

**NAPA COUNTY AGREEMENT NO. 240114B (formerly 7845)
AMENDMENT NO. 1**

LEASE AGREEMENT

THIS AMENDMENT NO. 1 TO NAPA COUNTY LEASE AGREEMENT NO. 240114B (formerly 7845) is made and entered into as of this ____ day of _____, 2023, by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “Lessor”, and PROGRESS FOUNDATION, a non-profit California corporation, hereinafter referred to as “Lessee”;

RECITALS

WHEREAS, on October 23, 2012, Lessor and Lessee entered into Lease Agreement No. 7845 (later renumbered to Lease Agreement No. 240114B) whereby Lessor leased to Lessee, and Lessee hired from Lessor, those certain premises with appurtenances (hereinafter collectively referred to as “Leased Premises”) situated in the City of Napa, County of Napa, State of California, and further described as 1046 Bella Drive, which is used by the Lessee as a Transitional Residential Program for Napa County’s Health and Human Services Agency to be coextensive with term of services provided by Lessee to Lessor pursuant to the provisions of Napa County Agreement No. 170446B formerly Agreement No. 2156 dated July 1, 2003, and any amendments thereto; and

WHEREAS, Lessee and Lessor entered into Service Agreement No. 220003B to replace Service Agreement No. 170446B to provide the same or substantially similar services, and now wish to allow Lease Agreement 240114B to be coterminous with Service Agreement No. 220003B, and any amendments thereto, or successor agreements that provide the same or substantially similar services as the above-referenced agreement, to modify the rental rates, and to update Lessor’s payment address and the insurance language to reflect current County policy; and

TERMS

NOW, THEREFORE, Lessor and Lessee hereby amend Napa County Agreement No. 240114B as follows:

1. Paragraphs 2, 3, 4, 6, 7, 15, 17, and 18 are amended to read in full as follows:
2. **TERM**: This Lease Agreement “Lease” or “Agreement” shall commence on November 1, 2012. Unless terminated earlier in accordance with Paragraphs 18 and 19, the term of the Lease shall be coterminous with the term of services provided by Lessee to Lessor pursuant to the provisions of Service Agreement No. 220003B dated July 1, 2021, and any amendments thereto, or successor agreements that provide the same or substantially similar services as the above-referenced agreement. Upon expiration or termination of that Agreement, or its successor agreement, Lessee's rights under this Lease Agreement shall also terminate.

3. **RENT:**

a. **Base Rent.** The monthly Base Rent for the Leased Premises shall be in the amounts set forth below, payable in advance on or before the first day of each month.

b. **Annual Adjustments.** Beginning with the monthly payment due on July 1, 2013, and annually thereafter at the beginning of each Napa County Fiscal year (July 1 through June 30) during the term of this Agreement, the monthly rental amount shall be adjusted by 5%, as listed below, and not to exceed annual Napa High HOME rent limits, which as of 2023 is \$3,936:

November 1, 2012 – June 30, 2013	\$893.55
July 1, 2013 – June 30, 2014	\$938.23
July 1, 2014 – June 30, 2015	\$985.14
July 1, 2015 – June 30, 2016	\$1034.40
July 1, 2016 – June 30, 2017	\$1086.12
July 1, 2017 – June 30, 2018	\$1,140.43
July 1, 2018 – June 30, 2019	\$1,197.45
July 1, 2019 – June 30, 2020	\$1,257.32
July 1, 2020 – June 30, 2021	\$1,320.19
July 1, 2021 – June 30, 2022	\$1,386.20
July 1, 2022 – June 30, 2023	\$1,455.51
July 1, 2023 – June 30, 2024	\$1,528.28
July 1, 2024 - June 30, 2025	\$1,604.69
July 1, 2025 - June 30, 2026	\$1,684.93
July 1, 2026 - June 30, 2027	\$1,769.18
July 1, 2027 - June 30, 2028	\$1,857.63
July 1, 2028 - June 30, 2029	\$1,950.52

4. **PROCEDURE FOR PAYMENT:** The rent required by Paragraph 3 shall be due and payable on or before the first day of each month at the following address:

Napa County Department of Public Works
Attn: Real Estate
1195 Third Street, Suite 101
Napa, CA 94559

