

LEASE

THIS LEASE, made this 16th day of JANUARY, 2002, by and between **WHITE CITY DEVELOPMENT**, a partnership dba **THE LAKEWOOD GROUP**, hereinafter called "**Landlord**", and **MEDFORD SPORTS INJURY AND THERAPY CENTER, INC.**, an Oregon corporation and Steven Zerkel and Beth Ann Zerkel, hereinafter collectively called "**Tenant**."

WITNESSETH:

In consideration of the covenants and agreements herein contained on the part of Tenant to be paid, kept and faithfully performed, Landlord does hereby agree to lease to Tenant and Tenant hereby agrees to lease from Landlord approximately 2,000 rentable square feet consisting of a portion of Space B-1 in the Lakewood Center Shopping Center as defined in paragraph 4.01 hereof (the "Shopping Center") and shown as a cross-hatched area on the plot plan attached hereto as Exhibit A, incorporated herein by reference, and made a part hereof, hereinafter called "the Premises." A legal description of the entire Shopping Center is attached hereto as Exhibit B and incorporated herein by reference and made a part hereof. In addition to the building to be leased hereunder, Tenant shall have a right, together with other tenants and occupants of the Shopping Center of which the Premises are a part, to the use of the parking and other common areas of the Shopping Center as set forth herein. The address of the Premises is 7332 Highway 62, Space B-1, White City, Oregon.

1. TERM.

1.01 Lease Term. This Lease shall be for a term of three (3) years commencing not later than February 1, 2002 or on such earlier date that Tenant opens for business on the Premises and ending on the day before the third anniversary of the commencement date. If Tenant is able to open for business sooner, it shall pay rent from such opening date, prorated on a daily basis and payable upon taking possession. The parties shall sign a letter confirming the actual commencement date of this Lease.

1.02 Early Possession. Following execution hereof, Tenant shall be entitled to take possession of the Premises for the purpose of installing fixtures, equipment and inventory. Tenant shall be subject to all terms of the Lease during such early possession except that rent shall not be payable until the date specified in paragraph 1.01. Tenant will provide proof of required insurance coverage before taking early possession under this paragraph.

1.03 Options to Extend Term. Tenant shall have two (2) options to extend the term of this Lease for extension terms of three (3) years. Each such term shall commence immediately following the end of the preceding term, provided notice exercising the option is given to Landlord in writing not less than one hundred eighty (180) days prior to expiration of the preceding term. If such notice is given, the Lease will be extended for three (3) years on all the same terms and conditions, subject to rent adjustments as provided in paragraph 2.03.

1.04 Expansion Opportunity. When the adjacent space immediately to the south of the Premises becomes available to lease (not including extension of the lease to the existing tenant of such space), Landlord shall not lease it to a third party without first offering it to Tenant. If Landlord and Tenant do not reach agreement on adding such additional space to the Premises within thirty (30) days after Landlord's notice to Tenant stating the date the additional premises will be available and the proposed terms for adding them to the Premises, the Landlord shall be free to lease to third parties and this provision shall no longer apply.

2. RENT.

2.01 Base Rent. Tenant shall pay to Landlord as rent for the Premises the sum of \$1,500 per month calculated as \$.75 per square foot per month times the agreed rentable square footage of 2,000. Rent shall be payable on the first day of each month in advance at such place as may be designated by Landlord except that rent for the first month of the Lease shall be paid upon execution of this Lease, plus a security deposit as set forth in Section 3, a total of \$3,000. If the Lease commences on a day other than the first day of the month, then rent for the first partial month shall be prorated on a daily basis and paid on the first day of the next succeeding month. The failure of Tenant to pay the rent to Landlord prior to the 10th day of each month shall cause said payment to be delinquent and Landlord may in addition to all other remedies herein provided assess a five percent (5%) late charge on all rentals not received by the 10th day of the month in which it is due, without prejudice to any other remedies for such delinquency.

2.02 Additional Rent. All taxes, insurance costs, common area maintenance charges, water charges and utility charges which Tenant is required to pay by this Lease pursuant to paragraphs 4.05, 7.01, 10.02 and 12.01, and any other sum which Tenant is required to pay to Landlord or any third party under this Lease, shall be additional rent.

2.03 Escalation. The base rent provided in paragraph 2.01 shall be increased as of February 1 of each year, commencing February 1, 2003 by the greater of (i) three percent (3%) of the rent paid for the prior year, or (ii) a percentage of the rent paid for the prior year, which percentage is equal to the percentage increase in the Consumer Price Index published by the United States Bureau of Labor Statistics. The comparison shall be made using the index for "All Urban Consumers, all U.S. Cities, Subgroup All Items". The percentage increase shall be determined by a comparison of the figure for January of the year of adjustment with that for January of the preceding year, provided such percentage increase shall not exceed five percent (5%) per comparison period. If the figure for January is not available, then adjustment will be computed as soon as it is available and made retroactive to February 1. If the Consumer Price Index provided for above is not available, then Landlord may utilize some other generally used and recognized index of prices as a substitute index.

3. SECURITY DEPOSIT. To secure Tenant's compliance with all terms of this Lease, Tenant shall pay to Landlord the sum of \$1,500 as a deposit upon execution hereof. The deposit shall be a debt from Landlord to Tenant refundable within thirty (30) days following expiration of the Lease term or other termination not caused by Tenant's default. Landlord shall have a right to offset against the deposit any sums owing from Tenant to Landlord, and not paid

when due, any damages caused by Tenant's default, the cost of curing any default by Tenant should Landlord elect to do so, and the cost of performing any repair or cleanup that is Tenant's responsibility under this Lease. Offset against the deposit shall not be an exclusive remedy in any of the above cases but may be invoked by Landlord at its option in addition to any other remedy provided by law or this Lease for Tenant's nonperformance. Landlord shall give notice to Tenant each time an offset is claimed against the deposit and, unless the Lease is terminated, Tenant shall within ten (10) days following such notice deposit with Landlord a sum equal to the amount of the offsets so that the total deposit amount, net of the offsets, shall remain constant throughout the Lease term.

4. COMMON AREA AND WATER SYSTEM.

4.01 Definitions.

(a) The term "**Shopping Center**" means the entire area described in Exhibit B. Any portion of the Shopping Center that may be taken by eminent domain, private purchase in lieu of eminent domain or dedicated for public use, upon such taking, purchase or dedication, shall be excluded. Any additional property designated by Landlord for use as part of the Shopping Center shall be included until such designation shall be removed by Landlord.

