



GA1254-314
HCA/BH/Crisis Stabilization Unit
1030 Warner Avenue
Santa Ana, CA 92701

~~LEASE~~ FIRST AMENDMENT TO LEASE

~~THIS IS A LEASE (hereinafter referred to as "Lease") made _____, 2014, by and between ORANGE COUNTY ROYALE CONVALESCENT HOSPITAL INC. (hereinafter referred to as "LESSOR") and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as "COUNTY") without regard to number and gender. The term "COUNTY" shall mean the Board of Supervisors of the political body that executed this agreement or its authorized representative.~~

~~1. DEFINITIONS (1.2 S)~~

~~"Auditor-Controller" means the Auditor-Controller, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Board of Supervisors.~~

~~"Board of Supervisors" means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.~~

~~"Corporate Real Estate" means County Executive Office,, Corporate Real Estate, County of Orange, or upon written notice to LESSOR, such other entity as shall be designated by the County Executive Officer.~~

~~"County Counsel" means the County Counsel, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Board of Supervisors.~~

~~"County Executive Officer" means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Board of Supervisors.~~

~~"Director of HCA" means the Director of Health Care Agency, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.~~

~~“Manager of HCA/Central Operations” means the Manager, Health Care Agency/Central Operations, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.~~

~~“Manager of HCA/Facilities Operations” means the Manager, Health Care Agency/Facilities Operations, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.~~

THIS FIRST AMENDMENT TO LEASE CONVEYANCE AGREEMENT (hereinafter referred to as “**First Amendment**”), made effective on _____, 2016 (“**Effective Date**”), is by and between ORANGE COUNTY ROYALE CONVALESCENT HOSPITAL INC. (hereinafter referred to as “**LESSOR**”) and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as “**COUNTY**”), without regard to number and gender. LESSOR and COUNTY are sometimes hereinafter referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

- I. WHEREAS, pursuant to that certain Lease Conveyance Agreement, dated November 25, 2014 (“**Lease**”), LESSOR leases to COUNTY approximately 4,630 rentable square feet (“**Premises**”) in the building located at 1030 Warner Avenue, in the City of Santa Ana, California (“**Building**”) for use by the Orange County Health Care Agency (“**HCA**”), which Premises is more particularly described on Exhibit ‘A’ and Exhibit ‘B’ of the Lease and which exhibits are made a part hereof by this reference; and
- II. WHEREAS, the Lease commenced on January 1, 2015, and is set to expire on December 31, 2035; and
- III. WHEREAS, COUNTY desires that LESSOR construct certain tenant improvements to the Premises; and
- IV. WHEREAS, LESSOR is willing to make said tenant improvements, subject to reimbursement of cost by COUNTY.

NOW, THEREFORE, in consideration of the Recitals above, the receipt of which the Parties acknowledge herein and which are incorporated herein by this reference, and the mutual covenants, benefits, and promises contained herein, LESSOR and COUNTY do hereby agree to amend the Lease as of the Effective Date as follows:

2. PREMISES (1.3 S)

LESSOR leases to COUNTY that certain property hereinafter referred to as “**Premises**,” described in Exhibit A and shown on Exhibit B, which exhibits are attached hereto and by reference made a part hereof, together with non-exclusive, in common use of LESSOR’s elevators, stairways, washrooms,

hallways, driveways for vehicle ingress and egress, pedestrian walkways, other facilities and common areas appurtenant to COUNTY's Premises created by this Lease.

3. PARKING (1.4 S)

LESSOR, throughout the term of this Lease, shall provide twenty four (24) parking spaces for COUNTY's free and non-exclusive use. Said parking spaces are to be located in the parking area shown on Exhibit B.

In addition to said parking spaces, LESSOR shall also provide parking for disabled persons in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements.

4. TERM (2.2 N)

The term of this Lease shall be twenty (20) years, commencing on the "Commencement Date" as defined in the Master Lease attached hereto as Exhibit D.

Parties agree that the Commencement Date of this Lease may be confirmed in writing by either party upon demand by the other.

5. TERMINATION OF PRIOR AGREEMENTS (1.5 S)

It is mutually agreed that this Lease shall terminate and supersede any prior agreement between the parties hereto covering all or any portion of the Premises, except for those terms relating to continuing obligations for events during the terms of that prior agreement between the parties hereto, including but not limited to indemnification, EXCEPT that all personal property and/or equipment (e.g., fixtures, partitions, counters, shelving) attached to and/or placed upon any portion of the Premises by COUNTY pursuant to the terms of any prior agreement between the parties hereto shall remain the personal property of COUNTY, who shall have the right to remove same.

6. OPTION TO TERMINATE LEASE (2.4A N)

Should the Master Lease terminate for any reason, then, COUNTY and LESSOR agree this Lease shall terminate concurrently with a termination of the Master Lease without the need for any notice or action by COUNTY or LESSOR .

7. RENT (3.1 S)

COUNTY agrees to pay to LESSOR as rent for the Premises the sum of Nine Thousand Two Hundred Sixty Dollars (\$9,260.00) per month, with rent fixed for the first twenty four (24) months of the Lease term.

To obtain rent payments LESSOR (or LESSOR's designee) shall submit to Manager, HCA/Facilities Operations, in a form acceptable to said Manager, HCA/Facilities Operations, a written claim for said rent payments.

Payment shall be due and payable within twenty (20) days after the later of the following:

- A. The first day of the month following the month earned; or
- B. Receipt of LESSOR's written claim by COUNTY's Manager, HCA/Facilities Operations.

