

AGENDA COVER MEMORANDUM

Agenda Date: June 9, 2004

DATE: May 25, 2002
TO: Board of County Commissioners
DEPARTMENT: Management Services
PRESENTED BY: Jeff Turk, Property Management Officer 2
SUBJECT: ORDER/ IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A 24 MONTH LEASE AGREEMENT AT AN EXPENSE OF \$117,019.92 WITH HEINZ AND SUSAN SELIG FOR 7000 SQ. FT. OF OFFICE SPACE AT 1900 W. 7TH AVE. FOR THE WIC PROGRAM

1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A 24 MONTH LEASE AGREEMENT AT AN EXPENSE OF \$117,019.92 WITH HEINZ AND SUSAN SELIG FOR 7000 SQ. FT. OF OFFICE SPACE AT 1900 W. 7TH AVE. FOR THE WIC PROGRAM

2. **ISSUE/PROBLEM:** The lease for 7,000 sq. ft. of office space for the WIC program expires on June 30, 2004. A two year renewal is being proposed with a rent increase of 2%. Rent would increase from \$4,780.23 per month to \$4,875.83 per month (.68/sq. ft. to .695/sq. ft.).

The agreement is beyond the authority of the County Administrator to execute without the Board's authorization.

3. **DISCUSSION:**

3.1 Background

The county began leasing the space in January, 1997 when it took over responsibility for the WIC program from the State. The county assumed the remainder of the lease term through June, 1998. The lease has been renewed since that time in two year increments.

The lease requires the lessor to provide utilities, trash disposal, building maintenance and repair. The county provides janitorial services (a private vendor is used).

3.2 Analysis

The lease rate of \$.695 per sq. ft. is below market rent for the building (the owner leases other space in the building for \$.85 per sq. ft.). The building owners have been responsive to maintenance requests and upkeep of the premises. It would be difficult to find comparable space for a similar rental rate.

3.3 Alternatives/Options

1. Lease the space under the terms and conditions presented.
2. Direct staff to negotiate different terms and conditions as determined by the Board.

3.4 Recommendation

It is recommended that the County Administrator be authorized to execute the lease agreement pursuant to option 1.

3.5 Timing

The lease needs to be executed prior to July 1, 2004 to qualify for a tax exemption.

4. IMPLEMENTATION/FOLLOW-UP: Upon approval by the Board of County Commissioners, the County Administrator will execute the lease agreement within the given parameters.
5. ATTACHMENTS:
Board Order
Lease Renewal
Original Lease Agreement

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A 24 MONTH LEASE AGREEMENT AT AN EXPENSE OF \$117,019.92 WITH HEINZ AND SUSAN SELIG FOR 7000 SQ. FT. OF OFFICE SPACE AT 1900 W. 7TH AVE. FOR THE WIC PROGRAM

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to enter into a lease agreement with Heinz and Susan Selig (lessor) to provide office space for the Women and Infant Children nutrition program (WIC) and

WHEREAS said lease agreement is beyond the authority of the County Administrator to execute without the Board's authorization

IT IS HEREBY ORDERED that the County Administrator is authorized to execute a 24 month lease renewal with Heinz and Susan Selig for approximately 7,000 ft. of office space located at 1900 W. substantially similar to attached Exhibit "A".

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this _____ day of _____, 20____.

Bobby Green, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 6/1/09 lane county
[Signature]
OFFICE OF LEGAL COUNSEL

IN THE MATTER OF AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A 24 MONTH LEASE AGREEMENT AT AN EXPENSE OF \$117,019.92 WITH HEINZ AND SUSAN SELIG FOR 7000 SQ. FT. OF OFFICE SPACE AT 1900 W. 7TH AVE. FOR THE WIC PROGRAM

EXHIBIT A

**LEASE RENEWAL
SELIG/LANE COUNTY
WIC PROGRAM**

Whereas Lane County (lessee), a political subdivision of the State of Oregon, entered into a lease agreement with Heinz and Susan Selig (lessor) for the period January 1, 1997 through June 30, 1998 for approximately 7,000 square feet of office space located at 1900 West 7th Avenue, Eugene, and

