

COUNTY OF MONTEREY

STANDARD PARKING LOT LEASE AGREEMENT



LEASED PREMISES:	1168 Fremont Boulevard, Seaside CA 93955
DEPARTMENT:	Health Department Clinic Service Bureau
LESSOR:	James I. & Barbara S. Miller, Trustees of the Miller Family Trust dated 2-2-92 26011 Ridgewood Road Carmel CA 93923 (831) 624-9410

**COUNTY OF MONTEREY
STANDARD PARKING LOT LEASE AGREEMENT**

PREAMBLE

THIS LEASE ("Lease") is made by and between James I. and Barbara S. Miller, Trustees of the Miller Family Trust dated 2-2-92, ("LESSOR") and the COUNTY OF MONTEREY, ("LESSEE"), c/o Real Property Specialist, 855 East Laurel Drive, Building C, Salinas, CA 93905. LESSOR and LESSEE hereby agree as follows:

ARTICLE 1 - PREMISES

1.1 **Description:** LESSOR hereby leases to LESSEE and LESSEE hereby leases from LESSOR, upon the terms and conditions herein set forth, that certain real property and its appurtenances, situated at 1168 Fremont Boulevard, Seaside CA 93955 and described as follows: Thirty (30) parking spaces, as designated in Exhibit A, which is attached and incorporated herein.

ARTICLE 2 - TERM

2.1 **Lease Term:** The term of this Lease (the "Lease Term") shall be four (4) years, commencing on August 1, 2011 ("Lease Commencement Date") and ending July 31, 2015 with such rights of termination and extension of the Lease Term as are hereinafter set forth.

2.2 **Extended Term:** Upon completion of the initial Lease Term, the LESSOR and LESSEE may renew the lease, upon mutual consent, for one additional one (1) year term ("First Extended Term"). Upon the expiration of the First Extended Term, the LESSOR and LESSEE may renew the Lease, upon mutual consent, for a second additional one (1) year term ("Second Extended Term"). Upon the expiration of the Second Extended Term, the LESSOR and LESSEE may renew the Lease, upon mutual consent, for a third additional one (1) year term ("Third Extended Term"). LESSEE shall give LESSOR advance written notice of its intent to renew thirty (30) days prior to expiration of the initial Lease Term, First Extended Term, Second Extended Term, and Third Extended Term.

ARTICLE 3 - RENT

In consideration of the continuing right of use, quiet enjoyment and possession of the Premises, LESSEE shall pay to LESSOR as monthly rent for the Premises the initial sum of One Thousand Two Hundred Dollars (\$1,200.00), payable on or before the first day of each month. LESSEE shall commence rental payments upon the Lease Commencement Date. Rent shall be payable to LESSOR at the address specified in Article 6 or at such other address as LESSOR may from time to time designate in writing. Monthly rent shall include LESSEE's share of real estate taxes, assessments, liability insurance, and Monterey Regional Water Pollution Control Agency (MRWPCA) fee for the Premises. *[Initial monthly rent is computed as follows: \$40.00 per parking space per month.*

ARTICLE 4 – ANNUAL RENT ADJUSTMENT

Rent to be adjusted as follows:

3rd and 4th years shall be \$42.50 per parking space per month or One Thousand Two Hundred and Seventy-Five Dollars (\$1,275.00) per month.

ARTICLE 5 - TERMINATION BY LESSEE AND LESSOR

Notwithstanding any other provisions of this Lease, LESSEE and LESSOR may terminate this Lease upon thirty (30) days written notice.

ARTICLE 6 - NOTICES

All notices or correspondence provided for herein shall be effective only when made in writing, personally delivered or deposited in the United States mail, certified, postage prepaid, and addressed as follows:

To LESSOR:	James I. and Barbara S. Miller, Trustees of the Miller Family Trust dated 2-2-92 c/o James Miller 26011 Ridgewood Road Carmel CA 93923 (831) 624-9410 jimiller22@comcast.net	To LESSEE:	County of Monterey Department of Public Works c/o Real Property Specialist 855 East Laurel Drive, Building C Salinas CA 93905
Copy to:	County of Monterey Architectural Services 168 W. Alisal St Fl2 Salinas CA 93901-2438	Copy to:	County of Monterey Health Department c/o Facility Manager 1270 Natividad Rd., Room 3003A Salinas CA 93906

Rent payments shall be made to (need not be sent certified): James I. and Barbara S. Miller, Trustees of the Miller Family Trust dated 2-2-92 at the address listed above.

