COUNTY OF SUTTER
PUBLIC WORKS DEPARTMENT
GENERAL SERVICES DIVISION

DATE: January 13, 2006

TO: HONORABLE BOARD OF SUPERVISORS

SUBJECT: APPROVAL OF LEASE FOR 539 GARDEN HIGHWAY, SUITES B AND C

Background: The leases for 539 Garden Highway Suites B and C, Public Authority and Human Services/Social Welfare, will expire on February 1, 2006.

Staff is proposing that a new lease be approved that would expire on October 1, 2009, running concurrently with the other leases the County has for suites at Holly Oak Square.

The Public Works/Support Services Committee has reviewed this item and recommends approval.

Fiscal Impact: The cost increases from $.96 per square foot to $1.24 per square foot, with annual increases to $1.31 per square foot in 2008.

Action Requested: The Board of Supervisors authorize the Public Works Director to sign this new lease on behalf of the County.

Respectfully submitted,

GEORGE MUSALLAM
PUBLIC WORKS DIRECTOR

ROBERT STARR
DEP. DIRECTOR-GENERAL SERVICES

RS:jah
393:539GH
Attach.

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OFFICE LEASE

This lease is between Dennis Judd dba ("Cipora Properties"), and the County of Sutter ("Sutter"), a political subdivision of the State of California.

1. **Description of Premises.** Subject to the terms and conditions set forth below, Cipora Properties leases to County the following office space in Yuba City, California ("leased space"):

539 Garden Highway
Suite B (1,450 square feet)
Suite C (2,500 square feet)

The leased space is part of the commercial real property known as Holly Oak Square and shown as Block 434 (comprised of Parcels 3, 4, 6, 7, and 8) on Page 43 of Sutter County Assessor's Map Book 2.

2. **Term.** The term of this lease consists of 44 months running concurrently with existing leases:

(a) The initial term begins at 12:01 a.m. on February 1, 2006 and expires at 12:01 a.m. on October 1, 2009, unless terminated earlier in accordance with this section or Sections 10, 11, or 12. The initial term covers the entire leased premises.

(b) If the County remains in possession of the leased space or any portion of it after the term of this lease is terminated or expires, then that possession will create a month-to-month tenancy on the terms set forth in this lease, terminable by either party on 30 days notice given in accordance with Section 16.

County enters into this lease in reliance on the continued availability of State and Federal funding appropriated to pay rent for the leased space. If, at any time during the term of this lease funding is no longer available or is reduced, then County may unilaterally terminate this lease or modify it to reflect the lost or reduced funding (e.g. by deleting one or more of the suites identified in Section 1 and decreasing rent in proportion to the decrease in total footage) by giving Cipora Properties 30 days prior notice in accordance with Section 16. Rent shall be pro-rated to the termination date, subject to any reductions or offsets authorized by law or this lease, and termination shall relieve County of all obligations under this lease.

3. **Rent.** County shall pay Cipora Properties the following monthly rent in accordance with Section 16:

(a) From February 1, 2006 to January 31, 2007, $1.24 per square foot payable on the first of the month beginning February 1, 2006.

(b) From February 1, 2007 to January 31, 2008, $1.28 per square foot payable on the first of the month beginning February 1, 2007.

(c) From February 1, 2008 to October 1, 2009, $1.31 per square foot payable on the first of the month beginning February 1, 2008.

(d) During any holding over, rent will be at the rates in effect when the term of this lease is terminated or expires. Rent will be payable in advance on the first of the month, pro-rated as needed.

Rent must be received by the 10th of the month. If rent is not received by the 10th of the month, then Cipora Properties may serve County with notice of non-payment in accordance with Sections 12 and 16.

4. **Use of Premises.** The leased space shall be used for general office purposes by County departments. Other uses are permitted only with Cipora Properties express written consent.

5. **Parking.** County's rights under this lease include unlimited use of the parking facilities at the commercial real property known as Holly Oak Square by—

(a) County employees, and

(b) Members of the public who have business at the leased space.