Whereas said agreement was renewed for the periods July 1, 1998 through June 30, 2000; July 1, 2000 though June 30, 2002 and July 1, 2002 through June 30, 2004

Whereas lessee and lessor wish to again renew said lease agreement

The parties do hereby agree to extend said lease agreement for the period July 1, 2004 through June 30, 2006 subject to the following changes:

- A. The monthly rent payment shall be increased from \$4,780.23 to \$4,875.83.
- B. The “market” rent noted in the last sentence of section 2.1 of the original lease agreement shall be \$5,813.50 per month.
- C. Lessee shall have the right to terminate this lease renewal any time after the first 12 months upon 60 days written notice to Lessor

All other terms and conditions of the original lease agreement, addendum’s thereto and extensions thereof, not affected by this renewal shall remain in full force and effect.

Lane County:

Heinz and Susan Selig:

William Van Vactor, Administrator

Heinz Selig

Susan Selig

Dated

Dated

LEASE ADDENDUM #1

WHEREAS, Lane County (lessee), a political subdivision of the State of Oregon, and Heinz and Susan Selig (lessor) entered into a lease agreement for approximately 7,000 square feet of office space located at 1900 W. 7th Avenue, Eugene, Oregon for the period January 1, 1997 through June 30, 1998, the parties wish to amend said lease agreement as follows:

A. In Section 7.1 on page 4, the words "To the extent allowed by Oregon Constitution Article XI, Section 10 and subject to the limits of the Oregon Tort Claims Act," shall be inserted before the words "Tenant will indemnify landlord" as they appear in the first line of said section 7.1.

B. In Section 21.1 on page 8, the words "to the extent allowed by Oregon Constitution Article XI, Section 10 and subject to the limits of the Oregon Tort Claims Act," shall be added after the words "use of the premises by Tenant" as they appear in the last line of said section 21.1.

C. In section 8.1 on page 4, the words "1 Million", which appear in bold type before the words "per occurrence" in the sixth line of the section, shall be deleted and replaced with the words "five-hundred-thousand dollars (\$500,000)".

D. In section 8.1 on page 4, the following shall be added after the last sentence of the section: "Landlord acknowledges that Tenant is self-insured pursuant to ORS 30.260 - 30.300. Tenant's self-insurance shall be acceptable to Landlord for fulfilling the insurance requirements of this section (8.1). Tenant shall provide Landlord with a letter stating Tenant's self-insured status within

add 8.1.2

All other
affecte

in Lane County and Heinz and Susan Selig not
e and effect.

Lane C

William VanVactor, Administrator

Heinz and Susan Selig

[Signature]
Heinz Selig

[Signature]
Susan Selig

Dated

12/20/96
Dated

OFFICE LEASE

This lease, made and entered into at Eugene, OR, this 29 day of June 1996, by and between Heinz and Susan Selig as Landlord, and Lane County., as Tenant, d.b.a W.I.C. in Eugene.

PREMISES:

Landlord hereby leases to Tenant the following Premises in Eugene Oregon at the following address: **1900 W. 7th Avenue, Eugene, Oregon, 97402**. The leased space consists of approximately **7000** square feet which is a portion of a larger property owned by Landlord.

Landlord and Tenant agree as follows:

1.1 Lease Term:

This Lease shall be from **January 1, 1997 to June 30, 1998**. (An **eighteen months** lease.)

1.2 Delivery and Possession:

Tenant is now in the possession of Premises.

