

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
County of Santa Barbara)
General Services Department)
Real Property Division)
1105 Santa Barbara Street)
Second Floor, Courthouse East Wing)
Santa Barbara, CA 93101)
)

No Fee per Government Code § 6103
No Documentary Transfer Tax per R&T Code § 11922
No Recording Fee per Gov Code § 27383
Exempt from Building Homes and Jobs Act Fee per Gov Code § 27388.1(a)(2)(D)

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 059-140-029

**THIRD AMENDMENT TO LEASE AGREEMENT
(CASA DEL MURAL)**

THIS THIRD AMENDMENT TO LEASE AGREEMENT (hereinafter “Third Amendment”) is made by and between the

COUNTY OF SANTA BARBARA, a political subdivision of the State of California, hereinafter referred to as "COUNTY,"

and

SANTA BARBARA COMMUNITY HOUSING CORPORATION, a California non-profit corporation, hereinafter referred to as “SBCHC” or “LESSEE,”

with reference to the following:

WHEREAS, on December 5, 1989, COUNTY and LESSEE entered into a Lease Agreement (hereinafter “Lease”) for LESSEE’s use of the building known as Casa Del Mural, located at 4570 Calle Real, in the unincorporated area of Santa Barbara County (hereinafter “Premises”), to develop a residential project for mentally ill persons in order to meet requirements of the State of California for demonstrated site control pursuant to the regulations of the Permanent Housing for Handicapped program (“PHH”) and the Special User Housing Rehabilitation Program (“SUHRP”); and

WHEREAS, the parties executed an amendment to the Lease on November 5, 1991 (hereinafter “First Amendment”), which extended the Lease through November 30, 2022, and amended those sections of the Lease pertaining to rent, preconstruction costs, non-assignability, and termination; and

WHEREAS, on January 1, 1992, in furtherance of LESSEE's rights and obligations under the Lease and First Amendment, LESSEE obtained a thirty-year SUHRP loan (hereinafter "SUHRP Loan") from the State of California, Department of Housing and Community Development ("HCD") in the amount of \$200,000 at a rate of three percent (3%) fixed simple interest per year, due and payable in full by lump-sum payment on January 23, 2022. Additionally, LESSEE obtained a PHH loan in the amount of \$477,326 from the U.S. Department of Housing and Urban Development (HUD) which has since been forgiven; and

WHEREAS, COUNTY Auditor-Controller's Office thereafter established a Special Revenue account in the amount of Fifty Thousand (\$50,000), County Fund No. 1163 ("Fund 1163"), to be used to accumulate funds for repayment of the SUHRP Loan. Due to an underperformance of the estimated interest rate of Fund 1163, the fund has not and will not accrue enough interest to cover the principal and interest of the SURHP Loan when due; and

WHEREAS, on November 3, 2009, the parties executed the Second Amendment to Lease Agreement (hereinafter "Second Amendment"), which clarified certain loan obligations of LESSEE; set forth COUNTY's obligation to conduct maintenance and repairs and pay all utilities for the Premises; directed LESSEE to acquire and maintain a "Shelter Plus Care" ("SPC") designation for the Premises in accordance with regulations established by the Housing Authority of the City of Santa Barbara ("HACSB"); and modified LESSEE's property management duties including, but not limited to, collaborating with COUNTY on resident selection, collecting security deposits and rents, preparing reports, and forwarding to COUNTY funds in excess of the cumulative total of all security deposits for tenants currently residing at the Premises, less LESSEE's fee of \$500 per month; and

WHEREAS, beginning in the Fourth Quarter of Fiscal Year 2017-2018 to present, LESSEE has been withholding rents in order to cover the shortfall of accumulated funds in Fund 1163; and

WHEREAS, as of July 1, 2020, LESSEE no longer receives funding from the SPC program and now accepts tenant rental assistance from the HUD Section 8 Housing Choice Voucher Program ("Voucher Program"); and

WHEREAS, COUNTY and the LESSEE desire to amend the Lease, effective retroactively to July 1, 2020, to further define the parties' roles and responsibilities; to increase LESSEE's property management fee to \$700 per month; and reaffirm and clarify LESSEE's obligation to remit all withheld rents to COUNTY for deposit into Fund 1163 for the eventual repayment of the SUHRP Loan on or before January 23, 2022;

WHEREAS, COUNTY and the LESSEE desire to extend the Lease to November 30, 2032;

WHEREAS, COUNTY has provided written notice to HCD, which has reviewed and approved this Third Amendment in accordance with Section 7 of the Lease, and a copy of such approval is attached hereto and incorporated herein as Exhibit "C";

NOW THEREFORE, in consideration of the Premises and the mutual covenants and conditions contained herein, COUNTY and LESSEE agree to amend the Lease as follows:

1. Section 1, ADMINISTRATION AND ENFORCEMENT, is hereby deleted in its entirety and replaced with the following:

“The provisions of this lease shall be administered and enforced for the COUNTY by the Director of the Department of Behavioral Wellness or designee (the “Director”).”