6. **Utilities.** Cipora Properties shall pay for water and sewer services. County shall pay for electrical, telephone, and natural gas services and shall arrange for disposal of trash.

7. **Alterations by County.** At its own expense, County may (a) paint the interior of the leased space, (b) place a sign or signs (approved by Cipora Properties for design and size) on the exterior of the leased space, and (c) install fixtures and equipment in the leased space as desired. All signs, fixtures, and equipment shall remain County's property and County shall remove them at any time. County shall repair, at its sole cost, any damage caused by removal. County shall not otherwise alter, add to, or improve the leased space without Cipora Properties express written consent.

8. **Cipora Properties Obligation to Maintain and Repair.** During the lease term and except as otherwise provided in this lease, Cipora Properties shall do the following at its sole expense:

(a) keep the leased space in good repair;

(b) maintain and repair heating, air conditioning, electrical, and plumbing systems that serve the leased space;

(c) maintain and repair all common areas, including parking facilities, at the commercial real property knows as Holly Oak Square; and

(d) make all repairs to, or alterations of, the leased space and common areas that may be required by governmental authorities.

9. **County's Obligation to Maintain and Repair.** County shall repair, at its sole expense, all damage caused to the leased space by County's negligent use. When this lease is terminated or expires, County shall surrender the lease space in a condition comparable to the condition it

was in on February 1, 2006. County's obligation under this section does not extend to ordinary wear and tear, damage from any cause not the fault of the County, and work covered by Section 8.

10. **Damage to Leased Space.** If the leased space is damaged by any cause not the fault of County, then Cipora Properties shall promptly repair the damage at its sole expense; moreover, if County is deprived of the use of all or a substantial part of the leased space pending such repairs, then rent shall be reduced in proportion to the extent of the deprivation until repairs are complete. Notwithstanding the previous sentence, if the damage cannot be repaired so that the leased space is substantially restored to County's use within 45 days after the damage occurs, then County may terminate this lease by giving Cipora Properties written notice and County shall vacate the leased space by the termination date specified in the notice. Rent shall be pro-rated to the termination date, subject to any reductions or offsets authorized by law or this lease, and termination shall relieve County of all other obligations under this lease.

11. **Remedies for Cipora Properties Breach.** Cipora Properties performance of its obligations under this lease is a condition precedent to its right to collect rent from County or otherwise enforce this lease. If Cipora Properties fails to perform any of its obligations, then County may serve Cipora Properties with written notice describing the failure and demanding that it be cured. If the failure is not cured within 30 days (or for emergency repairs covered by Section 8(b) within 72 hours) after Cipora Properties receives the notice, then County may (a) incur all expenses needed to cure the failure and deduct those expenses from rent owed or (b) give Cipora Properties written notice declaring that this lease is terminated and vacate the leased space by the termination date specified in the notice. Rent shall be pro-rated to the termination date, subject to any reductions or offsets authorized by law or this lease, and termination shall relieve County of all obligations under this lease.

12. **Remedies for County's Breach.** Cipora Properties may declare this lease terminated if County—

(a) fails to pay rent within five days after receiving Cipora Properties written notice of nonpayment demanding that rent be paid and declaring that the lease will be terminated;

(b) fails to perform any of its other obligations under this lease within 30 days of receiving Cipora Properties written notice describing the failure and demanding that it be cured; or

(c) abandons the leased space (as provided in Civil Code Section 1951.3) before the lease term expires.

Such termination shall be effective when Cipora Properties gives County written notice of termination and County shall vacate the leased space as soon as is practical. Rent shall be pro-rated to the termination date, subject to any reductions or offsets authorized by law or this lease, and termination shall relieve County from all obligations under the lease. Cipora Properties may recover from County the damages specified in Civil Code Section 1951.2, except that Cipora Properties may not recover the damages specified in Paragraph (3) of Subdivision (a).

