

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 05-181

Declaring a Portion of the Property Located at 5329 NE Martin Luther King, Jr. Boulevard, Portland, Oregon to be Surplus and Approving a Real Property Lease to the Community Cycling Center

The Multnomah County Board of Commissioners Finds:

- a. Multnomah County issued a Permit for Storage of Bicycles to Community Cycling Center in June, 2002 for space in the Walnut Park facility located at 5329 NE Martin Luther King, Jr. Boulevard, Portland, Oregon, 97211.
- b. The permitted use by Community Cycling Center of the Walnut Park Facility for storage of bicycles was to expire January 31, 2003, or until terminated by either party as provided in the permit.
- c. Community Cycling Center has a continued need for bicycle storage space to support their year-round bicycle donation programs for low-income youth and adults, or for resale in their used bike shop.
- d. A portion of the leased Property located at 5329 NE Martin Luther King, Jr. Boulevard, Portland, Oregon, 97211 is, at this time, surplus to any County use.
- e. The attached lease has been negotiated with the Community Cycling Center.
- f. It is in the best interests of the County to lease the Property on the terms and conditions set forth in the attached lease.

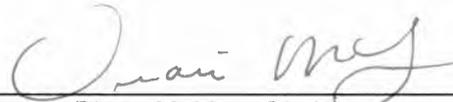
The Multnomah County Board of Commissioners Resolves:

1. The Board approves the attached lease. The County Chair is authorized to execute the lease substantially in the form attached to this Resolution.
2. The County Chair is authorized to execute renewals of the lease and to execute amendments to the lease without further Board action.

ADOPTED this 27th day of October, 2005.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

John S. Thomas, Deputy County Attorney

LEASE

Between: Multnomah County, Oregon ("Landlord")
Facilities and Property Management
401 N. Dixon Street
Portland, Oregon 97227
Phone: 503-988-3322
FAX: 503-988-5082

And: Community Cycling Center ("Tenant")
1700 NE Alberta Street
Portland OR 97211
Phone: (503) 288-8864

Landlord leases to Tenant and Tenant leases from Landlord in the facility known as the "Walnut Park Building", located at 5329 NE Martin Luther King, Jr. Boulevard, Portland, Oregon the following described property (the "Premises") on the terms and conditions stated below:

Approximately 1,027 square feet of designated space on the 1st Floor, as shown on the attached Exhibit "A", together with approximately 3,314 square feet of designated space in the Basement, as shown on the attached Exhibit "B".

Section 1. Occupancy

1.1 Original Term. The term of this lease shall commence July 1, 2005 and continue through June 30, 2006.

1.2 Possession. Tenant's right to possession and obligations under the lease shall commence on July 1, 2005.

1.3 Termination. Either party may terminate this Lease effective at any time during the term upon not less than thirty (30) days written notice to the other party.

Section 2. Rent

2.1 Base Rent. The base rent shall be \$1.00 per year during the initial term of this Lease. Rent shall be payable in advance on the first day of the lease term at the address for Landlord first above stated or at such place as may be designated by Landlord.

Section 3. Use of the Premises

3.1 Permitted Use. The designated space within the Premises shall be used for storage of bicycles belonging to the Tenant as authorized under Sub-Section 3.5, and for no other purpose without the prior written consent of Landlord. Tenant shall access the Walnut Park building only during regular business hours, and control of access to the Premises will be specifically designated by the County through its Facilities Property Manager.

3.2 Restrictions on Use. In connection with the use of the Premises, Tenant shall:

(1) Conform to all applicable laws, ordinances and regulations of any public authority affecting the premises and the use, and correct at Tenant's own expense any failure of compliance created through Tenant's fault or by reason of Tenant's use, but Tenant shall not be required to make any structural changes to effect such compliance.

(2) Refrain from all use of real property outside the designated storage areas. The specific areas used by the Tenant as storage within the Premises have been provided in "as-is" condition, and the County shall not be required to provide any improvements or additional services to the premises.