Any notice or correspondence shall be deemed delivered upon personal delivery or five (5) days after notice is mailed. Correspondence other than notices may be given by regular mail, facsimile or email. By written notice to the other, either party may change its own mailing address.

ARTICLE 7 - USE

7.1 Use: LESSEE shall use the Premises for employee parking.

7.2 Compliance with Laws: LESSOR represents and warrants to LESSEE that, to the best of LESSOR'S knowledge, the current and proposed use, and the operation of the Premises are in full compliance with applicable building, environmental, zoning and land use laws, and other applicable local, state and federal laws, regulations and ordinances. LESSOR absolves LESSEE of legal or other responsibility for any code violations or other deviations from applicable local, state and federal laws, regulations and ordinances as may be listed above.

7.3 Hazardous Substances: LESSEE shall have no liability or responsibility for toxic or hazardous materials or substances in existence on the Premises prior to LESSEE'S occupancy of the Premises or which result from LESSOR'S acts or omissions or which occur on any portion of LESSOR'S property not occupied by LESSEE, unless caused by LESSEE, its agents, employees, invitees or guests. LESSOR warrants, to the best of LESSOR'S actual knowledge, that at the time of execution of this Lease there are no known areas on LESSOR'S property where hazardous or toxic materials or substances have been used, stored, or deposited. LESSOR will comply with all applicable laws concerning the handling and removal of any hazardous materials.

7.5 Acceptance of Premises: By entry hereunder, LESSEE accepts the Premises as being in good and sanitary order, condition and repair.

ARTICLE 8 - SIGNS AND FIXTURES

LESSEE may place such signs and fixtures upon the Premises as LESSEE may desire, subject to approval by the LESSOR which consent shall not be unreasonably withheld provided, however, that at the expiration of the term hereof or any renewal or extension of this Lease, LESSEE will remove said signs and fixtures and will restore the Premises to their original conditions.

LESSOR agrees to allow LESSEE to place 24" X 36" private parking signs upon the Premises in accordance with Municipal Code 10.32.120 and more specifically described in Exhibit B, which is attached and incorporated herein. Signage size shall be subject to local jurisdiction requirements.

LESSOR agrees to allow LESSEE to place stepping stones or other appropriate hard surface on the path of employee travel between the Seaside Family Health Clinic and the Premises, and more specifically described in Exhibit A, which is attached and incorporated herein.

ARTICLE 9 - SERVICES, UTILITIES AND MAINTENANCE

LESSOR shall furnish all services and utilities to the Premises and be responsible for properly maintaining the Premises in a clean, safe and professional manner, including providing for sufficient lighting and ~~steps~~. Power for lighting

9.1 Negligent Acts or Omissions of LESSEE: Notwithstanding the foregoing, LESSEE will pay to LESSOR the reasonable cost of any repairs or maintenance required as a direct result of negligent acts or omissions of LESSEE, its agents or employees. JLM
AKH
etc

ARTICLE 10 - ALTERATIONS, MECHANICS' LIENS

10.1 Alterations: No alterations or improvements shall be made to the Premises by LESSEE or at LESSEE'S request without the prior written consent of LESSOR, which consent shall not be unreasonably withheld.

10.2 Condition at Termination: LESSEE may remove any sign installed on the Premises by LESSEE upon the termination of this Lease, if LESSEE is not then in default under this Lease and if LESSEE repairs any damage to the Premises caused by such removal. Upon termination of this Lease, LESSEE shall return the Premises in the same condition as when delivered to LESSEE, reasonable wear and tear, and damage by casualty, and alterations approved by LESSOR excepted.

10.3 Mechanic's Liens: LESSOR and LESSEE shall keep the Premises free from any liens arising out of any work performed by, materials furnished to, or obligations incurred by the parties.

