

July 13, 1998

**Lease Agreement between Kensington Fire Protection District and
Kensington Police Protection and Community Service District for Occupancy of
Kensington Public Safety Building**

The purpose of this document is to define a lease agreement between the Kensington Fire Protection District (KFPD), "lessor" and the Kensington Police Protection and Community Services District (KCSD), "lessee" for office space in the public safety building located at 215/217 Arlington Avenue, Kensington, California.

Description of Leased Area

1. The "leased area" is defined as that area designated for the lessee's use described as "Police Department" or "Police Department Assigned" in the Schematic Design dated April 2, 1998, submitted by Marcy Li Wong, Architects (attachment #1). Additional areas included in this lease for nonexclusive use are the exterior common areas of the parking lot, the driveway and the front entrance of the building and the interior common areas described in the Schematic Design.

Dedicated Parking Spaces

2. There are currently nine (9) parking spaces in the rear parking lot. Five (5) spaces shall be dedicated for use by the lessee and its employees; three (3) shall be dedicated for use by the lessor and its employees, and one (1) shall be used in common.

Term of Lease

3. The term of this lease shall be ten (10) years, from July 1, 1999 to June 30, 2009.

Annual Cost of the Lease

4. The annual cost of the lease to the lessee shall be \$16,300; this amount is divided between renovation cost and maintenance fee.

The annual cost of renovation to the lessee shall be \$12,700 (\$127,000 over ten years).

The annual maintenance fee shall be \$3,600 adjusted in accordance with *Section 5*. This fee shall be used exclusively for the costs of maintenance and capital improvements to common areas of the property and building, both interior and exterior (as defined in *Section 8* of this document). The KFPD shall deposit the maintenance fee into a separate bank account to be known as "Kensington Public Safety Building Maintenance and Capital Improvement Fund" (MCI Fund) and shall provide a separate annual accounting of all transactions to the KCSD.

Two equal payments of \$8,150 adjusted in accordance with *Section 5* shall be due in advance and payable on January 1st and July 1st of each year for the duration of the lease. The first

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payment shall be due on July 1, 1999 for the period July 1 to December 31, 1999 provided renovation work has been completed.

During the period if any between the end of renovation work and the start of FY 1999-2000, the maintenance portion of the lease shall be prorated at \$300 per month and shall be the only payment required.

If renovation is not complete by the beginning of FY 1999-2000, the maintenance portion of the lease, during the period between the date occupancy takes place and the date of the next six month remittance, shall be prorated at \$300 per month. However, the renovation payment of \$6,350 (one half [1/2] the annual renovation cost) shall be due on July 1, 1999 as stated in this section.

Annual Lease Cost Accelerator

5. Beginning July 1, 2000 and continuing for the remaining life of the lease, the maintenance fee shall be adjusted annually by any change in the Bay Area Consumer Price Index as established by the United States Department of Labor in March of each year. The adjustment shall be effective for the ensuing July 1st - June 30th fiscal year.

Termination of Lease Agreement

6. This agreement may be terminated for cause by either lessor or lessee, in writing, with twelve (12) months advance notice of intent. Should the lessor terminate the lease, the balance of the KCSD renovation obligation shall be forgiven. Should the lessee terminate the lease, the balance of KCSD's renovation obligation, as specified in *Section 4*, would immediately become due and payable.

Provisions for Maintenance of Interior Leased Area

7. The lessee agrees to make tenant improvements to and to maintain the interior features of the KCSD leased space; the MCI Fund shall not be used for such purpose. Any improvements to the leased space must be approved by the Board of Directors of both Districts.

Costs of Capital Improvements and Maintenance of Common Areas

8. The lessee agrees to pay one half (1/2) the cost of capital improvements to any portion of the interior or exterior of the building and property that is common in nature. Capital improvements are defined as having at least a five year life and cost of at least \$5,000. The lessee also agrees to share one half (1/2) the cost of maintaining the interior and exterior common areas of the building and property. The MCI Fund may be used for such purposes as are described in this section.

The costs referred to in this section include, but are not limited to, exterior painting; the repair or replacement of the roof, parking lot, driveway; the repair or replacement of common area electrical, sewer, water services; the repair or replacement of common area air conditioning, heating, emergency generator.