(3) Refrain from having any person in the Tenant's employ on the Premises, or in the employ of any contractor on the Premises, without prior written consent of the Landlord and providing the County satisfactory evidence of Workers Compensation Insurance covering such workers.

(4) Refrain from any activity that would make it impossible to insure the Premises against casualty, would increase the insurance rate, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau, or its successor, allowing Landlord to obtain reduced premium rates for long-term fire insurance policies, unless Tenant pays the additional cost of the insurance.

(5) Refrain from any use that would be reasonably offensive to other tenants or owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the premises.

(6) Refrain from storing non-bike related items on the Premises or storing items in such a manner as to violate fire, life, or safety considerations, loading the electrical system or floors beyond the point considered safe by a competent engineer or architect selected by Landlord, impede sprinkler system operations, or access to fire doors and extinguishers.

(7) Refrain from making any improvements, marks on or attaching any sign, insignia, or other device to the exterior or interior walls, windows, or roof of the premises without the written consent of Landlord.

(8) Refrain from using the Premises for working on or making repairs to bicycles.

3.3 Hazardous Substances. Tenant shall not cause or permit any Hazardous Substance to be stored, spilled, leaked, disposed of, or otherwise released on or under the Premises. The term Environmental Law shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term Hazardous Substance shall mean any hazardous, flammable, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

3.4 Parking. Parking for all tenants of, and visitors to, the building in which the Premises are located are available on a first come, first serve basis and are non-exclusive to the Tenant. The Tenant shall not block access to driveways or parking entrances while accessing the Premises.

3.5 Provision of Services. It is understood and agreed that Tenant's rent paid under this lease is structured to be lower than the Landlord's rental rate. In consideration for that rent reduction, Tenant shall make good faith efforts to recycle, reuse, or refurbish all donated bicycles placed in storage on the Premises to support the Tenant's year-round bicycle donation programs for low-income youth and adults, or for resale in the Tenant's off-site used bike shop. Tenant's failure to adequately perform these services, in the sole determination of the Landlord, shall be considered a default under this lease as provided at Sections 13 and 14.

Section 4. Repairs and Maintenance

4.1 Maintenance and Repair of Premises. Responsibilities for repair and maintenance of the Premises shall be as follows:

(1) Landlord shall perform all necessary maintenance and repairs to the structure, foundation, exterior walls, roof, doors and windows, elevators, emergency lighting, and Lessor-provided fire extinguishers, sidewalks and parking area, which are located on the Premises or the structure in which the Premises are located. Landlord shall repair or replace, if necessary and at Landlord's sole expense, the heating, venting, air conditioning, plumbing, electrical, and lighting systems in the Premises, obtaining required permits and inspections from Codes enforcement authorities. Landlord shall keep the Premises, improvements, grounds, and landscaping in good repair and appearance. Landlord shall furnish, install and replace all exterior and interior lighting bulbs, ballasts and fluorescent tubes.

(2) Tenant shall maintain the Premises in a hazard free condition, and at the expiration of the term surrender the Premises in as good condition as at the commencement of this Lease, excepting only reasonable wear, permitted alterations, and damage by fire or other casualty.

4.2 Tenant's Obligations. The following shall be the responsibility of Tenant:

(1) Any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except as provided in Section 6.3 dealing with waiver of subrogation, but including repairs that would otherwise be the responsibility of Landlord under Section 4.1.

(2) Any repairs or alterations required under Tenant's obligation to comply with laws and regulations as set forth in Section 3.2(1).

(3) All other repairs to the Premises which Landlord is not required to make under Section 4.1.

4.3 Inspection of Premises. Landlord shall have the right to inspect the Premises at any reasonable time or times to determine the necessity of repair. Whether or not such inspection is made, the duty of Landlord to make repairs shall not mature until a reasonable time after Landlord has received from Tenant written notice of the repairs that are required.

Section 5. Alterations

5.1 Alterations Restricted. Tenant shall make no improvements or alterations on the Premises of any kind without Landlord's written consent. Alterations requested by Tenant and Approved by Landlord will be performed by Landlord at the expense of Tenant.