ARTICLE 11 - ASSIGNMENT AND SUBLETTING

LESSEE shall not assign or sublet all or any portion of the Premises without the prior written consent of LESSOR, which consent shall not be unreasonably withheld.

ARTICLE 12 - INSURANCE AND INDEMNIFICATION

LESSEE, during the term hereof, shall indemnify and hold harmless the LESSOR from and against any and all claims and demands whether for injuries to persons or loss of life, or damage to property, occurring within the demised Premises and arising out of the use of the demised Premises by the LESSEE, excepting however, such claims and demands whether for injuries to persons or loss of life, or damage to property, caused by acts or omissions of the LESSOR.

LESSEE shall maintain public liability and property damage coverage or program of self insurance with liability limits of not less than \$1,000,000 for injury or death to one or more persons and property damage limits of not less than \$50,000 per occurrence insuring against all liability of LESSEE and its authorized representatives arising out of and in connection with LESSEE'S use or occupancy of the Premises. LESSOR, during the terms hereof, shall indemnify, defend and save harmless the LESSEE from and against any and all claims and demands whether for injuries to persons or loss of life, or damage to property, arising out of acts or omissions of the LESSOR.

ARTICLE 13 - WAIVERS OF SUBROGATION

LESSOR and LESSEE each hereby waive any right of recovery against the other due to loss of or damage to the property of either LESSOR or LESSEE when such loss of or damage to property arises out of the acts of God or any other property perils whether or not such perils have been insured, self-insured or non-insured.

ARTICLE 14 - DEFAULT BY LESSEE

14.1 **Default:** If any of the following events occur, each such event shall constitute a material breach of this Lease, and LESSOR may, at LESSOR'S option, exercise any or all rights available to a LESSOR under the laws of the State of California:

- a. A default in the payment of rent or other obligation when such default continues for a period of thirty (30) days after written notice, or
- b. LESSEE fails to faithfully perform or observe any other covenant or undertaking required under this Lease and such failure continues for a period of thirty (30) days after written notice thereof, or

14.2 **Remedies:** If LESSEE fails to cure a prospective default within the time frames outlined above, LESSOR shall have the option to cure the default or to terminate this Lease, in addition to any other remedies at law not inconsistent herewith. Should LESSOR elect to cure the default itself, all costs associated with such cure, including reasonable attorneys' fees (if any), shall be reimbursed by LESSEE to LESSOR, as Additional Rent, within thirty (30) days of receipt of LESSOR'S invoice for said costs.

ARTICLE 15 - DEFAULT BY LESSOR

15.1 **Default:** LESSOR shall not be in default unless LESSOR fails to perform its obligations under this Lease within a reasonable time, but in no event later than thirty (30) days after written notice by LESSEE to LESSOR specifying wherein LESSOR has failed to perform such obligations. If the nature of LESSOR'S obligation is such that more than thirty (30) days are required for performance, then LESSOR shall not be in default if LESSOR commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

15.2 **Remedies:** If LESSOR fails to cure a prospective default within the time periods outlined above, LESSEE shall have the option to cure the default or to terminate this Lease, in addition to any other remedies at law not inconsistent herewith. Should LESSEE elect to cure the default itself, all costs associated with such cure, including reasonable attorneys' fees (if any), shall be reimbursed by LESSOR to LESSEE within thirty (30) days of receipt of LESSEE'S invoice for said costs. However, upon LESSOR'S failure to so reimburse or, at LESSEE'S option, said costs shall be held from rent due hereunder. If LESSOR'S default hereunder prevents LESSEE'S use of the Premises, there shall be an abatement of rental payments for the period of such non-use.

ARTICLE 16 - HOLDING OVER

If LESSEE, with LESSOR'S written consent, remains in possession of the Premises after the Lease Term or any Extended Term, this Lease shall automatically be extended on a month to month basis at the monthly rent applicable to the last month of the Lease Term or Extended Term, subject to termination upon thirty (30) days' written notice by either party. All other terms and conditions shall remain in full force and effect.

