correct the failure and, at County's option, either deduct the cost thereof from Rent due to Lessor, or invoice Lessor for the cost of repair, which invoice Lessor shall pay in full promptly upon receipt.

25. Notices. Any notice required or permitted under this lease shall be in writing and sent by overnight delivery service or registered or certified mail, postage prepaid and directed as follows:

To Lessor: 777 Arnold Drive, LLC
777 Arnold Drive, Suite 100
Martinez, CA 94553

To County: Contra Costa County
Public Works Department
Attn: Principal Real Property Agent
255 Glacier Drive
Martinez, CA 94553

Either party may at any time designate in writing a substitute address for that set forth above and thereafter notices are to be directed to such substituted address. If sent in accordance with this Section, all notices will be deemed effective (i) the next business day, if sent by overnight courier, or (ii) three days after being deposited in the United States Postal system.

26. Successors and Assigns. This lease binds and inures to the benefit of the heirs, successors, and assigns of the parties hereto.
27. Holding Over. Any holding over after the Term of this lease is a tenancy from month to month and is subject to the terms of this lease, the rent during this period shall be at twenty five percent (25%) increase.
28. Time is of the Essence. In fulfilling all terms and conditions of this lease, time is of the essence.
29. Governing Law. The laws of the State of California govern all matters arising out of this lease.
30. Severability. In the event that any provision herein contained is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions of this lease will not in any way be affected or impaired.

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31. Entire Agreement; Construction; Modification. Neither party has relied on any promise or representation not contained in this lease or the Improvement Agreement. All previous conversations, negotiations, and understandings are of no further force or effect. This lease is not to be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. This lease may be modified only by a writing signed by both parties.

The parties are executing this lease as of the date set forth in the introductory paragraph.

COUNTY OF CONTRA COSTA, a
political subdivision of the State of
California

777 Arnold Drive, LLC, a California
limited liability corporation

By: _____
Brian M. Balbas
Interim Director of Public Works

By: _____
Andrew C. Serb
Managing Member

RECOMMENDED FOR APPROVAL:

By: _____
Karen Laws
Principal Real Property Agent

By: _____
Julin Perez-Berntsen
Associate Real Property Agent

APPROVED AS TO FORM
SHARON L. ANDERSON, COUNTY COUNSEL

By: _____
Kathleen M. Andrus
Deputy County Counsel

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SP-5

Bureau of Prisons, 425 North Capitol Street, NE, Washington, DC 20540-4340. #USA, #DC. bpr@bprisons.gov

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