“In addition to COUNTY’s obligation to pay to LESSOR as rent the amount of Nine Thousand Two Hundred Sixty Dollars (\$9,260.00), as adjusted per Clause 8 (RENT ADJUSTMENT) of the Lease, COUNTY shall pay to LESSOR as “additional rent” for the Work an amount not to exceed Nine Hundred Ninety Four Thousand, Sixty Two Dollars and 36/100 (\$994,062.36) in one or more installment payments in accordance with Clause 13 (COUNTY REQUESTED ALTERATIONS) of this Lease”.

8. RENT ADJUSTMENT (3.3 S)

The base rent, required pursuant to Clause 7 (RENT), above, shall be subject to an adjustment at the beginning of the 25th, 49th, 73rd, 97th, 121st, 145th, 169th, 193rd and 217th months of the Lease term. Said adjustment shall be based on the Consumer Price Index for Los Angeles–Riverside–Orange County, California (All Urban Consumers–All Items 1982 84 = 100) promulgated by the Bureau of Labor Statistics of the U. S. Department of Labor or any replacement index thereto (“**CPI**”). The adjustment shall be in proportion to the cumulative change in said CPI as provided in the following formula: COUNTY shall provide CPI adjustment calculations to LESSOR and LESSOR has sixty (60) days to review COUNTY requested rent adjustments.

$$\text{Adjusted Rent} = (A \times [B \div C])$$

A = Current monthly rent.

B = Monthly index for the fourth month prior to the month in which the rental rate adjustment is to become effective.

C = Monthly index for the month in which the Lease term becomes effective.

Notwithstanding the above, the Adjusted Rent shall not exceed 103% of the previous monthly rent.

~~9. CONSTRUCTION (4.1 N):~~

~~LESSOR hereby agrees to complete, at LESSOR's expense, within one hundred fifty (150) calendar days after the Commencement Date, alterations, repairs, and other work (the "Work") in accordance with Plans and the Specifications attached hereto and made a part hereof as Exhibit C. The Work shall include, but not be limited to the following improvements and alterations, as more fully set forth in Exhibit C:~~

- ~~_____ • Replace all window blinds in the Premises;~~
- ~~_____ • Replace built-in cabinets and desks within the Premises;~~
- ~~_____ • Replace drinking fountain and secure to wall;~~
- ~~_____ • Patch all holes in walls throughout the Premises prior to painting;~~

~~Should LESSOR fail to complete the Work within one hundred fifty (150) calendar days after the Commencement Date, and provided that COUNTY approvals for the Work as set forth herein have been received by LESSOR not later than ten days after the Commencement Date and no other act or omission of COUNTY has delayed LESSOR's performance of the Work, , COUNTY shall have the right to reduce rent due LESSOR by \$424.97 for each day the completion date of the Work exceeds the above mentioned 150 day period. Said amount shall be considered as liquidated damages to compensate COUNTY for costs incurred as a result of such LESSOR caused delay. In addition to the amount stated above, if the Work is not completed on or before the date that is 60 days after expiration of the above mentioned 150 day period, COUNTY may, at COUNTY's sole option, upon giving written notice to LESSOR prior to the 60th day after such expiration and prior to the completion of the Work, terminate the Lease. In the event of such termination, this Lease shall terminate on the date specified in such notice and neither party shall have any further right or obligation to the other with respect to this Lease or the Premises.~~

~~All planning and architectural/design costs required to accomplish the Work shall be LESSOR's responsibility. All plans and working drawings for the Work shall have the approval of COUNTY's OC Public Works/Architecture and Engineering. Approval by COUNTY of said plans and work drawings~~

~~shall not relieve LESSOR of the responsibility for complying with all applicable codes and construction requirements, nor of obtaining necessary permits or approvals from the authorities of proper jurisdiction.~~

~~Subsequent to the completion of the Work, and prior to occupancy by COUNTY, LESSOR shall obtain COUNTY OC Public Works/A & E's approval and acceptance of the Work. Said approval shall be manifested by letter from Manager, HCA/Facilities Operations, and may be subject to completion of items on a "punch list". Said punch list will be generated by COUNTY. COUNTY shall have the option not to accept the Premises prior to completion of all items on any such punch list.~~

~~In the event COUNTY's approval and acceptance of the Premises is given prior to the completion of a punch list, LESSOR shall have twenty one (21) working days following receipt of said punch list to complete all remaining work contained therein. Should the items on the punch list not be completed within twenty one (21) working days other than as a result of any act or omission of COUNTY, COUNTY shall have the option to complete the Work and deduct the actual and reasonable out of pocket cost thereof, including labor, materials, and overhead from any rent payable hereunder.~~

“9. CONSTRUCTION (4.1 N)

A. Completion Schedule: LESSOR hereby agrees to complete, at LESSOR’S expense, subject to reimbursement by COUNTY in accordance with Clause 13 (COUNTY REQUESTED ALTERATIONS) of this Lease, on or prior to June 30, 2017 ("**Completion Date**"), certain capital improvements to the Premises in accordance with Clause 9(B), below, and Exhibit ‘E’ ("**Work**"), which exhibit is attached hereto and by this reference made part hereof. The Work shall include, without limitation, any and all related and necessary additional improvements, additions, alterations or construction to the Premises, and shall comply with all applicable laws, including, without any limitation, ADA, seismic laws, health and safety laws, and building codes. LESSOR represents and warrants that (i) LESSOR has thoroughly reviewed the scope of the Work, as set forth in Exhibit E herein, and (ii) LESSOR will cause the Work to be completed and cause the “Final Improvement Date” (as defined below) to occur on or prior to the Completion Date. LESSOR further represents and warrants that the Work will be performed with minimal disruption to HCA’s conduct of regular business, and with the ability of COUNTY to maintain a safe place of employment at the Premises, as provided in Clause 20 (BUILDING AND SAFETY REQUIREMENTS) of this Lease. Without limiting any available remedies to COUNTY, if the Final Improvement Date fails to occur on or prior to the Completion Date, COUNTY shall have the option, at COUNTY’s sole discretion, to initiate and complete, the Work or cause another to initiate and complete, the Work.

