

**Occupancy Agreement
Between
COUNTY OF MONTEREY
and
Community Homeless Solutions**

This occupancy agreement, hereinafter called "Agreement" is made and entered into by and between the County of Monterey, a political subdivision of the State of California, (hereinafter, "OWNER") and **Community Homeless Solutions**, a 501(C)3 non-profit corporation (hereinafter, "OCCUPANT").

I. PURPOSE

OWNER seeks to provide use of premises to OCCUPANT and OCCUPANT seeks the use of premises from OWNER, upon the terms and conditions herein set forth, that certain real property situated at [REDACTED] and described as follows: Stand-alone single story building consisting of approximately [REDACTED] rentable and useable square feet (hereinafter, "Premises"). Usable square footage to include OCCUPANT'S use (subject to **Exhibit D: OWNER'S Rules and Regulations**) of the entire building. OCCUPANT, its clients, and invitees shall have access and use of any parking lot or parking facility owned or operated by OWNER at the Premises.

II. SCOPE OF SERVICES

The Premises shall be used by OCCUPANT as set forth herein to administer OCCUPANT'S program that provides a 24-hour emergency shelter for women and children who are facing emergency homeless situations and/or who are victims or survivors of domestic violence (hereinafter, "Program").

OCCUPANT will structure and operate a quality Program that is responsive to the needs of clients and the surrounding community. The period of operation will be for the duration of this Agreement only. To the extent possible, the hours of operation established will correspond with the needs of the clients served.

III. FINANCIAL ARRANGEMENTS

- A. OWNER shall allow OCCUPANT to the right of use, quiet enjoyment and possession of the Premises under the conditions of this Agreement at no cost to OCCUPANT.
- B. OCCUPANT will pay for any and all telephone charges pertaining to the operation of their Program, offices, computer equipment, or any information technology related expenses.
- C. OCCUPANT shall reimburse the OWNER for any costs incurred by the OWNER for damages caused as a direct result of OCCUPANT'S use of the Premises and areas appurtenant to the Premises.
- D. OWNER is allowing OCCUPANT to occupy the Premises on an "As-Is"

condition and with furnishing as detailed in **Exhibit A**. OCCUPANT shall make no alterations to the Premises without prior written consent of the OWNER.

- E. OWNER and OCCUPANT services and utilities responsibilities for the Premises shall be in accordance with **Exhibit B**.
- F. OWNER and OCCUPANT repair and maintenance responsibilities for the Premises shall be in accordance with **Exhibit C**.

IV. TERM OF THE AGREEMENT

- A. Occupancy Term: This Agreement shall become effective when executed by both parties and shall remain in effect until terminated or amended.

V. TERMINATION

- A. Termination by OWNER. Notwithstanding any other provisions of this Agreement, OWNER, at its sole option may terminate this Agreement upon sixty (60) days written notice.
- B. Termination by OCCUPANT. Notwithstanding any other provisions of this Agreement, OCCUPANT, at its sole option may terminate this Agreement upon sixty (60) days written notice, solely on the condition that funds have not been budgeted for the operation of the Program. OCCUPANT represents that its intent is not to exercise its rights under this Article unless financial conditions prevent their governing board from budgeting funds for the Program.

VI. INDEMNIFICATION

OCCUPANT shall indemnify, defend, and hold harmless the OWNER, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies, in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the OCCUPANT'S performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the OWNER. "OCCUPANT's performance" includes OCCUPANT's action or inaction and the action or inaction of OCCUPANT's officers, employees, agents and subcontractors.

OWNER shall indemnify, defend, and hold harmless the OCCUPANT, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms

or corporations furnishing or supplying work, services, materials, or supplies, in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the OWNER'S performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the OCCUPANT. "OWNER's performance" includes OWNER's action or inaction and the action or inaction of OWNER's officers, employees, agents and subcontractors.

VII. INSURANCE

- A. Evidence of Coverage. Prior to commencement of this Agreement, the OCCUPANT shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the OCCUPANT upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the OWNER's Contracts/Purchasing Office, unless otherwise directed. The OCCUPANT shall not receive approval for services for work under this Agreement until all insurance has been obtained as required and approved by the OWNER. This approval of insurance shall neither relieve nor decrease the liability of the OCCUPANT.

