


**SAN MATEO COUNTY
EMPLOYEE AND PUBLIC SERVICES DEPARTMENT
Inter-Departmental Correspondence**

Date January 17, 2001

To. Honorable Board of Supervisors

From  Mary Welch, Director of Employee and Public Services
Cc Casey Echarte, Acting Copy and Mail Services Manager

Subject: **Lease Agreement for Color Copier**

RECOMMENDATION

Adopt a resolution authorizing the Director of Employee and Public Services to enter into a four-year lease agreement with the Xerox Corporation to lease a color copier for the Copy Center with an option to purchase the equipment at the expiration of the lease

BACKGROUND

The Copy Center has received requests for color documents from Departments for several years. Reproducing color originals for distribution is very costly on color printers. Therefore Departments have had to either absorb the cost of printing the documents on their color printers or take the documents to an outside source for reproduction. Recent technological advances in color copiers coupled with more competitive market prices for such copiers, have made it possible for the Copy Center to now justify providing such a service to its customers at a lower cost than that of outside vendors

In September 2000 the County Manager approved entering into a 60-day No Risk Trial on the Xerox Corporation's Document Center Color Series 50 Copier/Printer. This trial period from November 1, 2000 through December 31, 2000 permitted the Copy Center to assess whether or not the volume of color document requests would support entering into a multi-year lease agreement, with an option to buy the equipment at the end of the lease

DISCUSSION

The volume of requests received for color documents in November and December 2000 has exceeded the 5 000 copies per month amount required to validate the need for a color copier. In addition the internal charge for producing color copies in the Copy Center is currently 57% lower than the average of three

surveyed local vendors allowing Departments to save money on the cost of color printing by utilizing Copy Center services

Based on this information the County Manager's Office approved Employee and Public Services to enter into a lease agreement with the Xerox Corporation for the color copier. However the County's Ordinance Code places limits on a Purchasing Agent's authority. Therefore Purchasing Agents are required to obtain approval from the Board of Supervisors prior to entering into leases that exceed three years in length. A comparison of a 48-month lease agreement versus a 36-month lease agreement indicates that it would be more cost-effective for Employee and Public Services to enter into a 48-month lease agreement with the Xerox Corporation. A copy of the signed 48-month lease agreement is provided

FISCAL IMPACT

The cost of lease charges and overhead will be covered by the amounts billed to Departments for color printing requests while maintaining a price advantage over outside vendors

In entering into a 48-month lease as opposed to a 36-month lease, the monthly savings will total \$10 000 over the term of the lease

TERM

The lease agreement will cover the period from January 1 2001 through December 31, 2004.

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

**RESOLUTION AUTHORIZING THE DIRECTOR OF EMPLOYEE AND
PUBLIC SERVICES TO ENTER INTO A FOUR-YEAR LEASE FOR A
COLOR COPIER**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the County Ordinance Code deems a lease-purchase arrangement with a term over three (3) years to exceed the limit of a Purchasing Agent's authority, and

WHEREAS, the Director of Employee and Public Services has determined that it would be more cost-effective to enter into a four-year lease agreement with the Xerox Corporation to provide a color copier in the Copy Center, and

WHEREAS, the Board has been presented with a form of the Agreement and the Board has examined and approved the contract as to both form and content and desires to enter into such contract;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the Director of Employee and Public Services be and she is hereby authorized and directed to execute said lease agreement for and on behalf of the County of San Mateo.

LEASE AGREEMENT

THE DOCUMENT COMPANY
XEROX

Worksheet 280500 Unit 1

Customer Legal Name (Bill to) COUNTY OF SAN MATEO
 Name Overflow (if needed) EMPLOYEE-PUBLIC SERV
 Street Address 5TH FL ACCTS-PAYABLE
 Box#/Routing 455 COUNTY CENTER
 City State SAN MATEO, CA
 Zip Code 94063-1646
 Tax ID# _____
 Customer Name (Install) COUNTY OF SAN MATEO
 Name Overflow (if needed) COPY CENTER
 Installed at Street Address BASEMENT
 Floor/Room/Routing 455 COUNTY CENTER
 City State SAN MATEO, CA
 Zip Code 94063-1646
 County Installed In SAN MATEO
 Customer Requested Install Date 09/29/2000