2.1 Rent Payment:

On January 1, 1997, and for the following seventeen months, the rent payment shall be **\$4550.00** per month, payable in lawful money of the United States to Landlord at: 28346 Briggs Hill Rd. Eugene, OR 97405. This rent has been reduced from market value to reflect the amount of savings to Landlord in real property taxes due to Tenant's property tax exempt status. If at any time during the lease term Tenant should lose the property tax exempt status, Tenant shall pay market Rent of **\$5425.00** per month

2.3 Proration and Delinquency:

All rents are due and payable on the first of the month. Rent for any partial month during the lease term shall be prorated to reflect the number of days during the lease that Tenant occupied the premises. Rent not paid when due shall bear interest at the rate of **one-and-one half percent** per month until paid. Landlord may at its option impose a late charge of **\$.05** for each **\$1** of rent for rent payments made more than **10** days late in lieu of interest for the first month of delinquency, without waiving any other remedies available for default.

2.3 Additional Rent:

Base rent of **\$4550.00** per month includes electric, gas, water and garbage costs.

2.4 Property Taxes

The Landlord shall pay all real property taxes for this property and shall not allow said taxes to become delinquent.

3.1 Deposit:

Security Deposit. To secure the prompt and faithful payment of the rental in this Lease and the faithful performance by Tenant of all the other covenants and conditions herein contained on Tenant's part agreed to be performed, Tenant has, concurrently herewith, deposited with Landlord the sum of **Four Thousand Five Hundred Fifty (\$4550.00)**, the receipt whereof is hereby acknowledged by Landlord. In the event Tenant defaults in any payment of rental or fails to perform any of Tenant's other covenants or conditions, Landlord shall have the right to apply the deposit, or any portion thereof, toward the curing of such default or failure. In the event of any such application by Landlord, Tenant shall, upon written demand of Landlord, forthwith deposit with Landlord a sufficient amount of cash to restore the deposit to the original amount thereof, and Tenant's failure to do so within 10 days after receipt of such demand from Landlord shall carry with it the same consequences as failure to pay an installment of rent due under this lease. In the event that this lease shall be terminated for any reason other than default upon the part of Landlord or damage or destruction to the lease premises or condemnation (in any of which events the deposit, less any portion thereof which may have been used by Landlord to cure any default or applied to any damages suffered by Landlord, shall be refunded to Tenant), Landlord shall have the right to retain the deposit until the expiration of the term of this lease by lapse of time (whether or not this lease has been earlier terminated) so that the full damages of Landlord may be ascertained. At the expiration of the term of this lease by lapse of time, provided Tenant has paid all of the rental herein called for and fully performed all of the other covenants and conditions on its part agreed to be performed, Landlord shall return to Tenant the deposit less any portion thereof which may have been used by Landlord to cure any default or applied to any damages suffered by Landlord within 30 days after expiration of the lease term. Neither the deposit nor the application thereof by Landlord, as hereinabove provided, shall be a bar or defense to any action which Landlord may at any time commence for a breach of any of the covenants or conditions of this lease. Landlord's obligations with respect to the security deposit are those of a debtor and not a trustee. Landlord can maintain the security deposit separate and apart from Landlord's general funds or can commingle the security deposit with Landlord's general and other funds. Landlord shall not be required to pay Tenant interest on the security deposit.

4.1 Use

Tenant shall use the Premises as **W.I.C Center** and for no other purpose without Landlord's written consent. (Consent shall not be unreasonably withheld or delayed.) In connection with its use, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority and shall not annoy, obstruct, or interfere with the rights of other tenants of the Building. Tenant shall create no nuisance nor allow any objectionable fumes, noise, or vibrations to be emitted from the Premises. Tenant shall not conduct any activities that will increase Landlord's insurance rates for any portion of the building or that will in any manner degrade or damage the reputation of the Building, nor will the Tenant sell or permit to be sold any controlled substance on or about said premises.

4.2 Equipment

Tenant shall install in the Premises only such office equipment as is customary for general office use and shall not overload the floors or electrical circuits of the Premises or Building or alter the plumbing or wiring of the Premises or Building. Landlord must approve in advance the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any additional air conditioning

required because of heat generating equipment or special lighting installed by Tenant shall be installed and operated at Tenant's expense.