- B. Qualifying Insurers. All coverage, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the OWNER's Contracts/Purchasing Officer.
- C. Insurance Coverage Requirements. Without limiting OCCUPANT's duty to indemnify, OCCUPANT shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:
1. Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contactors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
 2. Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than

\$1,000,000 per occurrence if maximum estimated reimbursement obligation by OWNER to OCCUPANT under this Agreement is over \$100,000 or of not less than \$500,000 per occurrence if maximum estimated reimbursement obligation by OWNER to OCCUPANT under this Agreement is \$100,000 and less.

3. Workers Compensation Insurance, if OCCUPANT employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.
4. Professional Liability Insurance, No. this is not applicable if required for the professional service being provided, (e.g., those persons authorized by a license to engage in business or profession regulated by the California Business and Professional Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the OCCUPANT shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three (3) years following the expiration or earlier termination of this Agreement.

- D. Other Insurance Requirements, All insurance required by this Agreement shall be with a company acceptable to the OWNER and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date OCCUPANT completes its performance of services under this Agreement.

Each liability policy shall provide that the OWNER shall be given notice in writing at least thirty (30) calendar days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for OCCUPANT and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers,

agents, and employees as Additional Insured with respect to liability arising out of the OCCUPANT's work, including ongoing and complete operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the OWNER and that the insurance of the Additional Insured shall not be called upon to contribute to a loss covered by the OCCUPANT'S insurance.

Prior to the execution of this Agreement by the OWNER, OCCUPANT shall file certificates of insurance with the OWNER's contract administrator and the OWNER's Contracts/Purchasing Office, showing that the OCCUPANT has in effect the insurance required by this Agreement. The OCCUPANT shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

OCCUPANT shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by OWNER, annual certificates to OWNER'S Contract Administrator and OWNER'S Contracts/Purchasing Office. If the certificate is not received by the expiration date, OCCUPANT shall have five (5) calendar days to send the certificate, evidencing no lapse in coverage during the interim. Failure by OCCUPANT to maintain such insurance coverage is a breach of this Agreement, which entitles OWNER, at its sole and absolute discretion, to (1) immediately disallow claim(s) for payment and/or withhold payment(s) by OWNER to OCCUPANT, pursuant to Section III (A), for services rendered on or after the effective date of termination, reduction, non-renewal, or cancellation of the insurance coverage maintained by OCCUPANT, and/or (2) terminate this Agreement pursuant to Section IV.

VIII. MANAGEMENT AND COORDINATION

- A. On-site management of OCCUPANT'S Program, including services, shall be the sole responsibility of OCCUPANT.
- B. All official correspondence shall be mailed to the parties at their respective addresses as listed in the Notice provision of this Agreement.
- C. OCCUPANT shall follow all OWNER rules and regulations in **Exhibit D**, attached hereto and incorporated herein, regarding the use of the Premises. Such rules and regulations may be modified at any time with the written consent of both parties.

IX. DISPUTE RESOLUTION

In the event that any problem or issue arises with respect to the implementation or interpretation of the Agreement, the parties mutually agree to meet at the request of either of them to discuss and resolve the issue. In such event, the Executive Director for OCCUPANT or his/her designee, will meet with the OWNER's Department of Social Services Director, or his/her designee, to reach a mutually satisfactory and reasonable conclusion.

If the parties cannot resolve the dispute pursuant to the preceding paragraph above, the Parties agree to mediate any disagreements in good faith. Should either Party determine the dispute cannot be resolved in mediation, it is agreed that the dispute may be resolved in a court of law competent to hear the matter located in Monterey County, CA.

X. DISRUPTION OF SERVICE

In the event that the operation of the Program is interrupted because of any act or regulation of any public authority, civil tumult, strike, epidemic, natural disaster, interruption or delay of transportation or utility service, war conditions, or emergencies, or any cause beyond the control of either party, this Agreement may be suspended by either party without prior notice and neither party shall be liable for such suspension. In the event of a disaster, OCCUPANT and OWNER will work in cooperation with County Office of Emergency Service during the disaster to assist with provision of any appropriate services.

XI. APPLICABLE LAWS

This Agreement shall be interpreted and construed in accordance with applicable California law. Any legal proceedings arising out of this Agreement shall be brought in the Monterey County Superior Court.

