

LEASE / CONCESSION AGREEMENT  
Lease No. 5335

between

COUNTY OF SAN MATEO,  
as Landlord  
and

**Bay Area Equestrian Connection, LLC**

For the use of  
The Historic Folger Stable Area  
A Portion of Wunderlich Park  
4040 Woodside Road  
Woodside, CA 94062

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**LIST OF EXHIBITS:**

EXHIBIT A – Site Plan

EXHIBIT B -- Notice of Commencement Date

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EXHIBIT D -- Rules and Regulations

**LEASE / CONCESSION AGREEMENT**  
**Lease No. 5335**

THIS LEASE / CONCESSION AGREEMENT (this "Lease"), dated for reference purposes only as of October 1, 2010, is between the COUNTY OF SAN MATEO, a political subdivision of the State of California ("County" or "Landlord"), and Bay Area Equestrian Connection, LLC, ("Tenant").

**RECITALS**

This Lease is made with regard to the following facts:

- A. County is the owner of Wunderlich Park ("Park"), a park facility, located in the Town of Woodside in San Mateo County consisting of over 900 acres of coastal mountain environment used for a variety of activities, including trails that are open to equestrian use, making this park one of the favorite destinations of the local equestrian community. A portion of the Park consists of horse stables, riding ring and associated outbuildings owned by the County for the benefit of the Public.
- B. County desires to provide, for public convenience and use, horse stables, riding ring and associated outbuildings, and related services at the Park.
- C. Tenant desires to enter into a Lease with County for the operation, maintenance and management of the horse stables, riding ring and associated outbuildings, and related services on the terms, covenants and conditions, stated in this Lease.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Lease, and for valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

**1. BASIC LEASE INFORMATION**

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms in this Lease pertaining to such item. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date:	October 1, 2010
Landlord:	COUNTY OF SAN MATEO
Tenant:	Bay Area Equestrian Connection, LLC

Park (Section 2.1):	All of Wunderlich Park.
Premises (Section 2.1):	A riding ring, a barn, a small portable stable structure, and the main stable containing approximately 30 stalls, office space, tack rooms and hay storage space, as shown on the attached Exhibit A.
Property (Section 2.1)	The land upon which the Premises are located and all other improvements and appurtenances to such real property.
Rentable Area of Premises (Section 2.1):	Approximately 10 acres.
Term (Section 3.1):	Estimated commencement date: October 1, 2010
	Expiration date: November 30, 2013; subject to Tenant's Extension Options as set forth below.
Extension Options: (Section 25)	As set forth in Section 25 hereof, two additional terms of three years each, exercisable by Tenant by written notice to County given not less than one hundred eighty (180) days in advance, with rent determined as set forth in Section 25 hereof.
Base Rent (Section 4.1):	Annual Base Rent: \$27,000. (Year 1) 30,000. (Year 2 & 3)
	Monthly payments: \$ 2250. (Year 1) \$3000. (Years 2 & 3)
Adjustments in Base Rent (Section 4.2);	The Base Rent for the Initial Term shall be subject to adjustment at the commencement of the second (2 <sup>nd</sup> ) year of the term (October 1, 2011, the "adjustment date") as set forth in Section 4.2
Additional Rent: (Section 4.1)	In addition to the Base Rent due hereunder, Tenant shall pay to County, together with each payment of Base Rent due hereunder, \$25.00 per month per occupied stall, which amount will be deposited by County into an education fund for the Friends of Wunderlich and

	Huddart Parks to conduct educational activities as set forth in Section 4.1.
Use (Section 5.1):	Equestrian-related services, including but not limited to horse boarding, riding lessons and instruction, coordination with non-profits, development and construction, day-to-day maintenance, with approval, the sale of equestrian-themed products.
Tenant Improvements (Section 6.1):	Tenant shall be responsible for all improvements, at its sole cost and expense, as set forth in Section 6.1.
Utilities and Services (Section 10):	Landlord shall provide water as set forth in Section 10.1.
Notice Address of County (Section 26.1):	Parks Director 455 County Center, 4 <sup>th</sup> Floor Redwood City, CA 94063 Fax No.: (650) 599-1721
with a copy to:	Real Property Services Manager 455 County Center, 4 <sup>th</sup> Floor Redwood City, California 94063 Attn: Real Property Services Fax No.: (650) 363-4832
and to:	Wunderlich Park
Key Contact for County: Telephone No.:	Parks Director (650) 599-1393
Alternate Contact for County: Telephone No.:	Huddart/Wunderlich Parks (650) 851-1210
Address for Tenant (Section 26.1):	1989-A Santa Rita Road, #278 Pleasanton, CA 94566 Fax No.:
Key Contact for Tenant: Telephone No.:	Daniel A. Byrum (925) 980-0334
Alternate Contact for Tenant:	Shawn Mott



Telephone No.: (925) 484-0209  
Brokers (Section 26.8): None

## **2. PREMISES; AS IS CONDITION**

### **2.1. Lease Premises**

Subject to the provisions of this Lease, County leases to Tenant and Tenant leases from County those premises in Wunderlich Park (the "Park") identified in the Basic Lease Information and shown on the site plan(s) attached hereto as Exhibit A (the "Premises"). The land upon which the Premises are located and all other improvements on and appurtenances to such real property are referred to collectively as the "Property." Tenant shall have the non-exclusive right to use for the purposes provided herein, together with other tenants in the Park, the public areas of the Park and the Property (collectively, the "Common Areas"), and the non-exclusive right of access to and from the Premises by the main entrances to the Park and the Property.

### **2.2. As Is Condition**

TENANT ACKNOWLEDGES AND AGREES THAT THE PREMISES ARE BEING LEASED AND ACCEPTED IN THEIR "AS IS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, AND SUBJECT TO ALL APPLICABLE LAWS, RULES AND ORDINANCES GOVERNING THEIR USE, OCCUPANCY AND POSSESSION. TENANT REPRESENTS AND WARRANTS TO COUNTY THAT TENANT HAS INVESTIGATED AND INSPECTED, EITHER INDEPENDENTLY OR THROUGH AGENTS OF TENANT'S OWN CHOOSING, THE CONDITION OF THE PREMISES AND THE SUITABILITY OF THE PREMISES FOR TENANT'S INTENDED USE. TENANT HAS DETERMINED, BASED SOLELY ON ITS OWN INVESTIGATION, THAT THE PREMISES ARE SUITABLE FOR TENANT'S BUSINESS AND INTENDED USE. TENANT ACKNOWLEDGES AND AGREES THAT NEITHER COUNTY NOR ANY OF ITS AGENTS HAVE MADE, AND COUNTY HEREBY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE RENTABLE AREA OF THE PREMISES, THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PREMISES OR THE PROPERTY, THE PRESENT OR FUTURE SUITABILITY OF THE PREMISES FOR TENANT'S BUSINESS, OR ANY OTHER MATTER WHATSOEVER RELATING TO THE PREMISES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **3. TERM**

### **3.1. Lease Term**

The Premises are leased for a term (the "Term") commencing on the date specified in the Basic Lease Information as the estimated commencement date (the

“Estimated Commencement Date”), or such earlier date upon which County delivers and Tenant accepts possession of the Premises, subject to the provisions of Section 3.3 (Delay in Delivery of Possession) and Section 3.4 (Delays Caused by Tenant), below. Subject to the Extension Options set forth herein, the Term of this Lease shall end on the Expiration Date specified in the Basic Lease Information, unless sooner terminated pursuant to the provisions of this Lease.

This Lease is subject to the Extension Option(s) set forth in Section 25.1 (Option to Extend Term) County shall deliver the Premises to Tenant on the Commencement Date in their then existing as is condition as further provided above, with no obligation of the County to make any improvements, repairs or alterations except as otherwise specifically provided herein.

### **3.2. Confirmation of Commencement Date and Expiration Date**

The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the “Commencement Date” and the “Expiration Date.” If the Commencement Date occurs on a date other than the Estimated Commencement Date, then promptly following the Commencement Date Tenant shall deliver to County a notice substantially in the form attached hereto as Exhibit B, confirming the actual Commencement Date, but Tenant’s failure to do so shall not affect the commencement of the Term.

### **3.3. Delay in Delivery of Possession**

If County is unable to deliver possession of the Premises to Tenant on or before the Estimated Commencement Date, then the validity of this Lease shall not be affected thereby and County shall not be liable to Tenant for any Claims (as defined in Section 18.2 below) resulting therefrom, and Tenant waives all provisions of any laws to the contrary. In such case, the Term and regular payments of Base Rent and Additional Charges shall not commence until County delivers possession of the Premises. If the Term commences later or earlier than the Estimated Commencement Date, this Lease shall nevertheless expire on the Expiration Date, unless sooner terminated pursuant to the provisions hereof.

### **3.4. Delays Caused by Tenant**

Notwithstanding anything to the contrary above, if County’s inability to deliver possession of the Premises on the Estimated Commencement Date results from Tenant’s or its Agents’ acts or omissions, then Base Rent and Additional Charges payable by Tenant hereunder shall commence on the date when Landlord would have delivered possession of the Premises but for such acts or omissions.

## 4. RENT

### 4.1. Base Rent

Throughout the Term beginning on the Commencement Date, Tenant shall pay to County the Base Rent specified in the Basic Lease Information, provided that such sum shall be subject to escalation pursuant to Section 4.2 (Adjustments in Base Rent) (the "Base Rent"). The Base Rent shall be paid to County in advance, without prior demand and without any deduction, set off or counterclaim whatsoever, in equal consecutive monthly payments on or before the first day of the Term and on or before the first day of each month thereafter. All sums payable by Tenant to County hereunder shall be paid in cash or by check to the County of San Mateo in care of the Parks Director at the Director's address specified in the Basic Lease Information, or such other place as County may designate in writing. If Tenant pays by check and such check is not honored, then County may require Tenant to make all future payments in cash or by cashier's or certified check. If the Commencement Date occurs on a day other than the first day of a calendar month, or the Expiration Date occurs on a day other than the last day of a calendar month, then the Base Rent for such fractional month shall be prorated based on a thirty (30) day month. Within five (5) days after the parties execute this Lease, Tenant shall pay to County the Base Rent for the first full month.

In addition to and concurrently with the monthly payments of Base Rent set forth in this Section, Tenant shall pay to the County, together with the Base Rent then due, an additional amount each month of \$25. per occupied stall, which amount may at County's option be deposited by the County to an education fund for the Friends of Huddart and Wunderlich Parks ("Friends") to support equestrian education activities conducted by the "Friends".

### 4.2. Adjustments in Base Rent

On each date specified in the Basic Lease Information for adjustment of the Base Rent (an "Adjustment Date"), the Base Rent payable under this Lease shall be adjusted as follows:

**For the first year, October 1, 2010 through September 30, 2011, Base Rent will be \$2250. per month for an annual rent of \$27,000. For the balance of the Term, October 1, 2011 through September 30, 2013, Base Rent will be \$3000. per month for an annual rent of \$36,000. Base rent will be renegotiated for any extension periods at the time of the extension.**

### 4.3. Additional Charges

Tenant shall pay to County any and all charges and other amounts Tenant is required to pay under this Lease as additional rent (collectively, "Additional Charges"). All such Additional Charges shall be payable to County at the same place and the same manner as the Base Rent is payable. County shall have the same remedies for a default in the payment of any Additional Charges as for a default in the payment of Base Rent. As used in this Lease, the term "Rent" shall include the Base Rent, Additional Charges

and any other amounts Tenant is obligated to pay hereunder, whether or not any such amounts are specifically characterized as rent.

#### **4.4.Late Charges**

If Tenant fails to pay any Rent or any portion of Rent within five (5) days following the due date, such unpaid amount shall be subject to a late payment charge equal to five percent (5%) of the unpaid amount in each instance. The late payment charge has been agreed upon by County and Tenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that County will incur as a result of any such failure by Tenant, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate County for its damages resulting from such failure to pay and shall be paid to County together with such unpaid amount.

#### **4.5.Default Interest**

Any Rent, if not paid within five (5) days following the due date, shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under law (the "Interest Rate"). However, interest shall not be payable on late charges incurred by Tenant nor on any amounts on which late charges are paid by Tenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Tenant.

### **5. USE**

#### **5.1.Permitted Use**

Tenant shall use and continuously occupy the Premises during the Term solely as a commercial horse stable, and for such other uses, if any, as may be specified in the Basic Lease Information, and for no other purpose.