B. Approvals: All planning and architectural/design costs required to accomplish the Work shall be COUNTY’s responsibility. All plans and working drawings for the Work, the scope and specifications for the Work, the schedule for the Work, and all construction contracts related to the Work shall be subject to prior approval by the Chief Real Estate Officer or designee. Such approval by the Chief Real Estate Officer or designee, shall not relieve LESSOR of the responsibility for complying with all applicable building codes and construction requirements, nor of obtaining necessary permits or approvals from the authorities of proper jurisdiction(s). All LESSOR’s contractors and subcontractors

performing the Work shall be subject to prior approval by the Chief Real Estate Officer or designee.

C. **Punch List:** Subsequent to the completion of the Work, and prior to the Completion Date, LESSOR shall obtain the approval and acceptance of the Work by the Chief Real Estate Officer or designee. Said approval shall be manifested by letter from the Chief Real Estate Officer or designee (“**Letter**”). The Chief Real Estate Officer or designee may also condition the approval and acceptance of the Work on completion of certain outstanding items, listed on a “punch list,” the completion of which items must on or before the Final Improvement Date. COUNTY shall have the option not to accept and pay for the Work, as applicable, prior to the completion of all items on any such punch list. COUNTY shall not be required to send the Letter until such time COUNTY is satisfied that all of the Work is complete in accordance with Exhibit E.

D. **Final Improvement Date:** The “Final Improvement Date” shall mean LESSOR’s completion of the Work, including the items on the punch list, if any, in accordance with Exhibit E as determined by COUNTY by June 30, 2017. COUNTY, in its sole and reasonable discretion, shall determine whether the Improvement Date has occurred. If LESSOR and COUNTY do not reasonably agree that the Work, including the items on the punch list, if any, has been completed, or will be completed, in accordance with Exhibit E by June 30, 2017, COUNTY and LESSOR shall agree on a date that is a reasonable projection of when LESSOR would complete the Work and the punch list items, if any. Any costs associated with any delays in connection with the completion of the Work and the punch list items, if any, shall be the sole responsibility of the LESSOR and shall not affect COUNTY’s reimbursement obligation stated in Clause 13 (COUNTY REQUESTED ALTERATIONS) of this Lease.

E. **Project Management Oversight:** COUNTY shall have the option, at COUNTY’s sole discretion and cost, to hire a project manager or construction manager (“**Project Manager**”) to assist in COUNTY’s oversight of the Work. The Project Manager will represent the COUNTY’s best interest during the construction of the Work to confirm that the Work is being performed pursuant to the terms of this Lease and Exhibit E, and will act as the liaison between LESSOR and COUNTY in reviewing the scope of the Work, the selection of contractors, the schedule for the Work and all other items that are subject to review by COUNTY, as provided in Clause 9(B), above. If COUNTY hires a Project Manager, LESSOR shall not perform any work without the direct oversight of the Project Manager.

Payment Schedule: LESSOR hereby agrees to complete, at the LESSOR’S expense, on or before **Completion Date**, as provided in Clause 9 (A), above, the Work in accordance with the plans and specifications as contained in Exhibit ‘E’ and in Clause 9(B) above. The Work shall be completed by LESSOR, and reimbursed by COUNTY as provided in Clause 13 (COUNTY REQUESTED ALTERATIONS) of this Lease.”

10. PAINTING BY LESSOR (4.2 S)

Within one hundred fifty (150) days after the Commencement Date of this Lease and within sixty days (60) days after the seventh (7th) and fourteenth (14th) anniversaries of the Commencement Date,

LESSOR shall repaint, at LESSOR's sole expense, all painted wall and ceiling surfaces within the Premises. Said painting shall be accomplished during hours other than COUNTY's normal working hours. LESSOR shall be responsible for the movement and subsequent replacement of all furniture, window coverings, and fixtures necessary to repaint the Premises. Said paint shall be of a kind and quality of Dunn-Edwards® semi-gloss paint or acceptable equivalent approved by COUNTY. The cost of said repainting shall not be included in the operating costs for the building for the purpose of operating cost adjustments.

At COUNTY's sole option, COUNTY may elect to defer said repainting. Said deferral shall not release LESSOR from the obligation to repaint. Should COUNTY elect to defer said repainting, the Manager, HCA/Facilities Operations at least thirty (30) days prior to the scheduled repainting date, shall notify LESSOR in writing of COUNTY's decision to defer said repainting. This notice shall include the date that the COUNTY wishes the repainting to take place.

Should LESSOR fail to comply with the provisions of this clause within 60 days after written notice of such failure delivered by COUNTY to LESSOR, COUNTY shall have the option to complete said repainting and deduct the actual and reasonable out of pocket cost thereof, including overhead, from any rent payable hereunder.

11. CARPETING BY LESSOR (4.3 N)

Within sixty (60) days after the seventh (7th) and fourteenth (14th) anniversaries of the Commencement Date, LESSOR shall recarpet, at LESSOR's sole expense, all carpeted floors within the Premises. Said recarpeting shall be accomplished during hours other than COUNTY's normal working hours. LESSOR shall be responsible for the movement and subsequent replacement of all furniture and fixtures necessary to recarpet the Premises. Carpet shall be of a kind and quality of Calypso (Mar 1-RS), Powerbond Plus (1/4" foam back) manufactured by Collins & Aikman carpet squares or equivalent carpet with at least a 15 year wear guarantee. Carpet shall be carpet square direct glue down. COUNTY's Manager, HCA/Facilities Operations will authorize final carpet selection in writing not less than 180 days prior to the date recarpeting is required.