The KFPD shall submit a copy of its most recently updated Capital Improvement Budget to KCSD on or before May 15th each year. Barring an emergency, the amount that may be asked of the KCSD in any year for such expenses as defined in this section shall be limited to \$10,000 adjusted by the CPI as described in *Section 5*.

If no payment is received 90 days after the date on the invoice, the KFPD may withdraw the invoiced amount from the MCI Fund. If sufficient funds are not available, the KFPD shall bill the KCSD for any remaining balance.

The lessor and lessee shall endeavor to agree on methods to achieve proper resolution of common area maintenance and capital improvement needs taking into consideration the existing balance in the MCI Fund.

Shared Cost of Utilities

9. The lessee shall pay to the lessor the cost of one half (½) the monthly cost of utilities such as gas, electricity, and water, except when such utilities are separately metered. In the case of separate meters for a particular utility, the party served by the meter will pay the entire bill. Lessee shall pay one half (½) the yearly sewer charge. Each party shall pay its own telephone bills. A copy of the applicable invoice shall be presented to the lessee upon receipt, and payment by the lessee shall be made on that invoice within thirty (30) calendar days.

Use of Public Safety Building

10. Use of the Public Safety building, other than by police and fire personnel or for their respective business and operations, shall be subject to the approval of the Police Chief and the Fire Chief.

Insurance

11. The lessor and lessee shall each maintain a minimum of \$1 million liability insurance coverage for their respective portions of the building and the interior and exterior common areas of the building and property. The lessor shall be endorsed as an "additional insured" on the lessee's liability policy, and the lessee shall be endorsed as an "additional insured" on the lessor's liability policy. Both parties to this agreement shall maintain adequate coverage for their respective personal and business activity and property. Both parties to this agreement shall provide the other with a certificate of insurance that indicates the insurance will not be canceled without 30 days notice. Neither party shall be responsible to the other for any property damage or loss, unless such damage or loss results from the sole negligence of the other party.

Lessee shall pay one half (½) the cost of insurance for the real property at 215/217 Arlington Avenue, Kensington should the KFPD become liable for such insurance. A copy of the invoice shall be presented to the lessee upon receipt, and payment by the lessee shall be made on that invoice within thirty (30) calendar days.

Indemnification

12. Lessee shall indemnify and hold harmless lessor from any and all claims or liability for any injury, or damage to any person or property whatsoever, including reasonable attorneys fees for defense thereof: (1) occurring in, on or about the leased area, or (2) occurring in, or about any common area inside or outside the property or building, when such injury or damage is caused in whole or in part by the act, neglect, fault of or omission of any duty with respect to the same by the lessee, its employees, officers, agents, volunteers, or its visitors. Lessor shall indemnify and hold harmless lessee from any and all claims or liability for any injury, or damage to any person or property whatsoever, including reasonable attorneys fees for defense thereof: (1) occurring outside the leased area either on the property or in the building, or (2) occurring in, or about any common area inside or outside the property or building, when such injury or damage is caused in whole or in part by the act, neglect, fault of or omission of any duty with respect to the same by the lessor, its employees, officers, agents, volunteers, or its visitors.

Dispute Resolution

12. Should any disagreement arise regarding any part of this agreement, both boards shall attempt to solve the dispute through negotiations. Should negotiations fail, the two parties agree to mediation and to share costs. Should mediation fail, the two parties agree to binding arbitration by American Arbitration Association. The losing party shall pay the costs incurred with such action.

Dated 7-15-98


Kensington Fire Protection District


Kensington Police Protection and CSD




5/12/09

Distribution: Chuck Toombs, KPPCSD Director
Fr: Brenda Navellier, KFPD Administrator
Re: KFPD/KPPCSD Lease