#### **5.2. Restrictions on Use**

Tenant shall operate and manage the business services and facilities offered at the Premises in a competent and efficient manner at least comparable to other well-managed operations of similar type, in compliance with the following terms and conditions:

- 1) Tenant shall offer horse boarding, riding lessons, and related services at fair and reasonable rates based on the i) the degree of public service involved in providing the services, ii) the rates charged by other competing and/or comparable horse stables in the Bay Area, iii) the reasonableness of the profit margin as related to similar stables in the Bay Area

Note: The Director of Parks shall have the right to inspect Tenant's rate schedule and method of operation, and if any service or rate is determined to be unfair, unreasonable, or inappropriate for the services provided, Tenant shall immediately modify such rates or services as may be required by the Director. Tenant may seek review of the Director's decision by the Parks and Recreation Commission within Thirty (30) days. The decision of the Commission shall be final and conclusive.

- 2) Tenant shall maintain a current schedule of rates and hours posted at a conspicuous place in the stable.
- 3) Tenant shall endeavor at all times to adequately service the public on a non-exclusive basis.
- 4) Tenant acknowledges that the primary purpose of Landlord for granting this Lease/Concession to Tenant and allowing a commercial horse stable concession at the Premises is the convenience and accommodation of the public, and Tenant covenants that it will exert its best efforts to accommodate the needs and requirements of the public.
- 5) Tenant shall at all times retain active, qualified, competent and experienced personnel as required to provide Tenant's services and to represent and act for Tenant. Tenant shall require its personnel to be properly dressed, clean, courteous, efficient and neat in appearance at all times.

Tenant shall not employ any person in or about the Premises who shall use offensive language or act in a loud, boisterous or otherwise improper manner. Tenant shall maintain a close check over its employees, agents and contractors to insure the maintenance of a high standard of service to the public. Tenant shall replace any employee whose conduct in the opinion of the Director is detrimental to the interests of the public.

- 6) Tenant shall not board more than thirty (30) horses at the Premises at a time, and an additional 12 horses to be used for rental stock (8) and staff(4) may be kept on property in areas designated by Park staff.
- 7) The Premises shall be under the 24-hour-a-day supervision of Tenant, or its agents, independent contractors, or employees.
- 8) The “loft” portion of the main stable building shall not be used for storage purposes.
- 9) Tenant shall work with and provide reasonable accommodations for any non-profits running programs and conducting tours in and about the stable.

### **5.3.No Unlawful Uses, Nuisances or Waste**

Without limiting the foregoing, but subject to Section 24.2, Tenant shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Tenant shall take all precautions to eliminate any nuisances or hazards relating to its activities on or about the Premises. Tenant shall not conduct any business, place any sales display, or advertise in any manner in areas outside the Premises or on or about the Property except identification signs in a location and size and design approved by County in its sole discretion.

## **6. TENANT IMPROVEMENTS**

### **6.1.Tenant Improvement Work**

Tenant shall, at its sole cost and expense, with prior written approval of the Landlord, make improvements needed for the commercial operation of Tenant. All work performed shall be done in a good and workmanlike manner, and in compliance with all applicable governmental regulations, including without limitation those set forth in Section 9.1 below. Before commencing work, Tenant shall obtain the written approval of Landlord of the paint colors to be used, and shall use no other colors without the prior written consent of the Landlord. Written approval shall be obtained from the Director, Department of Parks of the County of San Mateo.

## **7. ALTERATIONS**

### **7.1.Tenant’s Alterations**

#### **(a) General**

Tenant shall not make or permit any alterations to the Premises or to the heating, ventilating, air conditioning, plumbing, electrical, fire protection, life safety, security and other mechanical, electrical, communications systems of the Property or the Premises (“Facility Systems”), and shall not make or permit any alterations,

installations, additions or improvements, structural or otherwise (collectively, "Alterations"), in, to or about the Premises, without County's prior written consent in each instance. County shall not unreasonably withhold or delay such consent. All Alterations shall be done at Tenant's expense in accordance with plans and specifications approved by County, only by duly licensed and bonded contractors or mechanics approved by County, and subject to any conditions that County may reasonably impose. County shall not unreasonably withhold or delay such consent. If the cost of any Alterations is in excess of Five Thousand Dollars (\$5,000), then Tenant shall pay to County an administrative fee equal to ten percent (10%) of the total "hard" costs of the work to compensate County for the costs of review.

(b) Asbestos

Without limiting Section 24.2 (No Hazardous Materials) below, in the event that asbestos-containing materials ("ACM") are determined to exist in or about the Premises, Tenant shall ensure that all Alterations and any asbestos related work, as defined in California Health & Safety Code Section 25914.1(b), is performed in compliance with all laws relating to asbestos, including but not limited to California Occupational Safety and Health (OSHA) regulations found in Title 8 of the California Code of Regulations, Sections 1502 and 1529. Additionally, Tenant shall distribute notifications to all employees and contractors as required pursuant to California Health & Safety Code Sections 25915 et. seq. informing them of the existence of ACM and that moving, drilling, boring, or otherwise disturbing ACM may present a health risk and should not be attempted by an unqualified employee. No Alterations affecting ACM-containing areas or any asbestos related work shall be performed without County's prior written consent in each instance.

(c) Tenant's Alterations that Disturb or Remove Lead-Based Paint

Tenant covenants and agrees that it and its Agents or Invitees, as defined in Section 26.5, shall comply with all requirements of the local Building Code and all other applicable local, state, and Federal laws, including but not limited to the California and United States Occupational Health and Safety Acts and their implementing regulations, when Tenant's Alterations or repairs disturb or remove exterior or interior lead-based or presumed lead-based paint from of the exterior of the Premises or steel structures on the Property. Further, Tenant covenants and agrees to assume all duties imposed on the County, as an owner of the Property, including but not limited to providing the required notice to the Department of Building Inspection, other tenants on the Property, and to occupants of adjacent properties when required. Tenant and its Agents or Invitees, when disturbing or removing exterior or interior lead-based or presumed lead-based paint, shall not use or cause to be used the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Tenant covenants and agrees that it and its Agents or Invitees shall comply with the

requirements of Title 17 of the California Code of Regulations when undertaking measures designed to reduce or eliminate lead hazards. Under this Lease, exterior or interior paint on buildings and steel structures built before January 1, 1979 is presumed to be lead-based paint unless a lead-based paint test indicates an absence of lead-based paint on the exterior or interior surfaces of such buildings and/or steel structures. Under this Lease, lead-based paint is “disturbed or removed” if an alteration or repair involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on a surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface.

## **7.2. Title to Improvements**

Except for Tenant’s Personal Property (as described in the next section), or as may be specifically provided to the contrary in the approved Plans, all appurtenances, fixtures, improvements, equipment, additions, and other property attached or affixed to or installed in the Premises at the Commencement Date or during the Term, including, without limitation, the Tenant Improvements and any Alterations, shall be and remain County’s property. Tenant may not remove any such property at any time during or after the Term unless County so requests as further provided in Section 24 (Surrender), below.

## **7.3. Tenant’s Personal Property**

All furniture, trade fixtures, office equipment and articles of movable personal property installed in the Premises by or for the account of Tenant, without expense to County, and that can be removed without structural or other damage to the Premises (collectively, “Tenant’s Personal Property”) shall be and remain Tenant’s property. Tenant may remove its Personal Property at any time during the Term, subject to the provisions of Section 23 (Surrender of Premises), below. Tenant shall pay any taxes or other impositions levied or assessed upon Tenant’s Personal Property, at least ten (10) days prior to delinquency, and shall deliver satisfactory evidence of such payment to County upon request.

## **7.4. County’s Alterations of the Property and Facility Systems**

County reserves the right at any time to make alterations, additions, repairs, deletions or improvements to the common areas or any other part of the Property or the Facility Systems, provided that any such alterations or additions shall not materially adversely affect the functional utilization of the Premises for the uses permitted hereunder.

# **8. REPAIRS AND MAINTENANCE**

## **8.1. County’s Repairs**

County shall repair and maintain the structural portions of the Property, including the Facility Systems, and the common areas; provided, however, Tenant shall reimburse County for any damage, excluding normal wear and tear, caused by any act



or omission of Tenant, its Agents or Invitees (as such terms are defined in Section 26.5 (Parties and their Agents), below). For the purpose of making any such repairs, County may use structures in the Premises where reasonably required by the character of the work to be performed, provided that such work shall not block the main entrance to the Premises nor unreasonably interfere with Tenant's business. Tenant waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned thereby.

## **8.2.Tenant's Repairs**

Tenant shall maintain, at no expense to County, the Premises (including, without limitation, the floors, interior plumbing, electrical wiring, fixtures and equipment) in good repair and working order (exclusive of normal wear and tear) and in a clean, secure, safe and sanitary condition. Tenant shall promptly make all repairs and replacements: (a) at no cost to the County, (b) by licensed contractors or qualified mechanics approved by County, (c) so that the same shall be at least equal in quality, value and utility to the original work or installation, (d) in a manner and using equipment and materials that will not interfere with or impair the operations, use or occupation of the Property or the Facility Systems, and (e) in accordance with any applicable Rules and Regulations (as defined in Section 22.1 (Rules and Regulations)) and all applicable laws, rules and regulations. If the cost of any such repairs or replacements is in excess of Five Thousand Dollars (\$5,000) and is due to acts or omissions of Tenant, its Agents or Invitees, then Tenant shall pay to County an administrative fee equal to ten percent (10%) of the total "hard" costs of the work. Tenant hereby waives all rights to make repairs at County's expense under Sections 1941 and 1942 of the California Civil Code or under any similar law, statute or ordinance now or hereafter in effect.

## **9. LIENS AND ENCUMBRANCES**

### **9.1.Liens**

Tenant shall keep the Premises and the rest of the Property free from any liens arising out of any work performed, material furnished or obligations incurred by or for Tenant. In the event Tenant does not, within five (5) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, County shall have, in addition to all other remedies, the right, but not the obligation, to cause the lien to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by County and all expenses incurred by it in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to County by Tenant upon demand. County shall have the right to post on the Premises any notices that County may deem proper for the protection of County, the Premises, and the Property, from mechanics' and materialmen's liens. Tenant shall give to County at least fifteen (15) days' prior written notice of commencement of any Alteration, repair or construction on the Premises. Tenant agrees to indemnify, defend and hold County and its Agents harmless from and against any claims for mechanic's, materialmen's or other liens in

connection with any Alterations, repairs or construction on the Premises, or materials furnished or obligations incurred by or for Tenant.

## **9.2. Encumbrances**

Tenant shall not create, permit or suffer any liens or encumbrances affecting any portion of the Premises, the Property or County's interest therein or under this Lease.

## **10. UTILITIES AND SERVICES**

### **10.1. Utilities and Services**

County shall provide the basic utilities and services described in the attached Exhibit C (the "Standard Utilities and Services") to the Premises, subject to the terms and conditions contained therein. Tenant shall be responsible for furnishing, at no cost to the County, any utilities or services other than or in excess of the Standard Utilities and Services that Tenant may need for its use of the Premises.

### **10.2. Water and Energy Conservation; Mandatory or Voluntary Restrictions**

In the event any law, ordinance, code or governmental or regulatory guideline imposes mandatory or voluntary controls on County or the Property or any part thereof, relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions, or the provision of any other utility or service provided with respect to this Lease, or in the event County is required or elects to make alterations to any part of the Property in order to comply with such mandatory or voluntary controls or guidelines, such compliance and the making of such alterations shall in no event entitle Tenant to any damages, relieve Tenant of the obligation to pay the full Base Rent and Additional Charges reserved hereunder or to perform each of its other covenants hereunder or constitute or be construed as a constructive or other eviction of Tenant.