5.2 Ownership and Removal of Alterations. All improvements and alterations performed on the Premises shall be the property of Landlord when installed unless the applicable Landlord's consent or work sheet specifically provides otherwise. Such improvements and alterations shall, at Landlord's option, be removed by Tenant and the premises restored, unless the applicable Landlord's consent or work sheet specifically provides otherwise.

Section 6. Insurance

6.1 Insurance Required Tenant. Tenant shall provide at its expense on or before the Commencement Date and keep in force during the Term, naming Landlord insured, a commercial general liability insurance policy or such successor comparable form of coverage (hereinafter referred to as a "Liability Policy") written on a "claims made basis," including, without limitation, blanket contractual liability coverage, broad form property damage, independent contractor's coverage, and personal injury coverage, protecting Landlord and Tenant against liability occasioned by any covered occurrence on or about the Premises. Such policy shall be written by a good and solvent insurance company licensed to do business in the State of Oregon and shall provide coverage limits of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily or personal injury (including death) and property damage combined, subject to a commercially reasonable deductible. Prior to the time such insurance is first required to be carried by Tenant and thereafter, Tenant agrees to deliver to Landlord a certificate evidencing such insurance coverage. Said certificate shall contain an endorsement that such insurance may not be canceled except upon ten (10) days' prior written notice to Landlord.

Section 7. Taxes

7.1 Property Taxes. Tenant shall pay as due all taxes on its personal property located on the Premises. Tenant shall, upon invoice from landlord, reimburse Landlord for all real property taxes levied against the Premises. As used herein, real property taxes include any fee or

charge relating to the ownership, use or rental of the Premises, other than taxes on net income of Landlord. If Tenant intends to seek exemption from real property taxes Tenant shall apply for exemption through Multnomah County Assessment and Taxation pursuant to ORS 307.112.

7.2 Special Assessments. If an assessment for a public improvement is made against the Premises, Landlord may elect to cause such assessment to be paid in the maximum number of installments allowed by law, in which case all of the installments payable with respect to the lease term shall be treated the same as general real property taxes for purposes of Section 7.1.

7.3 Contest of Taxes. Tenant shall be permitted to contest the amount of any tax or assessment as long as such contest is conducted in a manner that does not cause any risk that Landlord's interest in the Premises will be foreclosed for nonpayment. Landlord shall cooperate in any reasonable manner with such contest by Tenant.

7.4 Proration of Taxes. Tenant's share of real property taxes and assessments for the years in which this lease commences or terminates shall be prorated based on the portion of the tax year that this lease is in effect.

Section 8. Services and Utilities.

8.1 Landlord and Tenant Responsibilities. Landlord will cause the utilities and services listed below to be furnished to the Premises. Costs shall be paid as indicated:

<u>Utility or Service</u>	<u>Cost Paid By:</u>	
	<u>Landlord</u>	<u>Tenant</u>
Water	<u>X</u>	___
Sewer	<u>X</u>	___
Electricity	<u>X</u>	___
Gas	<u>X</u>	___
Trash Removal	<u>X</u>	___
Janitorial Service	<u>X</u>	___
Janitorial Supplies	<u>X</u>	___
Snow and Ice Removal	<u>X</u>	___

8.2 Recycling Materials. Landlord shall support the policy for recycling materials as provided in ORS 279.560 by providing adequate collection areas and storage facilities for office recycling programs when recycling services are available to Tenant.

Section 9 Damage and Destruction. If the Premises are partly damaged or destroyed the Premises shall be repaired by Landlord at Landlord's expense and discretion. Either party may elect to terminate the lease by written notice to the other given within thirty (30) days after the date of the damage. If Landlord deems it practicable to repair the damage to the Premises, the repairs shall be accomplished with all reasonable dispatch subject to interruptions and delays from labor disputes and matters beyond the control of Landlord and shall be performed in accordance with the provisions of Section 4.3.

Section 10. Liability and Indemnity

10.1 Liens

(1) Except with respect to activities for which Landlord is responsible, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens. If Tenant fails to pay any such claims or to discharge any lien, Landlord may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of nine percent (9%) per annum from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default.