2. Section 3, TERM, is hereby deleted in its entirety and replaced with the following:

“The term of this lease shall be for forty-three (43) years, commencing on December 1, 1989, and ending at midnight November 30, 2032, unless sooner terminated pursuant to the provisions of this Lease.”

3. Section 16, PURPOSE, is hereby deleted in its entirety and replaced with the following:

“LESSEE shall use the premises for the provision of residential services to homeless mentally ill persons, including such persons at risk of becoming homeless”; and

“LESSEE shall act as property manager for the Premises. COUNTY shall utilize grant subsidies and other funds for the Premises. So long as grant funding is received from the Continuum of Care (CoC) to operate the Premises, tenants will be referred by the Coordinated Entry System and COUNTY and LESSEE will collaborate to review referrals for resident selection and overall operation of the Premises. If CoC funding ends, residential housing referrals will be through the COUNTY Designated Representative. In addition, LESSEE shall provide property management services at the Premises to provide continuous residential services to at least eight (8) homeless mentally ill clients, as provided for herein.

a. REASSIGNMENT OF SUBSIDIES: LESSEE shall reassign any subsidies received from the HACSB to COUNTY according to Subsection 16(b)(III), Security Deposits; Rents and Account, as amended herein.

b. PROPERTY MANAGEMENT: Lessee and County Behavioral Wellness will have an ongoing Contract Agreement for the property management services at Casa del Mural.

I. Candidates for Residency: Candidates for residency shall be referred by the Coordinated Entry System or otherwise through the COUNTY in accordance with applicable County, State or Federal program requirements. COUNTY will collaborate with LESSEE as needed on the screening of potential candidates for residency. From this candidate pool, LESSEE shall, in coordination with HACSB, determine whether the candidates meet governmental regulatory criteria for placement at the Premises (i.e. meet the definition of homelessness), meet the criteria for the Voucher Program and/or CoC, and meet the criteria for a person with severe mental illness. LESSEE shall maintain a list of qualified candidates who meet the regulatory criteria and shall collaborate as needed with COUNTY to select residents from this list of qualified candidates.

II. Tenant Agreements:

A. LESSEE shall consult with COUNTY in LESSEE’s administration of tenant agreements and documentation in accordance with the Voucher Program.

B. LESSEE shall perform rent calculations in accordance with HUD requirements. LESSEE shall utilize the HUD Rent Calculation Worksheet and shall provide a copy of said worksheet to COUNTY for each tenant.

C. COUNTY shall collaborate with LESSEE in the review of tenant agreements to ensure compliance with applicable local, state and federal regulations.

III. Security Deposits, Rents and Account:

A. Security Deposits. LESSEE shall collect a security deposit from each tenant. The security deposit shall be held for each tenant until the tenant's agreement is terminated and the tenant vacates the Premises.

B. Rents.

1. On a quarterly basis, LESSEE shall forward to COUNTY any and all funds in excess of the Minimum Balance less LESSEE's fee of \$700 per month. This payment shall be inclusive of the rent subsidies received from HACSB for the Premises. Payment shall be made to COUNTY no later than the fifteenth (15th) day of the third month of each quarter, such that payment shall be due on March 15th, June 15th, September 15th, and December 15th of each year of the Term.

2. Withheld Rents. Within 5 days of COUNTY's execution of this Third Amended Lease, LESSEE shall submit all funds withheld to date by LESSEE to COUNTY Department of Behavioral Wellness.

3. COUNTY shall, in accordance with the Memorandum of Understanding, deposit sufficient rents collected in Fund 1163 for the purpose of satisfying the SUHRP Loan. A copy of the MOU is attached hereto and incorporated by reference.

4. The lease will cover future rents and withheld rents and only references the MOU for more detail about the terms of the loan repayment. Rent from July 1, 2020 forward is less \$700 per month for SBCHC administrative fee.

IV. Account. LESSEE shall maintain an account for the Premises. This account shall be used to hold security deposits and rents. The minimum balance maintained at all times shall be no less than the cumulative total of all security deposits for the tenants currently residing at the Premises ("Minimum Balance").

V. Tenant Move-Out: LESSEE shall collaborate with COUNTY during tenant move-out. This shall include a collaborative move-out inspection of the tenant's room so that a determination can be made whether any repairs are needed to the room. If LESSEE and COUNTY determine that damage to the room exceeds normal wear and tear, the tenant's security deposit shall be debited for the cost of repairs and any balance remaining shall then be paid to the vacating tenant from LESSEE's account. LESSEE shall reimburse COUNTY for the cost of repairs to the tenant's room.

VI. Complaints and Eviction: COUNTY shall notify LESSEE of concerns regarding tenant behaviors, any concerns regarding repairs and/or maintenance of the Premises, and other issues that may fall under the scope of LESSEE's responsibilities to the Premises, as COUNTY becomes aware of such issues and/or concerns. LESSEE shall work collaboratively with COUNTY staff to manage tenant behavior and address concerns regarding tenant agreements and rules.