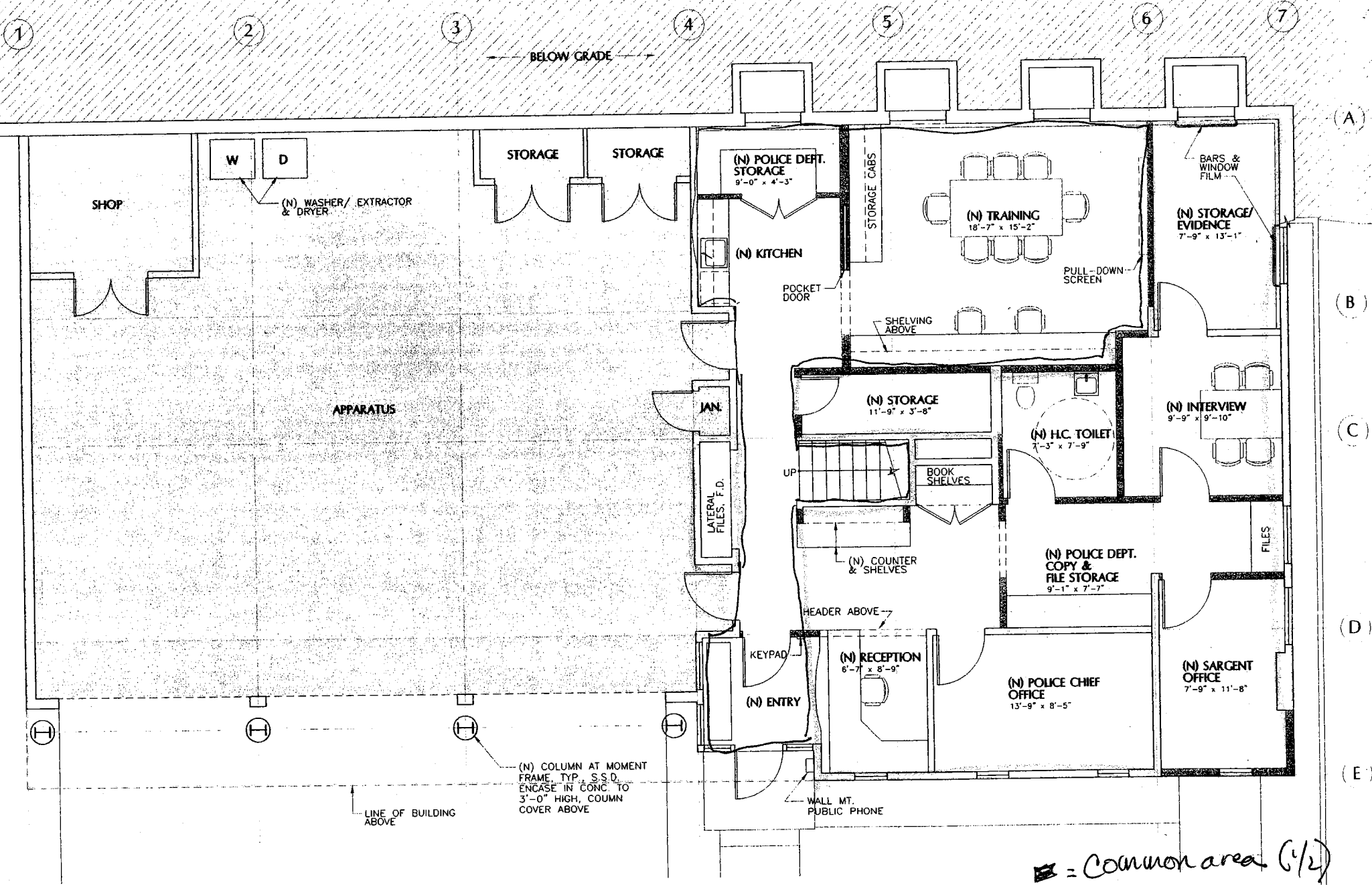
Chuck,

Enclosed are the schematic drawings referred to in the lease (not the final layout), a copy of the Board's April 14, 2009 letter to KPPCSD in case of you, a schedule of our insurance coverages with the Contra Costa County Fire Districts JPA, and a first draft of our FY09-10 budget.


Enclosure

RECEIVED
MAY 18 2009
McINERNEY & DILLON, P.C.