13. **Insurance.** During the initial and extended term of this lease—

(a) Cipora Properties shall maintain and pay the premiums on (1) a fire insurance policy covering the building in which the leased space is located and (2) a commercial liability policy or equivalent covering its activities as owner and lessor of the commercial property known as Holly Oak Square, with a combined single limit of $1 million; and

(b) County shall maintain, at its sole expense, a fire insurance policy covering the contents of the leased space and a commercial liability or equivalent covering its activities under this lease, with a minimum combined single limit of $1 million (but County may be self-insured in whole or part).

Cipora Properties commercial general liability policy shall name County, County's officers, employees, and agents as additional insureds; and County's commercial general liability policy or equivalent coverage shall name Cipora Properties and Cipora Properties partners, employees, and agents as additional insureds. Additional insured coverage shall be primary to any insurance carried by the other party. Cipora Properties and County waive their rights of recovery from each other for damage to their personal property, to the leased space, or to the building in which the leased space is located if such damage is caused by fire, flood, lightning, vandalism, or the "extended coverage" perils defined in insurance policies approved for use in this State. Within ten days after the lease term begins, each party shall provide the other with a certificate or certificates of insurance showing that the required insurance is in force; if requested, moreover, a party shall provide the other party with copies of all policies, including all endorsements. Each party shall give the other at least 30 days written notice before any insurance policy is canceled or materially changed.

14. **Subleases and Assignments.** County shall not sublet any part of the leased space or assign this lease or any interest in it without Cipora Properties prior written consent. Any such consent given by Cipora Properties shall not be considered consent to other subleases or assignments.

15. **Indemnity.** County shall indemnify, defend, protect, and hold Cipora Properties and Cipora Properties partners, employees, and agents harmless against any liabilities, claims, demands, damages, and costs that arise in any way from County's negligent use of the leased space during the initial and extended term of this lease and any holding over. Cipora Properties shall indemnify, defend, protect, and hold County, County's officers, employees, and agents harmless against any liabilities, claims, demands, damages, and costs that arise in any way from Cipora Properties negligent use, maintenance, or repair of leased space of the commercial real property known as Holly Oak Square during the initial and extended term of this lease and holding over. This section shall survive termination or expiration of this lease.

16. **Notices.** All correspondence regarding this lease, including any invoices, rental payments, notices, or demands, shall be directed to the following persons at the following addresses either by personal delivery (including overnight delivery services) or by U. S. Mail, postage prepaid:

(a) For Cipora Properties, PO Box 307, Sebastopol, CA 95473

(b) For County to the Sutter County Public Works Director, 1130 Civic Center Boulevard, Yuba City, California 95993.

Notices must be written and actually received to be effective. The foregoing addresses may be changed by written notice.

17. **Compliance with Law.** Cipora Properties and County shall each comply with all Federal, State, and local statutes, ordinances, regulations, rules, and orders that concern the use and safety of the leased space (and, with respect to Cipora Properties, the use and safety of the commercial real property known as Holly Oak Square).

18. **Interpretation.** This lease shall be interpreted and applied in accordance with California law. Because this lease was freely and voluntarily negotiated by County and Cipora Properties and has been reviewed by their attorneys, the rule of contract interpretation that interprets ambiguities against the drafter shall not apply.

19. **Jurisdiction.** Any litigation concerning this lease shall be brought in the Consolidated Municipal and Superior Court of Sutter County.

20. **Integration.** This lease sets forth the parties' entire understanding regarding the matters set forth in Sections 1 through 19. It supersedes all prior written agreements and representations between parties, written and oral, including all prior leases concerning all or part of the leased space. Except as provided in Section 2, it may be modified only by a written agreement signed by County and Cipora Properties.

COUNTY OF SUTTER

BY_____

ATTEST:

Joan Bechtel, Clerk

By_____
Deputy

CIPORA PROPERTIES

By_____
General Partner

APPROVED FOR LEGAL FORM

SUTTER COUNTY COUNSEL

James E. Lewis

By_____
Deputy