(b) The term "Common Area" means all areas and facilities of the Shopping Center outside the Premises that are provided and designated by Landlord for general use and convenience of Tenant and other tenants of other parts of the Shopping Center and their respective employees, customers and invitees. Areas include, but are not limited to, pedestrian sidewalks, landscaped areas, exterior stairways, corridors, sidewalks, the private water system, the truckways, loading docks, loading areas, delivery yards and similar areas and improvements. Landlord reserves the right from time to time to make changes in the shape, size, location, number and extent of improvements, buildings accommodation areas, loading areas, parking layout or areas, and other improvements and to eliminate or add any improvements or buildings to any portion of the Shopping Center.

4.02 Maintenance by Landlord. During the term of this Lease, Landlord shall operate, manage and maintain all parking areas, roads and Common Areas within the Shopping Center. The manner in which such areas and facilities shall be maintained and the expenditures for maintenance shall be at the sole discretion of Landlord, and the use of such areas and facilities shall be subject to such reasonable regulations and changes as Landlord shall make from time to time, including, without limitation, the right to close, if necessary, all or any portion of such areas, roads or facilities to such extent as may be legally sufficient in the opinion of Landlord's counsel to prevent a dedication thereof or the accrual or rights of any person or of the public therein, or to close temporarily all or any portion of such areas and facilities.

4.03 Right of Use by Tenant. Landlord hereby grants to Tenant during the term of this Lease the right to use for the benefit of Tenant and Tenant's officers, employees, agents, customers and invitees, in common with others entitled to such use, all Common Areas, the parking areas and roads, subject to any rights, powers and privileges reserved to Landlord. Landlord hereby also reserves the right to designate parking spaces exclusively for the use of a

particular tenant in the Shopping Center or to specify areas for employee parking; provided, however, that in designating parking spaces exclusively for the use of a particular tenant, Landlord shall do so in a manner designed to not unreasonably diminish Tenant's nonexclusive right to use parking spaces located immediately in front of the Premises..

4.04 Successors and Assigns. Each and all of the covenants, provisions and conditions of this Lease to be performed by or on the part of Landlord, whether to be performed on or in the Premises or in any other portion of the Shopping Center, and whether affirmative or negative in nature, are intended to and shall bind Landlord, its successors, lessees and assigns at any time and from time to time, and shall inure to the benefit of Tenant and Tenant's successors and assigns.

4.05 Payment of Tenant's Pro Rata Share. Within the limits of the Shopping Center, Landlord has hard-surfaced, marked, properly drained, adequately lighted and landscaped a parking area or areas, together with the necessary access roads. Landlord has installed at its cost a water system that provides water to each of the tenants in the Shopping Center. Tenant shall pay to Landlord each and every month on the first day of each month Tenant's pro rata share of the cost of lighting, cleaning, striping and general maintenance of the parking and Common Areas, together with the physical repair to paved surfaces; and Tenant's pro rata share of the cost of maintaining and repairing the water system; ~~Tenant shall further pay for any damage which may occur due to Tenant's negligence or misuse of the Common Areas.~~ ^{and Tenant's pro rata share} BF SZ
~~of the charges for management services~~ BF SZ
Tenant's pro rata share shall be 6.7 percent (6.7%). Tenant's payment of Tenant's share of the above costs are in addition to all other rents, charges and other costs required to be paid by Tenant under the terms, provisions and conditions of this Lease. In addition to the foregoing, Tenant shall pay to Landlord once each Lease year Tenant's pro rata share of Landlord's cost of public liability and property damage insurance on the Shopping Center. Tenant shall pay one-twelfth (1/12) of the estimated charges under this paragraph 4.05 monthly on the first day of each month, with a reconciliation to be made following each anniversary of the commencement of the Lease term.

4.06 Changes by Landlord. Landlord reserves the right to make changes to the Common Areas, including, without limitation, changes in the location of driveways, entrances, exists, vehicular parking spaces, parking area or the direction of the flow of traffic, and further reserves the right to construct additional buildings in the parking area.

4.07 Parking by Tenant. Tenant and its officers, agents and employees shall park their automobiles only in areas specifically designated for employee parking by Landlord from time to time, whether such areas be inside or outside (but reasonably near) the Shopping Center. Except in the event of a condemnation under Section 16, Landlord shall use reasonable efforts to not change the parking spaces located immediately in front of the Premises in a manner that would materially diminish Tenant's non-exclusive rights under this Lease to use such spaces. If in connection with a renovation of the Shopping Center Landlord is required by law to add handicapped parking spaces within the limits of the Shopping Center, Landlord will use reasonable efforts to designate one of the spaces located in front of the Premises as a handicapped space.

4.08 Loading Areas. Tenant agrees that all receiving and delivery of goods and merchandise and all removal of garbage and refuse shall be made only by way of the loading areas or such portions of the parking areas as Landlord may designate from time to time for such use by Tenant, and at such hours as may be designated by Landlord from time to time.

5. WASTE AND LIENS. Tenant covenants not to commit or suffer any strip or waste of the Premises, and to keep the Premises free from all liens of every kind and description caused or incurred by any act or omission of Tenant.

6. USE OF PREMISES. Tenant covenants:

6.01 Trade Name; Use of Premises. That it intends to operate under the trade name of Progressive Rehabilitation and Work Injury Center and shall use the Premises solely for the purpose of conducting a physical therapy clinic and activities incidental to use as a physical therapy clinic. Tenant shall not operate or permit to be operated on the Premises any coin or token operated vending machines or similar devices for the sale or leasing of goods for its merchandise, services, foods or beverages, including, without limitation, pay telephones, pay lockers, pay toilets, scales and amusement devices. No auction, fire or bankruptcy sale shall be conducted on the Premises without Landlord's consent, and no ready-to-eat food items shall be sold from the Premises.

6.02 Compliance with Laws. That it will make no unlawful, improper or offensive use of the Premises or any portion thereof, and during said term or any extension thereof will comply with all statutes of the United States and/or the State of Oregon and with all ordinances, rules, regulations and laws of any other governmental authorities applicable to said building and the use thereof.

6.03 Limits on Use. That Tenant shall not use or permit the Premises to be used for any purpose other than provided in this Lease, and that Tenant will not use or permit the use of the Premises in any manner that will create a nuisance or a danger to life or limb, or that will unreasonably disturb other tenants or occupants of the Shopping Center or upon the Premises or other portions of the Shopping Center. All deliveries to the Premises shall be made to the rear entrance, if any.