(2) Tenant may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten (10) days after knowledge of the filing, secure the discharge of the lien or deposit with Landlord cash or sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

10.2 Indemnification. Tenant shall indemnify and defend Landlord from any claim, loss, or liability arising out of or related to any negligent activity of Tenant on the Premises or any condition of the Premises in the possession or under the control of Tenant. Landlord shall have no liability to Tenant for any injury, loss, or damage caused by third parties, or by any condition of the Premises except to the extent caused by Landlord's gross negligence under this lease.

Section 11. Quiet Enjoyment; Mortgage Priority

11.1 Landlord's Warranties.

Landlord warrants that it is the owner of the Premises and has the right to lease them. Landlord will defend Tenant's right to quiet enjoyment of the Premises from the lawful claims of all persons during the lease term.

Section 12. Assignment and Subletting. No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the property be conferred on any third person by any other means.

Section 13. Default.

The following shall be events of default:

13.1 Default in Rent. Failure of Tenant to pay any rent or other charge within 10 days after written notice that it is due.

13.2 Default in Other Covenants. Failure of Tenant to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within twenty (20) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 20-day period, this provision shall be complied with if Tenant begins correction of the default within the twenty (20) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

13.3 Insolvency. Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within ten (10) days shall constitute a default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Tenant under the lease.

Section 14. Remedies on Default. In the event of default by tenant, the Lease may be terminated at the option of Landlord by written notice to Tenant. Whether or not the Lease is terminated by the election of Landlord, Landlord shall be entitled to pursue any remedies available to Landlord under applicable law.

Section 15. Surrender at Expiration

15.1 Condition of Premises. Upon expiration of the lease term or earlier termination, Tenant shall deliver all keys to Landlord and surrender the Premises in first-class condition and broom clean. Alterations constructed with permission from Landlord shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purpose for which the Premises are leased shall be excepted but repairs for which Tenant is responsible shall be completed to the latest practical date prior to such surrender. Tenant's obligations under this section shall be subordinate to the provisions of Section 9 relating to destruction.

15.2 Fixtures

(1) All fixtures placed upon the Premises during the term, other than Tenant's trade fixtures, shall, at Landlord's option, become the property of Landlord. If Landlord so elects, Tenant shall remove any or all fixtures that would otherwise remain the property of Landlord, and shall repair any physical damage resulting from the removal. If Tenant fails to remove such fixtures, Landlord may do so and charge the cost to Tenant with interest at the legal rate from the date of expenditure.

(2) Prior to expiration or other termination of the lease term Tenant shall remove all bicycles, stored items, furnishings, furniture, and trade fixtures that remain its property. If Tenant fails to do so, this shall be an abandonment of the property, and Landlord may retain the property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant

within twenty (20) days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Landlord.

15.3 Holdover

(1) If Tenant does not vacate the Premises at the time required, Landlord shall have the option to treat Tenant as a tenant from month to month, subject to all of the provisions of this lease except the provisions for term and renewal and at a rental rate equal to the rent last paid by Tenant during the original term. Failure of Tenant to remove bicycles, stored items, furnishings, furniture, and trade fixtures that Tenant is required to remove under this lease shall constitute a failure to vacate to which this section shall apply if the property not removed will substantially interfere with occupancy of the Premises by another tenant or with occupancy by Landlord for any purpose including preparation for a new tenant.

(2) If a month-to-month tenancy results from a holdover by Tenant under this Section 15.3, the tenancy shall be terminable at any time on written notice from Landlord given not less than thirty (30) days prior to the termination date which shall be specified in the notice. Tenant waives any notice that would otherwise be provided by law with respect to a month-to-month tenancy.

Section 16. Miscellaneous

16.1 Nonwaiver. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

16.2 Notices. Any notice required or permitted under this lease shall be given when actually delivered or forty eight (48) hours after deposited in United States mail as certified mail addressed to the address first given in this lease or to such other address as may be specified from time to time by either of the parties in writing.