### **10.3. Excess Use**

If Tenant requires any utilities or services to be provided by County hereunder in excess of the Standard Utilities and Services for the Premises, Tenant shall first procure County's written consent, which County may give or withhold in its sole discretion. In the case of County's consent, Tenant shall pay to County, as additional rent, the cost of such excess usage. Failure of County to bill Tenant for such excess utilities or services shall not impair County's right to bill Tenant for such costs at a later date. Without limiting the foregoing, Tenant shall not: (a) connect or use any apparatus, device or equipment that will require a dedicated circuit or that will impair the proper functioning or capacity of the Facility Systems; or (b) connect any apparatus, device or equipment through electrical outlets except in the manner for which such outlets are designed and without the use of any device intended to increase the plug capacity of any electrical outlet; or (c) maintain at any time an electrical demand load in excess of any amount specified therefor in the Rules and Regulations. If at any time during the Term County

has reason to believe that Tenant may be using any utility or service in excess of the amount therefor allowed to the Premises pursuant to the Standard Building Utilities or Services, County shall have the right to install a separate meter in the Premises or to take other appropriate steps to measure the amount of utility or service used in the Premises, and the cost of such meter and all corrective measures, and the installation and maintenance thereof, shall be paid for by Tenant.

#### **10.4. Floor Load**

Without County's prior written consent, which County may give or refuse in its sole discretion, Tenant shall not place or install in the Premises any equipment that weighs in excess of the normal load-bearing capacity of the floors of the improvements. If County consents to the placement or installation of any such machine or equipment in the Premises, Tenant, at no cost to the County, shall reinforce the floor of the facility, pursuant to plans and specifications approved by County and otherwise in compliance with Section 7.1 (Tenant's Alterations), to the extent necessary to assure that no damage to the Premises or the Property or weakening of any structural supports will be occasioned thereby.

#### **10.5. Interruption of Services**

Landlord's obligation to provide utilities and services for the Premises are subject to the Rules and Regulations, applicable Legal Requirements (as defined below) (including the rules or actions of the public utility company furnishing the utility or service), and shutdowns for maintenance and repairs, for security purposes, or due to strikes, lockouts, labor disputes, fire or other casualty, acts of God, or other causes beyond the control of Landlord. In the event of an interruption in, or failure or inability to provide any service or utility for the Premises for any reason, such interruption, failure or inability shall not constitute an eviction of Tenant, constructive or otherwise, or impose upon Landlord any liability whatsoever, including, but not limited to, liability for consequential damages or loss of business by Tenant; provided, however, that if such interruption, failure or inability impairs Tenant's ability to carry on its business in the Premises for a period of five (5) or more consecutive business days, then Tenant shall have the right, as Tenant's sole remedy, to abate the Base Rent only based on the extent such interruption, failure or inability impairs Tenant's ability to carry on its business in the Premises. Tenant hereby waives the provisions of California Civil Code Section 1932(1) or any other applicable existing or future Legal Requirement permitting the termination of this Lease due to such interruption, failure or inability.

#### **10.6. Capital Improvements**

Tenant shall reimburse County for its pro rata share of the reasonable cost of any capital improvements made to the Property as a labor-saving or energy saving device or to effect other economies in the operation or maintenance of the Property, or made to the Property after the date of this Lease that are required under any governmental law, rule or regulation that was not applicable to the Property at the time that permits for the construction thereof were obtained, such cost to be amortized over such reasonable

period as County shall determine, together with interest on the unamortized balance at the rate of ten percent (10%) per annum. The amount Tenant must pay the County under this section shall not exceed \$2000 in any calendar year without consent of the Tenant.

## **11. COMPLIANCE WITH LAWS AND RISK MANAGEMENT REQUIREMENTS**

### **11.1. Compliance with Laws**

Tenant shall promptly comply, at no cost to the County, with all present or future laws, ordinance, resolution, regulation, requirement, proclamation, order or decree of any municipal, county, state or federal government or other governmental or regulatory authority relating to the Premises or the use or occupancy thereof (the "Legal Requirements") and with any and all recorded covenants, conditions and restrictions affecting the Property or any portion thereof, whether in effect at the time of the execution of this Lease or adopted or recorded at any time thereafter and whether or not within the present contemplation of the parties. Tenant further understands and agrees that it is Tenant's obligation, at no cost to the County, to cause the Premises and Tenant's uses thereof to be conducted in compliance with the Americans With Disabilities Act, 42 U.S.C.A. §§ 12101 et seq. Tenant shall not be required to make any structural Alterations in order to comply with such laws unless such Alterations shall be occasioned, in whole or in part, directly or indirectly, by the Tenant Improvements or any other Alterations, Tenant's use of the Premises, or any act or omission of Tenant, its Agents or Invitees. Any Alteration made by or on behalf of Tenant pursuant to the provisions of this Section shall comply with the provisions of Section 8.2 (Tenant's Repairs), above. The parties acknowledge and agree that Tenant's obligation to comply with all Legal Requirements as provided herein is a material part of the bargained for consideration under this Lease. Tenant's obligation under this Section shall include, without limitation, the responsibility of Tenant to make substantial or structural repairs and Alterations to the Premises (including any of the Tenant Improvements or any of Tenant's Alterations), regardless of, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Tenant or County, the degree to which the curative action may interfere with Tenant's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Legal Requirement involved, and whether the Legal Requirement involved is related to Tenant's particular use of the Premises.

### **11.2. Regulatory Approvals**

#### **(a) Responsible Party**

Tenant understands and agrees that Tenant's use of the Premises (and any construction of the Tenant Improvements permitted hereunder) may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, County agencies and the City of San Mateo. Tenant shall be solely responsible for obtaining any and all such

regulatory approvals. Tenant shall not seek any regulatory approval without first obtaining the written consent of County under this Lease. Tenant shall bear all costs associated with applying for and obtaining with any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Property or County's intent therein must first be approved by County in its sole discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Tenant, and County shall have no liability, monetary or otherwise, for any such fines or penalties. Tenant shall Indemnify (as defined in Section 18.2) County and the other Indemnified Parties (as defined below) hereunder against all Claims (as defined in Section 18.2) arising in connection with Tenant's failure to obtain or failure by Tenant, its Agents or Invitees to comply with the terms and conditions of any regulatory approval.

(b) County Acting as Owner of Real Property

Tenant further understands and agrees that County is entering into this Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Lease shall limit in any way Tenant's obligation to obtain any required approvals from County officials, departments, boards or commissions having jurisdiction over the Premises. By entering into this Lease, County is in no way modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all applicable laws, as provided further above.

**11.3. Compliance with County's Risk Management Requirements**

Tenant shall not do anything, or permit anything to be done, in or about the Premises which would be prohibited by or increase rates under a standard form fire insurance policy or subject County to potential premises liability. Tenant shall faithfully observe, at no cost to the County, any and all requirements of County's Risk Manager with respect to Tenant's use and occupancy of the Premises, so long as such requirements do not unreasonably interfere with Tenant's use of the Premises or are otherwise connected with standard prudent commercial practices of other landlords.

**12. SUBORDINATION**

This Lease is and shall be subordinate to any reciprocal easement agreement, ground lease, facilities lease or other underlying lease and the lien of any mortgage or deed of trust and all renewals, modifications, consolidations, replacements and extensions of any of the foregoing, that may now exist or hereafter be executed by County affecting the Property, or any part thereof, or County's interest therein, without the necessity of executing any instrument to effectuate such subordination; provided, however, upon Landlord's request, Tenant, or Tenant's successor-in-interest, shall execute and deliver any and all instruments desired by Landlord evidencing such subordination in the manner requested by Landlord. Notwithstanding the foregoing,

County or the holder shall, in its respective discretion, have the right to subordinate any such interests to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall attorn to the successor-in-interest to County, at the option of such successor-in-interest. The provisions of this Section shall be self-operative and no further instrument shall be required. Tenant agrees, however, to execute and deliver, upon demand by County and in the form requested by County, any additional documents evidencing the priority or subordination of this Lease.

### **13. INABILITY TO PERFORM**

No actual or constructive eviction, in whole or in part, shall entitle Tenant to any abatement or diminution of Rent or relieve Tenant from any of its obligations under this Lease. If County is unable to perform or is delayed in performing any of County's obligations under this Lease, by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, protests, riots, demonstrations, inability to obtain utilities or materials or by any other reason beyond County's reasonable control, no such inability or delay shall constitute an eviction under this Lease, or impose any liability upon County or its Agents by reason of inconvenience, annoyance, interruption, injury or loss to or interference with Tenant's business or use and occupancy or quiet enjoyment of the Premises or any loss or damage occasioned thereby. Tenant hereby waives and releases any right to terminate this Lease under Section 1932, subdivision 1 of the California Civil Code or any similar law, statute or ordinance now or hereafter in effect.

### **14. DAMAGE AND DESTRUCTION**

#### **14.1. Damage and Destruction**

If the Premises or the Property is damaged by fire or other casualty, then County shall repair the same provided that funds for such repairs are appropriated by County's Board of Supervisors, in its sole discretion, for such purpose and that such repairs can be made within two hundred ten (210) days after the date of such damage (the "Repair Period"). In the event such conditions are satisfied, this Lease shall remain in full force and effect except that Tenant shall be entitled to a proportionate reduction of Base Rent and Additional Charges during the period of such repairs based upon the extent to which such damage and the making of such repairs materially interferes with Tenant's use or occupancy of the Premises.

County shall use commercially reasonable efforts to notify Tenant within ninety (90) days after the date of such damage whether or not such repairs can be made within the Repair Period, and County's determination thereof shall be binding on Tenant. If such repairs cannot be made within the Repair Period, County shall have the option to notify Tenant of: (a) County's intention to repair such damage and diligently prosecute such repairs to completion within a reasonable period after the Repair Period, subject to the Board of Supervisor's appropriation of all necessary funds, in which event this Lease shall continue in full force and effect and the Base Rent and Additional Charges shall be reduced as provided herein; or (b) County's election to terminate this

Lease as of a date specified in such notice, which date shall be not less than thirty (30) nor more than sixty (60) days after notice is given by County. In case of termination, the Base Rent and Additional Charges shall be reduced as provided above, and Tenant shall pay such reduced Base Rent and Additional Charges up to the date of termination.

If at any time during the last twelve (12) months of the Term of this Lease, the Premises or the Property is damaged or destroyed, then either County or Tenant may terminate this Lease by giving written notice to the other party of its election to do so within thirty (30) days after the date of the occurrence of such damage; provided, however, Tenant may terminate only if such damage or destruction substantially impairs its use or occupancy of the Premises for the uses permitted hereunder. The effective date of termination shall be specified in the notice of termination, which date shall not be more than thirty (30) days from the date of the notice.

Notwithstanding anything to the contrary in this Lease, County shall have no obligation to repair the Premises or the Property in the event the damage or destruction is attributable to any act or omission of Tenant, its Agents or Invitees. In no event shall County be required to repair any damage to Tenant's Personal Property or any paneling, decorations, railings, floor coverings, or any Tenant Improvements or Alterations installed or made on the Premises by or at the expense of Tenant. In the event the Premises or the Property is substantially damaged or destroyed and County intends to rebuild for public purposes inconsistent with this Lease, County may terminate this Lease upon written notice to Tenant.

#### **14.2. Waiver**

County and Tenant intend that the provisions of this Section govern fully in the event of any damage or destruction and accordingly, County and Tenant each hereby waives the provisions of Section 1932, subdivision 2, Section 1933, subdivision 4 and Sections 1941 and 1942, of the Civil Code of California or under any similar law, statute or ordinance now or hereafter in effect.

### **15. EMINENT DOMAIN**

#### **15.1. Definitions**

(a) "Taking" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

(b) "Date of Taking" means the earlier of (i) the date upon which title to the portion of the Property taken passes to and vests in the condemnor or (ii) the date on which Tenant is dispossessed.

(c) "Award" means all compensation, sums or anything of value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

## **15.2. General**

If during the Term or during the period between the execution of this Lease and the Commencement Date, there is any Taking of all or any part of the Premises or any interest in this Lease, the rights and obligations of the parties hereunder shall be determined pursuant to this Section. County and Tenant intend that the provisions hereof govern fully in the event of a Taking and accordingly, the parties each hereby waive any right to terminate this Lease in whole or in part under Sections 1265.10, 1265.40, 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar law now or hereafter in effect.

## **15.3. Total Taking; Automatic Termination**

If there is a total Taking of the Premises, then this Lease shall terminate as of the Date of Taking.

## **15.4. Partial Taking; Election to Terminate.**

(a) If there is a Taking of any portion (but less than all) of the Premises, then this Lease shall terminate in its entirety under either of the following circumstances: (i) if all of the following exist: (A) the partial Taking renders the remaining portion of the Premises untenable or unsuitable for continued use by Tenant, (B) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but County is unwilling or unable to cure such condition, and (C) Tenant elects to terminate; or (ii) if County elects to terminate; provided, however, that this Lease shall not terminate if Tenant agrees to, and does, pay full Rent and Additional Charges, without abatement, and otherwise agrees to, and does, fully perform all of its obligations hereunder.