6.04 Hazardous Waste. Tenant shall not store or release any hazardous substances on the Premises. Tenant further agrees to indemnify and hold Landlord harmless from any cost, liability or damages that Landlord may incur on account of any hazardous waste contamination caused by Tenant.

7. UTILITIES. Tenant covenants:

7.01 Payment for Services. To promptly pay when due all water, light, power and/or other utility service charges, including garbage, trash removal and sewage disposal, for all such services used by Tenant in or about the Premises, whether such bills be presented before or after the termination of Tenant's occupancy. If any utilities are not separately metered, Landlord shall allocate the charges between Tenant and other users. Landlord and Tenant

acknowledge that the Premises and the space known as suite B-0 located to the north and adjacent thereto (the "Adjacent Space") share the same meter for measuring electricity and that during occupancy of a tenant in the Adjacent Space, the electrical company will issue only one bill for electricity charges attributable to the Premises and the Adjacent Space. Tenant shall pay to Landlord, as additional rent, Tenant's share of the electricity charges attributable to the Premises and Adjacent Space, as reasonably allocated by Landlord. At the time of mutual execution of this Lease or soon thereafter (and on or soon after each anniversary of the mutual execution of this Lease), Landlord shall notify Tenant of Landlord's estimate of Tenant's share of such electricity charges for the next year. Tenant shall pay to Landlord one-twelfth (1/12th) of such estimated charges monthly on the first day of each month, with a reconciliation based on actual charges to be made following each anniversary of the mutual execution of this Lease.

7.02 Services Failure. That Landlord shall not be liable for any interruption or failure in the supply of any utility to the Premises or to the Shopping Center, nor shall this be a constructive eviction of Tenant. Landlord will use reasonable efforts diligently to remedy any interruption to the extent caused by the negligence of Landlord.

7.03 Purchase of Bulk Power. That if Landlord purchases power in bulk for distribution to Tenant through the meter located on the Premises, Tenant will pay to Landlord the separate user rate applicable to Tenant pursuant to the rules and regulations of the Public Utility Commission of the State of Oregon were it purchasing such power directly from Landlord's supplier. Landlord shall have the right to purchase power from a provider of its choosing.

8. SURRENDER. Tenant covenants that at the end of said term, or upon any sooner termination of this Lease, it will quit and deliver up the Premises to Landlord peaceably and quietly and in as good order and condition, reasonable use and wear thereof and insured casualties excepted, as the same now are or may hereafter be put into during the term of this Lease.

9. PREPARATION OF PREMISES; REPAIRS AND MAINTENANCE.

9.01 Improvement of Premises. Prior to the commencement date specified in paragraph 1.01, Tenant shall, at Tenant's sole expense, reconfigure the interior walls and refurnish the interior of the Premises in accordance with the plans attached as Exhibit C. Tenant shall pursue all such work diligently to completion and perform all such work in a good and workmanlike manner, free of defects and in compliance with all applicable laws, regulations, rules and ordinances.

9.02 Obligations of Landlord. Landlord shall be under no obligation whatsoever to make any repairs, alterations or replacements to the Premises or to the improvements thereon; provided, however, Landlord shall be responsible (a) for any repairs caused by the negligence of Landlord, its agents or employees; (b) structural repairs and maintenance and roof repairs; (c) repairs covered by Landlord's casualty insurance to the extent covered by Landlord's insurance; and (d) any necessary replacements of the HVAC system securing the Premises except for replacements resulting from Tenant's failure to perform its obligations for maintenance under Section 9.03.

9.03 Obligations of Tenant. Tenant shall, at its expense, keep and maintain the Premises in a clean, sightly, sanitary order and in good condition and repair, except as to damage due to fire not originating in Tenant's Premises, earthquake, flood, windstorm and other casualty or other cause beyond Tenant's control. Tenant will maintain an annual service contract for the maintenance of Tenant's air conditioning and heating equipment with a reputable service company and furnish Landlord with proof of the same.

10. INSURANCE.

10.01 Insurance Required by Tenant. Tenant covenants that it shall during the entire Lease term keep in full force and effect a policy of public liability and property damage insurance with respect to the Premises and the business operated by Tenant and any subtenants of Tenant. The policy limits for public liability shall not be less than \$1,000,000 per occurrence. The policy shall name Landlord and any persons designated by Landlord as well as Tenant as insured and shall contain a clause that the insurer will not cancel or change the insurance without giving Landlord ten (10) days' prior written notice. The insurance shall be in an insurance company reasonably approved by Landlord and, prior to Tenant's occupancy, a certificate of insurance shall be delivered to Landlord with a provision that the policy will not be canceled or materially changed without thirty (30) days' prior written notice to Landlord. As policies expire, new certificates will be provided so that there will be no gaps in coverage.

10.02 Payment of Pro Rata Share by Tenant. Landlord shall in the first instance obtain and maintain casualty insurance upon the Premises, including all leasehold improvements owned by Landlord, against loss or damage by fire and other risks from time to time included under extended coverage policies in the amount of the full replacement or insurable value thereof. Tenant shall pay to Landlord its pro rata share of said premium as stated in paragraph 4.05 promptly upon presentation to it of the notice by the carrier that the same is due. If Tenant fails to make such prompt payment and Landlord is required to make the same, then the amount thereof shall be a form of additional rent immediately due and payable from Tenant to Landlord together with interest thereon at the rate of ten percent (10%) per annum from the date of payment to its reimbursement by Tenant. At Landlord's election, Landlord may require one-twelfth (1/12) of said charges to be paid monthly on the first day of each month.

11. SIGNS. Tenant may place a sign on the exterior walls of the Premises, with the prior written consent of Landlord, which Landlord will not unreasonably withhold, provided the signs comply with Landlord's sign criteria for the Shopping Center and all applicable laws. Tenant will maintain any such signs in good condition and repair at all times, remove the same at the expiration of the term of the Lease, and repair all damage caused by such removal, and Tenant shall save Landlord harmless from any damage caused by the erection, maintenance and removal of such signs. Landlord shall have full discretion to determine whether Tenant shall have a right to be named on the sign for the Shopping Center and may remove Tenant's name at any time, in its sole discretion.

12. TAXES AND ASSESSMENTS.

12.01 Real Property Taxes. Tenant shall pay to Landlord as additional rent Tenant's proportionate share of real property taxes (as described in paragraph 4.05) assessed against the land and buildings of the Shopping Center, excluding any free-standing buildings which are separately assessed, in full by November 30 of each year.