Check all that apply
 Tax Exempt (Certificate Attached)
 Assoc /Coop Name _____
 Negotiated Contract # 071386402
 Attached Customer P O #s Supplies _____

Lease _____
 State or Local Government Customer
 Int Rate 9.5% Total Int Payable \$ 7400.28
 Replacement/Modification of Prior Xerox Agreement
 Agreement covering Xerox Equipment Serial# (or 95#) _____
 is hereby modified replaced Effective Date _____
 Comments _____

Lease Information
 Lease Term 48 months
 Supplies included in Base/Print Charges
 Refin of Prior Agrmt Xerox (95#) _____ 3rd Party
 Eq
 Amt Refin \$ _____ Int Rate % _____ Total Int Payable \$ _____

Lease Payment Information

Product (with serial number, if in place equipment)	Purchase Option	Down Payment	Prev Install	Fin'l Intern
DCCS50 COLORSERIES 50	\$2500	\$	<input type="checkbox"/>	<input type="checkbox"/>
1)D12SRTOCT	\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
Consulting Services	\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
Customer Education	\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
\$ 1,556.01	: MINIMUM MONTHLY LEASE PAYMENT (excl of applic taxes)			

Min Lease Payment Freq
 (excluding excess meter charges)
 Monthly Other
 Quarterly
 Semi-Annual
 Annual
Min. Lease Payment Mode
 Advance Arrears

Price Information

		<input type="checkbox"/> Adjustment Period	
		Period A - Mos Affected	Period B - Mos Affected
Monthly Base Charge	\$ 1,556.01	Monthly Base Charge	\$
Print Charge Meter 1		Print Charge Meter 1	
Prints 1 - 5000	\$	Prints 1 -	\$
Prints 5001 -	\$ 0.1162	Prints -	\$
Prints -	\$	Prints -	\$
Print Charge Meter 2		Print Charge Meter 2	
Prints 1 -	\$ 0.0199	Prints 1 -	\$
Prints -	\$	Prints -	\$
Mo Min # of Prints (based on Meter 1 Print Charges)	5000	Mo Min # of Prints (based on Meter 1 Print Charges)	

Purchased Supplies Cash Fin d

Reorder #	Qty	Description	Price
			\$
			\$
			\$
			\$
			\$
		Total Price =	\$

Application Software

Software Title	Initial License Fee	Annual Renewal Fee
	<input type="checkbox"/> Cash <input type="checkbox"/> Finance	<input type="checkbox"/> Support Only
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	Total Initial License Fees =	\$

Trade-In Allowance Final Principal Payment#

Manufacturer	Model/Serial #	Allowance
		\$
		\$
		\$
		\$
		\$
	Total Allowance =	\$
Total Allowance Applied to	<input type="checkbox"/> Trade-In Equip Balance	\$
	<input type="checkbox"/> Price of Replacmnt Equip	\$

K-16 Billing
Suspension
 (check 1 as required)
 Months affected
 June only
 July only
 August only
 June - July
 July - August

Additional Options (check all that apply)
 Run Length Plan Fixed Price Plan
 Per-Foot Pricing
 Extended Service Hours
 Description _____ / \$ _____ mo
 Attached Addenda
 form# _____ form# _____

Agreement Presented By:
 Name James P Manley Phone (408)953-2310
 Xerox Corporation - Acceptance By:
 Name Rob Jett Date 10/17/00
 Signature *[Signature]*

Customer:
 Name DONNA IONES-DUJIN Phone (650)363-4857
 Title Purchasing Agent Manager Date 10/6/2000
 E-Mail _____
 Signature *[Signature]*

CUSTOMER

"NO RISK" ADDENDUM

This ADDENDUM (' Addendum') amends the agreement between you and Xerox to which it is attached (the 'Agreement')

The parties agree to the following terms which shall be additive to those found elsewhere in the Agreement

1 In exchange for your payment of \$ 1550 you shall have the right to use the Products (and Xerox shall be obligated to maintain them) in accordance with the terms of the Agreement for the first 60 days following their installation (the "No Risk Period")