(b) If there is a partial Taking of a substantial portion of the Property but not the Premises, County shall have the right to terminate this Lease in its entirety.

(c) Either party electing to terminate under the provisions of this Section 15 shall do so by giving the other party written notice to the other party before or within thirty (30) days after the Date of Taking, and thereafter this Lease shall terminate upon the later of the thirtieth (30th) day after such written notice is given or the Date of Taking.

## **15.5. Rent; Award**

Upon termination of this Lease pursuant to an election under Section 15.4 above, then: (i) Tenant's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in Section 15.6 below for any period during which this Lease continues in effect after the Date of



Taking, and (ii) County shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease), and Tenant shall have no claim against County for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's Personal Property.

#### **15.6. Partial Taking; Continuation of Lease**

If there is a partial Taking of the Premises under circumstances where this Lease is not terminated in its entirety under Section 15.4 above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect as to the portion not taken, and the rights and obligations of the parties shall be as follows: (a) Base Rent shall be reduced by an amount that is in the same ratio to the Base Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking; provided, however, in no event shall the monthly Base Rent be reduced to less than seventy-five percent (75%) of the monthly Base Rent immediately prior to the Date of Taking, and (b) County shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease), and Tenant shall have no claim against County for the value of any unexpired term of this Lease, provided that Tenant may make a separate claim for compensation, and Tenant shall receive any Award made specifically to Tenant, for Tenant's relocation expenses or the interruption of or damage to Tenant's business or damage to Tenant's Personal Property.

#### **15.7. Temporary Takings**

Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of sixty (60) consecutive days, this Lease shall remain unaffected thereby, and Tenant shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, Tenant shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by Tenant for the period of the Taking, and County shall be entitled to receive the balance of any Award.

### **16. ASSIGNMENT AND SUBLETTING**

#### **16.1. Restriction on Assignment and Subletting**

Tenant shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Tenant), voluntarily or by operation of law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises or its leasehold estate hereunder (collectively, an "Assignment"), or permit or license any portion of the Premises to be used or occupied by anyone other than itself, or sublet any portion of the Premises (collectively, "Sublease" or "Sublet"), without County's prior written consent in each

instance, as provided hereinbelow and subject to Section 16.3. Notwithstanding the foregoing, Tenant may Assign this Lease or Sublet any or all portions of the Premises to any Tenant's Affiliate (as defined below) without obtaining the consent of Landlord by giving Landlord written notice of its intent thereof at least fifteen (15) business days before the proposed effective date of such transfer. As used in this Section, the term "Tenant's Affiliate" shall mean, any of the following: (1) any person or entity owning, directly or indirectly, fifty percent (50%) or more of the ownership interests of Tenant (an "Owning Person"), (2) any entity, fifty percent (50%) or more of the ownership interests of which are owned, directly or indirectly, by any Owning Person, (3) any entity, fifty percent (50%) or more of the ownership interests of which are owned, directly or indirectly, by Tenant.

### **16.2. Notice of Proposed Transfer**

If Tenant desires to enter into an Assignment or a Sublease, it shall give written notice (a "Notice of Proposed Transfer") to County of its intention to do so. The Notice of Proposed Transfer shall identify the proposed transferee and state the terms and conditions of the proposed Assignment or Sublease. Tenant shall deliver to Landlord with its request for Landlord's consent the proposed Assignment or Sublease and current financial statements of the proposed Transferee (as defined in section 16.3) , prepared by an independent certified public accountant, and promptly upon Landlord's request for same, any additional documents or information reasonably related to the proposed transaction or Transferee.

### **16.3. County's Response**

Within twenty (20) business days after County's receipt of the Notice of Proposed Transfer (the "Response Period"), County may elect, by written notice to Tenant, to: (a) sublease the portion of the Premises specified in the Notice of Proposed Transfer on the terms and conditions set forth in such notice, except as otherwise provided in Section 16.4 (Sublease or Recapture Space), or (b) terminate this Lease as to the portion (including all) of the Premises that is specified in the Notice of Proposed Transfer, with a proportionate reduction in Base Rent (a "Recapture").

If County declines to exercise either of its options provided above, then Tenant shall have ninety (90) days following the earlier of (i) County's notice that it will not elect either such option or (ii) the expiration of the Response Period, to enter into such Assignment or Sublease, subject to County's prior written approval of the proposed assignee or subtenant (collectively, Transferee") and the terms and conditions of the proposed Sublease or Assignment. However, one hundred percent (100 %) of any rent or other consideration realized by Tenant under any such Assignment or Sublease in excess of the Base Rent and Additional Charges payable hereunder (or the amount thereof proportionate to the portion of the Premises subject to such Sublease or Recapture) shall be paid to County, after Tenant has recovered any reasonable brokers' commissions and the reasonable cost of any leasehold improvements that Tenant has incurred in connection with such Sublease or Recapture. Tenant shall provide County with such information regarding the proposed Transferee and the Assignment or

Sublease as County may reasonably request. County agrees that it will not unreasonably withhold its approval of any proposed Transferee.

If after County declines to exercise any of the foregoing options Tenant desires to enter into such Assignment or Sublease (i) on terms and conditions materially more favorable to Tenant than those contained in the Notice of Proposed Transfer or (ii) with a Transferee that is currently a tenant or other occupant of the Building, then Tenant shall give County a new Notice of Proposed Transfer, which notice shall state the terms and conditions of such Assignment or Sublease and identify the proposed Transferee, and County shall again be entitled to elect one of the options provided in clauses (a) and (b) at any time within twenty (20) business days after County's receipt of such new Notice of Proposed Transfer.

In the event County elects either of the options provided in clauses (a) or (b), County shall be entitled to enter into a lease, sublease or assignment agreement with respect to the Premises (or portion thereof specified in such new Notice of Proposed Transfer) with the proposed Transferee identified in Tenant's notice.

Notwithstanding the foregoing, if any event of default by Tenant is outstanding hereunder at the time of Tenant's Notice of Proposed Transfer (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then County may elect by notice to Tenant to refuse to consent to Tenant's proposed Transfer and pursue any of its right or remedies hereunder or at law or in equity.

#### **16.4. Sublease or Recapture Space**

If County elects to Sublease or Recapture from Tenant as described in Section 16.3, County's Response, the following shall apply:

(a) In the case of a Sublease, (i) County shall have the right to use the portion of the Premises covered by the Notice of Proposed Transfer (the "Sublease Space") for any legal purpose, (ii) the rent payable by County to Tenant shall be the lesser of (A) the amount in the Notice of Proposed Transfer or (B) the Base Rent payable by Tenant under this Lease at the time of the Sublease (or the amount thereof proportionate to the Sublease Space if for less than the entire Premises), (iii) County may make alterations and improvements to the Sublease Space and may remove any such alterations or improvements, in whole or in part, prior to or upon the expiration of the Sublease, provided that County shall repair any damage or injury to the Sublease Space caused by such removal, (iv) County shall have the right to further sublease or assign the Sublease Space to any party, without the consent of Tenant, and (v) Tenant shall pay to County on demand any costs incurred by County in physically separating the Sublease Space (if less than the entire Premises) from the balance of the Premises and in complying with any applicable laws or regulations relating to such separation.

(b) In the case of Recapture, (i) the portion of the Premises subject to the Recapture (the "Recapture Space") shall be deleted from the Premises for all purposes

hereunder, and Tenant and County shall be relieved of all their rights and obligations hereunder with respect to the Recapture Space except to the extent the same would survive the Expiration Date or other termination of this Lease pursuant to the provisions hereof, and (ii) County shall pay any cost incurred in physically separating the Recapture Space (if less than the entire Premises) from the balance of the Premises and in complying with any applicable governmental laws or regulations relating to such separation.

#### **16.5. Effect of Sublease or Assignment**

No Sublease or Assignment by Tenant nor any consent by County thereto shall relieve Tenant, or any guarantor, of any obligation to be performed by Tenant under this Lease. Any Sublease or Assignment not in compliance with this Section shall be void and, at County's option, shall constitute a material default by Tenant under this Lease. The acceptance of any Base Rent or other payments by County from a proposed Transferee shall not constitute consent to such Sublease or Assignment by County or a recognition of any Transferee, or a waiver by County of any failure of Tenant or other transferor to comply with this Section. If there is an Assignment or Sublet, whether in violation of or in compliance with this Section, in the event of default by any Transferee, or any successor of Tenant, in the performance or observance of any of the terms of this Lease or any Sublease or Assignment agreement, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such Transferee or successor.

#### **16.6. Assumption by Transferee**

Each Transferee (other than County) shall assume all obligations of Tenant under this Lease and shall be liable jointly and severally with Tenant for the payment of the Base Rent and Additional Charges, and for the performance of all the terms, covenants and conditions to be performed on Tenant's part hereunder. No Assignment shall be binding on County unless Tenant or Transferee has delivered to County a counterpart of the Assignment and an instrument in recordable form that contains a covenant of assumption by such Transferee satisfactory in form and substance to County. However, the failure or refusal of such Transferee to execute such instrument of assumption shall not release such Transferee from its liability as set forth above. Tenant shall reimburse County on demand for any reasonable costs that may be incurred by County in connection with any proposed Sublease or Assignment, including, without limitation, the costs of making investigations as to the acceptability of the proposed Transferee and legal costs incurred in connection with the granting of any requested consent.

#### **16.7. Indemnity for Relocation Benefits**

Without limiting Section 16.6 (Assumption by Transferee) above, Tenant shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Tenant shall Indemnify County

for any and all losses arising out of any relocation assistance or benefits payable to any Transferee.

## **17. DEFAULT; REMEDIES**

### **17.1. Events of Default**

Any of the following shall constitute an event of default (the "Event of Default") by Tenant hereunder:

(a) a failure to pay Base Rent or Additional Charges when due, and such failure continues for three (3) days after the date of Tenant's receipt of written notice by County. However, County shall not be required to provide such notice more than twice during any twelve (12) month period, and any such failure by Tenant after Tenant has received two (2) such notices in such 12-month period shall constitute a default by Tenant hereunder without any further action by County or opportunity of Tenant to cure except as may be required by Section 1161 of the California Code of Civil Procedure;

(b) a failure to comply with any other covenant, condition or representation made under this Lease and such failure continues for fifteen (15) days after the date of written notice by County, provided that if such default is not capable of cure within such 15-day period, Tenant shall have a reasonable period to complete such cure if Tenant promptly undertakes action to cure such default within such 15-day period and thereafter diligently prosecutes the same to completion within sixty (60) days after the receipt of notice of default from County. County shall not be required to provide such notice more than twice in any twelve (12) consecutive month period with respect to any material non-monetary defaults and after the second notice in any calendar year, any subsequent failure by Tenant during such 12-consecutive month period shall constitute an Event of Default hereunder;

(c) a vacation or abandonment of the Premises for a continuous period in excess of five (5) business days; or

(d) an appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

### **17.2. Remedies**

Upon the occurrence of an Event of Default Landlord shall have the following remedies, which shall not be exclusive but shall be cumulative and shall be in addition to any other remedies now or hereafter allowed by law or in equity:

(a) Landlord may terminate Tenant's right to possession of the Premises at any time by written notice to Tenant. Tenant expressly acknowledges that in the

absence of such written notice from Landlord, no other act of Landlord, including, but not limited to, its re-entry into the Premises, its efforts to relet the Premises, its reletting of the Premises for Tenant's account, its storage of Tenant's Personal Property and trade fixtures, its acceptance of keys to the Premises from Tenant, its appointment of a receiver, or its exercise of any other rights and remedies under this Section 17.2 or otherwise at law, shall constitute an acceptance of Tenant's surrender of the Premises or constitute a termination of this Lease or of Tenant's right to possession of the Premises.