At COUNTY's sole option, COUNTY may elect to defer said recarpeting. Said deferral shall not release LESSOR from the obligation to recarpet. Should COUNTY elect to defer said recarpeting, the Manager, HCA/Facilities Operations, at least thirty (30) days prior to the scheduled recarpeting date, shall notify LESSOR in writing of COUNTY's decision to defer said recarpeting. This notice shall include the date that the COUNTY wishes the recarpeting to take place.

Should LESSOR fail to comply with the provisions of this clause within 60 days after written notice of such failure delivered by COUNTY to LESSOR,, COUNTY shall have the option to complete said recarpeting and deduct the actual and reasonable out of pocket cost thereof including overhead, from any rent payable hereunder.

12. ALTERATIONS (4.4 S)

COUNTY may make improvements and changes in the Premises, including but not limited to the installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or appropriate by the COUNTY in its discretion. It is agreed that any such fixtures, partitions, counters, shelving, or equipment attached to or placed upon the Premises by COUNTY shall be considered as personal property of COUNTY, and COUNTY shall have the right to remove same. COUNTY agrees that the Premises shall be left in at least as good condition as when received on the Commencement Date, reasonable wear and tear excepted.

~~13. COUNTY REQUESTED ALTERATIONS (N)~~

~~COUNTY may, during the term of the Lease, request LESSOR to make tenant improvements to the Premises. All plans, working drawings, and cost proposals for said improvements, as well as the final work product, require approval from COUNTY Health Care Agency. All such improvements or changes shall be made by LESSOR, at LESSOR's sole cost, and reimbursed in a lump sum as additional rent by COUNTY upon receipt from LESSOR of a written claim for such reimbursement. All work requiring permit by the city or county of jurisdiction shall be permitted and executed in a professional workmanlike manner using standard building materials and practices, in accordance with Exhibit C entitled, "Tenant Improvements and Performance Specifications." All work to be at prevailing wage as cited in Clause 30 (LABOR CODE COMPLIANCE)."~~

~~COUNTY shall have the right to audit said claim for reimbursement and require usual and customary additional support documentation from LESSOR prior to making reimbursement payment. COUNTY shall evidence acceptance of such claim by written letter to LESSOR. Once LESSOR's claim has been accepted by COUNTY as complete and adequate, additional rental amount shall be reimbursed by COUNTY to LESSOR at the same time as the next scheduled monthly rental payment following the date of written acceptance of said claim.~~

"13. COUNTY REQUESTED ALTERATIONS (4.5N)

COUNTY may, during the term of the Lease, request LESSOR to make "improvements and changes" to the Premises. All plans and working drawings for the improvements and changes, as well as the final work, shall have the written approval of HCA. All such improvements and

changes shall be made by LESSOR, at LESSOR's sole cost, subject to reimbursement by COUNTY in lump sum as additional rent upon receipt from LESSOR of a written claim for such reimbursement. COUNTY agrees that said reimbursement may include up to five percent (5%) management/construction fee which shall be considered as part of the costs and expenses of the alterations.

LESSOR agrees that any improvement and changes made by, or under the direction of LESSOR, including the Work in accordance with Exhibit E, shall be constructed in substantial compliance with approved plans from the authority of proper jurisdiction, including, but not limited to, CITY, and, to the extent applicable, in compliance with Federal, California and local laws, including but not limited to, the requirements of California Public Contract Code Section 22000 et seq. and shall require its contractor or contractors to pay the prevailing rate of per diem wages for work of a similar character in the locality of the County and not less than the general prevailing rate of per diem wages for holiday and overtime work, as provided in Clause 26 LABOR CODE COMPLIANCE of this Lease.

LESSOR, or COUNTY on behalf of LESSOR, shall publicly advertise for bids for such improvements and changes, as well as the Work (as defined in Clause 9(A)), as provided in Orange County Codified Ordinances 1-8-1 et seq. Thereafter, with the prior written approval of COUNTY as to the winning bid, LESSOR shall award the contract or contracts for such improvements and changes, and the Work. COUNTY's approval of the bid shall be limited to the dollar value only, to ensure it is within COUNTY's budget.

As relates to the Work (as more specifically set forth in Clause 9, above), LESSOR shall perform and pay the full cost for the completion of the Work (as defined in Clause 9(A)), including any costs for ancillary work or contingency costs associated with the total completion of the Work. COUNTY shall reimburse as additional rent to the LESSOR for the performance and completion of the Work in an amount not to exceed a total cost of Nine Hundred Ninety Four Thousand, Sixty Two Dollars and 36/100 (\$994,062.36). COUNTY will pay to LESSOR in separate installment payments upon LESSOR's submission of Monthly Progress Payment Requests that clearly state percentage of completion of the Work in accordance with the Schedule of Values, attached hereto as Exhibit F and by this reference made part hereof. COUNTY shall make installment payments to LESSOR only if, and sixty (60) days after, the percentage of the Work completed is approved by COUNTY.

COUNTY reserves the right to audit LESSOR's claim of reimbursement request and require additional support documentation from LESSOR prior to processing LESSOR's claim of reimbursement. Once LESSOR has submitted said additional support documentation in order for COUNTY to process LESSOR's claim of reimbursement, and COUNTY has accepted the claim as complete and adequate, COUNTY shall pay LESSOR's claim of reimbursement as "additional rent". COUNTY shall evidence acceptance of such claim for reimbursement by written letter to LESSOR."

14. ORANGE COUNTY TELECOMMUNICATIONS NETWORK (OCTNET) (4.6 S)

LESSOR agrees that COUNTY may install, at COUNTY's sole liability, cost and expense, telecommunication devices in, on, or around the Premises in accordance with COUNTY's OCTNET plans and specifications provided that the provisions of the clause entitled ALTERATIONS, shall be applicable to such work. It shall be COUNTY's responsibility to obtain all governmental permits and/or approvals required for such installation; however, LESSOR shall reasonably cooperate with COUNTY as necessary or appropriate, but at no cost to LESSOR, to obtain said permits and/or approvals.