XII. NON-DISCRIMINATION

During the performance of this Agreement, OCCUPANT, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in OCCUPANT's employment practices or in the furnishing of services to recipients. OCCUPANT shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. OCCUPANT and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

XIII. SEVERABILITY

Each party agrees that it shall perform its obligations hereunder in accordance with applicable laws, rules, and regulations now or hereafter in effect. If any term or provision of this Agreement is found to be illegal or unenforceable, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

XIV. NOTICE PROVISION

Any official notice or other correspondence which either party is required to give, shall be given by certified mail to the OWNER and OCCUPANT at the addresses listed below:

To OWNER:

Kim Petty, Facilities Manager
Department of Social Services
1000 S. Main Street Ste. 304
Salinas, CA 93901

To OCCUPANT:

Reyes Bonilla, Executive Director
3087 Wittenmyer Ct.
Marina, CA 93933

Any notice or correspondence shall be deemed delivered upon personal delivery or forty-eight (48) hours after notice is mailed. Correspondence other than notices may be given by regular mail, facsimile or email. Any correspondence sent by facsimile shall also be sent by United States mail. By written notice to the other, either party may change its own correspondence information.

XV. GENERAL PROVISIONS

- A. This Agreement contains all the agreements, understandings, representations, conditions, and covenants made between the parties as of the date of execution. This Agreement may be amended at any time by mutual consent of the OWNER and OCCUPANT. No changes in, or additions to, this Agreement shall be valid unless made in writing and signed by OWNER and OCCUPANT.
- B. This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654.
- C. This Agreement is not transferable or assignable by any party without the express written consent of the other party.
- D. The parties are acting herein as independent contractors. Nothing herein shall be construed as making either party the agent of the other. Nothing herein contained shall be construed as creating a partnership, joint venture or agency relationship between the parties and no party shall have the authority to bind the other in any respect.

IN WITNESS whereof, the parties have caused this Agreement to be executed as of the day and year signed below.

OWNER (County of Monterey)

By: _____

Title: Contracts/Purchasing Officer

Date: _____

OCCUPANT (Community Homeless Solutions)

By: _____

Title: Executive Director

Date: _____

Approved as to Form: (County Counsel)

By: _____

Title: Deputy County Counsel

Date: _____

OCCUPANT (Community Homeless Solutions)

By: _____

Title: _____
(Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer.)

Date: _____

EXHIBIT A

Furnishing and Appliances

The only furnishings and appliances included in this Agreement two (2) industrial refrigerators which shall be maintained by the OWNER.

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EXHIBIT B

SUMMARY OF SERVICES AND UTILITIES

The following is a summary of services and utilities responsibilities of OWNER and OCCUPANT for the proposed use of the Premises:

	OWNER	OCCUPANT
Provide adequate paper supplies, dispensers, and waste and recycling containers for the Premises and restrooms within Premises		X
Provide adequate custodial service for the interior of the Premises		X
Provide adequate custodial service for exterior of the Premises and the non-exclusive areas of the building (including steam cleaning or pressure washing sidewalks)	X	
Professionally clean carpets, rugs, tile and linoleum flooring		X
Professionally clean existing drapes, blinds, and window shades		X
Professionally clean interior windows (excluding common area)		X
Professionally clean exterior windows		X
Provide adequate pest control for the interior of the Premises		X
Provide adequate pest control for exterior of Premises	X	
Provide adequate landscape maintenance and gardening (including landscape irrigation system and associated water supply and service)	X	
Provide adequate parking lot area sweeping	X	
Provide adequate refuse, rubbish, garbage, and recyclable (paper, plastic, and aluminum, if available) disposal and pick up service	X	
Large item disposal (items that cannot be picked up by regular trash service i.e. mattresses, appliances, etc.)		X
Provide adequate fire sprinkler systems testing	X	
Provide adequate fire alarm systems monitoring	X	
Provide adequate intrusion/security alarm systems monitoring		X
Provide adequate heating and ventilation systems filter replacements, unit inspections, unit lubrications and record keeping pursuant to the California Code of Regulations, Title 8, Section 5142	X	
Provide adequate gas utility service	X	
Provide adequate electric utility service	X	
Provide adequate water utility service	X	
Provide adequate telephone and data service (including connection charges)		X

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EXHIBIT C

SUMMARY OF REPAIR AND MAINTENANCE RESPONSIBILITIES

The following is a summary of maintenance and repair responsibilities of OWNER and OCCUPANT for the proposed use of the Premises:

