

**AMENDMENT NUMBER ONE
TO
COMMERCIAL LEASE AGREEMENT
BETWEEN
CITY OF COSTA MESA
AND
COSTA MESA CHURCH OF THE NAZARENE**

This Amendment Number One to Commercial Lease Agreement ("Amendment") is made and entered into this 14th day of April, 2020 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("Tenant"), and COSTA MESA CHURCH OF THE NAZARENE, a California nonprofit corporation ("Landlord").

WHEREAS, Landlord and Tenant entered into a Commercial Lease Agreement dated February 20, 2019 for the lease of a portion of Landlord's property located at 1885 Anaheim Ave., Costa Mesa, CA 92627 for use as a temporary bridge shelter facility to accommodate individuals experiencing homelessness ("Lease Agreement"); and

WHEREAS, the Lease Agreement includes Addendum 1, which outlines additional terms and conditions of the Lease Agreement ("Addendum"); and

WHEREAS, Landlord and Tenant desire to amend the Lease Agreement as set forth herein.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The section of the Addendum entitled "Term" shall be amended to read as follows:

Temporary Bridge Shelter: April 15, 2019 through December 14, 2020 for a temporary bridge shelter for those experiencing homelessness (bridge shelter). Thereafter, the term for the use of the Property for the bridge shelter may be extended, at Tenant's option, for up to four (4) additional one (1) month periods. Such extensions shall be evidenced by a written amendment to the Lease Agreement. Tenant may terminate the Lease Agreement for the use of the Property for the bridge shelter at any time after December 14, 2020 by providing 30-days' written notice to Landlord.

Shelter Shuttle Stop and Use of Room: From the date Tenant ceases using the Property for the bridge shelter through April 14, 2025, Tenant shall cease using the Property as a Shuttle Stop and continue to use one room adjacent to the fellowship hall (approximately 200 sf) as noted in Original Lease Agreement. Tenant may terminate the Lease Agreement for use of the adjacent room at any time by providing 30-days' written notice to Landlord. If Tenant terminates the Lease Agreement prior to April 14, 2025, Landlord shall retain any pre-paid rent as liquidated damages. After April 14, 2021, Landlord may terminate the Lease Agreement only upon occurrence of one of the following two events: (1) sale of the Property to another party for another use; or (2) permanent cessation by Landlord of all activities providing services of any kind to those experiencing homelessness.

If the Lease Agreement is not terminated prior to April 14, 2025, the Lease Agreement may be renegotiated between the parties to extend on a year to year basis. If the year to year extension is not approved by Landlord, Landlord shall provide Tenant with written notice at least three (3) months prior to April 14, 2025 or any extended period's scheduled expiration date (each, the "Lease Termination Date") of its intent not to extend the term of the Lease Agreement. Tenant may elect on its own to terminate the Lease Agreement at any time during any extension period by providing Landlord with 30-days' written notice.

If the term of the Lease Agreement is extended beyond April 14, 2025, Tenant shall pay Landlord the minimum sum of \$7,500 per year or such as is further negotiated for use of the room adjacent to the fellowship hall. Such payment shall be due at the commencement of the extension period.

2. The section of the Addendum entitled "Times Needed" shall be amended to read as follows:

Tenant shall be permitted to use the Designated Areas of the Property 24 hours a day, 7 days a week, 365 days a year from April 15, 2019 until Tenant terminates its use of the Property for its bridge shelter. From the date Tenant ceases using the Property as its temporary bridge shelter through April 14, 2025, Tenant shall be permitted to use the office noted in Exhibit A, Monday through Friday from 8am to 5pm. Tenant's staff and guests shall be permitted to use Landlord's access and restroom facilities, and to occupy available spaces in Landlord's parking lot. However, Tenant must not interfere with any Church functions which may take place from time to time during the 8am to 5pm M-F Tenant use timeframe. Special consideration by Tenant shall be made on Sundays due to worship services and heavy congregant impact on the property.