Upon such termination in writing of Tenant's right to possession of the Premises, this Lease shall terminate and Landlord shall be entitled to recover damages from Tenant as provided in California Civil Code Section 1951.2 or any other applicable existing or future Legal Requirement providing for recovery of damages for such breach, including but not limited to the following:

- (i) The reasonable cost of recovering the Premises; plus
- (ii) The reasonable cost of removing Tenant's Alterations, trade fixtures and improvements; plus
- (iii) All unpaid rent due or earned hereunder prior to the date of termination, less the proceeds of any reletting or any rental received from subtenants prior to the date of termination applied as provided in Section 17.2(b) below, together with interest at the Interest Rate, on such sums from the date such rent is due and payable until the date of the award of damages; plus
- (iv) The amount by which the rent which would be payable by Tenant hereunder, including Additional Charges under Section 4.3 above, as reasonably estimated by Landlord, from the date of termination until the date of the award of damages, exceeds the amount of such rental loss as Tenant proves could have been reasonably avoided, together with interest at the Interest Rate on such sums from the date such rent is due and payable until the date of the award of damages; plus
- (v) The amount by which the rent which would be payable by Tenant hereunder, including Additional Charges under Section 4.3 above, as reasonably estimated by Landlord, for the remainder of the then term, after the date of the award of damages exceeds the amount such rental loss as Tenant proves could have been reasonably avoided, discounted at the discount rate published by the Federal Reserve bank of San Mateo for member banks at the time of the award plus one percent (1%); plus
- (vi) Such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law, including without limitation any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease which in the ordinary course of things would be likely to result therefrom.

(b) Landlord has the remedy described in California Civil Code Section 1951.4 (a landlord may continue the lease in effect after the tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations), and may continue this Lease in full force and effect and may enforce all of its rights and remedies under this Lease, including, but not limited to, the right to recover rent as it becomes due. After the occurrence of an Event of Default, Landlord may enter the Premises without terminating this Lease and sublet all or any part of the Premises for Tenant's account to any person, for such term (which may be a period beyond the remaining term of this Lease), at such rents and on such other terms and conditions as Landlord deems advisable. In the event of any such subletting, rents received by Landlord from such subletting shall be applied (i) first, to the payment of the costs of maintaining, preserving, altering and preparing the Premises for subletting, the other costs of subletting, including but not limited to brokers' commissions, attorneys' fees and expenses of removal of Tenant's Personal Property, trade fixtures and Alterations; (ii) second, to the payment of rent then due and payable hereunder; (iii) third, to the payment of future rent as the same may become due and payable hereunder; (iv) fourth, the balance, if any, shall be paid to Tenant upon (but not before) expiration of the term of this Lease. If the rents received by Landlord from such subletting, after application as provided above, are insufficient in any month to pay the rent due and payable hereunder for such month, Tenant shall pay such deficiency to Landlord monthly upon demand. Notwithstanding any such subletting for Tenant's account without termination, Landlord may at any time thereafter, by written notice to Tenant, elect to terminate this Lease by virtue of a previous Event of Default.

During the continuance of an Event of Default, for so long as Landlord does not terminate Tenant's right to possession of the Premises and subject to Section 16 (Assignment and Subletting) and the options granted to Landlord thereunder, Landlord shall not unreasonably withhold its consent to an assignment or sublease of Tenant's interest in the Premises or in this Lease.

(c) During the continuance of an Event of Default, Landlord may enter the Premises without terminating this Lease and remove all Tenant's Personal Property, Alterations and trade fixtures from the Premises and store them at Tenant's risk and expense. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any rent then due, then after the property has been stored for a period of thirty (30) days or more Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for and the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in Section 17.2(b) above.

Tenant hereby waives all claims for damages that may be caused by Landlord's re-entering and taking possession of the Premises or removing and storing

Tenant's Personal Property pursuant to this Section 17.2, and Tenant shall indemnify, defend and hold Landlord harmless from and against any and all Claims resulting from any such act. No re-entry by Landlord shall constitute or be construed as a forcible entry by Landlord.

(d) Landlord may require Tenant to remove any and all Alterations from the Premises or, if Tenant fails to do so within ten (10) days after Landlord's request, Landlord may do so at Tenant's expense.

(e) Landlord may cure the Event of Default at Tenant's expense, it being understood that such performance shall not waive or cure the subject Event of Default. If Landlord pays any sum or incurs any expense in curing the Event of Default, Tenant shall reimburse Landlord upon demand for the amount of such payment or expense with interest at the Interest Rate from the date the sum is paid or the expense is incurred until Landlord is reimbursed by Tenant. Any amount due Landlord under this subsection shall constitute additional rent hereunder.

### **17.3. Waiver of Redemption**

Tenant hereby waives, for itself and all persons claiming by and under Tenant, all rights and privileges which it might have under any present or future Legal Requirement to redeem the premises or to continue this Lease after being dispossessed or ejected from the Premises.

### **17.4. County's Right to Cure Tenant's Defaults**

If Tenant defaults in the performance of any of its obligations under this Lease, then County may, at its sole option, remedy such default for Tenant's account and at Tenant's expense by providing Tenant with three (3) days' prior written or oral notice of County's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by County). Such action by County shall not be construed as a waiver of such default or any rights or remedies of County, and nothing herein shall imply any duty of County to do any act that Tenant is obligated to perform. Tenant shall pay to County upon demand, as additional rent, all costs, damages, expenses or liabilities incurred by County, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. Tenant's obligations under this Section shall survive the termination of this Lease.

## **18. WAIVER OF CLAIMS; INDEMNIFICATION**

### **18.1. Limitation on County's Liability; Waiver of Claims**

County shall not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases County and its Agents from all Claims (as defined below) for, any injury, loss or damage to any person or property in or about the Premises by or from any cause whatsoever including, without limitation, (i) any act or omission of persons occupying adjoining premises or any part of the Building adjacent to or connected with the Premises, (ii) theft, (iii) explosion, fire, steam, oil, electricity,



water, gas or rain, pollution or contamination, (iv) stopped, leaking or defective Facility Systems, (v) Construction defects, and (vi) any other acts, omissions or causes. Nothing in this Section shall relieve County from liability caused solely and directly by the gross negligence or willful misconduct of County or its Agents, but County shall not be liable under any circumstances for any consequential, incidental or punitive damages.

## **18.2. Tenant's Indemnity**

Tenant, on behalf of itself and its successors and assigns, shall indemnify, defend and hold harmless ("Indemnify") County including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, Wunderlich Park, and all of its and their Agents, and their respective heirs, legal representatives, successors and assigns (individually and collectively, the "Indemnified Parties"), and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (collectively, "Claims"), incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, including, without limitation, employees of Tenant, or loss of or damage to property, howsoever or by whomsoever caused, occurring in or about the Premises; (b) any default by Tenant in the observation or performance of any of the terms, covenants or conditions of this Lease to be observed or performed on Tenant's part; (c) the use or occupancy or manner of use or occupancy of the Premises by Tenant, its Agents or Invitees or any person or entity claiming through or under any of them; (d) the condition of the Premises; (e) any construction or other work undertaken by Tenant on the Premises whether before or during the Term of this Lease; or (f) any acts, omissions or negligence of Tenant, its Agents or Invitees, in, on or about the Premises or the Property; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Lease and further except only such Claims as are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and County's costs of investigating any Claim. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the County from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by County and continues at all times thereafter. Tenant's obligations under this Section shall survive the termination of the Lease.

## 19. INSURANCE

### 19.1. Tenant's Insurance

(a) Tenant, at no cost to the County, shall procure and keep in effect at all times during the Term insurance as follows:

(i) Commercial general liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than One Hundred Thousand Dollars (\$100,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU). Worker's Compensation Insurance with Employer's Liability Limits not less than \$750,000 each accident or the statutory amount.

(ii) Business automobile liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, as applicable, if Tenant uses automobiles in connection with its use of the Premises.

(iii) Such other insurance as is generally required by commercial owners on buildings similar in size, character, age and location as the Building, as may change from time to time.

(b) Should any of the required insurance be provided under a claims-made form, Tenant shall maintain such coverage continuously throughout the Term and, without lapse, for a period of three (3) years beyond the expiration or termination of this Lease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Lease, such claims shall be covered by such claims-made policies.

(c) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(d) All liability insurance policies shall be endorsed to provide the following:

(i) Name as additional insured the County of San Mateo, its officers, agents and employees.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(e) Each insurance policy required pursuant to Section 19.1(a) above shall be issued by an insurance company licensed in the State of California and with a general policyholders' rating of "A-" or better and a financial size ranking of "Class VIII" or higher in the most recent edition of Best's Insurance Guide.

(f) All policies shall be endorsed to provide thirty (30) days' advance written notice to County of cancellation or intended non-renewal (or ten (10) days' advance written notice in case of nonpayment of premium), mailed to the address(es) for County set forth in the Basic Lease Information.

(g) Tenant shall deliver to County certificates of insurance in form and from insurers satisfactory to County, evidencing the coverage required hereunder, on or before the Commencement Date, together with complete copies of the policies promptly upon County's request, and Tenant shall provide County with certificates or policies thereafter at least thirty (30) days before the expiration dates of expiring policies. In the event Tenant shall fail to procure such insurance, or to deliver such policies or certificates, County may procure, at its option, without waiving any rights or remedies which Landlord may have for Tenant's default hereunder, the same for the account of Tenant, and the cost thereof shall be paid to County within five (5) days after delivery to Tenant of bills therefore.

(h) Upon County's request, Tenant and County shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the County of San Mateo is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Tenant for risks comparable to those associated with the Premises, then Tenant shall, at County's request, increase the amounts or coverage carried by Tenant to conform to such general commercial practice.

(i) Tenant's compliance with the provisions of this Section shall in no way relieve or decrease Tenant's liability under Section 18.2 (Tenant's Indemnity), or any of Tenant's other obligations under this Lease.

(j) Notwithstanding anything to the contrary in this Lease, if any of the required insurance coverage lapses, County may elect, at its sole discretion, to terminate this Lease by delivering to Tenant three (3) days written notice of termination and, if so delivered, this Lease shall so terminate unless Tenant renews the insurance coverage within the three (3) day notice period.

## **19.2. Tenant's Personal Property**

Tenant shall be responsible, at no cost to the County, for separately insuring Tenant's Personal Property.

## **19.3. County's Self Insurance**

Tenant acknowledges that County self-insures against casualty, property damage and public liability risks and agrees that County may at its sole election, but

shall not be required to, carry any third party insurance with respect to the Building, the Premises or otherwise.

#### **19.4. Waiver of Subrogation**

Notwithstanding anything to the contrary contained herein, County, in the event the County does not self-insure, and Tenant (each a "Waiving Party") each hereby waives any right of recovery against the other party for any loss or damage sustained by such other party with respect to the Building or the Premises or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party, to the extent (i) such loss or damage is actually recovered from valid and collectible insurance covering the Waiving Party, and (ii) the Waiving Party's insurance carrier agrees to its written waiver of right to recover such loss or damage.

#### **20. ACCESS BY COUNTY**

County reserves for itself and any of its designated Agents, the right to enter the Premises as follows: (i) on a regular basis without advance notice to supply any necessary or agreed-upon service to be provided by County hereunder; (ii) on an occasional basis, at all reasonable times after giving Tenant reasonable advance written or oral notice, to show the Premises to prospective tenants or other interested parties, to post notices of non-responsibility, to conduct any environmental audit of Tenant's use of the Premises, to repair, alter or improve any part of the Property, Facility Systems or the Premises, and for any other lawful purpose; and (iii) on an emergency basis without notice whenever County believes that emergency access is required. County shall have the right to use any means that it deems proper to open doors in an emergency in order to obtain access to any part of the Premises, and any such entry shall not be construed or deemed to be a forcible or unlawful entry into or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof. Tenant shall not alter any lock or install any new or additional locking devices without the prior written consent of County. All locks installed in the Premises (excluding Tenant's vaults, safes or special security areas, if any, designated by Tenant in writing to County) shall be by keyed to a master key system, and County shall at all times have a key with which to unlock all such doors.

#### **21. CERTIFICATES**

##### **(a) Tenant's Certificates**

Tenant, at any time and from time to time upon not less than ten (10) days' prior notice from County, shall execute and deliver to County or to any party designated by County a certificate stating: (a) that Tenant has accepted the Premises, (b) the Commencement Date and Expiration Date of this Lease, (c) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (d) whether or not there are then existing any defenses against the enforcement of any of Tenant's obligations hereunder (and if so, specifying the same), (e) whether or not there are any

defaults then existing under this Lease (and if so specifying the same), (f) the dates, if any, to which the Base Rent and Additional Charges have been paid, and (g) any other information that may be required.