15. REPAIR and MAINTENANCE (5.1 S)

LESSOR shall provide at its own cost and expense any and all necessary repair and maintenance, (including fire extinguishers and pest control), to the Premises not caused by the gross negligence or willful misconduct of COUNTY, including but not limited to the replacement, repair and maintenance of all building systems including the Heating, Ventilation, Air Conditioning (“HVAC”) system. Janitorial supplies and services are not provided by LESSOR under this Lease.

Air conditioning will be supplied to cause the temperature in the interior of the Premises to be not greater than 76 degrees at all times and heat will be supplied as necessary to cause the temperature to be not less than 70 degrees at all times. Said temperature requirements shall be maintained during COUNTY’s normal business operating hours (“**Business Hours**”).

Notwithstanding the utilities provided during Business Hours, LESSOR shall provide HVAC services prior to the beginning of the Business Hours in order for the temperature parameters required by this Lease, above, to be met and maintained at the beginning and throughout the Business Hours. There shall be no extra utility charges for such HVAC services to the extent necessary prior to the beginning of Business Hours to maintain temperature requirements during Business Hours.

In order for the COUNTY to comply with the California Code of Regulations, Title 8, Section 5142, and as it may be subsequently amended, LESSOR shall inspect the HVAC system at least once every month or on a schedule otherwise agreed to in writing by LESSOR and COUNTY’s Manager, HCA/Facilities Operations, and provide repair and maintenance accordingly except to the extent required by the gross negligence or willful misconduct of COUNTY. LESSOR’s inspections and maintenance of the HVAC system shall be documented in writing. LESSOR shall at a minimum maintain a record of: (a) the name of the individual(s) inspecting and/or maintaining the system, (b) the date of the inspection and/or maintenance, and (c) the specific findings and actions taken. LESSOR shall ensure that such records are retained for at least five (5) years. LESSOR shall make the HVAC records required by this section available to COUNTY for examination and copying, within forty-eight (48) hours of a written request.

LESSOR acknowledges that COUNTY may be subject to fines and/or penalties for failure to provide said records to regulatory agencies within the given timeframes. Should COUNTY incur fines and/or penalties as the sole and direct result of LESSOR's failure to provide said records to COUNTY in a timely manner and as set forth herein, LESSOR shall reimburse COUNTY for said fines and/or penalties within thirty (30) days upon written notice. Should LESSOR fail to reimburse COUNTY within thirty (30) days, COUNTY may deduct the amount of the fine and/or penalty from any rent payable without further notice.

If LESSOR fails to provide repair, replacement, maintenance services required under this Lease, ("**Services**") to the Premises, the Manager, HCA/Facilities Operations may notify LESSOR in writing; and if LESSOR does not instigate measures to provide such required Services and/or to remedy the unsatisfactory conditions within four (4) days after LESSOR receives such notice, COUNTY may provide the required Services or Services necessary to remedy the unsatisfactory condition, as applicable, or have others do so, and deduct the actual and reasonable out of pocket cost thereof, including labor, materials, and overhead from any rent payable hereunder.

If LESSOR does not cause to be commenced emergency repairs as and when necessary to remedy an emergency condition, or its representative cannot be contacted by the COUNTY to address such repairs (as determined by COUNTY in its reasonable discretion), or if LESSOR following such contact by COUNTY is unable to or refuses to make the necessary repairs, COUNTY may at its option have the necessary repairs made and/or provide services to remedy the emergency condition, and deduct the actual and reasonable out of pocket cost thereof, including labor, materials, and overhead from any rent payable hereunder.

In the event that COUNTY has notified LESSOR at least three (3) times as provided in this clause of LESSOR's failure to provide required Services to the Premises, then regardless of whether said failure is ultimately cured by LESSOR, COUNTY shall have the right to remedy said failure by taking over all such Services for the remainder of COUNTY's fiscal year and deduct the actual and reasonable out of pocket cost thereof including labor, materials, and overhead, from the rent otherwise payable to LESSOR. COUNTY shall give LESSOR written notice of COUNTY's intent to take over said Services and the effective dates such COUNTY performance of Services will commence and end. If such costs exceed the rent payable, LESSOR shall promptly pay the difference to COUNTY. At the end of said COUNTY fiscal year, LESSOR shall resume performance of Services and shall provide COUNTY evidence of its Services contracts. COUNTY may exercise this remedy throughout the term of the Lease on an annual basis should LESSOR at any time fail to provide Services as required in this section.

Should COUNTY be forced to shut down its operations within the Premises solely and directly due to LESSOR's failure to provide Services required by this section, LESSOR shall be responsible for the cost

to the COUNTY, of such a shutdown as well as the cost of replacement premises, which may be deducted by the COUNTY from rent otherwise payable.

16. UTILITIES (5.2 S)

LESSOR shall be responsible for and pay, prior to the delinquency date, all charges for utilities supplied to the Premises except telephone, which shall be the obligation of COUNTY. Should LESSOR fail to provide, or pay for (prior to delinquency date), utility service to the Premises, COUNTY may provide such service and deduct the actual and reasonable out of pocket cost thereof, including overhead, from any rent payable.

17. INSURANCE (5.3 S)

Commercial Property Insurance: LESSOR shall obtain and keep in force during the term of this Lease a policy or policies of commercial property insurance with all risk or special form coverage, covering the loss or damage to the Premises the improvements located on the Premises (including the full value of all improvements and fixtures owned by LESSOR but exclusive of all improvements, fixtures or other property of COUNTY) at least in the amount of the full replacement cost thereof.