12.02 Other Taxes. If at any time during the term of this Lease a tax or excise on rents or other tax, however described, is levied or assessed against Landlord on account of the rent expressly reserved hereunder as a substitute in whole or in part for ad valorem taxes assessed or imposed on land and/or buildings, such tax or excise on rents or other substitute tax shall be included within the definition of taxes applicable to Tenant's Premises referred to in paragraph 12.01 of this Section 12 and dealt with as provided therein.

12.03 Public Liens and Assessments. Tenant shall pay to Landlord as additional rent Tenant's proportionate share of all other public liens and assessments assessed against the Shopping Center within thirty (30) days of billing therefor by Landlord to Tenant, provided that in the instance of any special assessment which under the laws then in effect may be paid in annual installments, it shall be Tenant's pro rata share (as specified in paragraph 4.05) of each such annual installment for tax years within the Lease term.

12.04 Partial Years. For any part of the term of this Lease which is less than a full year, Tenant's obligation to pay the amount by which the taxes applicable to Tenant's Premises or to pay any other lien or assessment shall be prorated on a daily basis per a year of 365 days as to the end that Tenant shall only pay for taxes or assessments attributable to the portion of the tax year occurring within the term of this Lease.

13. DESTRUCTION OF PREMISES.

13.01 Damage By Fire. If the Premises are damaged by fire or other casualty against which Landlord is insured but are not thereby rendered partially untenable, Landlord shall, at its own expense, cause such damage to be repaired and the rent shall not be abated.

13.02 Rent Abatement. If by reason of such occurrence the Premises shall be rendered partially untenable, Landlord shall, at its own expense cause the damage to be repaired, and the fixed minimum rental meanwhile shall be abated proportionately as to the portion of the Premises rendered untenable.

13.03 Repair of Premises. If the Premises shall be rendered wholly untenable by reason of such occurrence Landlord shall, at its own expense cause, such damage to be repaired and the fixed minimum rent meanwhile shall be abated except that Landlord shall have the right, which may be exercised by notice in writing delivered to Tenant within sixty (60) days from and after such occurrence, to elect not to reconstruct the destroyed Premises, and in such an event this Lease and the tenancy hereby created shall cease as of the day of that occurrence, the rent to be adjusted as of that date.

13.04 Destruction of Shopping Center. In the event that fifty percent (50%) or more of the rentable area of the entire Shopping Center shall be damaged or destroyed by a fire or other cause, Landlord shall have the right (to be exercised by notice in writing to be delivered within sixty (60) days from the date of the occurrence) to elect to cancel and terminate this Lease. Upon the giving of such notice to Tenant, the terms of this Lease shall expire by lapse of time upon the third day after such notice is given and Tenant shall vacate the Premises and surrender the same to Landlord.

13.05 Damage By Tenant. Notwithstanding any terms of this article, if the damage was caused by Tenant's fault, rent shall not abate and Tenant shall reimburse Landlord the amount of any deductible in Landlord's insurance coverage.

14. WAIVER OF SUBROGATION RIGHTS.

14.01 Landlord's Waiver. Landlord hereby releases Tenant from any and all liability and waives Landlord's rights of recovery against Tenant, its agents and employees, for any loss or damage to Landlord's property resulting from any hazard insured under Landlord's fire and extended coverage policy of insurance including, but not limited to, theft, fire, smoke, explosion or water damage, and Landlord hereby waives the subrogation rights of its insurance carriers under Landlord's policies of insurance providing coverage against loss or damage by any such hazard. Landlord shall take such steps as are necessary to inform its insurance carriers of this provision and to have endorsements if necessary placed on said insurance policies to carry into effect the provisions of this section. This does not apply to any claim for the deductible or claim for rent as provided in paragraph 13.05 above.

14.02 Tenant's Waiver. Tenant hereby releases Landlord from any and all liability and waives Tenant's rights of recovery against Landlord, its agents and employees, for any loss or damage to Tenant's property resulting from any hazard insured under Tenant's fire and extended coverage policy of insurance, including, but not limited to, theft, fire, smoke, explosion or water damage, and Tenant hereby waives the subrogation rights of its insurance carriers under Tenant's policies of insurance providing coverage against loss or damage by any such hazard. Tenant shall take such steps as are necessary to inform its insurance carriers of this provision and to have endorsements, if necessary, placed on said insurance policies to carry into effect the provisions of this paragraph.

14.03 Damage to Tenant's Property. Landlord shall not be liable for any damage to property of Tenant or of others located on the Premises, from any cause, including theft, fire, explosion, sprinklers, falling plaster, steam, gas, electricity, water, rain, snow or leaks or from any other part of the Premises; or leaks from the pipes, appliances or plumbing works; or leaks from the roof, street or subsurface; or from any other place or by dampness. Tenant assumes the risk of all property kept or stored in the Premises and shall hold Landlord harmless from any claims arising out of damage to the same. Tenant shall give immediate notice to Landlord in case of fire or accidents in the Premises or in the building of which the Premises are a part, or defects therein, or in any fixture or equipment.

15. INDEMNITY.

15.01 Indemnity by Tenant. Tenant agrees that it will at all times indemnify and hold Landlord harmless against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including costs of defense, which may be brought or made against Landlord or which Landlord may pay or incur by reason of Tenant's negligent acts or failure to perform any of its obligations under this Lease.

15.02 Indemnity by Landlord. Landlord agrees that it will at all times indemnify and hold Tenant harmless against all actions, claims, demands, costs, damages or expense of any kind on account thereof, including costs of defense, which may be brought or made against Tenant or which Tenant may pay or incur by reason of Landlord's negligent acts or failure to perform any of its obligations under this Lease.

16. EMINENT DOMAIN.

16.01 Partial Taking. If a portion of the Premises or the Shopping Center is taken by eminent domain and the taking is such that the Premises are no longer reasonably suitable for the purpose for which the tenancy is created, this shall be considered a total taking. Any other taking shall be considered a partial taking.

16.02 Total Taking. In the case of a total taking, the Lease shall terminate at the date the Premises are rendered unsuitable for the purposes of the tenancy and all compensation therefor, whether fixed by agreement or judicial award, shall be paid to Landlord, and Tenant shall have no claims against Landlord for the value of any unexpired term of this Lease.