(b) County's Certificates

County, at any time and from time to time upon not less than ten (10) days' prior notice from Tenant, shall execute and deliver to Tenant or to any party designated by Tenant a certificate stating: (a) the Commencement Date and Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) whether or not there are any defaults then existing under this Lease (and if so specifying the same), (d) the dates, if any, to which the Base Rent and Additional Charges have been paid, and (f) any other information that may be required.

## **22. RULES AND REGULATIONS**

Tenant shall faithfully comply with the rules and regulations attached to this Lease as Exhibit D (Park Rules and Regulations) and all modifications thereof and additions thereto that County may from time to time put into effect (the "Rules and Regulations"). County shall not be responsible for the non-performance of the Rules and Regulations by any other tenant or occupant of the Park. In the event of any conflict between any provision of this Lease and any provision of the Rules and Regulations, this Lease shall control.

## **23. SURRENDER OF PREMISES**

Upon the Expiration Date or other termination of the Term of this Lease, Tenant shall peaceably quit and surrender to County the Premises together with the Tenant Improvements and all Alterations approved by County in good order and condition, except for normal wear and tear after Tenant having made the last necessary repair required on its part under this Lease, and further except for any portion of the Premises condemned and any damage and destruction for which Tenant is not responsible hereunder. The Premises shall be surrendered free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created by County. Immediately before the Expiration Date or other termination of this Lease, Tenant shall remove all of Tenant's Personal Property as provided in this Lease, and repair any damage resulting from the removal. If such removal is not completed at the expiration or other termination of this Lease, Landlord may remove the same at Tenant's expense. Notwithstanding anything to the contrary in this Lease, County can elect at any time prior to the Expiration Date or within five (5) days after termination of this Lease, to require Tenant to remove, at Tenant's sole expense, all or part of the Leasehold Improvements, Alterations or other improvements or equipment constructed or installed by or at the expense of Tenant. Tenant shall promptly remove such items and shall repair, at no cost to the County, any

damage to the Premises or the Building resulting from such removal, or if Tenant fails to repair, Landlord may do so, at Tenant's expense. Tenant's obligations under this Section shall survive the Expiration Date or other termination of this Lease. Any items of Tenant's Personal Property remaining in the Premises after the Expiration Date or sooner termination of this Lease may, at County's option, be deemed abandoned and disposed of in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by law.

Concurrently with the surrender of the Premises, Tenant shall, if requested by County, execute, acknowledge and deliver to County a quitclaim deed to the Premises and any other instrument reasonably requested by County to evidence or otherwise effect the termination of Tenant's leasehold estate hereunder and to effect such transfer or vesting of title to the Tenant Improvements or other improvements or equipment which remain part of the Premises.

## **24. HAZARDOUS MATERIALS**

### **24.1. Definitions**

As used herein, the following terms shall have the meanings set forth below:

(a) "Environmental Laws" shall mean any present or future federal, state, local or administrative law, rule, regulation, order or requirement relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage), or to health and safety, industrial hygiene or the environment, including, without limitation, soil, air and groundwater conditions.

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health, welfare or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

(c) "Investigate and Remediate" ("Investigation" and "Remediation") shall mean the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Property or that has been, are being or threaten to be Released into the environment, and to clean up, remove, contain, treat, stabilize, monitor or otherwise control such Hazardous Material.

(d) "Release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying,

discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Premises, or in, on, under or about any other part of the Property or into the environment.

#### **24.2. No Hazardous Materials**

Tenant covenants and agrees that neither Tenant nor any of its Agents or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Property, or transported to or from the Property, with the sole exception that Tenant may keep and use such substances in the Premises in such reasonably limited amounts as are customarily used for Stable operations and general office purposes (such as copy toner and other normal office and cleaning supplies) and may generate such substances as a result of measures taken pursuant to Articles 7 or 8 of this Lease that disturb or remove lead-based or presumed lead-based paint from the exterior or interior surfaces of the Premises so long as such generation, storage, transportation, use, and disposal are in compliance with all applicable Environmental Laws at all times. Tenant shall give immediate written notice to County of: (a) any action, proceeding or inquiry by any governmental authority (including, without limitation, the California State Department of Health Services, the State or any Regional Water Quality Control Board, the Bay Area Air Quality Management district or any local governmental entity) against Tenant with respect to the presence or Release or suspected presence or Release of Hazardous Material on the Premises, Building or Property or the migration thereof from or to other property; (b) all demands or claims made or threatened by any third party against Tenant or the Premises, Building or Property relating to any loss of injury resulting from any Hazardous Materials; (c) any Release of Hazardous Material on or about the Premises or any other part of the Property has occurred that may require any Investigation or Remediation; and (d) all matters of which Tenant is required to give notice pursuant to Section 25359.7 of the California Health and Safety Code.

#### **24.3. Tenant's Environmental Indemnity**

If Tenant breaches any of its obligations contained in this Section, or, if any act or omission of Tenant, its Agents or Invitees, results in any Release of Hazardous Material in, on, under or about the Premises or any other part of the Property in violation of any applicable Environmental Laws, then, without limiting Tenant's Indemnity contained in Section 18.2, Tenant shall, on behalf of itself and its successors and assigns, Indemnify the Indemnified Parties, and each of them, from and against all Claims (including, without limitation, damages for decrease in value of the Premises or the Property, the loss or restriction of the use of rentable or usable space or of any amenity of the Premises or the Property and sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the Term of this Lease and relating to such Release. The foregoing Indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate Hazardous Material and to restore the Property to its prior condition, fines and penalties assessed for the violation of any applicable Environmental Laws, and any natural resource damages. Without limiting the foregoing, if Tenant or any of its Agents

or Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or any other part of the Property, Tenant shall immediately and at no expense to County take any and all appropriate actions to return the Premises or the Property affected thereby to the condition existing prior to such Release and otherwise Investigate and Remediate the Release in accordance with all Environmental Laws. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the County from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Tenant by the County and continues at all times thereafter. Tenant shall afford County a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

#### **24.4. Survival of Obligation**

Tenant's obligations under this Section 25 shall survive the Expiration Date or other termination of this Lease.

### **25. SPECIAL PROVISIONS**

#### **25.1. Extension Options**

##### **(a) Option to Extend Term**

Tenant shall have the right to extend the Initial Term of this Lease (the "Extension Options") for the additional terms specified in the Basic Lease Information (the "Extended Terms"). Such Extension Options shall be on all of the terms and conditions contained in this Lease. Tenant, at its sole discretion, may exercise the Extension Options at any time during the Term, if at all, by giving written notice to Landlord no later than one hundred eighty (180) days prior to expiration of the term to be extended. Any such notice by Tenant shall be irrevocable by Tenant. If any event of default by Tenant is outstanding hereunder either at the time of Tenant's exercise of the Extension Option or at any time prior to the first day of the Extension Term (or if any event shall have occurred which with the giving of notice or the passage of time or both would constitute such a default), then County may elect by notice to Tenant to reject Tenant's exercise of the Extension Option, whereupon the Extension Option shall be null and void. County shall also have the right to void Tenant's Extension Option if Tenant has assigned its interest hereunder or sublet more than fifty percent (50%) of the Premises.

##### **(b) Base Rent and Other Terms**

If Tenant elects to exercise the Extension Options, then the Lease for the Extension Term shall cover the entire Premises and shall be upon all of the terms, covenants and conditions of this Lease, except that Base Rent hereunder shall be renegotiated for the extension period. In the event the parties fail to reach agreement,



within 30 days, this Lease shall be terminated and all Extension Options shall be extinguished

### **25.2. Posted Schedule**

Tenant shall at all times maintain a written schedule delineating the operating hours. The schedule shall be posted in a conspicuous place on the Premises. Should Landlord, upon review and conference with Tenant, reasonably decide part of said schedule is not justified with regard to fairly satisfying the needs of the public, Tenant, upon notice from Landlord shall modify said schedules to the reasonable satisfaction of Landlord.

## **26. GENERAL PROVISIONS**

### **26.1. Notices**

Any notice given under this Lease shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier, return receipt requested, with postage prepaid, to: (a) Tenant (i) at Tenant's address set forth in the Basic Lease Information, if sent prior to Tenant's taking possession of the Premises, or (ii) at the Premises if sent on or subsequent to Tenant's taking possession of the Premises, or (iii) at any place where Tenant or any Agent of Tenant may be found if sent subsequent to Tenant's vacating, abandoning or surrendering the Premises; or (b) County at County's address set forth in the Basic Lease Information; or (c) to such other address as either County or Tenant may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by email or telefacsimile to the telephone number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by email or facsimile. Tenant shall promptly provide County with copies of any and all notices received regarding any alleged violation of laws or insurance requirements or any alleged unsafe condition or practice.

### **26.2. No Implied Waiver**

No failure by County to insist upon the strict performance of any obligation of Tenant under this Lease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial Base Rent or Additional Charges during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of County, shall constitute a waiver of such breach or of County's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Lease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or

performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. Any consent by County hereunder shall not relieve Tenant of any obligation to secure the consent of County in any other or future instance under the terms of this Lease.

### **26.3. Amendments**

Neither this Lease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by both parties hereto. Whenever an amendment, waiver, notice, or other instrument or document is to be executed by or on behalf of County, the Assistant County Manager, or designee, shall be authorized to execute such instrument on behalf of County, except as otherwise provided by applicable law, including County's Charter.

### **26.4. Authority**

If Tenant signs as a corporation or a partnership, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing entity, that Tenant has and is qualified to do business in California, that Tenant has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Tenant are authorized to do so. Upon County's request, Tenant shall provide County with evidence reasonably satisfactory to County confirming the foregoing representations and warranties.

### **26.5. Parties and Their Agents; Approvals**

The words "County" and "Tenant" as used herein shall include the plural as well as the singular. If there is more than one Tenant, the obligations and liabilities under this Lease imposed on Tenant shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party, and the term "Invitees" when used with respect to Tenant shall include the clients, customers, invitees, guests, licensees, assignees or subtenants of Tenant. All approvals, consents or other determinations permitted or required by County hereunder shall be made by or through County's Director of Property unless otherwise provided in this Lease, subject to applicable law.

### **26.6. Interpretation of Lease**

The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the

last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or County holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word “including” or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as “without limitation” or similar words, are used.

#### **26.7. Successors and Assigns**

Subject to the provisions of this Lease relating to Assignment and Subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of County and Tenant and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any sale, assignment or transfer by County named herein (or by any subsequent landlord) of its interest in the Building as owner or lessee, including any transfer by operation of law, County (or any subsequent landlord) shall be relieved from all subsequent obligations and liabilities arising under this Lease subsequent to such sale, assignment or transfer.

#### **26.8. Brokers**

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein except as identified in the Basic Lease Information, whose commission, if any is due, shall be paid pursuant to a separate written agreement between such broker and the party through which such broker contracted. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Claims incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

#### **26.9. Severability**

If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

#### **26.10. Governing Law**

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

### **26.11. Entire Agreement**

This instrument, including the exhibits hereto, which are made a part of this Lease, contains the entire agreement between the parties and all prior written or oral negotiations, understandings and agreements are merged herein. The parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts hereof and changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease. Tenant hereby acknowledges that neither County nor County's Agents have made any representations or warranties with respect to the Premises, the Building or this Lease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth herein.

### **26.12. Holding Over**

Any holding over after the expiration of the Term with the express consent of County shall be construed to automatically extend the Term of this Lease on a month-to-month basis at a Base Rent equal to one hundred fifty percent (150%) of the latest Base Rent payable by Tenant hereunder prior to such expiration, together with an amount estimated by County for the monthly Additional Charges payable under this Lease, and shall otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term and any Extension Options). Any holding over without County's consent shall constitute a default by Tenant and entitle County to exercise any or all of its remedies as provided herein, notwithstanding that County may elect to accept one or more payments of Rent, and whether or not such amounts are at the holdover rate specified above or the rate in effect at the end of the Term of the Lease.

### **26.13. Time of Essence**

Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

### **26.14. Cumulative Remedies**

All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

### **26.15. Survival of Indemnities**

Termination of this Lease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof.

#### **26.16. Signs**

Tenant agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises which are visible in or from public corridors or other portions of any common areas of the Park or from the exterior of the Premises, without County's prior written consent, which County may withhold or grant in its sole discretion.