6. **FURNISHINGS, FIXTURES AND EQUIPMENT FURNISHED BY LESSOR.**

a. **Obligations of Lessor:** It is understood and agreed that Lessor will provide satisfactory and adequate heating, lighting, water, and electrical service facilities for the Leased Premises. Lessor agrees to maintain said service facilities in reasonably good working order, repair, and operation during the term of this Lease. Lessee agrees to utilize the service facilities in a reasonable and responsible manner to avoid damage.

b. **Obligations of Lessee:** Lessee agrees to pay for all gas and electricity, water, garbage, and sewer service to Leased Premises during the term of this Lease.

c. **Taxes:** Lessee shall pay all City, County, State, or Federal taxes of any type whatsoever relating to the Leased Premises. Lessee recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Lessee will be

responsible for paying the same.

d. **Custodial and Landscape:** Lessor shall provide and be responsible for routine landscape. Lessee shall be solely responsible for janitorial maintenance to a condition of cleanliness consistent with all regulations and customary practices applicable to the use of the Leased Premises as a Transitional Residential Program and such that the Leased Premises are not damaged, subject to reasonable use and wear.

7. **USE OF PREMISES:** Lessee will use the Leased Premises as a Transitional Residential Program for the County of Napa Health and Human Services Agency as stated in Napa County Agreement No. 220003B Amendment No. 2 dated July 1, 2023, and any subsequent amendments or successor agreements that provide the same or substantially similar services as the above-referenced agreement, for the residents of Napa County which shall meet the minimum requirements set forth in Title 9 of the California Code of Regulations, section 500 et seq. The use of the Leased Premises shall be in accordance with all provisions of Agreement No. 220003B in addition to the provisions of this Lease.

15. **INSURANCE:** Lessee shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage:

(a) **Workers' Compensation Insurance.** To the extent required by law during the term of this Agreement, Lessee shall provide workers' compensation insurance for the performance of any of Lessee's duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide Lessor with certification of all such coverages upon request by Lessor's Risk Manager.

(b) **Liability Insurance.** Lessee shall obtain and maintain in full force and effect during the term of this Agreement the following liability insurance coverages, **issued by a company admitted to do business in California and having an A.M. Best rating of A:VII or better, or equivalent self-insurance:**

(1) **General Liability.** Commercial general liability [CGL] insurance coverage (personal injury and property damage) of not less than two million dollars (\$2,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of Lessee or any officer, agent, employee or volunteer of Lessee under this Agreement. If the coverage includes an aggregate limit, the aggregate limit shall be no less than twice the per occurrence limit.

(2) **Comprehensive Automobile Liability Insurance.** Comprehensive automobile liability insurance (Bodily Injury and Property Damage) on owned, hired, leased and non-owned vehicles used in conjunction with Lessee's business of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence. Coverage shall be business auto insurance coverage using Insurance Services Office (ISO) form number CA 0001 06 92 including symbol 1 (any Auto) or the exact equivalent. If Lessee owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the General Liability Insurance described in subparagraph (b)(1) above. If Lessee or Lessee's employees, officers, or agents will use personal automobiles in any way in the performance of this Agreement, Lessee shall provide evidence of

personal auto liability coverage for each such person upon request.

(c) Certificates of Coverage. All insurance coverages referenced in 15(b), above, shall be evidenced by one or more certificates of coverage or, with the consent of Lessor's Risk Manager, demonstrated by other evidence of coverage acceptable to Lessor's Risk Manager, which shall be filed by Lessee with the Public Works Department prior to commencement of performance of any of Lessee's duties.

(1) The certificate(s) or other evidence of coverage shall reference this Agreement by its Lessor number or title and department; shall be kept current during the term of this Agreement; shall provide that Lessor shall be given no less than thirty (30) days prior written notice of any non-renewal, cancellation, other termination, or material change, except that only ten (10) days prior written notice shall be required where the cause of non-renewal or cancellation is non-payment of premium; and shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, the coverage afforded applying as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(2) Waiver of Subrogation and Additional Insured Endorsements. For the commercial general liability insurance coverage referenced in 15(b)(1) and, for the comprehensive automobile liability insurance coverage referenced in 15(b)(2) where the vehicles are covered by a commercial policy rather than a personal policy, Lessee shall also file with the evidence of coverage an endorsement from the insurance provider naming Lessor, its officers, employees, agents and volunteers as additional insureds and waiving subrogation. For the Workers' Compensation insurance coverage, Lessee shall file an endorsement waiving subrogation with the evidence of coverage.