4.3 Signs

No signs, awnings, antennas, or other apparatus shall be painted on or attached to the Building or anything placed on any glass or woodwork of the Premises or positioned so as to be visible from outside the Premises without Landlord's written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs and all applicable codes and all signs and sign hardware shall be removed upon termination of this lease except existing signage as of date there of.

4.4 Ice, Snow and Debris

If the premises herein leased are located at street level, then at all times Tenant shall keep the sidewalks and parking lot in front of the demised premises free and clear of ice, snow, rubbish, debris and obstruction and if Tenant occupies the entire building, he will not permit rubbish, debris, ice or snow to accumulate on the roof of said building so as to stop up or obstruct gutters or down spouts or cause damage to said roof, and will save harmless and protect the Landlord against any injury whether to Landlord or to Landlord's property or to any other person or property caused by his failure in that regard.

5.1 Utilities and Services

1) Landlord will furnish heat, electricity, air conditioning and water (if already available) during regular Building hours. 2) Interruption of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Premises, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, but Landlord shall take all reasonable steps to correct any interruptions in service. Electrical service furnished will be 110 volts unless different service already exists in the Premises. 3) Landlord will furnish garbage service for trash. All cardboard boxes must be recycled by Tenant.

6.1 Maintenance and Repair

Landlord shall maintain and keep in good repair the building exterior, the parking lot, and the heating and cooling systems.

Landlord shall have no liability for failure to perform required maintenance and repair unless written notice of the needed maintenance or repair is given by tenant and Landlord fails to commence efforts to remedy the problem in a reasonable time and manner.

Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or other eviction of Tenant. Repair of damage caused by negligent or intentional acts or breach of this lease by Tenant, its employees or invitees shall be at Tenant's expense.

6.2 Alterations

Tenant shall not make any alterations, additions, or improvements to the Premises, change the color of the interior, or install any wall or floor covering without Landlord's prior written consent (Consent shall not be unreasonably withheld or delayed) Any such additions, alterations, or improvements, except for removable machinery and unattached

movable trade fixtures, shall at once become part of the realty and belong to Landlord. Landlord shall have the right to approve the contractor used by Tenant for any work in the Premises, and to post notice of nonresponsibility in connection with any work being performed by Tenant in the Premises.

7.1 Indemnity

Indemnification. Tenant will indemnify landlord and save Landlord harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the Premises, or the occupancy or use by Tenant of the lease Premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, Tenant's agents, contractors, employees or servants. However, notwithstanding the preceding sentence, Tenant shall have no duty to indemnify Landlord from any claims, damages, liability and expense resulting from or arising out of the negligence or malfeasance of Landlord or Landlord's agents, representatives, contractors, employees or servants.

8.1 Insurance

8.1. Liability Insurance. Tenant shall immediately obtain and continuously maintain, at Tenant's expense, during the lease term and any extension thereof comprehensive General Liability Insurance in a form and with an insurer reasonably satisfactory to Landlord, naming both Landlord and Tenant as insured against all liability for damages to persons and property arising out of Tenant's activities on, or any condition of, the Premises with limits of at least **1 Million** per occurrence. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving Landlord 10 days' prior notice. Tenant shall deliver to Landlord a certificate of insurance within 10 days of the execution of this agreement and thereafter within 10 days prior to each policy renewal.

8.1.2 Fire Insurance. Tenant shall obtain and maintain in force, at Tenant's expense, a policy or policies of fire insurance with extended coverage in an amount not less than the full insurable value for all personal property of Tenant located upon the Premises and for trade fixtures and improvements which Tenant is entitled to remove upon the termination of this lease. Tenant will not, without Landlord's prior written consent, keep, use, sell or offer for sale at the Premises any article which may be prohibited by the standard form of fire insurance policy. Tenant shall pay any increase in premiums for fire and extended coverage insurance that may be charged during the term of this lease on the amount of such insurance which may be carried by Landlord on the Premises, resulting from the type of merchandise sold or materials stored by Tenant at the Premises, whether or not Landlord has consented to the same. In determining whether increased premiums are the result of Tenant's use of the lease premises, the schedule issued by the organization making the insurance rate on the lease premises, showing the various components of such rate, shall be conclusive evidence of the several items and charges which make up the fire insurance rate on the Premises. Any such additional premiums shall be rendered by Landlord to Tenant at such times as Landlord may elect, and shall be due from and payable by Tenant when rendered. Neither party shall be liable to the other (or the other's successors or assigns) for any loss or damage caused by fire or any of the risks enumerated in a standard fire insurance policy with an extended coverage endorsement, and in the event of insured loss, neither party's insurance company shall have a subrogated claim against the other.