#### **26.17. Relationship of the Parties**

County is not, and none of the provisions in this Lease shall be deemed to render County, a partner in Tenant's business, or joint venturer or member in any joint enterprise with Tenant. Neither party shall act as the agent of the other party in any respect hereunder. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

#### **26.18. Light and Air**

Tenant covenants and agrees that no diminution of light, air or view by any structure that may hereafter be erected (whether or not by County) shall entitle Tenant to any reduction of the Base Rent or Additional Charges under this Lease, result in any liability of County to Tenant, or in any other way affect this Lease or Tenant's obligations hereunder.

#### **26.19. No Recording**

Tenant shall not record this Lease or any memorandum hereof in the public records.

#### **26.20. Public Transit Information**

Tenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Building and encouraging use of such facilities, all at Tenant's sole expense.

#### **26.21. Taxes, Assessments, Licenses, Permit Fees and Liens**

(a) Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest. (b) Tenant agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by law, all of which shall be paid when the same become due and payable and before delinquency. (c) Tenant agrees not to allow or suffer a lien for any such taxes to

be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same. (d) State law requires that the County of San Mateo report certain information relating to this Lease, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction, and that Tenant report certain information relating to any assignment of or sublease under this lease to the County Assessor within sixty (60) days after such assignment or sublease transaction. Tenant agrees to provide such information as may be requested by the County to enable the County to comply with this requirement.

#### **26.22. Non-Liability of County Officials, Employees and Agents**

No elective or appointive board, commission, member, officer, employee or other Agent of County shall be personally liable to Tenant, its successors and assigns, in the event of any default or breach by County or for any amount which may become due to Tenant, its successors and assigns, or for any obligation of County under this Agreement.

#### **26.23. No Relocation Assistance; Waiver of Claims**

Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, County, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from County under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Lease with respect to a Taking.

#### **26.24. Pricing of Goods and Services**

Tenant shall offer concession items and stable services at fair and reasonable prices, comparable in cost to similar operations in the San Francisco Bay Area.

#### **26.25. Alcoholic Beverages Prohibited**

Tenant shall not sell or serve alcoholic beverages, nor allow alcoholic beverages to be sold, served or consumed on the Premises.

#### **26.26. Counterparts**

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**26.27. Effective Date**

This Lease shall become effective on the date upon which (i) County’s Board of Supervisors, in its sole and absolute discretion, adopts a resolution or enacts an ordinance approving this Lease in accordance with all applicable laws and (ii) this Lease is duly executed and delivered by the parties hereto.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, TENANT ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF COUNTY HAS AUTHORITY TO COMMIT COUNTY TO THIS LEASE UNLESS AND UNTIL COUNTY’S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION OR ENACTED AN ORDINANCE APPROVING THIS LEASE AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF COUNTY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID IF THE BOARD OF SUPERVISORS DOES NOT APPROVE THIS LEASE, IN ITS SOLE DISCRETION. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF COUNTY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION OR ORDINANCE WILL BE ENACTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON COUNTY.

County and Tenant have executed this Lease as of the date first written above.

TENANT: \_\_\_\_\_,

\_\_\_\_\_

By:

Its:

By:

Its:

COUNTY: COUNTY OF SAN MATEO,  
a political subdivision of the State of  
California

\_\_\_\_\_  
President, Board of Supervisors

ATTEST:

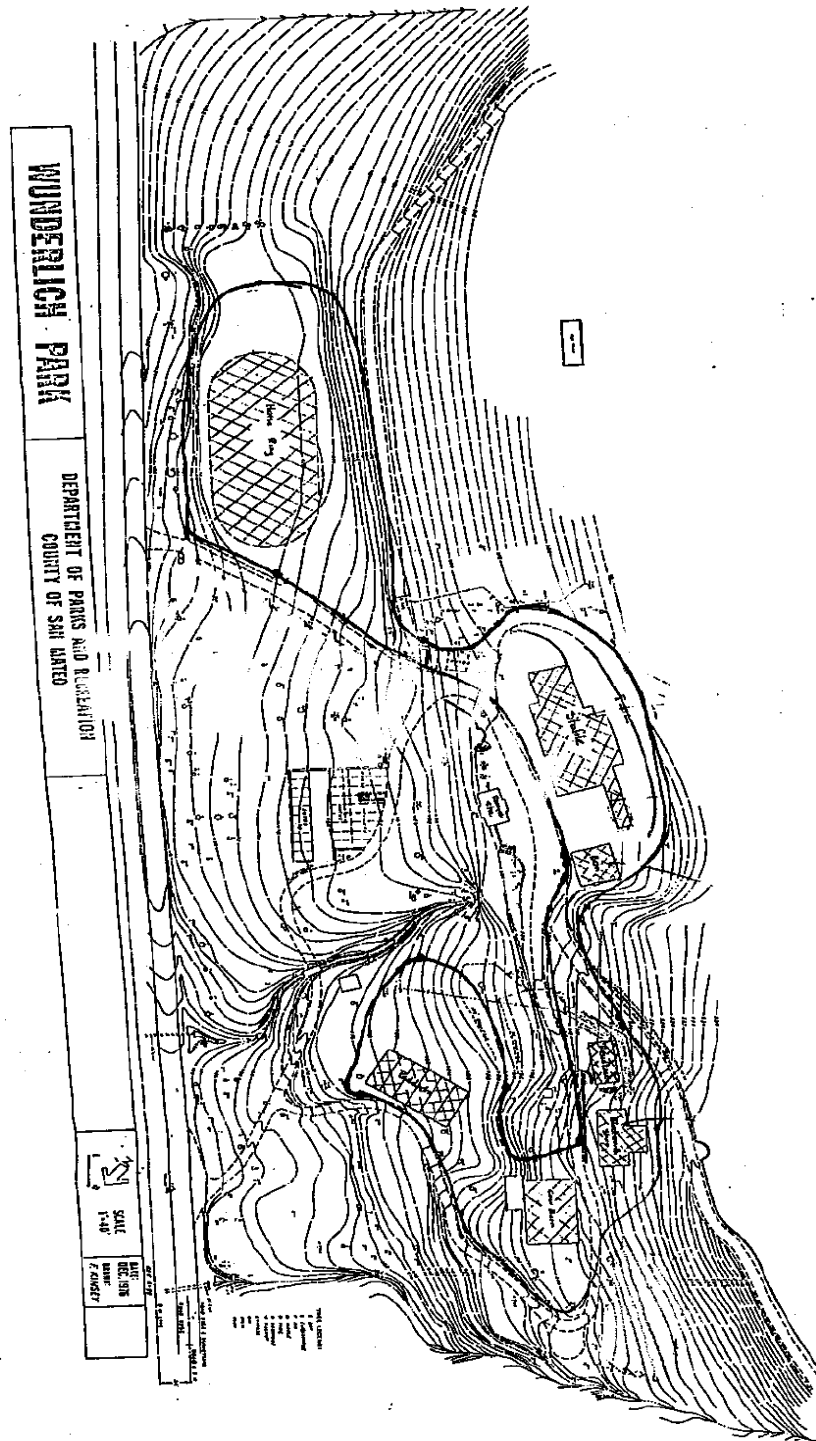
RESOLUTION NO.: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board



SITE PLAN

Map B



Wunderlich Park  
Buildings

**Buildings**

**Responsibility of:**

**Folger Stable:**

**Downstairs Rpoms:**

10 Horse Stalls (inside)  
Tack Room 1  
Tack Room 2  
Office  
Break Room  
Restroom  
Carriage Room  
Planning Room/Office  
4 Horse Stalls (outside)

Bay Area Equestrian Connections, LLC  
Bay Area Equestrian Connections, LLC  
Bay Area Equestrian Connections, LLC  
Bay Area Equestrian Connections, LLC  
Bay Area Equestrian Connections, LLC  
Bay Area Equestrian Connections, LLC  
Friends of Huddart/Wunderlich  
Friends of Huddart/Wunderlich  
Bay Area Equestrian Connections LLC

**Upstairs Rooms:**

Storage Room 1  
Storage Room 2  
Mechanical Room

San Mateo County Parks  
San Mateo County Parks  
San Mateo County Parks

**Fly Control Unit/System** (mechanical room)

Bay Area Equestrian Connections, LLC

**Arena** (south side of the Stable)

Bay Area Equestrian Connections, LLC

**Wooden Turnouts** (2 separated across from arena) Bay Area Equestrian Connections, LLC

**Carriage House** (across from stable) SMCO Parks/Friends Huddart/Wunderlich

**Porta-Stables:** next to: stable, north side (6 stalls) Bay Area Equestrian Connections, LLC

**Shed 1:** behind porta- stables Bay Area Equestrian Connections, LLC

**Trailer** (Off of Loop Trail service road) Bay Area Equestrian Connections, LLC  
(Owner of Trailer)

**Lower Meadow Turnouts** (across from trailer) Bay Area Equestrian Connections, LLC  
6 connecting pipe fencing turnouts (lower part of meadow)  
2 connecting pipe fencing turnouts (upper part of meadow)

**Blacksmith Shop** Bay Area Equestrian Connections, LLC  
6 Stalls

**Building behind Blacksmith Shop** Bay Area Equestrian Connections, LLC  
4 Stalls

**Shed 2** (next to blacksmith shop) Bay Area Equestrian Connections, LLC

**Blacksmith Turnouts**

Bay Area Equestrian Connections, LLC

4 connecting pipe turnouts (across from blacksmith shop)

1 wooden turnout

**Storage Area** (next to turnouts)

Bay Area Equestrian Connections, LLC

[Date]

County Manager  
County of San Mateo  
400 County Center  
Redwood City, CA 94063

RE: Acknowledgement of Commencement Date, Lease Between  
Bay Area Equestrian Connection, LLC (Tenant),  
and the COUNTY OF SAN MATEO (Landlord),  
for premises known as The Folger Stables located at Wunderlich County Park,  
Woodside, CA

Dear Mr.:

This letter will confirm that for all purposes of the Lease, the Commencement Date (as defined in Section 3.2 of the Lease) is October 1, 2010.

Please acknowledge your acceptance of this letter by signing and returning a copy of this letter.

Very truly yours,

\_\_\_\_\_  
By \_\_\_\_\_  
Title \_\_\_\_\_

Accepted and Agreed:

By: \_\_\_\_\_  
County Manager

EXHIBIT C

STANDARD UTILITIES AND SERVICES

The standards set forth below describe the basic utilities and services which are presently in effect for the Premises. County reserves the right to adopt any nondiscriminatory modifications and additions to such standards which do not materially impair Tenant's rights under this Lease or Tenant's use of the Premises. County shall give Tenant reasonable advance notice, in accordance with the provisions of this Lease, of any material modifications and additions, which shall be subject to the reasonable approval of Tenant.

Subject to the terms and conditions of this Lease, County shall provide the following basic utilities and services:

A. Electricity. Electric current to the Premises on a 24-hours a day, 7-days a week basis, in such quantity as is reasonably determined by County to service standard office lighting and normal fractional horsepower office machines, in the amount not to exceed existing service circuit. Tenant shall establish service in Tenant's name and pay utility company directly for useage.

B. Water. Water available at current points of supply in public areas for drinking, cleaning and lavatory purposes only, on a 24-hours a day, 7-days a week basis.

**RULES AND REGULATIONS**

1. The pathways, gates, exits, entrances, and trails of the Park shall not be obstructed by Tenant or used by it for any purpose other than for ingress to and egress from the Premises. County shall in all cases retain the right to control and prevent access to the pathways, exits, entrances, and trails not for the use of the general public, and County shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of County would be prejudicial to the safety, character, reputation and interests of the Park and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom Tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities.
2. No sign, placard, picture, name, advertisement or notice visible from the exterior of the Premises shall be installed or displayed by Tenant on any part of the outside or inside of the Park without the prior written consent of County. County shall have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule. All approved signs or lettering on doors shall be printed, painted, affixed or inscribed at the expense of Tenant by a person approved by County, which approval will not be unreasonably withheld. Material visible from outside the Park will be permitted only with prior written approval of the County.
3. The Premises shall not be used for lodging with the exception of any mobile home units, provided tenant occupies the mobile home units in compliance with the terms of a valid and enforceable agreement giving tenant the requisite legal status to own or occupy such units.
4. County will furnish Tenant with two (2) sets of keys to the Premises, free of charge. County may make a reasonable charge for such additional keys and for having locks changed. Tenant shall not make or have made additional keys without County's prior written consent, which consent shall not be unreasonably withheld or delayed. Tenant shall not alter any lock or install any new or additional locking devices without the prior written consent of County. All locks installed in the Premises, excluding Tenant's vaults and safes, or special security areas (which shall be designated by Tenant in a written notice to County), shall be keyed to the Building master key system. County may make reasonable charge for any additional lock or any bolt (including labor) installed on any door of the Premises. Tenant, upon the termination of its tenancy, shall deliver to County all keys to doors in the Premises. If Tenant loses any keys, Tenant shall pay County for the cost of re-keying the Premises.
5. Tenant shall not use or keep in the Premises or on the Property any kerosene, gasoline or flammable, combustible or noxious fluid or materials other than those limited quantities necessary for the operation of the Park, and stored in a metal

safety building or container that meets Woodside Fire District code. Tenant shall not use, keep or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to County or other occupants of the Building by reason of noise, odors, and/or vibrations, or interfere in any way with other tenants or those having business in the Building.