2 If prior to the expiration of the No Risk Period you notify Xerox in writing that you do not wish to acquire the Products, the Agreement shall be cancelled without penalty In this event Xerox shall retain your payment set forth above and you agree to make the Products available for immediate pick-up by Xerox as well as to pay Xerox for any damage to them (i.e. degradation to their condition beyond normal wear and tear)

3 ~~If Xerox does not receive written notice as described above, you shall have thereby confirmed that the Agreement will take effect as of the first day subsequent to the No Risk Period's expiration~~

4 Except as set forth above, the Agreement shall remain as stated In the event of a conflict between the terms found elsewhere in the Agreement and this Addendum, this Addendum shall control

5. If prior to the expiration of the No Risk Period Xerox has not received written notice that the County wishes to acquire the Products the lease will not take effect until such written notice is obtained. If written notice has not been received as of the first day subsequent to the No Risk Period's expiration Xerox shall request written notice from the County.

Jan *Dak*
Jan *SPD*

ADDENDUM TO FINANCE

PROFESSIONAL SERVICES CONTRACT FEES

This ADDENDUM ('Addendum') amends the agreement between you and Xerox to which it is attached (the 'Agreement').

The parties agree to the following terms which shall be additive to those found elsewhere in the Agreement

1 In addition to the Agreement, you and Xerox have entered into a Professional Services Contract dated 10/02/2000 (the "Services Contract") Rather than pay the amount due Xerox under the Services Contract as they become due you have requested that the total amount of \$ 3,500 payable under the Services Contract (the "Services Contract Fees") be added to the amount being financed under the Agreement As such, you and Xerox hereby agree that the Services Contract Fees will be paid by you as part of your Minimum Monthly Lease Payments or Monthly Installment Payments, as applicable

2 Other than the transfer of your payment obligation for the Services Contract Fees as stated above, the terms of the Services Contract shall remain unchanged and shall in all cases control your and Xerox' rights as to the provision of the underlying Professional Services In addition, you agree to make all payments under the Agreement related to the Services Contract Fees regardless of your belief as to the manner in which the Professional Services were provided (and, as such will pursue any dispute you have in this regard separate and apart from your unconditional obligation to pay the Services Contract Fees as part of the Agreement)

3 If you breach any of your obligations regarding the Services Contract, the Agreement, or this Addendum, any remaining portion of the Services Contract Fees shall become immediately due and payable

4 Except as set forth above, the Agreement shall remain as stated In the event of a conflict between the terms found elsewhere in the Agreement and this Addendum this Addendum shall control

GENERAL TERMS The following terms apply to all lease transactions

1 **PRODUCTS** The term Products' shall refer collectively to all equipment (the Equipment) software, and supplies ordered under this Agreement You represent that the Products are being purchased for your own use (rather than resale) and that they will not be used primarily for personal household or family purposes

2 **CREDIT HISTORY** As part of this transaction Xerox may investigate your credit history Even if Products have been delivered Xerox may, within 60 days following its acceptance of this Agreement revoke the Agreement if your credit approval is denied

3 **PAYMENT** Payment is due when you receive our invoice All applicable taxes shall be added to your payment amount (unless you provide proof of your tax-exempt status) These taxes include, but are not limited to sales and use rental excise gross receipts and occupational or privilege taxes You are not responsible for paying personal property taxes on the Products In addition to any charges set out on the front page of this Agreement, you will be responsible for any non-typical delivery or removal expenses incurred

4 **BASIC SERVICES** Xerox will provide the following Basic Services under this Agreement (unless you are acquiring Equipment for which Xerox does not offer Basic Services such equipment to be designated as 'No Svc')

A **REPAIRS AND PARTS** Xerox will make adjustments and repairs necessary to keep Equipment in good working order (including such adjustments or repairs required during initial installation) Parts required for repair may be new reprocessed or recovered All replaced parts/materials will become Xerox property

B **HOURS AND EXCLUSIONS** Unless otherwise stated Basic Services will be provided during Xerox standard working hours (excluding Xerox-recognized holidays) in areas within the United States its territories, and possessions open for repair service for the Equipment at issue Basic Services shall cover repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship (and shall exclude repairs or adjustments Xerox determines to relate to or be affected by the use of options accessories or other connected products not serviced by Xerox as well as any non-Xerox alterations relocation service supplies, or consumables)