16.03 Parking Area Taking. In case of a taking of the Shopping Center parking area, Landlord shall have a reasonable time in which to elect to provide parking adjustments to the Shopping Center that restores the parking to eighty-five percent (85%) of the originally existing parking area and available without charge to the buildings located thereon. Such action by Landlord will eliminate Tenant's right's to terminate for taking of Shopping Center parking areas.

16.04 Repairs in Partial Taking. In case of a partial taking which does not cause termination of this Lease, Landlord shall repair the Premises at its own expense to the original plan, but Landlord shall not be obligated to expend for such repairs an amount greater than the compensation due from the condemning authority.

16.05 Compensation for Taking. In case of any partial taking, all compensation for the taking, whether fixed by agreement or judicial award, shall be due Landlord; and if the Lease is not terminated as above provided, the rent shall be reduced to the extent of diminution of value of the Premises, provided that no diminution shall be presumed from the mere fact of a taking.

16.06 Highway Right-of-Way. Tenant is aware that the highway right-of-way bordering the Shopping Center extends twenty (20) feet into the parking area of the Shopping Center. Any widening of such right-of-way to fully utilize all or part of such 20 feet shall not be considered a taking for purposes of this Section 16, nor give Tenant any rights to compensation or lease termination.

17. ALTERATIONS. No alterations can be made without written permission of Landlord. Landlord may require a lien and completion bond as a condition of consent. All alterations or additions shall constitute a part of the Premises and shall remain thereon when installed or, at Landlord's option upon termination of the Lease, Landlord may require Tenant to remove all or any alterations and repair any damage caused by such removal. All trade fixtures and all machinery, equipment and/or other items of personal property placed in or upon the Premises by Tenant and paid for by it may be removed by it at any time. Tenant shall obtain all necessary permits and government approvals for any work to be done and all work shall be done in a workmanlike manner.

18. EXAMINATION OF PREMISES. Landlord, or its agents or representatives, may at any or all reasonable times (upon not less than 24 hours prior verbal or written notice except in the event of an emergency in which case no notice shall be required) enter into or upon the Premises or any part thereof for the purpose of examining the condition thereof and for the purpose of making any repairs which Landlord is either required to or may desire to make to the Premises.

19. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease in whole or in part nor sublet all or any part of the leased Premises without prior written consent of Landlord in each instance. Landlord reserves the right to withhold its consent for any reason or to impose such conditions upon assignment or subletting as in the circumstances may be reasonable or necessary. No assignment or sublease shall accomplish a novation and Tenant shall remain fully liable on this Lease and shall not be released from performing any of the terms, covenants and conditions of this Lease. This provision shall apply whether the assignment is voluntary or by operation of law. If Tenant is a partnership, corporation or limited liability company, a transfer of interest which causes a change in voting control will be treated as an assignment for which Landlord's consent is required.

20. SUBORDINATION; ATTORNMENT. The Premises are subject to a real estate mortgage or trust deed (the "Mortgage") given to Umpqua Bank as Mortgagee. Landlord shall use commercially reasonable efforts to obtain an agreement by the Mortgagee in form reasonably acceptable to Tenant that the rights of Tenant under this Lease will be recognized so that in the event of foreclosure of the Mortgage, this Lease will remain in effect according to its terms and Tenant's possession will not be disturbed as long as Tenant is in compliance with this Lease. Upon request of Landlord, Tenant will subordinate its rights hereunder to the lien of any mortgage or trust deed now or hereafter in force against the land and buildings of which the Premises are a part or upon any building hereafter placed upon the land of which the Premises are a part and to all advances made or hereafter to be made upon the security thereof. Tenant agrees to attorn to any purchaser at a foreclosure sale or any successor to Landlord. This Section 20 shall be self-operative and no further instrument of subordination shall be required by

a mortgagee or a beneficiary under a trust deed, and Tenant does hereby constitute Landlord as its attorney-in-fact to execute such subordination on its behalf in such instance and toward such end. However, Tenant shall execute all documents reasonably requested by Landlord or its lender to evidence this subordination and attornment agreement of Tenant. Nothing contained in this Section 20 shall require Tenant to agree to any subsequent modification in the term of this Lease, nor shall any mortgagee or beneficiary under any trust deed succeeding to Landlord's interest have any greater rights hereunder than Landlord. At the request of Tenant made within five (5) days after any request by Landlord pursuant to the third sentence of this Section 20, Landlord shall use commercially reasonable efforts to obtain (but shall not be required to obtain), for the benefit of Tenant, from the holder of any mortgage or trust deed hereafter placed against the land and buildings of which the Premises are a part, such holder's standard subordination, non-disturbance and attornment agreement.

21. ESTOPPEL CERTIFICATES. Tenant acknowledges that Landlord may from time to time require an estoppel certificate from Tenant containing a statement of the remaining term of the Lease, the rent, whether Landlord has performed its obligations under the Lease and such other matters as may be requested by a lender or potential purchaser. Tenant agrees to provide such an estoppel certificate to Landlord within ten (10) days of the request.

22. SUCCESSORS AND ASSIGNS. All rights, remedies, liabilities and obligations herein given to or imposed upon either of the parties hereto shall inure to the benefit of and be binding upon the respective heirs, executors, administrator, successors in interest and permitted assigns of the respective parties. Wherever the word "Landlord" is used herein, it relates also to all of the respective Landlords jointly and severally.

23. QUIET ENJOYMENT. Landlord warrants and covenants that Tenant, upon discharging all of its obligations hereunder, shall and may peaceably and quietly hold and enjoy the Premises for the term aforesaid free of disturbance by anyone claiming through Landlord, subject to any mortgages or other encumbrances of record.

24. EVENTS OF DEFAULT. The following events shall be deemed to be events of default by Tenant under the Lease:

24.01 Failure to Pay Rent. If Tenant shall fail to pay any installment of the rent or any other charge designated herein to be paid as rent within ten (10) days after written notice to Tenant of nonpayment; provided, however, Landlord shall not be required to give more than two such notices in any twelve (12) month period, after which this Lease shall be in default if rent or any other payment is not paid within ten (10) days after it is due without notice, until such twelve (12) month period has passed.

24.02 Failure to Comply. If Tenant shall fail to comply with any term, condition or covenant of this Lease, other than the payment of rent or sum to be paid as rent or additional rent, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant, or if such failure cannot reasonably be cured within the said 30 days and Tenant shall not have commenced to cure such failure within 30 days after written notice thereof to Tenant, or

if such failure cannot reasonably be cured within the said 30 days and Tenant shall not with reasonable diligence and good faith proceed in the curing of such failure.

