

NAPA COUNTY AGREEMENT NO. 200398B

**AMENDMENT NO. 5
TO
AMENDED AND RESTATED
SPACE LICENSE AGREEMENT FOR USE OF FAIRGROUND FACILITIES**

THIS AMENDMENT NO. 5 (“Amendment No. 5”) TO THE AMENDED AND RESTATED SPACE LICENSE AGREEMENT (“Agreement” or “License Agreement”) is made and entered into as of this ____ of _____, 2023, by and between the NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as “Licensor”, and CALISTOGA ART CENTER, a California 501(c)(3) non-profit organization whose mailing address is P.O. Box 197, Calistoga, CA 94515, (hereinafter “Licensee”).

RECITALS

WHEREAS, on April 9, 2020, Licensor and Licensee entered into License Agreement 20-009 for use of certain real property located at 1435 North Oak Street, Calistoga, California upon which the Napa County Fairgrounds are located (the “Property”), a portion of which is used by Licensee as an Art Center; and

WHEREAS, on August 11, 2020, Licensor and Licensee replaced License Agreement 20-009 with Amended and Restated Space License Agreement No. 200398B to slightly revise terms and waive monthly facility rental fees for the period of time where the Art Center could not operate due to COVID-19; and

WHEREAS, on December 8, 2020, Licensor and Licensee entered into Amendment No. 1 to extend the term to June 30, 2021, with slightly revised terms; and

WHEREAS, on May 18, 2021, Licensor and Licensee entered into Amendment No. 2 to extend the term to June 30, 2022; and

WHEREAS, on June 7, 2022, Licensor and Licensee entered into Amendment No. 3 to extend the term to February 15, 2023, and adjust the monthly facility rental fee; and

WHEREAS, on January 10, 2023, Licensor and Licensee entered into Amendment No. 4 to extend the term to June 30, 2023, and adjust the monthly facility rental fee; and

WHEREAS, Licensee now desires to extend the term of this Agreement to June 30, 2024, at the same monthly rental rate, to continue to use the Property as an Art Center and Licensor is willing to extend the term for one year;

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Licensor and Licensee agree to amend the Agreement as follows:

TERMS

1. Paragraph 2 is amended to read in full as follows:

2. **TERM:** The term of this Agreement shall commence on January 1, 2020, and expire on June 30, 2024. Licensee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Agreement. Nothing contained herein shall be construed as consent by Licensor to any hold over by Licensee. Licensee's obligation to defend and indemnify Licensor shall survive the expiration or termination of this Agreement and continue so long as a viable claim exists.

2. Paragraph 3 is amended to read in full as follows:

3. **LICENSE FEE:**

a) Licensee hereby agrees to and shall pay Licensor, due on the first day of each month, the following rental fee amounts. Payments shall be made to: Napa County and submitted to: Department of Public Works (Attn: Real Estate), 1195 Third Street, Suite 101, Napa, California 94559.

January 1, 2020 – July 31, 2020

\$1,100.00 per month

August 1, 2020 – June 30, 2022

\$1,000.00 per month

July 1, 2022 – June 30, 2024

\$350.00 per month

b) Until June 30, 2022, no license fee is due for any period of time during the term of this Agreement when Licensee is unable to operate the Art Center due to COVID-19. Licensee shall notify Licensor when the Art Center is closed due to COVID-19 and shall be allowed up to 30 days to reopen after local and state health orders allow the Art Center to operate inside the building. The license fee shall be prorated for any partial month the Art Center is closed due to COVID-19. Such license fee reductions shall be negotiated and memorialized administratively by the parties without the need to amend this Agreement.

3. This Amendment No. 5 represents all the changes to the Agreement agreed to by Licensor and Licensee. 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. 5 shall remain in full force and effect.

4. This Amendment No. 5 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.

5. This Amendment No. 5 may be executed in counterparts, which when taken together, shall constitute a single signed original as though all parties had executed the same page.

IN WITNESS WHEREOF, this Amendment No. 5 is executed by Napa County, acting by and through the Chair of the Board of Supervisors, and by Calistoga Art Center through its duly authorized officers.

CALISTOGA ART CENTER

By: 
MARCIA BEAUCHAMP, President

By: 
CATHY POPE, Secretary

NAPA COUNTY, a political subdivision of
the State of California

By: _____
BELIA RAMOS, Chair
Napa County Board of Supervisors

APPROVED AS TO FORM Office of County Counsel By: <u>Thomas C. Zeleny</u> Chief Deputy County Counsel Date: <u>May 8, 2023</u>	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS Date: _____ Processed By: _____ Deputy Clerk of the Board	ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors By: _____
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