LESSOR agrees to and shall include in the policy or policies of commercial property insurance a standard waiver of the right of subrogation against COUNTY by the insurance company issuing said policy or policies. LESSOR shall provide COUNTY with a Certificate of Insurance as evidence of compliance with these requirements.

Commercial General Liability Insurance: LESSOR shall obtain and keep in force during the term of this Lease a policy or policies of commercial general liability insurance covering all injuries occurring within the building and the Premises. The policy or policies evidencing such insurance shall provide the following:

- 1) Name COUNTY as an additional insured;
- 2) Shall be primary, and any insurance or self-insurance maintained by COUNTY shall be excess and non-contributing;
- 3) Shall provide to COUNTY thirty (30) days prior written notice of cancellation and (10) days for non-payment of premium;
- 4) Shall provide a limit of One Million Dollars (\$1,000,000) per occurrence; and
- 5) The policy or policies of insurance must be issued by an insurer licensed to do business in state of California (California Admitted Carrier) or have a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category) as determined by the most current

edition of the Best's key Rating Guide/Property-Casualty/United States or ambest.com. If the insurance carrier is not an admitted carrier in the state of California and does not have an A.M. Best rating of A-/VIII, COUNTY's Risk Manager retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

Prior to the Commencement Date of this Lease and upon renewal of such policies, LESSOR shall submit to COUNTY a Certificate of Insurance and required endorsements as evidence that the foregoing policy or policies are in effect.

If LESSOR fails to procure and maintain the insurance required to be procured by LESSOR under this Lease, COUNTY may, but shall not be required to, order such insurance and deduct the actual and reasonable out of pocket cost thereof plus any COUNTY administrative charges from the rent thereafter payable.

18. LIABILITY (5.4 S)

LESSOR and COUNTY each agree to assume sole responsibility to defend against any and all claims for injuries to persons or damage to property which may arise, in whole or in part, from the imposition of legal liability for the acts, omissions and conduct of the LESSOR on the one hand or COUNTY on the other, and specifically agree that neither LESSOR nor COUNTY shall be obligated to defend or indemnify the other for claims which create potential legal liability arising out of the acts, omissions or conduct of the other party to this Lease.

19. TAXES AND ASSESSMENTS (5.6 S)

All taxes and assessments which become due and payable upon the Premises shall be the full responsibility of LESSOR, and LESSOR shall cause said taxes and assessments to be paid prior to the due date. Should LESSOR fail to pay taxes and assessments due upon the Premises prior to the due date, COUNTY may pay such amount due and deduct the cost thereof, including overhead, from the rent thereafter payable.

20 BUILDING AND SAFETY REQUIREMENTS (5.7 S)

During the full term of this Lease, LESSOR, at LESSOR's sole cost, agrees to maintain the Premises in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they are applicable on the date of this Lease, and as they may be subsequently amended.

Included in this provision is compliance with the Americans with Disabilities Act ("ADA") and all other federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable on the dates of this Lease, and as they may be subsequently amended.

LESSOR further agrees to maintain the Premises as a "safe place of employment," as defined in the California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3, beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are applicable on the date of this Lease, and as they may be subsequently amended.

In the event LESSOR neglects, fails, or refuses to maintain said Premises as aforesaid, which continues for more than 5 business days after receipt of written notice of the same from COUNTY, COUNTY may, notwithstanding any other termination provisions contained herein:

- A. Terminate this Lease upon written notice to the LESSOR; or
- B. At COUNTY's sole option, cure any such default by performance of any act, including payment of money, and subtract the cost thereof plus reasonable administrative costs from the rent.

21. TOXIC MATERIALS (5.9 S)

COUNTY hereby warrants and represents that COUNTY will comply with all laws and regulations relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or radioactive matter, including, but not limited to, those materials identified in Title 26 of the California Code of Regulations (collectively "**Toxic Materials**"). COUNTY shall be responsible for and shall defend, indemnify and hold LESSOR, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities, including attorneys' fees and costs arising out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by COUNTY. If the storage, use, and disposal of Toxic Materials on the Premises by COUNTY results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, COUNTY shall promptly take any and all action necessary to clean up such contamination.

Likewise, LESSOR hereby warrants and represents that LESSOR has in the past and will hereafter comply with all laws and regulations relating to the storage, use and disposal of Toxic Materials. LESSOR shall be responsible for and shall defend, indemnify and hold COUNTY, its officers, directors, employees, agents, and representatives, harmless from and against all claims, costs and liabilities,

including attorneys' fees and costs arising out of or in connection with the previous, current and future storage, use and disposal of Toxic Materials on the Premises (or building if the Premises comprises only a portion of said building) by LESSOR. If the storage, use, and disposal of Toxic Materials on the Premises by LESSOR results in contamination or deterioration of water or soil resulting in a level of contamination greater than maximum allowable levels established by any governmental agency having jurisdiction over such contamination, LESSOR shall promptly take any and all action necessary to clean up such contamination.

22. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE (6.4 S)

This Lease and all rights of the COUNTY hereunder are subject and subordinate to any mortgage or deed of trust which does now or may hereafter cover the Premises or any interest of LESSOR therein, and to any and all advances made on the security thereof, and to any and all increases, renewals, modifications, consolidations, replacements and extensions of any such mortgage or deed of trust except, insofar as COUNTY is meeting its obligations under this Lease, any foreclosure of any mortgage or deed of trust shall not result in the termination of this Lease or the displacement of COUNTY.

In the event of transfer of title of the Premises, including any proceedings brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other transfer of title covering the Premises, COUNTY shall attorn to and recognize any subsequent title holder as the LESSOR under all terms, covenants and conditions of this Lease. COUNTY's possession of the Premises shall not be disturbed by the LESSOR, or its successors in interest, and this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative immediately upon succession of the current title holder, or its successors in interest, to the interest of LESSOR under this Lease.