C **INSTALLATION SITE AND METER READINGS** The equipment installation site must conform to Xerox published requirements throughout the term of this Agreement If applicable you must provide meter readings in a manner prescribed by Xerox If you fail to provide timely readings Xerox may estimate them and bill you accordingly

D **REMEDY** If Xerox is unable to maintain the Equipment as described above Xerox will, as your exclusive remedy replace the Equipment with an identical product or at Xerox option another product of equal or greater capabilities This replacement product shall be subject to these same terms and conditions

E **CARTRIDGE PRODUCTS** If Xerox is providing Basic Services for a product utilizing cartridges designated by Xerox as customer replaceable ('Cartridges'), and unless you have entered into a Standard Maintenance Agreement as described below, you agree to use only unmodified Cartridges purchased directly from Xerox or its authorized resellers in the United States

F **OPERATOR MAINTENANCE PROCEDURES FOR DOCUCOLOR 70 AND DOCUCOLOR 100** If Xerox is providing Basic Services for your DocuColor 70 or DocuColor 100 you agree to perform all operator maintenance procedures set forth in the applicable Printer Operator Guides (including the purchase of all referenced parts tools and supplies)

G **PC/WORKSTATION REQUIREMENTS** In order to receive Basic Services and/or Software Support for equipment requiring connection to a PC or workstation you must utilize a PC or workstation that either (1) has been provided by Xerox or (2) meets Xerox published specifications

5 **WARRANTY DISCLAIMER XEROX DISCLAIMS THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE**

6 **INTELLECTUAL PROPERTY INDEMNITY** Xerox will defend and indemnify you if any Product is alleged to infringe someone else's U.S. intellectual property rights provided you promptly notify Xerox of the alleged infringement and permit Xerox to direct the defense Xerox is not responsible for any non-Xerox litigation expenses or settlements unless it preapproves them in writing To avoid infringement Xerox may modify or substitute an equivalent Product refund the price paid for the Product (less the reasonable rental value for

the period it was available to you) or obtain any necessary licenses Xerox is not liable for any infringement-related liabilities outside the scope of this paragraph including but not limited to infringement based upon a Product being modified to your specifications or being used or sold with products not provided by Xerox

7 **LIMITATION OF LIABILITY AND ASSIGNMENT** Neither party shall be liable to the other for any direct damages greater than the amounts payable hereunder or for any special indirect incidental consequential or punitive damages arising out of or relating to this Agreement whether the claim alleges tortious conduct (including negligence) or any other legal theory You may not assign any of your rights or obligations under this Agreement without Xerox prior written consent

8 **ASSIGNMENT BY XEROX** In the event Xerox assigns any of its obligations under this Agreement Xerox shall remain primarily responsible for their performance any claim or defense you may have relating to these obligations must be asserted only against Xerox and not its assignee

9 **MINIMUM LEASE PAYMENTS** The Minimum Lease Payment, along with any additional Print Charges, covers your cost for the use of the Equipment and its maintenance The Minimum Lease Payment (which may be billed on more than one invoice) shall consist of the total of (1) any Base Charge and (2) any Monthly Minimum Number of Prints multiplied by the applicable Meter 1 Print Charge(s) For full-color equipment, color copies are counted on Meter 1

10 **MAINTENANCE COMPONENT PRICE INCREASES** Xerox may annually increase that amount of your Minimum Lease Payment and Print Charges you are charged for the maintenance of the Equipment (the 'Maintenance Component') each such increase not to exceed 10% (For state and local government customers, this adjustment shall take place at the commencement of each of your annual contract cycles)

11 **TITLE RISK, AND RELOCATION** The title to the equipment shall remain with Xerox unless and until you exercise your option to purchase the equipment The Risk of Loss due to your fault or negligence, as well as theft or disappearance shall pass to you upon shipment from a Xerox Controlled facility The Risk of Loss due to all other causes shall remain with Xerox unless and until you exercise your option to purchase the equipment Unless and until title passes to you all Equipment relocations must be arranged (or approved in advance) by Xerox All parts/materials replaced as part of an upgrade will become Xerox's property