24.03 Bankruptcy; Insolvency. If Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors; or if any petition under any section or chapter of the National Bankruptcy Act shall be filed to subject Tenant's affairs to the same; or if a receiver of substantially all of the assets of Tenant shall be appointed; or if any attempt shall be made by anyone other than Tenant to occupy the Premises with or without color of law.

24.04 Continued Occupancy. Failure of Tenant for fifteen (15) days or more to occupy the Premises for one or more of the purposes permitted under the Lease, unless such failure is excused under the provisions of this Lease.

24.05 Assignment or Subletting. Tenant making an assignment or subletting without Landlord's consent.

25. REMEDIES FOR DEFAULT. In case of default as described in Section 24 above, 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:

25.01 Termination. Terminate this Lease without relieving Tenant from its obligation to pay damages for default.

25.02 Retaking. Retake possession of the Premises by summary proceedings or otherwise, in which case Tenant's liability to Landlord for damages shall survive the termination. Landlord may, after such retaking of possession, relet the Premises upon any reasonable terms. No such reletting shall be construed as an acceptance of a surrender of Tenant's leasehold interest, nor relieve Tenant from the obligation to pay damages to the extent suffered by Landlord.

25.03 Recovery of Costs. Recover all damages caused by Tenant's default which shall include, without limitation, loss of rentals, costs of reletting and all other costs incurred or benefits lost as a result of such default. 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 subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the Lease equal to 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 rate of six percent (6%) per annum.

25.04 Recovery of Costs. Landlord may make any payment or perform any obligation required of Tenant so as to cure Tenant's default, in which case Landlord shall be entitled to recover all amounts so expended for Tenant, plus interest at the rate of ten percent (10%) per annum from the date of the expenditure.

26. **HOLDING OVER.** Any holding over after the expiration of the term of this Lease with the consent of Landlord shall be construed to be a tenancy from month-to-month for one hundred twenty-five percent (125%) of the rent herein specified (prorated on a monthly basis) and on the other terms and conditions herein specified, terminable on thirty (30) days' written notice by either party.

27. **WAIVER.** The waiver by Landlord of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of the Lease. The acceptance of rent by Landlord hereunder shall never be construed to be a waiver of any term of the Lease. No payment by Tenant or receipt by Landlord of a lesser amount than shall be due according to the terms of this Lease shall be deemed or construed to be other than on account of the earliest rent due, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed to create an accord and satisfaction.

28. **FORCE MAJEURE.** In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riot, insurrection, war or other reason of like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 28 shall not operate to excuse Tenant from prompt payment of rent, additional rent or any other payments required by the terms of this Lease.

29. **RULES AND REGULATIONS.** Landlord reserves the right from time to time to adopt, amend or supplement reasonable rules and regulations applicable to the Premises and the Shopping Center. Notice of such rules and regulations and amendments and supplements, if any, shall be given to Tenant, and Tenant agrees thereupon to comply with and observe all such rules, regulations, amendments thereto and supplements thereof, provided the same shall apply uniformly to all tenants of the Shopping Center.

30. **HAZARDOUS WASTE.** Tenant shall not cause or permit any hazardous material, as defined below, to be brought, kept or used in or about the Shopping Center by Tenant, its agents, employees or contractors. Tenant indemnifies Landlord from and against any breach by Tenant of the obligations stated in the preceding sentence and agrees to defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses. This indemnification of Landlord by Tenant includes, without limitations, costs incurred in connection with any investigation of site, conditions or any cleanup, remedial removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material present in the soil or groundwater on or under the Shopping Center. Without limiting the foregoing, if the presence of any hazardous material on the Shopping Center caused or presented by Tenant results in the contamination of the Shopping Center, Lessee shall pay all expenses that are necessary to return the Shopping Center to the condition existing prior to the introduction of any such hazardous material. As used herein, the term hazardous material means any hazardous material as defined under any

applicable federal, state or local laws, ordinances or regulations, including, without limitations, 42 USC, Section 9601-9657, Oregon Revised Statutes, Chapter 466, or by any other rule or regulation governing the Premises.

31. **AMENDMENTS IN WRITING.** This Lease, including the exhibits and riders, if any, attached hereto and forming a part hereof are all of the covenants, promises, agreements, conditions and understandings, either oral or written, between the parties. No subsequent alteration, change or amendment to this Lease shall be binding upon the parties unless reduced to writing and signed by the parties. There are no implied covenants in this Lease.

32. **RELOCATION OF PREMISES.** If this Lease is still in effect on December 1, 2008, Landlord may, at its option on ninety (90) days' advance notice to Tenant, require Tenant to relocate on or after such date to other space in the Shopping Center of comparable size (the "New Premises"). Landlord shall pay for the cost of moving and providing comparable interior improvements. All provisions of this Lease shall then apply to the New Premises, and the parties shall execute an amendment to this Lease to indicate the location of the New Premises and the vacation of the former Premises.

33. **NOTICES.** Any notice by Tenant to Landlord must be served by certified mail or registered mail, postage prepaid, addressed to Landlord as follows, or at such other address as Landlord may designate by written notice:

The Lakewood Group
690 S. Grape Street
PO Box 129
Medford, OR 97501
Attention: Thad Keays
Telephone No.: 541-772-5653
Facsimile No.: 541-734-9714

Any notice by Landlord to Tenant must likewise be by certified or registered mail, postage prepaid, addressed to Tenant at the address set forth below:

Medford Sports Injury and Therapy Center, Inc.
840 Royal Avenue, Suite 2
Medford, OR 97504
Telephone No.: 541-779-6146
Facsimile No.: 541-734-7952

34. **TIME OF ESSENCE.** Time is of the essence of this agreement.

35. **JOINT AND SEVERAL LIABILITY.** In the event Tenant now or hereafter consists of more than one person, firm or corporation, then all such persons, firms or corporations shall be jointly and severally liable as Tenant under this Lease.

IN WITNESS WHEREOF, Landlord and Tenant have signed this Lease the day and year first above written.