Notwithstanding the above, this Lease is contingent upon LESSOR obtaining a *Subordination, Attornment and Non-Disturbance Agreement* from LESSOR's Lender, if any, with respect to the Premises within thirty (30) days of LESSOR's execution of this Lease. LESSOR shall require all future lenders on the Premises, upon initiation of their interest in the Premises, to enter into a *Subordination, Attornment and Non-Disturbance Agreement* with COUNTY, thereby insuring COUNTY of its leasehold interests in the Premises. Said *Subordination, Attornment and Non-Disturbance Agreement* shall be in the form of COUNTY's standard form *Subordination, Attornment and Non-Disturbance Agreement* or in a form approved by COUNTY's Manager, HCA/Facilities Operations, Corporate Real Estate and County Counsel.

Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be responsible for all liabilities of the LESSOR under the terms of this Lease.

Upon default by LESSOR of any note or deed of trust secured by the Premises,, COUNTY may, at its option, make all lease payments directly to Lender, and same shall be applied to the payment of any and all delinquent or future installments due under such note or deed of trust.

23. ESTOPPEL CERTIFICATE (6.5 S)

COUNTY agrees that its Manager, HCA/Facilities Operations, shall furnish from time to time upon receipt of a written request from LESSOR or the holder of any deed of trust or mortgage covering the Premises or any interest of LESSOR therein, COUNTY's standard form *Estoppel Certificate* containing information as to the current status of this Lease. The *Estoppel Certificate* shall be approved by COUNTY's Manager, HCA/Facilities Operations, Corporate Real Estate, and County Counsel, which approval shall not be unreasonably withheld, conditioned or delayed.

24. DEFAULTS AND REMEDIES (6.8 S)

The occurrence of any of the following after applicable notice and cure periods shall constitute an event of default under this Lease:

- Failure to pay any installment of any monetary amount due and payable hereunder;
- Failure to perform any obligation, agreement or covenant under this Lease.

In the event of any non-monetary breach of this Lease by COUNTY, LESSOR shall notify COUNTY in writing of such breach, and COUNTY shall have fifteen (15) days in which to initiate action to cure said breach.

In the event of any non-monetary breach of this Lease by LESSOR, COUNTY shall notify LESSOR in writing of such breach and LESSOR shall have fifteen (15) days in which to initiate action to cure said breach.

In the event of any monetary breach of this Lease by COUNTY, LESSOR shall notify COUNTY in writing of such breach, and COUNTY shall have fifteen (15) days in which to cure said breach, unless specified otherwise within this Lease.

In the event of any monetary breach of this Lease by LESSOR, COUNTY shall notify LESSOR in writing of such breach, and LESSOR shall have fifteen (15) days in which to cure said breach, unless specified otherwise within this Lease.

In the event any such monetary breach by COUNTY in the payment of the monthly rent, pursuant to the clause entitled RENT, herein, is not cured within said fifteen (15) day period, LESSOR may declare all rent payments to the end of COUNTY's current fiscal year to be due, including any delinquent rent from prior budget years. However, in no event shall LESSOR be entitled to a remedy of acceleration of the total rent payments due over the term of this Lease.

In the event any such monetary breach by LESSOR in the payment of any amounts due hereunder, is not cured within said fifteen (15) day period, COUNTY may withhold such amount from the next scheduled rent payment.

25. DEBT LIMIT (6.9 S)

LESSOR acknowledges and agrees that the obligation of the COUNTY to pay rent under this Lease is contingent upon the availability of COUNTY funds which are appropriated or allocated by the COUNTY for the payment of rent hereunder. In this regard, in the event that this Lease is terminated due to an uncured default of the COUNTY hereunder, LESSOR may declare all rent payments to the end of COUNTY's current fiscal year to be due, including any delinquent rent from prior budget years. In no event shall LESSOR be entitled to a remedy of acceleration of the total rent payments due over the term of the Lease. The parties acknowledge and agree that the limitations set forth above are required by Article 16, section 18, of the California Constitution. LESSOR acknowledges and agrees that said Article 16, section 18, of the California Constitution supersedes any law, rule, regulation or statute, which conflicts with the provisions of this paragraph. Notwithstanding the foregoing, LESSOR may have other rights or civil remedies to seek relief due to the COUNTY's default under the Lease.

26. LABOR CODE COMPLIANCE (6.10 S)

LESSOR acknowledges and agrees that all improvements or modifications required to be performed as a condition precedent to the Commencement Date or any such future improvements or modifications performed by LESSOR at the request of COUNTY shall be governed by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions are applicable to improvements or modifications costing more than \$1,000.

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, LESSOR shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality applicable to this Lease for each craft, classification, or type of workman needed to execute the aforesaid improvements or modifications. The rates are available from the Director of the State Department of Industrial Relations at the following website:

<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. LESSOR shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements or modifications to be completed for COUNTY within the Premises. LESSOR shall comply with the provisions of Sections 1775 and 1813 of the Labor Code.

As required by applicable law, LESSOR shall maintain certified payroll records for all workers that will be assigned to the improvements or modifications. Said payroll records shall contain, but not be limited to, the complete name, address, telephone number, social security number, job classification, and prevailing wage rate for each worker. Upon request LESSOR shall provide the Manager, HCA/Facilities Operations updated, certified payroll records for all workers that shall include, but not be limited to, the weekly hours worked, prevailing hourly wage rates, and total wages paid.