12 **RENEWAL** Unless either party provides notice at least 30 days before the end of the lease term of its intention not to renew the lease it will be renewed automatically on a month-to-month basis at the same price and on the same terms and conditions Billing will occur at the same frequency as the original lease During this renewal period either side may terminate this Agreement upon at least 30 days notice

13 **BREACH** If you breach this Agreement Xerox in addition to its other remedies (including the cessation of Basic Services) may require immediate payment of (a) all amounts then due (b) the remaining Minimum Lease Payments in the Agreement's term (less any unearned finance, maintenance and supply charges) (c) a reasonable disengagement fee calculated by Xerox [the amount of such fee to be available from Xerox at any time upon request] and (d) the applicable Purchase Option Once these sums are paid title shall pass to you

14 **CARTRIDGES** To enhance print quality Xerox has designed the cartridge used in certain equipment models to cease functioning at a predetermined point (details regarding specific models are available upon request) In addition certain cartridges are sold as Environmental Partnership cartridges you agree these cartridges shall remain Xerox property and that you will return them to Xerox for remanufacturing once you have run them to their cease-function point

15 **EQUIPMENT STATUS** In support of Xerox environmental leadership goals and unless you are acquiring Previously Installed Equipment will be either (a) Newly Manufactured, which may contain some recycled components that are reconditioned (b) Factory Produced New Model which is manufactured and newly serialized at a Xerox factory adds functions and features to a product previously disassembled to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned or (c) Remanufactured which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned

16 **PURCHASE OPTIONS** You may purchase the Equipment at the end of the lease term for the Purchase Option indicated in this Agreement (i.e. either

a set dollar amount or the Fair Market Value of the Equipment at the lease term's conclusion ['FMV']) You may purchase the Equipment at any time during the lease by paying (a) all amounts then due (b) the remaining Minimum Lease Payments in the Agreement s term [less any unearned finance maintenance and supply charges] (c) a reasonable disengagement fee calculated by Xerox [the amount of such fee to be available from Xerox at any time upon request] and (d) the applicable Purchase Option When these amounts have been fully paid title to the Equipment will transfer to you

17 PROTECTION OF XEROX RIGHTS Unless and until you purchase the leased Equipment, you hereby authorize Xerox or its agents to execute on your behalf all documents necessary to protect Xerox rights as the Equipment Lessor (including the perfection of Xerox purchase money security interest that shall attach to all Equipment for which the Purchase Option is a set dollar amount)

18 MISCELLANEOUS This Agreement constitutes the entire agreement as to its subject matter supersedes all prior and contemporaneous oral and written agreements and shall be construed under the laws of the State of New York (without regard to conflict-of-law principles) Xerox may retain a reproduction (e.g., electronic image photocopy facsimile) of this Agreement which shall be considered an equivalent to the original in addition, Xerox may accept this Agreement either by its signature or commencing performance (e.g. Equipment delivery) All changes to this Agreement must be made in a writing signed by both parties, accordingly any terms on your ordering documents shall be of no force or effect In any action to enforce this Agreement the parties agree to waive their right to a jury trial and to pay the prevailing party's costs and expenses including reasonable attorneys fees

SOFTWARE TERMS The following additional terms apply only to transactions covering Application Software and/or Xerox-brand Printing System, DocuTech Color High-Volume and Digital Copier-Duplicator or Document Centre Products

19 SOFTWARE LICENSE The following terms apply to copyrighted software and the accompanying documentation including but not limited to operating system software provided with or within the Equipment (Base Software) as well as software specifically set out as Application Software on the face of this Agreement This license does not apply to any Diagnostic Software nor to any software and accompanying documentation made subject to a separate license agreement

A Xerox grants you a non-exclusive non-transferable license to use the Base Software within the United States its territories and possessions (the United States) only on or with the Equipment with which (or within which) it was delivered For Application Software Xerox grants you a non-exclusive non-transferable license to use this software within the United States on any single unit of equipment for as long as you are current in the payment of any indicated software license fees (including any Annual Renewal Fees) You have no other rights to the Base or Application Software and in particular may not (1) distribute modify, create derivatives of decompile or reverse engineer this software (2) activate any software delivered with or within the Equipment in an unactivated state or (3) allow others to engage in same Title to the Base and Application Software and all copyrights and other intellectual property rights in it shall at all times reside solely with Xerox and/or its licensors (who shall be considered third-party beneficiaries of these software provisions)