3. The section of the Addendum entitled "Temporary Shelter" shall be amended to read as follows:

The City of Costa Mesa will lease a portion of the Lighthouse Church as described in the Lease Agreement for approximately 20 months for the interim bridge shelter. The City will operate a bridge shelter as defined within this Addendum. Once a permanent bridge shelter for those experiencing homelessness is open, Lighthouse will cease to operate as a homeless shelter. Nothing in this Lease Agreement is intended to or shall be interpreted to alter, void or cancel the Letter Agreement dated June 26, 2018 between the City of Costa Mesa and the Lighthouse Church, requiring submission of a completed Conditional Use Permit for provision of transitional housing on site to be filed by June 14, 2021. Nor shall this Lease Agreement be interpreted to authorize or allow such use beyond that deadline

4. The section of the Addendum entitled "Permanent Shelter" shall be amended to reflect that it is anticipated that the permanent shelter will open on or before of April 14, 2021.

5. Section 3.A(5) of the Lease Agreement shall be amended to read as follows: "See Addendum 1."
6. The section of the Addendum entitled "Lease Payment" shall be amended to add the following text:
 - a. Commencing April 15, 2020, Tenant shall pay to Landlord the initial payment of \$17,800.00. Commencing May 15, 2020, Tenant shall pay Landlord remaining seven (7) payments of \$14,261.91 for use of the Property ("Monthly Rent") for the Temporary Bridge Shelter and a portion of the capital improvements. The total amount the Tenant shall pay for use of the Property until December 14, 2020 is \$117,633.37.

If Tenant elects to extend the term beyond December 14, 2020, Tenant shall pay Landlord \$11,666.67 per month for each extension period.

Payments shall be sent to Landlord at the following address:

Costa Mesa Church of the Nazarene
1885 Anaheim Ave.
Costa Mesa, CA 92627
Attn: Philip Eyskens

7. The section of the Addendum entitled "Landlord Terms" shall be amended to add the following:
 - Landlord shall make the following additional improvements to the Property:
 - a. Repair sewer line break between cleanout and Plumer St. as specified in contractor's bid. The agreed upon cost of the repair for this pre-existing condition based on Landlord's contractor's proposal is \$2,800. However, if the sewer line repair exceeds this amount, balance due will be the responsibility of Tenant.
 - b. Repair/patch all parking lot holes following the expiration of the Lease and the end of Tennant's use of the Temporary Bridge Shelter. The agreed upon pro-rated cost to the City based on two years of use is \$6,500.
 - c. Create a new underground sewer line extension from the exterior wall of the kitchen on the Property directly across the side of the Property and ending at the Property line. The end of the new sewer line shall have a hook-up to enable the shower and restroom trailers to connect their hoses directly into the termination point. The agreed upon cost of this repair based on Landlord's contractor's proposal is \$15,000. However, if the new sewer line repair exceeds this amount, balance due will be responsible responsibility of Tenant. Also, due to the age of the existing sewer line, any sewer line blockages that occur through the Bridge Shelter extension period(s) will be responsibility of the City to clear due to the heavy use associated with the showers and restroom trailer brought on by Tenant.

8. Landlord shall execute a contract to perform each of the additional capital improvements set forth in this Amendment, except for the parking lot repair, within ten (10) days of execution of this Amendment. Contract for improvements shall state that work shall be completed within 30 days.
9. All terms not defined herein shall have the same meaning and use as set forth in the Lease Agreement.
10. All other terms, conditions, and provisions of the Lease Agreement and Addendum 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first written above.

TENANT:

CITY OF COSTA MESA,
A municipal corporation

Lon Amador H

City Manager

Date: 5/31/20

LANDLORD:

COSTA MESA CHURCH OF THE NAZARENE
A California nonprofit corporation

Philip Eyskens

Signature

Date: 4/14/2020

Philip Eyskens / Pastor

Name and Title

Signature

Date: _____

Name and Title

ATTEST:

Brenda Green 6/8/2020

City Clerk



APPROVED AS TO FORM:

Kimberly Hill Barlow
City Attorney

Date: 5/14/20

APPROVED AS TO INSURANCE:

Ruth
Risk Management

Date: 5/20/20

DEPARTMENTAL APPROVAL:

Low Ann Jorunt
City Manager

Date: 5/31/20

APPROVED AS TO PURCHASING:

Carol S
Finance Director

Date: May 26, 2020