ARTICLE 17 - WAIVER

The waiver by LESSOR or LESSEE of any term, covenant or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition, nor shall either party consent to any breach of any term, covenant or condition, nor shall either party be deemed to constitute or imply its consent to any subsequent breach of the same or other term, covenant or condition herein contained.

ARTICLE 18 - QUIET POSSESSION

As long as LESSEE keeps and performs the covenants in this Lease, LESSEE shall at all times during the term of this Lease peaceably and quietly have, hold and enjoy the Premises, without suit, trouble or hindrance from LESSOR or any person claiming under LESSOR. LESSEE warrants not to interfere with the quiet enjoyment of others using the adjacent areas of the Premises.

ARTICLE 19 - SUBORDINATION

This Lease shall be subject and subordinated to the lien of any mortgages and deeds of trust which are hereafter placed against the LESSOR'S interest or estate in the property provided that the mortgagor or beneficiary under such mortgage or deed of trust shall agree in writing that, in the event of a foreclosure of same or of any other such action or proceeding for the enforcement thereof, or of any sale thereunder, this Lease shall not be barred, terminated, cut off, or foreclosed, nor will the rights and possession of LESSEE hereunder be disturbed if LESSEE shall not then be in default under the terms of this Lease, and LESSEE shall attorn to the purchaser at such foreclosure, sale or other action or proceeding. The foregoing subordination shall be effective without the necessity of having any further instruments executed by LESSEE, but LESSEE shall nonetheless execute, upon demand, such further instruments evidencing such subordination as may be reasonably requested by LESSOR or any mortgagee or beneficiary.

ARTICLE 20 - ESTOPPEL CERTIFICATE

Within ten (10) days of written notice by one party to the other, each will execute, acknowledge and deliver to the other an estoppel certificate in writing declaring any modifications, defaults or advance payments and whether the lease, as may be modified, is in full force and effect. Any such certificate may be conclusively relied upon for the intended transaction for which the statement was requested.

ARTICLE 21 - MISCELLANEOUS PROVISIONS

21.1 ***No Amendments:*** No oral amendment of this Lease shall be valid unless made in writing and signed by the parties hereto, and no prior oral understanding or agreement not incorporated herein shall be binding on either party hereto.

21.2 ***Time is of the Essence:*** Time is of the essence of each term and provision of this Lease.

21.3 ***Binding Effect:*** Subject to any provision hereof restricting assignment or subletting by LESSEE, this Lease shall bind the parties, their personal representatives, successors, and assigns.

21.4 ***Invalidity:*** The invalidity of any provision of this Lease as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

21.5 **Warranty of Authority:** If LESSOR is a corporation, the person executing this lease on behalf of LESSOR hereby covenants and warrants that LESSOR is a duly authorized and existing corporation and that he/she is duly authorized to execute this Lease.

21.6 **Addendum:** In the event of conflict between this Lease and any Addendum or Exhibit attached hereto, the provisions of such Addendum or Exhibit shall control.

21.7 **Future Parking Spaces:** LESSOR and LESSEE agree to negotiate in good faith if LESSEE desires additional parking spaces.

LESSEE: (County of Monterey)

By: _____

Title: Mike Derr, Contracts/Purchasing Officer

Date: 11/29/11

APPROVED AS TO FORM: (County Counsel)

By: Cynthia Hasson

Title: Cynthia Hasson, Deputy County Counsel

Date: 11-7-11

LESSOR: (James I. and Barbara S. Miller, Trustees of the Miller Family Trust dated 2-2-92.)

By: James I. Miller, Jr.

Title: James I. Miller, Co-Trustee

Date: 11-4-2011

LESSOR: (James I. and Barbara S. Miller, Trustees of the Miller Family Trust dated 2-2-92.)