8.2 Fire or Casualty

"Major Damage" means damage by fire or other causality to the Building or the Premises or any substantial portion of the Building to be unusable, or which will cost more than 25 percent of the pre-damage value of the Building to repair, or which is not covered by insurance. In case of Major Damage, Landlord may elect to terminate this lease by notice in writing to Tenant within 30 days after such date. If this lease is not terminated following Major Damage, or if damage occurs which is not Major Damage, Landlord shall promptly restore the Premises to the condition existing just prior to the damage. Tenant shall promptly restore all damage to tenant improvements or alterations installed by Tenant or pay the cost of such restoration to Landlord if Landlord elects to do the restoration of such improvements. Rent shall be reduced from the date of damage until the date restoration work being performed by Landlord is substantially complete, with the reduction to be in proportion to the area of the Premises not useable by Tenant.

9.1 Eminent Domain

If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Building or a portion sufficient to render the Premises unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Premises caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claim against Landlord or the condemnation award because of the taking.

10.1 Assignment and Subletting

This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Premises without first obtaining Landlord's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease, and no consent to one assignment or subletting shall be a consent to any further assignment or subletting. Landlord shall not unreasonably withhold its consent to any assignment, or to subletting provided the subrental rate or effective rental paid by the assignee is not less than the current scheduled rental rate of the Building for comparable space and the proposed Tenant is compatible with Landlord's normal standards for the Building. If an assignment or subletting is permitted, any cash profit, or the net value of any other consideration received by Tenant as a result of such transaction shall be paid to Landlord promptly following its receipt by Tenant. Tenant shall pay any costs incurred by Landlord in connection with a request for assignment or subletting, including reasonable attorneys' fees.

11.1 Default

Any of the following shall constitute a default by Tenant under this lease:

(a) Tenant's failure to pay rent or any other charge under this lease within 10 days after it is due, or failure to comply with any other term or condition within 20 days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible.

(b) Tenant's insolvency, or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer; or the appointment of a receiver for Tenant's properties.

(C) Assignment or subletting by Tenant in violation of paragraph 10.1.

(d) Vacation or abandonment of the Premises without the written consent of Landlord for 90 days.

11.2 Remedies for Default

In case of default as described in paragraph 11.1 Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law:

(a) Landlord may terminate the lease and retake possession of the Premises. Following such retaking of possessions, efforts by Landlord to relet the Premises shall be sufficient if Landlord follows its usual procedures for finding tenants for the space at rates not less than the current rates for other comparable space in the Building. If Landlord has other vacant space in the Building, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages or loss of rentals from Tenant.

(b) Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, and the unamortized cost of any tenant improvements installed by Landlord to meet Tenant's special requirements. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.

(c) Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon demand all amounts so expended, plus interest from the date of the expenditure at the rate of one-and-one-half percent per month. Any such payment or performance by Landlord shall not waive Tenant's default.

12.1 Surrender

On expiration or early termination of this lease Tenant shall deliver all keys to the Landlord and surrender the Premises broom clean. Tenant shall remove all of its furnishings and trade fixtures that remain its property and restore all damage resulting from such removal. Failure to remove shall be an abandonment of the property, and Landlord may dispose of it in any manner without liability. If Tenant fails to vacate the Premises when required, including failure to remove all its personal property, Landlord may elect either: (1) to treat Tenant as a tenant from month to month, subject to the provisions of this lease except that rent shall be one-and-one-half times the total rent being charged when the lease term expired; or (2) to eject Tenant from the Premises and recover damages caused by wrongful holdover.