6. County reserves the right to exclude customers from the Premises between the hours of 6 p.m. and 8 a.m. and any other hours that the Tenant is not open for business. County shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Premises of any person. In the case of invasion, mob, riot, public excitement or other circumstances rendering such action advisable in County's opinion, County reserves the right to prevent access to the Premises during the continuance of same by such action as County may deem appropriate, including closing any access to the Premises.
7. Tenant shall not cut or bore holes for wires in the partitions, woodwork or plaster of the Premises. Tenant shall not affix any floor covering to the floor of the Premises in any manner except as approved by County.
8. No curtains, draperies, blinds, shutters, shades, screens or other coverings, hangings or decorations shall be attached to, hung or placed in, or used in connection with any window of the Fuel Dock Building without County's prior written consent. In any event, with the prior written consent of County, such items shall be installed on the office side of County's standard window covering and shall in no way be visible from the exterior of the Building.
9. Tenant shall see that the doors, gates and utility covers of the Premises are closed and locked and that all water faucets, water apparatus and utilities are shut off before Tenant or Tenant's employees leave the Premises, so as to prevent waste or damage, and for any default or carelessness in this regard Tenant shall make good all injuries sustained by other tenants or occupants of the Building or County. On multiple-tenancy floors, all tenants shall keep the doors to the Building corridors closed at all times except for ingress and egress, and all tenants shall at all times comply with any rules or orders of the fire department with respect to ingress and egress.
10. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever shall be deposited therein. The expense of any breakage, stoppage or damage resulting in any violation of this rule shall be borne by Tenant.
11. Except with County's prior consent, Tenant shall not sell, or permit the sale from the Premises of, or use or permit the use of any area adjacent to the Premises for the sale of, newspapers, magazines, periodicals, tickets or any other goods, merchandise or service, nor shall Tenant carry on, or permit or allow any employee or other person to carry on, business in or from the Premises for the

service or accommodation of occupants or any other portion of the Building, nor shall the Premises be used for manufacturing of any kind, or for any business or activity other than that specifically provided for in Tenant's lease.

12. Tenant shall not install any radio or television antenna, loudspeaker, or other device on or about the Premises without the prior written consent of County. Tenant shall not interfere with radio or television broadcasting or reception from or in the Park or elsewhere.
13. Tenant shall store all its trash and garbage within the Premises until removal of the same to such location in the Park as may be designated from time to time by County. No material shall be placed in the Park trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the County of San Mateo without being in violation of any law or ordinance governing such disposal.
14. All loading and unloading of merchandise, supplies, materials, garbage and refuse shall be made only through areas and at such times as County shall designate. Tenant shall not obstruct or permit the obstruction of said loading areas, and at no time shall Tenant park vehicles therein except for immediate loading and unloading purposes.
15. Canvassing, soliciting, peddling or distribution of handbills or any other written material in the Park is prohibited except as provided by law and Tenant shall cooperate to prevent the same.
16. Tenant shall immediately, upon request from County (which request need not be in writing), reduce its lighting in the Premises for temporary periods designated by County, when required in County's judgment to prevent overloads of the mechanical or electrical systems of the Park.
17. County reserves the right to select the name of the Premises and to make such change or changes of name as it may deem appropriate from time to time, and Tenant shall not refer to the Premises by any name other than: (i) the name as selected by County (as the same may be changed from time to time), or (ii) the postal address approved by the United States Post Office. Tenant shall not use the name of the Premises in any respect other than as an address of its operation in the Park without the prior written consent of the County.
18. Tenant assumes all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry closed.
19. No vending machine shall be maintained or operated within the Premises or the Park without County's prior written consent.



20. All incoming mail and package deliveries shall be received at the area in the Park designated by County for such purposes and distributed through means established by County. No messenger or other delivery personnel shall be permitted to enter any area of the Park that is not open to the public other than the area designated by County for the pick-up and receipt of such deliveries.
21. County reserves the right to exclude or expel from the Park and the Premises any person who is, in the judgment of County, intoxicated or under the influence of alcohol or other drug or who is in violation of any of the Rules or Regulations of the Building.
22. No animal or bird shall be permitted or kept in the Premises, except for Service Animals when in the company, and under control of their masters.
23. The requirements of Tenant will be attended to only upon application by telephone or writing or in person at the management office of the Park. Employees of the County shall not perform any work or do anything outside of their regular duties unless under special instructions from County.
24. County may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by County shall be construed as a waiver of these Rules and Regulations in favor of any other tenant or tenants, nor prevent County from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Park.
25. Wherever the word "Tenant" occurs in these Rules and Regulations, it is understood and agreed that it shall mean Tenant's associates, agents, clerks, employees and visitors. Wherever the word "County" occurs in these Rules and Regulations, it is understood and agreed that it shall mean County's assigns, agents, officers, employees and visitors.
26. These Rules and Regulations are in addition to, and shall not be construed in any way to modify, alter or amend, in whole or part, the terms, covenants, agreements and conditions of any lease of premises in the Park.
27. County reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Park, and for the preservation of good order therein.
28. Tenant shall be responsible for the observance of all the foregoing Rules and Regulations by Tenant's employees, agents, clients, customers, invitees and guests.
29. Tenant shall not have amplified music or loudspeakers or engage in any other activities prohibited by County Park ordinances, County Park rules, or Wunderlich Park rules.

# CONTRACT INSURANCE APPROVAL

DATE: 9/9/2010  
TO: Scott Johnson FAX: 363-4387 PONY: HRD 163  
FROM: Dave Holland  
PHONE: FAX: PONY:

**The following is to be completed by the department before submission to Risk Management:**

CONTRACTOR NAME: Bay Area Equestrian Connection, LLC

DOES THE CONTRACTOR TRAVEL AS A PART OF THE CONTRACT SERVICES? No

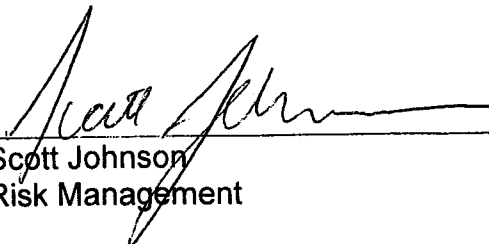
NUMBER OF EMPLOYEES WORKING FOR CONTRACTOR: Three

DUTIES TO BE PERFORMED BY CONTRACTOR FOR COUNTY: Leasing Space

**The following will be completed by Risk Management:**

INSURANCE COVERAGE:	Amount	Approve	Waive
Modify			
Comprehensive General Liability	\$2,000,000	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Motor Vehicle Liability		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Professional Liability		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Workers' Compensation	\$750,000	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS/COMMENTS: Small Contractor with limited number of employees justify modifying limits.

  
\_\_\_\_\_  
Scott Johnson  
Risk Management

9/9/10

Date



# CERTIFICATE OF LIABILITY INSURANCE

OP ID JG

DATE (MM/DD/YYYY)

09/16/10

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER  Equisure, Inc. 13790 E Rice Pl Ste 100 Aurora CO 80015 Phone:303-614-6961 Fax:303-614-6967	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	PRODUCER CUSTOMER ID #: <b>BYRUDA1</b>	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED  Dan Byrum 1989 - A Santa Rita Rd #278 Pleasanton CA 94566	INSURER A: Underwriters at Lloyds, London	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			B066462501A10-BYRUDA1	09/14/10	09/14/11	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional			B066462501A10-BYRUDA1	09/14/10	09/14/11	Included Included

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
\$50,000 Horse Limit any one horse in your CCC. \$100,000 In the Aggregate for horses in your CCC. 100,000 PD Limit for prop rented/loaned to you for covered activity in your CCC. Certificate Holder is provided proof of insurance as to the general liability exposures of the named professional only.

## CERTIFICATE HOLDER

## CANCELLATION

0000000

County of San Mateo  
Landlord  
4040 Woodside Road  
Woodside CA 94062

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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# CERTIFICATE OF LIABILITY INSURANCE

OP ID SB

DATE (MM/DD/YYYY)

09/16/10

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<b>PRODUCER</b>  Sypolt Insurance Services, Inc 11344 Coloma Road, Suite 635 Gold River CA 95670 Phone: 916-669-1362 Fax: 916-669-1363	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ <b>PRODUCER CUSTOMER ID #:</b> BAYAR-1	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b>  Bay Area Equestrian Connection Dan Byrum 1989-A Santa Rita Rd, #278 Pleasanton CA 94566	<b>INSURER A:</b> American Bankers Ins of FL	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			TBD	10/01/10	10/01/11	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$	
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE  DEDUCTIBLE RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$	
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 2005 GMC Pickup                      1GDE4E3205F528092

**PROOF OF COVERAGE**

<b>CERTIFICATE HOLDER</b>  <div style="text-align: right;"><b>PARKS &amp; R</b></div> Parks and Recreation Dept of San Mateo Dave Moore, Brenda Bennett 455 County Center Redwood City CA 94063	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Mary Blincoe Sypolt</i>

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P.O. BOX 420807, SAN FRANCISCO, CA 94142-0807

**CERTIFICATE OF WORKERS' COMPENSATION INSURANCE**

**SEPTEMBER 17, 2010**

POLICY NUMBER:  
CERTIFICATE EXPIRES:

**723-761-2010**

**09-01-11**

PARKS & RECREATION DEPT OF SAN MATEO COUNTY  
ATTN: DAVE HOLLAND  
455 COUNTY CENTER  
REDWOOD CITY, CA 94063

JOB: 4040 Woodside Rd, Woodside, CA  
94062  
INCEPTION DATE: 09-18-10  
@ 12:01 AM  
STATE FUND - SACRAMENTO

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon ten days' advance written notice to the employer.

We will also give you TEN days' advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policy listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate of insurance may be issued or to which it may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions and conditions of such policy.

AUTHORIZED REPRESENTATIVE

INTERIM PRESIDENT AND CEO

EMPLOYER'S LIABILITY LIMIT INCLUDING DEFENSE COSTS: \$1,000,000.00 PER OCCURRENCE.

EMPLOYER

BAY AREA EQUESTRIAN CONNECTION LLC  
1989-A SANTA RITA RD #278  
PLEASANTON, CA 94566



# CERTIFICATE OF LIABILITY INSURANCE

OP ID SB

DATE (MM/DD/YYYY)

09/16/10

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<b>PRODUCER</b>		<b>CONTACT NAME:</b>	
<b>Sypolt Insurance Services, Inc</b> 11344 Coloma Road, Suite 635 Gold River CA 95670 Phone: 916-669-1362 Fax: 916-669-1363		<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
		<b>EMAIL ADDRESS:</b>	
		<b>PRODUCER CUSTOMER ID #:</b> BAYAR-1	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b>		<b>INSURER A:</b> American Bankers Ins of FL	
<b>Bay Area Equestrian Connection</b> Dan Byrum 1989-A Santa Rita Rd, #278 Pleasanton CA 94566		<b>INSURER B:</b>	
		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

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	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	<b>AUTOMOBILE LIABILITY</b>			TBD	10/01/10	10/01/11	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	<input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS						
	<b>UMBRELLA LIAB</b>						EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE RETENTION \$						
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	<input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
2005 GMC Pickup 1GDE4E3205F528092

**PROOF OF COVERAGE**

**CERTIFICATE HOLDER**

**CANCELLATION**

<b>PARKS &amp; R</b>  <b>Parks and Recreation Dept of San Mateo</b> <b>Dave Moore, Brenda Bannett</b> <b>455 County Center</b> <b>Redwood City CA 94063</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
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