B Xerox may terminate your license for any Base Software (1) immediately if you no longer use or possess the Equipment or are a lessor of the Equipment and your first lessee no longer uses or possesses it or (2) upon the termination of any agreement under which you have rented or leased the Equipment

C If you transfer possession of the Equipment Xerox will offer the transferee a license to use the Base Software within the United States on or with it subject to Xerox' then-applicable terms and license fees if any and provided the transfer is not in violation of Xerox rights

D Xerox warrants that the Base and Application Software will perform in material conformity with its published specifications for a 90-day period from the date it is delivered or, for software installed by Xerox the date of software installation Neither Xerox nor its licensors warrant that the Base or Application Software will be free from errors or that its operation will be uninterrupted

20 SOFTWARE SUPPORT During the period that Xerox provides Basic Services for the Equipment Xerox will also provide software support for the Base Software under the following terms For Application Software Xerox will provide this same level of support provided you are current in the payment of all Initial License and Annual Renewal Fees (or, for programs not requiring

Annual Renewal Fees the payment of the Initial License Fee and the annual Support Only Fees)

A Xerox will assure that Base and Application Software performs in material conformity with its published specifications and will maintain a toll-free hotline during standard business hours to answer related questions

B Xerox may make available new releases of the Base or Application Software that primarily incorporate coding error fixes and are designated as Maintenance Releases Maintenance Releases are provided at no charge and must be implemented within six (6) months after being made available to you Each new Maintenance Release shall be considered Base or Application Software governed by these Software Terms New releases of the Base or Application Software that are not Maintenance Releases if any, may be subject to additional license fees at Xerox' then-current pricing and shall be considered Base or Application Software governed by these Software Terms (unless otherwise noted)

C Xerox will use reasonable efforts either directly and/or with its vendors to resolve coding errors or provide workarounds or patches, provided you report problems in the manner specified by Xerox

D Xerox shall not be obligated (a) to support any Base or Application software that is two or more generations older than Xerox most current release or (b) to remedy coding errors if you have modified the Base or Application Software

E Xerox may annually adjust the Annual Renewal and Support-Only Fees each such increase not to exceed 10% (For state and local-government customers this adjustment shall take place at the commencement of each of your annual contract cycles)

21 DIAGNOSTIC SOFTWARE Software used to maintain the Equipment and/or diagnose its failures or substandard performance (collectively "Diagnostic Software") is embedded in resides on or may be loaded onto the Equipment The Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Xerox Title to the Diagnostic Software shall at all times remain solely with Xerox and/or Xerox licensors You agree that (1) your acquisition of the Equipment does not grant you a license or right to use the Diagnostic Software in any manner and (2) that unless separately licensed by Xerox to do so you will not use, reproduce distribute or disclose the Diagnostic Software for any purpose (or allow third parties to do so) You agree at all times (including subsequent to the expiration of this Agreement) to allow Xerox to access monitor and otherwise take steps to prevent unauthorized use or reproduction of the Diagnostic Software

GOVERNMENTAL TERMS The following additional terms apply only to state and local government customers

22 GOVERNMENT CUSTOMER TERMS

A FUNDING You state that it is your intent to make all payments required under this Agreement In the event that (1) through no action initiated by you your legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no funds to do so from other sources and (2) you have made a reasonable but unsuccessful effort to find a viable assignee within your general organization who can continue this Agreement this Agreement may be terminated To effect this termination you shall, 30 days prior to the beginning of the fiscal year for which your legislative body does not appropriate funds, send Xerox written notice stating that your legislative body failed to appropriate funds and that you have made the required effort to find an assignee Your notice must be accompanied by payment of all sums then owed Xerox under this Agreement and must certify that the canceled Equipment is not being replaced by equipment performing similar functions during the ensuing fiscal year In addition you agree at your expense to return the Equipment in good condition to a location designated by Xerox and that when returned the Equipment will be free of all liens and encumbrances You will then be released from your obligations to make any further payments to Xerox (with Xerox retaining all sums paid to date)