16.3 Succession. Subject to the above-stated limitations on transfer of Tenant's interest, this lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.

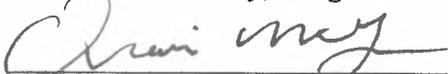
16.4 Entry. Landlord shall have the right to enter upon the Premises to determine Tenant's compliance with this lease, to make necessary repairs to the building or to the Premises, or to show the Premises to any prospective tenant or purchaser, except in cases of urgency as determined in the Landlord's sole opinion, when Landlord shall have the right to enter upon the Premises without notice. Tenant shall provide Landlord with keys to any locks used within the Premises that have been installed by Tenant. In addition, Landlord shall have the right, at any time during the term of this lease, to place and maintain upon the Premises notices for leasing or selling of the Premises.

16.5 Interest on Rent and Other Charges. Any rent or other payment required of Tenant by this lease shall, if not paid within ten (10) days after it is due, bear interest at the rate of nine percent (9%) per annum (but not in any event at a rate greater than the maximum rate of interest permitted by law) from the due date until paid. In addition, if Tenant fails to make any rent or other payment required by this lease to be paid to Landlord within five days after it is due, Landlord may elect to impose a late charge of five cents (\$0.05) per dollar of the overdue payment to reimburse Landlord for the costs of collecting the overdue payment. Tenant shall pay the late charge upon demand by Landlord. Landlord may levy and collect a late charge in addition to all other remedies available for Tenant's default, and collection of a late charge shall not waive the breach caused by the late payment.

16.8 Proration of Rent. In the event of commencement or termination of this lease at a time other than the beginning or end of one of the specified rental periods, then the rent shall be prorated as of the date of commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to Tenant or paid on its account.

16.9 Time of Essence. Time is of the essence of the performance of each of Tenant's obligations under this lease.

Landlord:
Multnomah County, Oregon


By: Diane M. Linn, County Chair

Tenant:
Community Cycling Center


By:

Reviewed:


John S. Thomas,
Deputy County Attorney

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

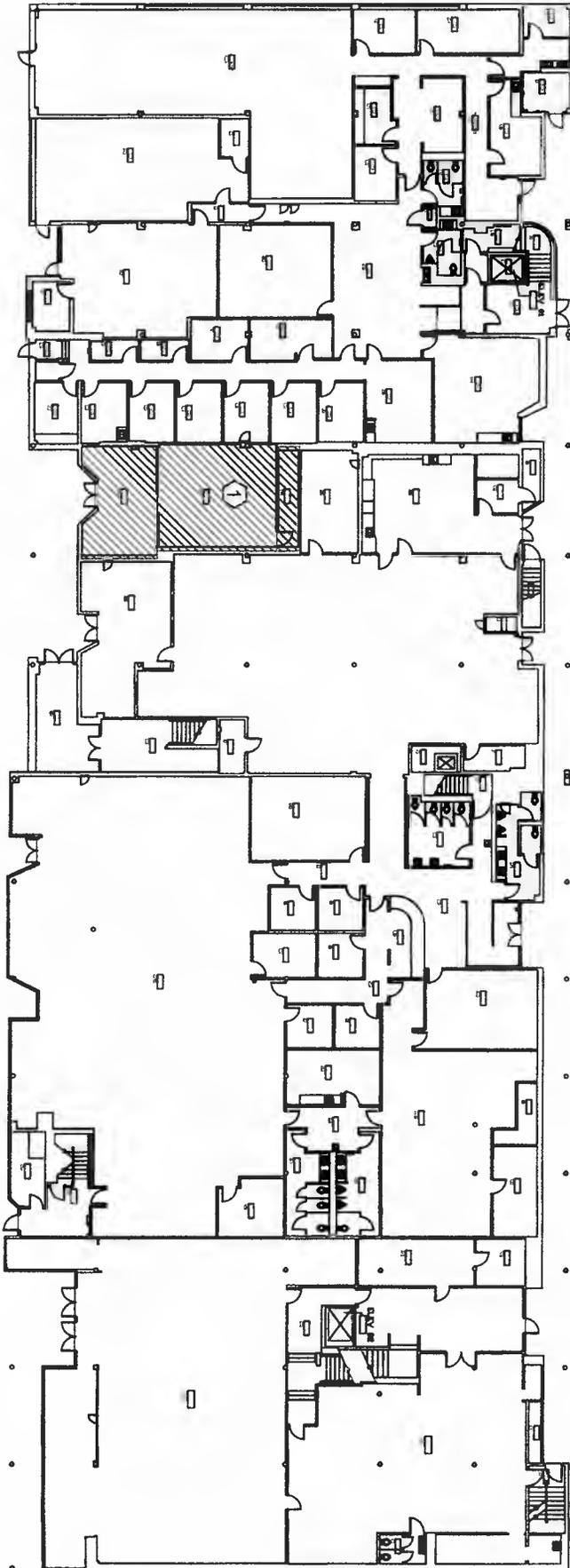
AGENDA # R-1 DATE 10/27/05
DEBORAH L. BOGSTAD, BOARD CLERK