If LESSOR neglects, fails, or refuses to provide said payroll records to the Manager, HCA/Facilities Operations, upon request and the same continues beyond all applicable notice and cure periods, then such occurrence shall constitute an event of default of this Lease and COUNTY may, notwithstanding any other termination provisions contained herein:

A. Terminate this Lease upon written notice to LESSOR; or

B. At COUNTY's sole option, COUNTY may deduct future rent payable to LESSOR by COUNTY as a penalty for such non-compliance of paying prevailing wage, which rent deduction would be COUNTY's estimate, in its sole discretion, of such prevailing wage rates not paid by LESSOR.

Except as expressly set forth in this Lease, nothing herein is intended to grant authority for LESSOR to perform improvements or modifications on space currently leased by COUNTY or for which COUNTY has entered into a lease or lease amendment.

27. CHILD SUPPORT ENFORCEMENT REQUIREMENTS (6.12 S)

In order to comply with child support requirements of the County of Orange, LESSOR hereby furnishes COUNTY's Manager, HCA/Facilities Operations, COUNTY's standard form, *Child Support Enforcement Certification Requirements*. COUNTY acknowledges receipt of the aforementioned form, which contains the following information:

- a) In the case where LESSOR is doing business as an individual, LESSOR's name, date of birth, last four digits of Social Security number, and residence address;

- b) In the case where LESSOR is doing business in a form other than as an individual, the name, date of birth, last four digits of Social Security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity;
- c) A certification that the LESSOR has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- d) A certification that the LESSOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of LESSOR to continuously comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of this Lease. Failure to cure such breach within sixty (60) calendar days of notice from COUNTY's Manager, HCA/Facilities Operations, shall constitute grounds for termination of this Lease.

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and will not be used for any other purpose.

28. RIGHT TO WORK AND MINIMUM WAGE LAWS (6.13 S)

In accordance with the United States Immigration Reform and Control Act of 1986, LESSOR shall require its employees that directly or indirectly service the Premises or terms and conditions of this Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United States. LESSOR shall also require and verify that its contractors or any other persons servicing the Premises or terms and conditions of this Lease, in any manner whatsoever, verify the identity of their employees and their eligibility for employment in the United States.

Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of California Labor Code, Section 1178.5, LESSOR shall pay no less than the greater of the Federal or California Minimum Wage to all its employees that directly or indirectly service the Premises, in any manner whatsoever. LESSOR shall require and verify that all its contractors or other persons servicing the Premises on behalf of the LESSOR also pay their employees no less than the greater of the Federal or California Minimum Wage.

LESSOR shall comply and verify that its contractors comply with all other Federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to the servicing of the Premises or terms and conditions of this Lease.

Notwithstanding the minimum wage requirements provided for in this clause, LESSOR, where applicable, shall comply with the prevailing wage and related requirements, as provided for in Clause 24 entitled LABOR CODE COMPLIANCE.

29. ASSIGNMENT (7.7 S)

LESSOR, or its successors in interest, shall not directly or indirectly (excluding foreclosure) transfer or assign this Lease, or any right or interest hereunder without first obtaining the written consent of COUNTY's Manager, Facilities Operations, in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. The COUNTY's response to any request for assignment by LESSOR shall be delivered to LESSOR within thirty (30) days following COUNTY's receipt of LESSOR's written request.

COUNTY, or its successors in interest, shall not directly or indirectly (excluding foreclosure) encumber, sublet the Premises transfer or assign this Lease, or any right or interest hereunder without first obtaining the written consent of LESSOR, in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. LESSOR's response to any request for assignment by COUNTY shall be delivered to COUNTY within thirty (30) days following LESSOR's receipt of COUNTY's written request.

Any attempted transfer or assignment in violation of this Clause shall be deemed null and void.

30. NOTICES (8.1 S)

All written notices and payments pursuant to this Lease shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be deemed delivered with respect to written notices upon personal delivery, delivery by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail and with respect to payment, upon receipt.

TO: LESSOR

Orange County Royale Convalescent
Hospital, Inc.
Attn: Mitchell Kantor
260 East Brown Street, Suite 260
Birmingham, MI 48009

TO: COUNTY

County of Orange
Health Care Agency
405 W. 5th Street, Suite 203
Santa Ana, CA 92701
Attn: Manager, HCA/Facilities Operations

~~31. ATTACHMENTS (8.2 S)~~

~~This Lease includes the following, which are attached hereto and made a part hereof:~~

~~I. GENERAL CONDITIONS~~

~~II. EXHIBITS~~

~~A. Description Premises~~

~~B. Plot Plan Premises~~

~~C. Tenant Improvements and Performance Specifications~~

~~D. Master Lease by and between COUNTY and Orange County Royale Convalescent Hospital, Inc.~~

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//“**31. ATTACHMENTS (8.2 S)**

This Lease includes the following, which are attached hereto and made a part hereof:

I. GENERAL CONDITIONS

II. EXHIBITS

Exhibit A- Description - Premises

Exhibit B- Plot Plan - Premises

Exhibit C- Tenant Improvements and Performance Specifications

Exhibit D- Master Lease by and between COUNTY and Orange County Royale Convalescent Hospital, Inc.

Exhibit E- Construction Plans (**The Work**).

Exhibit F- Schedule of Values”

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IN WITNESS WHEREOF, the Parties have executed this Lease the day and year first above written.

APPROVED AS TO FORM:
OFFICE OF COUNTY COUNSEL

LESSOR
ORANGE COUNTY ROYALE
CONVALESCENT HOSPITAL, INC.

By _____
Deputy County Counsel

By: _____
Mitchell Kantor
President

Date _____

RECOMMENDED FOR APPROVAL:
OC Public Works/Corporate Real Estate

By _____
Ronald Inouye, Real Property Agent III

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIR OF THE BOARD PER G.C.
SEC. 25103, RESOLUTION 79-1535

COUNTY

COUNTY OF ORANGE

Attest:

Chair, Board of Supervisors

Susan Novak
Clerk of the Board of Supervisors
Orange County, California