B TAX TREATMENT This Agreement has been accepted on the basis of Xerox claiming any interest paid by you as exempt from federal income tax under Section 103(c) of the Internal Revenue Code of 1986 Should Xerox lose the benefit of this exemption as a result of your failure to comply with or be covered by Section 103(c) or its regulations then subject to the availability of funds and upon demand by Xerox you shall pay Xerox an amount equal to its loss in this regard

C ASSIGNMENT Notwithstanding any provisions in this Agreement to the contrary, Xerox may not sell assign or transfer this Agreement and any attempted sale, assignment or transfer shall be void and without effect

D PAYMENT Your payment is due within 30 days of our invoice date

ADDITIONAL TERMS The following additional terms apply only to the extent that you have agreed to one or more of the options described below

23 SUPPLIES INCLUDED IN BASE/PRINT CHARGES If this option has been selected Xerox will provide you with black toner, black developer copy cartridges and fuser (Consumable Supplies) throughout the term of this Agreement. For full-color Equipment Consumable Supplies shall also include color toner and developer. You agree that the Consumable Supplies are Xerox property until used by you that you will use them only with the Equipment, that you will return all Cartridges to Xerox for remanufacturing once they have been run to their cease-function point and that you will return any unused Consumable Supplies to Xerox at the end of this Agreement. Should your use of Consumable Supplies exceed the typical use pattern (as determined by Xerox) for these items by more than 10%, you agree that Xerox shall have the right to charge you for any such excess usage.

24 REPLACEMENT/MODIFICATION OF PRIOR XEROX AGREEMENT If this option has been selected this Agreement will replace or modify a prior agreement between you and Xerox covering the specified equipment. If it is a replacement agreement the prior agreement shall be null and void. If it is a modification the prior agreement shall remain in effect except that any new terms presented in this modification agreement (e.g., price, duration, configuration) shall take precedence over the prior terms for the balance of the Agreement. In addition, modifications requiring a reamortization of your payments may include a one-time administrative/processing charge which will appear on your first bill under this revised arrangement.

25 XEROX AS FINANCIAL INTERMEDIARY If this option has been selected you are leasing specifically identified products that were selected by you and that are not sold by Xerox in the normal course of its business. With regard to these products you agree that Xerox is leasing them to you As Is and without warranty or liability (either direct or indirect) of any kind. As such, and with regard to these products, YOU HEREBY WAIVE THE IMPLIED WARRANTY OF MERCHANTABILITY. Xerox assigns to you to the extent assignable, any warranty rights it has to these products (which rights shall revert to Xerox if you breach this agreement). You agree (a) that these products are not covered by Xerox' obligation to provide Basic Services, (b) to maintain a service agreement for these products with a service provider acceptable to Xerox throughout this Agreement's term, (c) to pay all personal property taxes related to these products, and (d) to assign to Xerox any rights you have to these products until title passes from Xerox to you (which, subject to any software licenses surrounding the acquisition of these products shall occur when you obtain title to all Xerox Equipment covered by this Agreement).

26 FINANCED SOFTWARE TOTAL If this option has been selected the initial license fees for any Application Software set forth in this Agreement shall be paid for through your Minimum Lease Payments. If you breach this license or any of your obligations regarding the Equipment the full amount of the initial license fees shall be immediately due and payable.

27 FINANCED SUPPLIES TOTAL If this option has been selected the cost of any supplies you have purchased under this Agreement shall be paid for through your Minimum Lease Payments. If you breach any of your obligations regarding the Equipment, the full amount of the supply costs shall become immediately due and payable.

28 REFINANCE OF PRIOR AGREEMENT If this option has been selected the balance of your prior indicated agreement with Xerox or a third-party shall be paid for through your Minimum Lease Payments. If your prior agreement is with a third-party you hereby acknowledge that you have the right to terminate the agreement and agree to provide a statement from the third-party identifying the equipment at issue and the amount to be paid off (as well as a statement from you identifying the payee and mailing address for your payoff check). If your prior agreement was with Xerox the use of this refinance option shall render your prior agreement null and void. If you breach this Agreement the full amount of your prior agreement balance shall be immediately due and payable.