	OWNER	OCCUPANT
Affixed Cabinets	X	
Foundations and Floor Slabs	X	
Exterior and Bearing Walls	X	
Exterior Doors and Hardware	X	
Exterior Windows and Window Frames	X	
Roofs (including replacement if deemed necessary)	X	
Gutters, Drains and Downspouts	X	
Parking Lots	X	
Ceilings (damage due to roof leaks only)	X	
Fire Sprinkler Systems	X	
Fire Alarm Systems	X	
Intrusion/Security Alarm Systems		X
Heating and Ventilation Systems (including replacement if deemed necessary)	X	
Heating and Ventilation control switches, sensors and thermostats	X	
Electrical Systems (including electrical outlets, panels, circuit breakers and wiring)	X	
Plumbing Systems (including sewer and drain stoppages, and fixtures)	X	
Exterior Lighting (including starters, ballasts, transformers and light switches)	X	
Interior Lighting (including starters, ballasts, transformers and light switches)	X	
Interior Light Bulbs and Fluorescent Light Tubes (replacement)		X
Interior Walls	X	
Interior Wall Surfaces (including repainting every 5 years if Premises wall surfaces are accessible)		X
Interior Doors and Hardware	X	
Interior Windows and Window Frames	X	
Carpet, VCT, and Linoleum Flooring (including replacement if deemed necessary and with the understanding that OCCUPANT pays for moving office furniture and equipment).	X	
Base and/or Moldings (including replacement if deemed necessary)	X	
Appliances (excluding those listed in Exhibit B)		X
Communication Systems (data/telephone cabling, connections and equipment)		X

***Notwithstanding the forgoing, OCCUPANT will pay to OWNER the reasonable cost of any repairs or maintenance required as a result of negligent acts or omissions, or which is otherwise the fault, of OCCUPANT, its agents, employees, contractors, guests, or invitees.**

EXHIBIT D

OWNER'S RULES AND REGULATIONS

1. No sign or notice shall be displayed by OCCUPANT outside of the Premises without written consent of OWNER. If approval is not given, OWNER shall have the right to remove such sign or notice without notice to OCCUPANT and at the expense of the OCCUPANT. All signs on access doors to the Premises shall be approved by OWNER. OCCUPANT's standard company sign on the main door to the Premises will be installed at OWNER's expense. OCCUPANT may at its expense, install a different sign after receiving written design approval by OWNER. Design criteria should be obtained from OWNER in advance.
2. OCCUPANT shall not place anything within the Premises which may appear unsightly from outside of the Premises.
3. Sidewalks, halls, passages, exits, and entrances, shall not be obstructed by OCCUPANT, or used by them for any purpose other than for ingress or egress.
4. OCCUPANT shall not alter any lock or install any new or additional locks or bolts on any doors or windows without the written consent of OWNER.
5. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than for which they were installed.
6. OCCUPANT shall not overload the floor of the Premise.
7. OCCUPANT shall not mark, drive nails, screw or drill into the partitions, woodwork, or plaster or in any way deface the Premises, except for hanging of small items such as pictures with nail type of hangers, without OWNER's approval.
8. No unusually large or heavy equipment shall be brought into the Premises without prior notice to OWNER, and all moving of the same into or out of the Premises shall be done at such time and such a manner as OWNER shall designate.
9. All damage done to the Premises by moving or maintaining any such equipment shall be repaired at the expense of OCCUPANT.
10. OCCUPANT shall not use the Premises in a manner offensive or objectionable to the OWNER by reason of noise, odors, and/or vibrations, or interfere in any way with neighboring businesses or those having business herein, nor shall any animals or birds be brought in or about the Premises.

11. OCCUPANT shall not use or keep on the Premises any foul or noxious gas, kerosene, gasoline or flammable or combustible fluid or material, or use any method of heating or air conditioning other than that supplied by OWNER.

12. OWNER will direct electricians as to where and how telephone wires are to be installed. No changing of wires will be allowed without the consent of the OWNER. The location of the telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of OWNER.

13. No aerial satellite dish or other item shall be erected on the roof or exterior walls of the complex, or on the grounds without, in each instance, the written consent of the OWNER. Any such item so installed without such written consent shall be subject to removal without notice at any time.

14. No loud speakers, televisions, radios or other devices shall be used in a manner so as to be heard or seen outside of the Premises without prior written consent of the OWNER.

15. Any person whose behavior that causes injury or insult and/or whose presence on the Premises may in the judgment of the OWNER be prejudicial to the safety, character, reputation or interest of the OWNER or of its OCCUPANTS may be denied access to the Premises or may be ejected therefrom.

16. In case of invasions, mob riot, public excitement, or other emergency, the OWNER reserves the right to prevent access to the Premises during the continuance of the same by closing of the doors or otherwise, for the safety of the OCCUPANT and protection of property in the Premises. OWNER will also direct OCCUPANT as necessary in an emergency and will not assume any liability for damages suffered by OCCUPANTS as the result of such directions.

17. OWNER shall schedule meetings as deemed necessary with OCCUPANT to discuss rules and regulations and address questions and concerns.

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