LANDLORD:

WHITE CITY DEVELOPMENT,
an Oregon general partnership,
dba **THE LAKEWOOD GROUP**

By: 

Printed Name: John Baker

Title: Member

TENANT:


STEVEN ZERKEL


BETH ANN ZERKEL

**MEDFORD SPORTS INJURY AND
THERAPY CENTER, INC.,**
an Oregon corporation

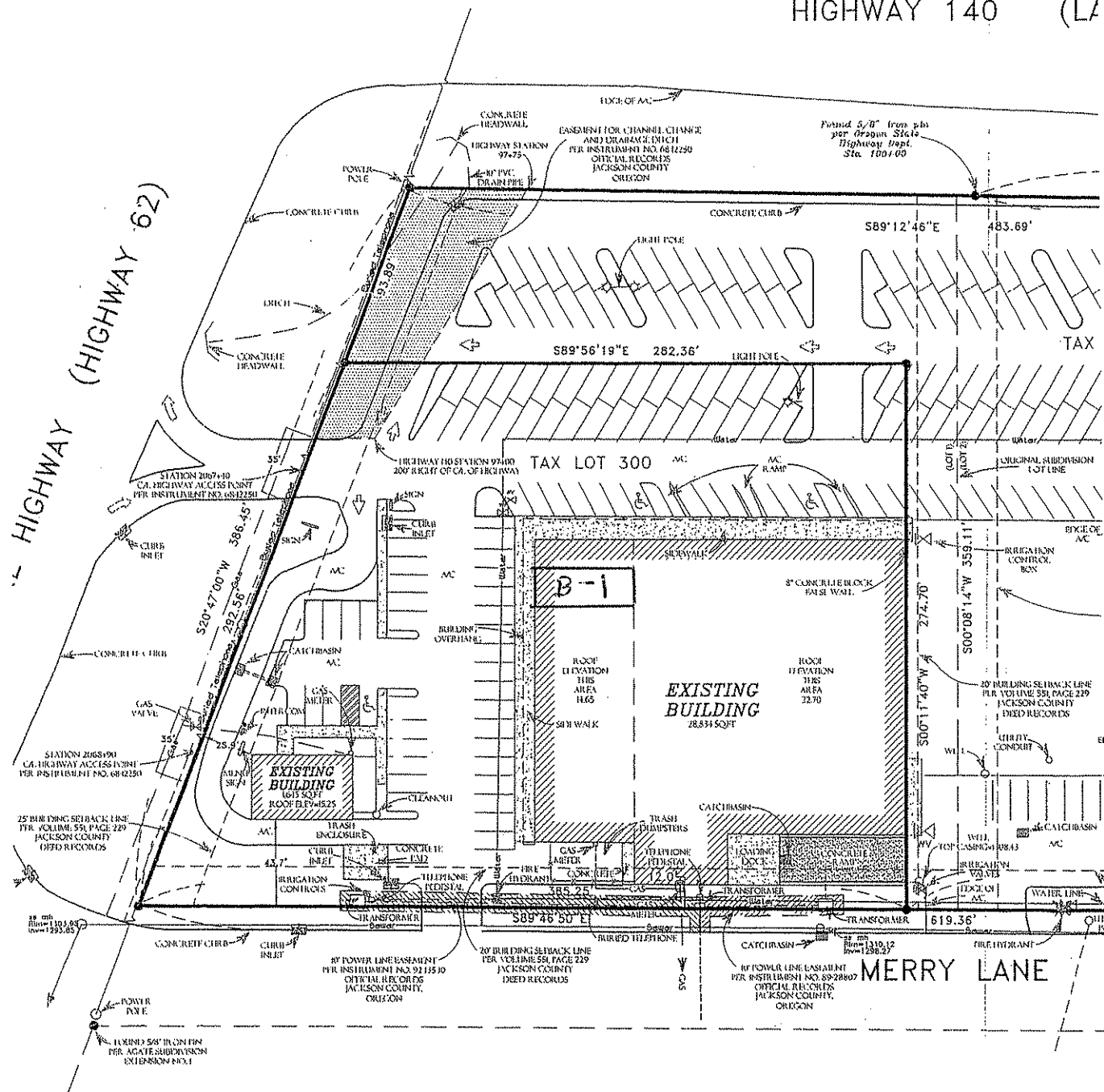
By: 

Printed Name: Steven Zerkel

Title: president

HIGHWAY 140 (LA

HIGHWAY 140 (LA



10CA, TL 1400
10C, TL 300

EXHIBIT ~~B~~ B

PARCEL I: Lot 1, Block 3, AGATE SUBDIVISION EXTENSION
NO. 1 in Jackson County, Oregon, EXCEPTING THEREFROM
that portion deeded to the State of Oregon, by and
through its State Highway Commission, by instrument
recorded as document No. 68-12250 of the Official
* Records of Jackson County, Oregon.

PARCEL II: Lot 2, Block 3, AGATE SUBDIVISION EXTENSION
NO. 1 in Jackson County, Oregon.

BATZER

DESIGN • BUILD

EXHIBIT C

(541) 773-7553

P.O. Box 4460 • Medford, OR 97501 • fax: (541) 773-5923 • web: www.batzerinc.com • CCB#132902

December 5, 2001

Revised Proposal

Attn: Steve and Beth Zerkel
Medford Spine and Sports Therapy Center
2596 E. Barnett Road, Suite A
Medford, OR 97504

RE: Progressive Rehabilitation and Work Injury Center

Dr. and Mrs. Zerkel:

Batzer Inc. proposes to supply all labor and materials to construct a tenant improvement at Lakewood Shopping Center of approximately 2,000 square feet. Our proposal includes the following:

- A. General Conditions
 - 1. Tenant improvement drawings.
 - 2. Supervision and clean-up.
- B. Demolition
 - 1. Remove studs and finishes, ceramic, carpet, acoustical ceiling, sheathing or concrete in the affected area of tenant improvement (paid by Landlord).
 - 2. Remove cooler and dispose (paid by Landlord).
 - 3. Remove toilets and patch ceramic floor (paid by Landlord).
 - 4. Remove concrete foundation where necessary for sanitary sewer and replace.
 - 5. Saw cut masonry walls and remove for new windows.
 - 6. Remove and dispose of pizza hood.
- C. Carpentry
 - 1. Install new walls for new bathroom, office, whirl pool and demising walls as per preliminary drawing dated 09/20/01.
 - 2. Countertop 12" wide at entry for approximately 20'. Face of wall to be sheetrocked.
 - 3. One (1) 8' countertop at bathroom.
- D. Doors
 - 1. Install three (3) new man doors with half glass relite at entry.
 - 2. Install one (1) new storefront door at entry.
 - 3. Install five (5) 4' x 5'-6" glass storefront windows at exterior.
 - 4. Install two (2) 3'-0" x 3'-6" glass storefront windows.
- E. Finishes
 - 1. New drywall at new walls and existing walls.
 - 2. Replace new ceiling grid with new 2 x 4 ceiling (standard grid).
 - 3. Paint all ceilings (sheetrock) and walls and stain doors.