29 ADJUSTMENT PERIOD If this option has been selected your Minimum Lease Payment and/or Print Charges shall be adjusted in accordance with the information contained in the Adjustment Period portion of this Agreement as a result your initial payment(s) shall be different from those payable during the balance of this Agreement.

30 K-16 BILLING SUSPENSION If this option has been selected, the Maintenance Component of your Minimum Lease Payment and Print Charge will be suspended each year during the months indicated. During these months, you agree not to use the Equipment and that Xerox shall not be responsible for providing Basic Services on it.

31 TRADE-IN EQUIPMENT If this option has been selected you are providing equipment to Xerox as part of this Agreement ('Trade-In Equipment') and the following shall apply:

A TITLE TRANSFER You warrant that you have the right to transfer title to the Trade-In Equipment and that it has been installed and performing its intended function for the previous year at the address where the replacement equipment is to be installed. Title and risk of loss to the Trade-In Equipment shall pass to Xerox when Xerox removes it from your premises.

B CONDITION You warrant that the Trade-In Equipment is in good working order, has not been modified from its original configuration (other than by Xerox) and has a UL label attached. You agree to maintain the Trade-In Equipment at its present site and in substantially its present condition until removed by Xerox.

C ACCRUED CHARGES You agree to pay all accrued charges for the Trade-In Equipment up to and including payment of the Final Principal Payment Number and to pay all maintenance administrative supply and finance charges for this equipment through the date title passes to Xerox.

32 RUN LENGTH PLAN If this option has been selected the first ten prints of each original (per run) are recorded and billed on both meters with all subsequent prints recorded and billed on Meter A only. (Note that if a 5090 family product covered by this plan has its document handler left open all affected copies will be recorded and billed on both meters.)

33 FIXED PRICE PLAN If this option has been selected Xerox will forego its right to increase the Maintenance Component throughout the initial term of this Agreement.

34 PER-FOOT PRICING If this option has been selected, all Print Charges will be billed on a per-foot basis with each linear foot equal to one print.

35 EXTENDED SERVICE HOURS If this option has been selected Xerox will provide Basic Services during the hours indicated with the first number establishing the number of eight-hour shifts covered and the second establishing the days of the week (e.g. 2 x 6 would provide service from 8:00 A.M. to 11:59 P.M. Monday through Saturday). The cost of this enhanced service coverage will be billed separately and as such is not included in your Minimum Lease Payment or Print Charges.

36 ATTACHED ADDENDA If this option has been selected you acknowledge that one or more specified addenda (as indicated) have been provided to you. These addenda which provide additional terms relevant to the transactions covered hereunder are hereby fully integrated into this Agreement.

37 NEGOTIATED CONTRACT If this option has been selected this Agreement is subject to the terms contained in the identified Negotiated Contract. If the terms contained in this Agreement conflict with those contained in the Negotiated Contract the terms of the Negotiated Contract shall prevail.

COUNTY OF SAN MATEO AGREEMENT WITH INDEPENDENT CONTRACTOR

Agreement No. _____
Exhibit "A"

Agreement between the County of San Mateo and XEROX CORPORATION

Use Additional Sheets as Necessary

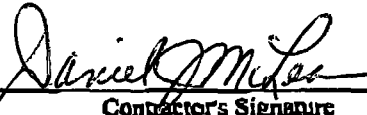
I. Description of Services to be Performed by the Contractor

II. Amount and Method of Payment

III. **Hold Harmless:** Contractor agrees to indemnify and defend the County, its employees and agents from any and all claims, damages and liability in any way occasioned by or arising out of the negligence of the contractor in the performance of this agreement.

IV. **Non-Discrimination:** No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, age, sex, sexual orientation, pregnancy, childbirth or related conditions, medical condition, mental or physical disability or veteran's status. Contractor shall ensure full compliance with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

Contractor agrees that the requirements of this Agreement pertaining to the protection of proprietary rights and confidentiality shall survive termination of this Agreement.

	1/15/01		
Contractor's Signature	Date	Contractor's Signature	Date

Contractor's Tax ID Number or Social Security Number: 160468030

Purchasing Agent, County of San Mateo	Date	Department or Division Head	Date
			Budget Unit

Revised 2/88

Distribution - 1 copy to each: Purchasing Agent, County Manager's Office, Controller, Contractor and Department

60