By: Barbara S. Miller

Title: Barbara S. Miller, Co-Trustee

Date: 11-4-2011

EXHIBIT A

DESCRIPTION OF PREMISES

(Parking Location or Plan)

■ to do Co SPHC spaces
O.K.
[Signature]
● to do Co 4FHG
Additional 10 spaces

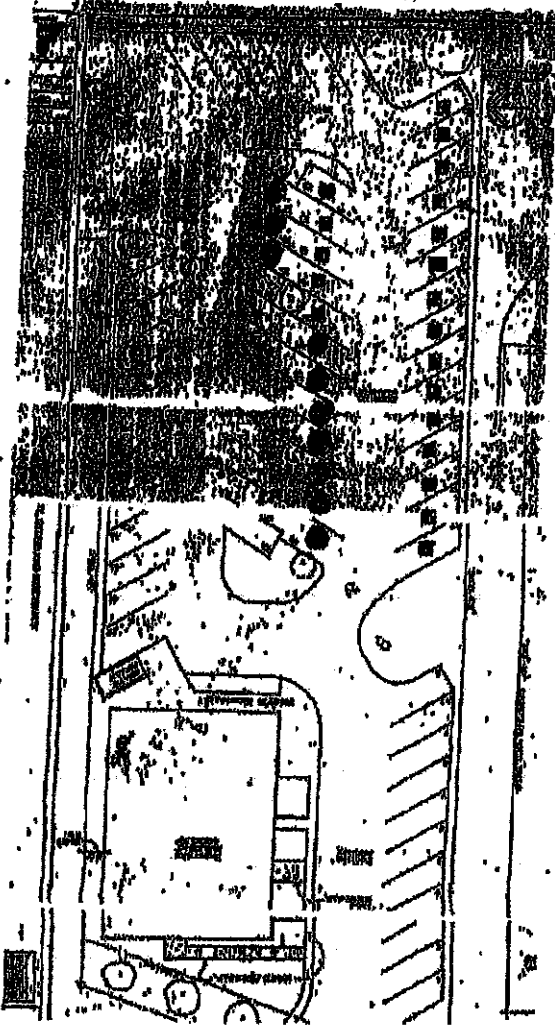


EXHIBIT B

DESCRIPTION OF PRIVATE PARKING SIGN

PRIVATE PARKING

**Private Parking for Seaside Family
Health Clinic employees between
the hours of 7:00 am and 6:00 pm
Monday through Friday.**

**In Accordance with Municipal Code
10.32.120**

**Unauthorized Vehicles are Subject to
Towing**

**If your car is towed you can contact
Seaside PD at 899-6748**

Before the Board of Supervisors in and for the County of Monterey, State of California

Agreement No.: A-12140

- a. Approve and authorize the Contracts/Purchasing Manager to sign a four-year lease agreement, effective August 1, 2011, with James I. & Barbara S. Miller, Trustees of the Miller Family Trust dated February 2, 1992, for 30 parking spaces at 1168 Fremont Boulevard, Seaside, California, for use by the Health Department's Seaside Family Health Clinic;
b. Authorize the Auditor-Controller to make lease payments in the amount of \$1,200 per month in accordance with the agreement; and
c. Authorize the optional extension of the Lease Agreement for an additional three one-year periods under the same terms and conditions if deemed by the Contracts/Purchasing Officer to be in the best interests of the County.

Upon motion of Supervisor Potter, seconded by Supervisor Armenta and carried by those members present, effective November 15, 2011, the Board hereby:

- a. Approved and authorized the Contracts/Purchasing Manager to sign a four-year lease agreement, effective August 1, 2011, with James I. & Barbara S. Miller, Trustees of the Miller Family Trust dated February 2, 1992, for 30 parking spaces at 1168 Fremont Boulevard, Seaside, California, for use by the Health Department's Seaside Family Health Clinic;
b. Authorized the Auditor-Controller to make lease payments in the amount of \$1,200 per month in accordance with the agreement; and
c. Authorized the optional extension of the Lease Agreement for an additional three one-year periods under the same terms and conditions if deemed by the Contracts/Purchasing Officer to be in the best interests of the County.

PASSED AND ADOPTED on this 15th day of November 2011, by the following vote, to wit:
AYES: Supervisors Armenta, Calcagno, Salinas, Parker and Potter
NOES: None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 75 for the meeting on November 15, 2011.

Dated: November 16, 2011

Gail T. Borkowski, Clerk of the Board of Supervisors County of Monterey, State of California

By Denise Hancock Deputy