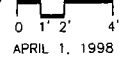
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KEY

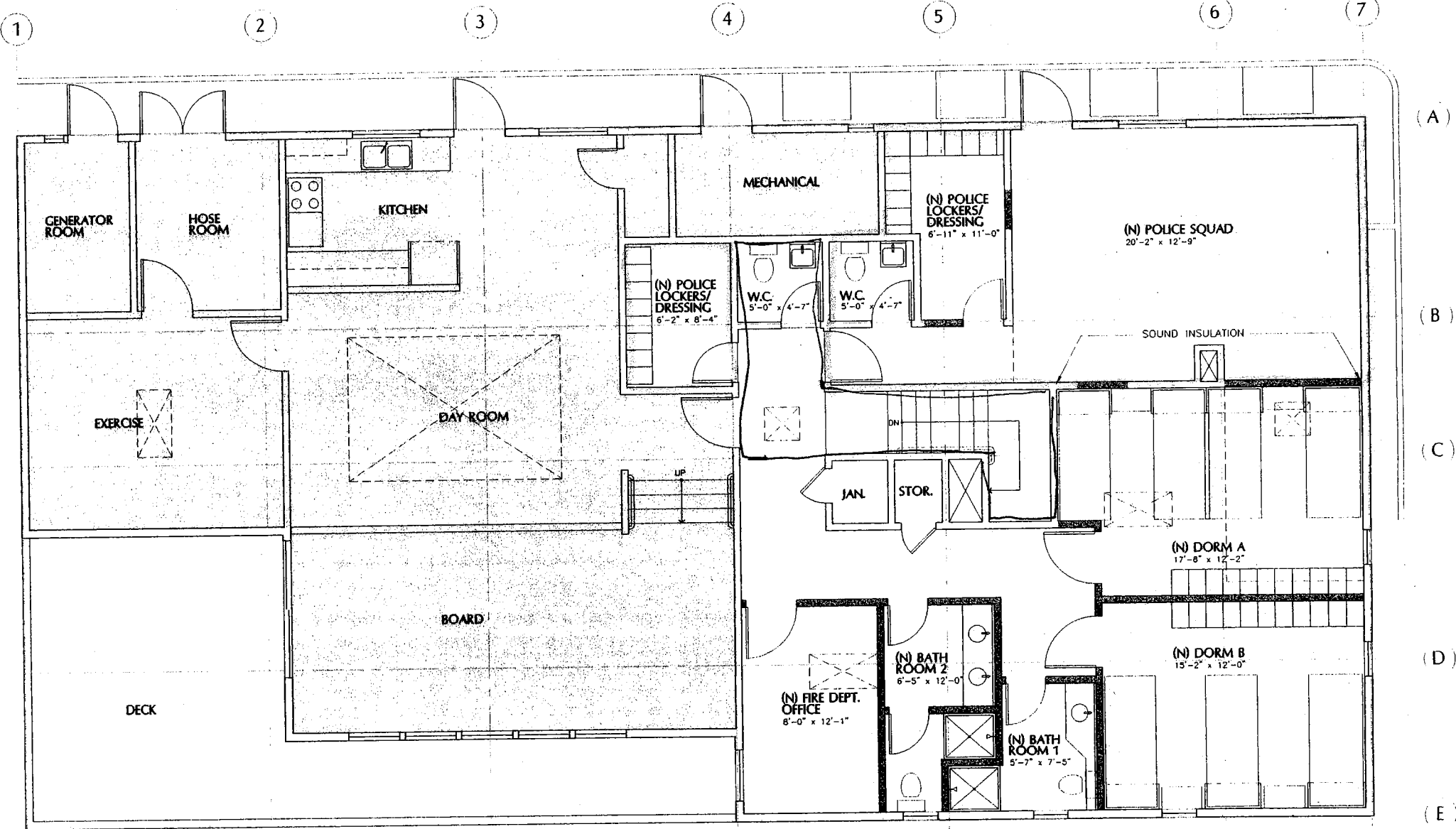
	NEW PARTITION		FIRE DEPARTMENT	14 SF
	EXISTING WALL		POLICE DEPARTMENT	566 SF
			COMMON AREA	800 SF
			UNTOUCHED AREA	1,474 SF



1 FIRST FLOOR PLAN









= Common area (1/2)
= Police Dept

MARCY LI WONG
 ARCHITECTS
 2251 Fifth Street
 Berkeley, CA 94710
 TEL: (510) 843-0916
 FAX: (510) 843-0949



 = Common area (1/2)
 = Police Dept.

KEY		
	NEW PARTITION	
	EXISTING WALL	
	FIRE DEPARTMENT	729 SF
	POLICE DEPARTMENT	509 SF
	COMMON AREA	168 SF
	UNTOUCHED AREA	1,252 SF

2 SECOND FLOOR PLAN N 
 0 1' 2' 4'
 APRIL 1, 1998

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