13.1 Regulations

Landlord shall have the right (but shall not be obligated) to make, revise and enforce regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness and good service to all the tenants of the building. All such regulations and policies shall be complied with as if part of this lease.

14.1 Access

Landlord shall have the right to enter the Premises upon 24 hour notice to tenant by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services, maintenance and repair to the Building or Premises, or to show the Premises to any prospective tenant or purchasers. Except in case of emergency such entry shall be at such times and in such manner as to minimize interference's with the reasonable business use of the Premises by Tenant.

15.1 Notices

Notices between the parties relating to this lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Tenant may always be delivered to the Premises. Rent shall be payable to Landlord at the same address and in same manner, but shall be considered paid only when received.

16.1 Subordination

This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Building. At Landlord's option this lease shall be subject and subordinate to any future encumbrances, and Tenant shall execute such documents as may reasonably be requested by Landlord or the holder of the encumbrance to evidence this subordination.

16.2 Transfer of Building

If the Building is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Lessor under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.

16.3 Estoppels

Either party will within 20 day after notice from the other execute, acknowledge and deliver to the other party a certificate certifying whether or not this lease has been modified and is in full force and effect; whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may reasonably be requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of Encumbrance, or any ground Lessor, Tenant will agree to give such holder or Lessor notice of an opportunity to cure any default by Landlord under this lease.

17.1 Attorneys' Fee.

In any litigation arising out of this lease, the prevailing party shall be entitled to recover attorneys' fees at trial and on any appeal.

18.1 Quiet Enjoyment

Landlord warrants that so long as Tenant complies with all terms of this lease it shall be entitled to peaceable and undisturbed possession of the Premises free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of acts of other tenants of the Building or third parties, nor any liability for any reason which exceeds the value of interest in the Building.

19.1 Complete Agreement

This lease and the attached Exhibits and Schedules constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein.

20.1 For Sale and For Rent Signs

During the period of 60 days prior to the date above fixed for the termination of this lease, the Landlord herein may post on said premises or in the windows thereof signs of moderate size notifying the public that the premises are "For Sale" or "For Lease" provided that Tenant has not exercised its option to renew.

21.1 Hazardous Wastes, Materials and Substances

Tenant will not make or allow use of the premises for manufacture, storage, processing, disposal or utilization of hazardous wastes, materials and other substances, or residues of such, as described and defined by state and federal laws and regulation, until such use has been first approved in writing by Landlord. Whether approved or not by Landlord, if Tenant uses the premises in any manner for such use the Tenant shall be liable to Landlord (and assigns) 1) for all expenses incurred by Landlord in the restoration of premises as well as any off-premises sites, facilities and sub-surfaces to comply with such laws and regulation and 2) to defend, indemnify and hold Landlord (and assigns) harmless from all loss, expense, claim and liability (including personal injury, death and personal damage) incurred by reason of such use of the premises by Tenant.

22.1 Waiver

Any waiver by Landlord of any breach of any covenant here contained to be kept and performed by the Tenant shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the Landlord from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

23.1 Heirs and Assigns

All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall extend to, inure to the benefit of and bind, as the circumstances may require, the heirs, executors, administrators, successors and, so far as this lease is assignable by the term hereof, to the assigns of such parties.

In construing this lease, it is understood that the Landlord or the Tenant may be more than one person; that if context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and individuals.

24.1 Additional Covenants and Exceptions:

(A) Tenant shall provide a waiting room inside the building to eliminate loitering outside the premises. Loitering by Tenant's customers shall not be allowed on the site. Tenant agrees to clean up any trash in the parking area resulting from Lessee's use of the premises.

(B) Landlord shall, at his convenience, have new carpet installed at a cost not to exceed \$6,500.00. If Tenant moves out after the initial lease period of eighteen months, Tenant shall reimburse Landlord for \$3,750.00 of the cost of carpet.

Tenant:

Landlord:

Susan Selig