Exhibit A

Occupant Information

① R-33E
1027
Community Cycling Center

Walnut Park - 322
5329 NE Martin Luther King Jr. Blvd.
Portland, Oregon 97211



First Floor

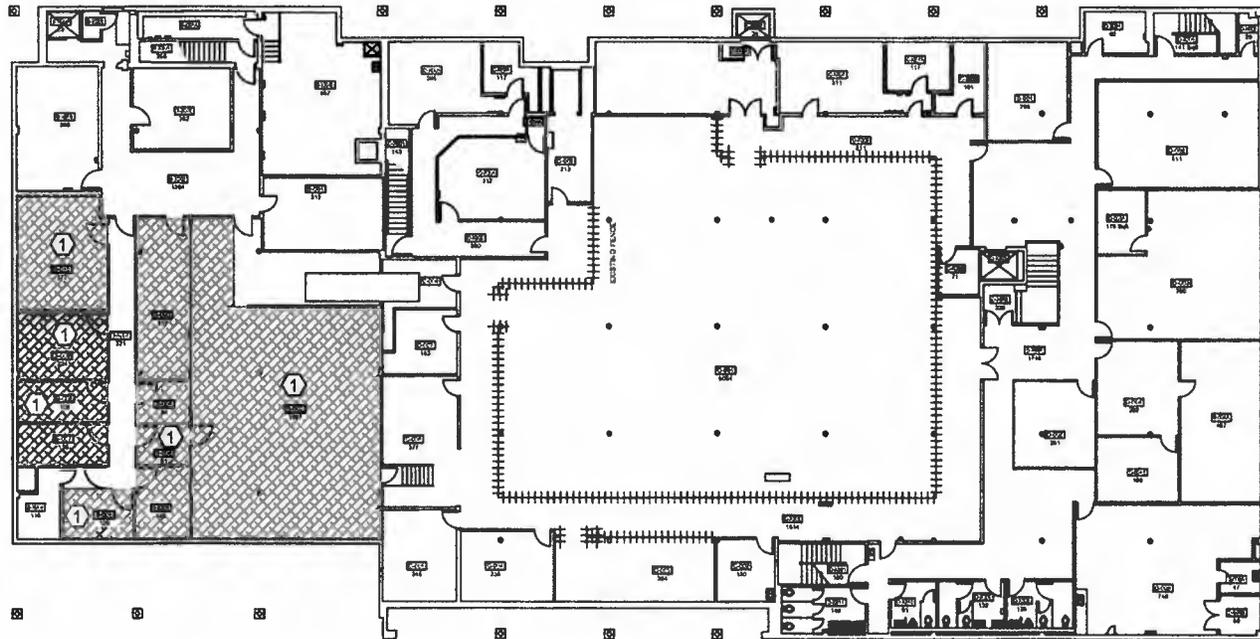


Occupant Information

① R-33E
3314
Community Cycling Center

Walnut Park - 322
5329 NE Martin Luther King Jr. Blvd.
Portland, Oregon 97211

Exhibit B



Basement