PROACTIVE • COOPERATIVE • RESPECTFUL • ACCOUNTABLE • CONSISTENT • SOLUTION ORIENTED

Attn: Steve and Beth Zerkel
Medford Spine and Sports Therapy Center
December 5, 2001
Page 2

F. Mechanical

1. Replace ducting and new registers at one (1) of the two (2) existing units.
2. Install one (1) 25" x 22" stainless sink.
3. Rough-in and venting of one (1) whirl pool.
4. One (1) flush valve water closet.
5. One (1) washing machine outlet box.
6. Exhaust for jacuzzi room.
7. One (1) recessed ice-maker box.
8. Sanitary sewer.

G. Electrical - provide and install

1. Twenty-five (25) 3-lamp, 2x4 electronic troffers.
2. Eighteen (18) duplex receptacles.
3. Five (5) double duplex receptacles.
4. Two (2) floor box receptacles.
5. Nine (9) telephone/data stubs.
6. Three (3) 2-lamp, strip type fixtures (1 in storage, 1 in laundry, 1 in janitors room).
7. Two (2) 2-lamp, wrap fixtures in restroom.
8. One dedicated 240 volt circuiting for: ice-maker, whirl pool, dryer and washer.
9. Two (2) emergency back-up exist signs.

We value the above work at: SIXTY THOUSAND SEVEN HUNDRED AND FORTY-SIX DOLLARS (\$60,746.00). Price good for sixty (60) days.

EXCLUSIONS:


1. New meter base or service. I have budgeted a Tenant or Owner supplied meter base that will require someone to read the electrical use and split between Medford Therapy and the future Tenant of the space leftover.
2. Permits, fees or governmental charges of any kind.
3. All floor coverings by Owner (preparation by Owner's subcontractor).
4. No paint, per Owner, at bathroom or preparation.
5. Landlord to pay Contractor \$2,991.00 for demolition items #1, 2 and 3.

ALTERNATE: (Please initial if desired)

Paint the west exterior fascia for an additional approximately \$627.00. _____

Thank you for the opportunity to quote this project. We look forward to working with you.

Sincerely,
BATZER INC.


Russ Batzer, President

Accepted by: _____ Date: _____ 011752RUS/1ag

very nice

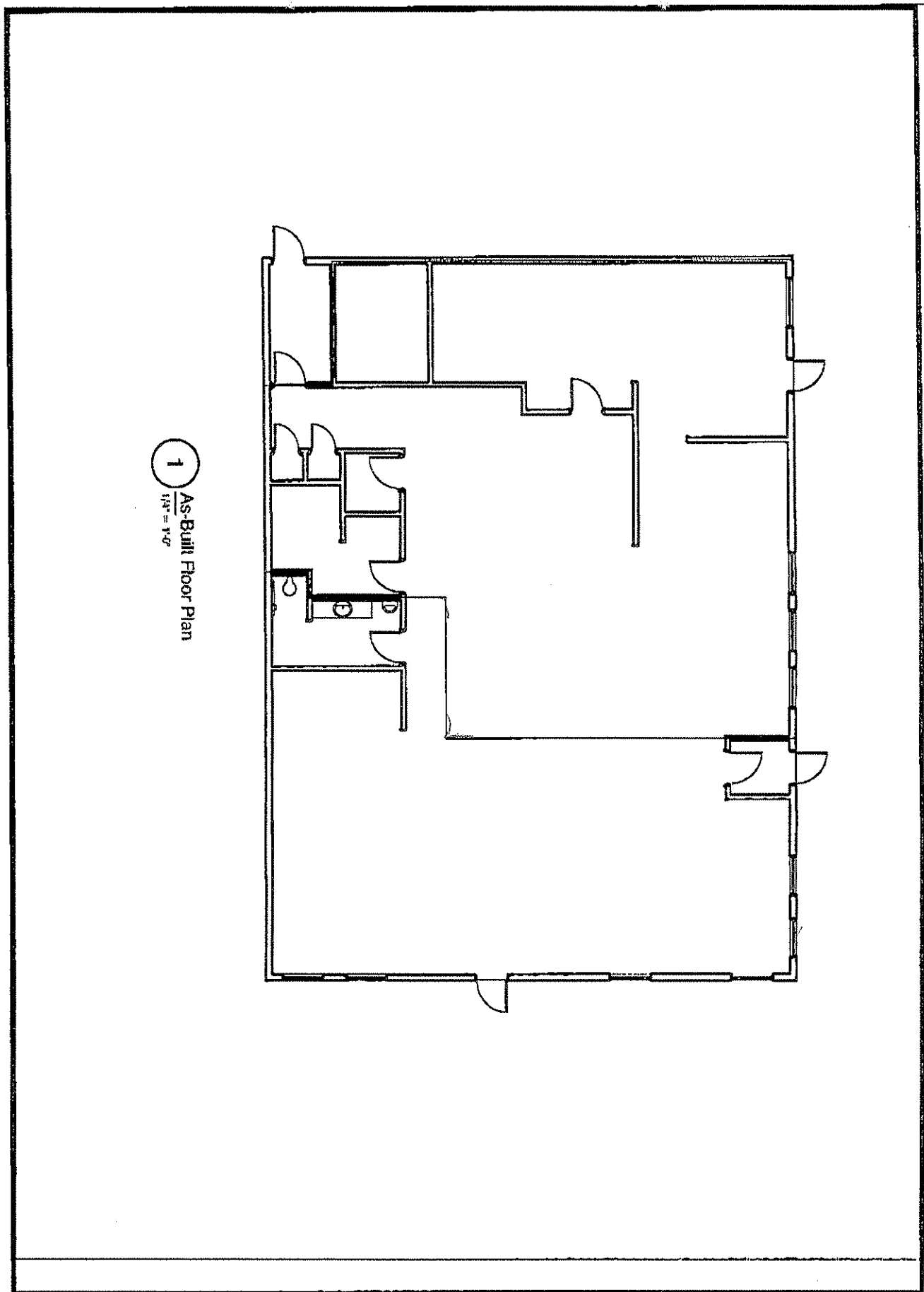


EXHIBIT C