A. Tenant Eviction: LESSEE shall recommend tenant(s) for eviction in the event LESSEE observes or becomes aware of a violation of LESSEE's rules and regulations. LESSEE shall collaborate with the offending tenant's extended care team and, in compliance with the Voucher Program's notice to vacate requirements; all notices of 3-day, 30-, 60- or 90-day, must state the cause for termination and be sent to COUNTY and HACSB along with all other notices, addenda and/or warnings. If the notice or warning is being served due to a lease violation, the case manager and/or leasing agent will follow up with the Voucher Program participant to address those issues. As with all tenants, proper documentation of warnings and lease violations is crucial to effectively evict a tenant who is not abiding by the lease.

B. In the event COUNTY staff observes or becomes aware of a tenant's violation of tenant agreements and/or rules, COUNTY shall advise LESSEE as the property management entity. While the emphasis will be to avoid evictions, such evictions will require COUNTY to work collaboratively with LESSEE, who shall manage the eviction process in compliance with all federal, state and local rules and guidelines. LESSEE shall notify COUNTY within one (1) business day of the initiation of any eviction action, and shall provide COUNTY with the final date of eviction within one (1) business day after the date has been determined.

VII. Reports:

A. LESSEE shall prepare and submit all applicable reports required by local, state and federal agencies, as well as all reports required to fulfill its contract with HACSB.

B. LESSEE shall maintain and file all tax reports, audits, and submissions of Welfare Tax Exemption documents associated with the Premises and shall provide a copy of all documents to COUNTY.

C. LESSEE shall submit to COUNTY a copy of their audited annual financial statement, including management comments within thirty (30) days after the report is received by LESSEE.

D. If LESSEE is required to perform a single audit, per the requirements of OMB Supercircular 2 CFR Part 200, LESSEE shall submit a copy of such single audit to COUNTY within thirty (30) days of receipt."

4. Section 25, NOTICES: is hereby repealed in its entirety and replaced with the following:

"Any notice to be given to either party by the other party shall be in writing and shall be delivered either personally or by registered or certified mail to the following:

To COUNTY: Attn: Director
 County of Santa Barbara Behavioral Wellness
 300 North San Antonio Road, Bldg. 3
 Santa Barbara, CA 93110

and a copy concurrently given to: Attn: Real Property Manager
 County of Santa Barbara General Services
 Real Property Division
 1105 Santa Barbara Street, Second Floor
 Santa Barbara, CA 93101

To LESSEE: Attn: Executive Director
Santa Barbara Community Housing Corporation
11 East Haley Street
Santa Barbara, CA 93101”

5. Section 26, TERMINATION, is amended by replacing subsection (d) with the following:

“(d) or after or upon the expiration of rental restrictions after all required notices have been provided to the tenants in compliance with applicable requirements, which may include California Government Code Sections 65863.10, 65863.11 and/or 65863.13 as they may be revised or replaced from time to time. COUNTY may terminate this Lease and any applicable rent restrictions that it imposes by giving written notice of its intent to terminate to LESSEE in accordance with Section 25 herein (“Intent to Terminate”), which notice may be given with or without cause. Upon receipt of an Intent to Terminate, LESSEE shall, within 60 days, issue any required notices to tenants that may be necessary to comply with California Government Code Sections 65863.10, 65863.11 and/or 65863.13, as those statutes may be revised or replaced from time to time, and any other applicable local, state or federal requirements. COUNTY and LESSEE understand that the notice period may be three (3) years or more. COUNTY may elect, at its sole discretion, to issue the required notices to the tenants instead of LESSEE. The Lease shall terminate at the end of the applicable notice period required by law or on such other later date that the COUNTY may direct. The foregoing notwithstanding, this Lease shall not terminate earlier than 60 days from the date of the Intent to Terminate.

6. It is expressly understood that in all other respects, said terms and conditions of the original Lease dated December 5, 1989, subsequent First Amendment dated November 5, 1991, and Second Amendment dated November 3, 2009, shall be in full force and effect.

SIGNATURE PAGE FOLLOWS

Project: Casa Del Mural
Third Amendment
APN: 059-140-029
Folio No.: 002874
Agent: SF

IN WITNESS WHEREOF, COUNTY and LESSEE have executed this Third Amendment to Lease Agreement by the respective authorized officers as set forth below to be effective on July 1, 2020.

**“LESSEE”
SANTA BARBARA COMMUNITY
HOUSING CORPORATION**

By: _____
Authorized Representative

Name and Title

Date

COUNTY SIGNATURES TO FOLLOW

Project: Casa Del Mural
Third Amendment
APN: 059-140-029
Folio No.: 002874
Agent: SF

COUNTY OF SANTA BARBARA:

By: _____
Director
Department of Behavioral Wellness

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: _____
Scott Greenwood, Deputy County Counsel

By: _____
Deputy

APPROVED:

APPROVED:

By: _____
Julie Lawrence
Real Estate Services Manager

By: _____
Ray Aromatorio, ARM, AIC
Risk Manager

ALL-PURPOSE ACKNOWLEDGMENT

A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Santa Barbara)

On _____ before me, _____, Notary Public
(insert name and title of the officer here)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ALL-PURPOSE ACKNOWLEDGMENT

A notary or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Santa Barbara)

On _____ before me, _____, Notary Public
(insert name and title of the officer here)

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WITNESS my hand and official seal.

Signature _____ (Seal)