(3) The certificate or other evidence of coverage shall provide that if the same policy applies to activities of Lessee not covered by this Agreement, then the limits in the applicable certificate relating to the additional insured coverage of Lessor shall pertain only to liability for activities of Lessee under this Agreement, and that the insurance provided is primary coverage to Lessor with respect to any insurance or self-insurance programs maintained by Lessor. The additional insured endorsements for the general liability coverage shall use Insurance Services Office (ISO) Form No. CG 20 09 11 85 or CG 20 10 11 85, or equivalent, including (if used together) CG 2010 10 01 and CG 2037 10 01; but shall not use the following forms: CG 20 10 10 93 or 03 94.

(4) Upon request by Lessor's Risk Manager, Lessee shall provide or arrange for the insurer to provide within thirty (30) days of the request, certified copies of the actual insurance policies or relevant portions thereof.

(d) Deductibles/Retentions. Any deductibles or self-insured retentions shall be declared to, and be subject to approval by, Lessor's Risk Manager, which approval shall not be denied unless the Lessor's Risk Manager determines that the deductibles or self-insured retentions are unreasonably large in relation to compensation payable under this Agreement and the risks of liability associated with the activities required of Lessee by this Agreement. At the option of and upon request by Lessor's Risk Manager if the Risk Manager determines that such deductibles or retentions are unreasonably high, either the insurer shall reduce or eliminate such deductibles or self-insurance retentions as respects Lessor, its officers, employees, agents and volunteers or Lessee shall procure a bond guaranteeing payment of losses and related investigations, claims administration

and defense expenses.

(e) Inclusion in Subcontracts. Lessee agrees to require all subcontractors and any other entity or person who is involved in providing services under this Agreement to comply with the Workers' Compensation and General Liability insurance requirements set forth in this Paragraph 15.

17. **NOTICES:** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

LESSOR: Napa County Director of Public Works
Attn: Real Estate
1195 Third Street, Suite 101
Napa, California 94559

LESSEE: Progress Foundation
Attn: Director of Finance & Operations
368 Fell Street
San Francisco, CA 94102

18. **CANCELLATION:**

a. Both Lessor and Lessee shall have the right to cancel this Lease Agreement by giving thirty (30) days prior written notice delivered to the other party of such cancellation. Cancellation of this Lease Agreement alone does not impact the Lessee's obligations under Service Agreement No. 220003B, and Amendment No. 2 (dated July 1, 2023), and any subsequent amendment or successor agreements to provide the same or substantially similar services as the above-referenced agreement, with Napa County Health and Human Services Department. For purposes of this Paragraph, notice of termination on behalf of Lessor may be given by the Director of Health and Human Services and/or the Director of Public Works.

b. This Lease Agreement provides the site for services rendered by Lessee to the Napa County Health and Human Services Department pursuant to Napa County Agreement No. 220003B and any amendments thereto, or successor agreements that provide for the same or substantially similar services. In the event that Agreement No. 220003B, or its successor agreement, is canceled or modified to the extent that Leased Premises are no longer required, this Lease shall terminate to coincide with the effective date of such termination or modification.

2. This Amendment No. 1 represents all the changes to the Agreement agreed to by LESSOR and LESSEE. No enforceable oral representations or other agreements have been made by the parties except as specifically stated herein. All other provisions of the Agreement and

prior amendments not addressed in this Amendment No. 1 shall remain in full force and effect.

3. This Amendment No. 1 may be executed by electronic signature(s) and transmitted either by facsimile or in a portable document format (“pdf”) version by email and such electronic signature(s) shall be deemed as original for purposes of this Agreement and shall have the same force and effect as a manually executed original. This Amendment No. 1 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

[Remainder of page intentionally left blank, signature page to follow.]

4. Except as provided in 1 through 3 above, the terms and provisions of the Agreement shall remain in full force and effect as originally written.

IN WITNESS WHEREOF, this Amendment 1 to the Lease Agreement was executed by the parties hereto as of the date first above written.

NAPA COUNTY, a political
subdivision of the State of California

By _____
BELIA RAMOS, Chair
Board of Supervisors

"LESSOR"

PROGRESS FOUNDATION, a California non-
profit corporation

BY: St FR
STEVE FIELDS, Executive Director

BY: Swati Kapadia
SWATI KAPADIA, Chief Financial Officer

"LESSEE"

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Jason M. Dooley</u> Deputy County Counsel</p> <p>Date: <u>September 13, 2023</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>_____ Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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