

LEASE

THIS LEASE is entered into between the County of San Luis Obispo, hereinafter referred to as "County" and Westwinds Business Park, LLC, a California limited liability company, hereinafter referred to as, "Lessor," and will replace and supersede all previous agreements between County and Lessor, with respect to the Premises hereinafter described.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. **Premises**: Lessor hereby leases to County, and County hereby hires and takes from Lessor, for the term, at the rental and upon the conditions hereinafter set forth, those certain premises hereinafter referred to as "Premises," and more particularly described as approximately 6,562 square feet of improved office space, as depicted on Exhibit "A" attached hereto, located at 277 South Street, Suites T and Y, San Luis Obispo, California.

2. **Quiet Enjoyment**: Lessor agrees to and shall on the commencement date of the term of this Lease hereinafter set forth, place County in quiet possession of the leased Premises and shall secure to County the quiet possession hereof against all persons lawfully claiming the same during the entire term and any renewals or extensions thereof.

3. **Term**: The term of this Lease shall be for a period of five (5) years and Six (6) months, commencing on May 1, 2012, and expiring on October 31, 2017.

4. **Early Termination**: County shall, at its option, have the unilateral right to terminate this Lease and vacate the Premises after October 31, 2013 upon ninety (90) days advanced written notice prior to October 31, of any given year. County General Services Agency Director ("Director"), or the designee on behalf of the Director, shall give Lessor not less than ninety (90) days advance written notice by certified or registered mail, return receipt requested, of County's intention to terminate this lease. County shall reimburse Lessor an amount based upon the schedule below and Lessor's receipts for improvements not exceeding \$25,000. Lessor shall be fully responsible for any improvement expenditures that exceed \$25,000 regardless of County's Early Termination. In the event of Early Termination, the following reimbursement schedule shall be in effect based upon receipts of work completed:

Termination date of October 31, 2013	80% or an amount not to exceed \$20,000
Termination date of October 31, 2014	60% or an amount not to exceed \$15,000
Termination date of October 31, 2015	40% or an amount not to exceed \$10,000
Termination date of October 31, 2016	20% or an amount not to exceed \$5,000

5. **Rental:** Beginning November 1, 2012, County shall pay Lessor as rent for the Premises the sum of Eight Thousand Eight Hundred Sixty Dollars per month (\$8,860.00). Monthly rental shall be payable in advance on the first day of each month, without deduction, offset or abatement except as provided for in Paragraphs 11, 19, and 20. All rental payments shall be sent to the following address: Westwinds Business Park, LLC, Attn: Charles E. French, P.O. Box 1796, San Luis Obispo, Ca 93406. Beginning November 1, 2013 rent shall be adjusted according to the following schedule, based on a three percent (2.5%) increase per year:

November 1, 2013 to October 31, 2014:	\$9080.00
November 1, 2014 to October 31, 2015:	\$9307.00
November 1, 2015 to October 31, 2016:	\$9540.00
November 1, 2016 to October 31, 2017:	\$9778.00

6. **Use of Leased Premises:** The Premises shall be used for conducting and operating therein the business of the County of San Luis Obispo. The Mental Health Department is the intended occupant. There is public visitation to the Premises for Mental Health programs.

7. **Taxes and Utilities:** Lessor shall pay during the term of this Lease and any extensions or renewals thereof, water, sewer and trash, and for any common area maintenance utilities. County shall pay telephone service, and separately metered utilities other than those mentioned above, and used exclusively by County during its occupation of the Premises. Any and all fire suppression systems and any existing fire detection systems shall be maintained by Lessor according to requirements of the San Luis Obispo City Fire Department. Lessor will pay all real property taxes and any assessments levied or assessed on the land and improvements thereon of which the leased Premises is a part.

8. **Insurance:**

A. Fire Insurance.

1) Lessor: Lessor's policy as to the building and Premises shall be primary. Lessor at its cost shall maintain during the term of this Lease on the building and Premises a policy or policies of standard fire and extended coverage insurance to the extent of at least ninety (90%) percent of full replacement value thereof.

2) County: County is presently self-insured. County at its cost shall procure and maintain during the term of this Lease, a policy of fire insurance on County's personal property including improvements paid for by the County, within the leased Premises.

B. Liability Insurance.

1) Lessor: Lessor agrees to maintain in force throughout the term hereof, at Lessor's sole cost and expense, commercial general liability insurance. This insurance shall include, but shall not be limited to, commercial general liability insurance providing protection against third party claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from any act or occurrence arising out of Lessor's operations during the time of this Lease. The policy shall provide that the Lessor's insurance will operate as primary insurance and that no other insurance maintained by the County will be called upon to contribute to a loss hereunder.

2) County: County is presently self-insured. County agrees to maintain in force throughout the term hereof, at County's sole cost and expense, commercial general liability insurance with a broad form general liability endorsement insuring against any liability to the public for any claim for damages due to death, bodily injury or property damage related to County's occupancy of the Premises, with single limit coverage of not less than \$1,000,000 per occurrence. Lessor shall be named as an additional insured in such policy. County shall provide Lessor with at least thirty (30) days notice of cancellation of insurance.

C. Exemption of County from Liability.

Except for County's willful or negligent conduct, Lessor hereby agrees that County shall not be liable for any reason in connection with the building, including, without limitation, events that occur in the common areas, or for damage or injury caused by fire, utility outage or interruption, pipe or sprinkler leakage, or similar causes, injury to Lessor's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of Lessor, Lessor's employees, or Lessor's invitees, in or about the Premises; nor shall County be liable for

injury to the person of Lessor, Lessor's employees, or Lessor's invitees, whether such damage results from conditions arising upon the Premise or upon other portions of the building in which the Premises are a part, or from any other sources or places. County shall not be liable to Lessor for any damages arising from any act or neglect of any other tenant, if any, of the building in which the Premises are located.

9. **Indemnification:** Lessor shall defend, indemnify and hold harmless the County, its officers, and employees, from all claims, demands, damages, costs, expenses, judgments, attorney fees or liabilities, or other losses that may be asserted by any person or entity, and that arise out of or are made in connection with the acts or omissions relating to the performance of an obligation or duty provided for or relating (directly or indirectly) to this Lease, or the Premises hereunder. The obligation to indemnify shall be effective and shall extend to all such claims and losses, in the entirety, even when such claims or losses arise from the comparative negligence of the County, its officers and employees. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers, and employees.

The preceding paragraph applies to any theory of recovery relating to said act or omission by the Lessor or its agents, employees, or other independent contractors directly responsible to Lessor, including, but not limited to the following:

- A. Violation of statute, ordinance, or regulation.
- B. Professional malpractice.
- C. Willful, intentional or other wrongful acts, or failures to act.
- D. Negligence or recklessness.
- E. Furnishing of defective or dangerous products.
- F. Premises liability.
- G. Strict liability.
- H. Inverse Condemnation.
- I. Violation of civil rights.
- J. Violation of any federal or state statute, regulation, or ruling resulting in a determination by the Internal Revenue Service, California Franchise Tax Board or any other California public entity responsible for collecting payroll taxes, when the Lessor is not an independent contractor.

Nothing contained in the foregoing indemnity provisions shall be construed to require Lessor to indemnify County, against any responsibility or liability in contravention of Section 2782 of the Civil Code.

It is the intent of the parties to provide the County the fullest indemnification, defense, and “hold harmless” rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Lease and the remaining language shall be given full force and effect.

10. Janitorial Services: County shall provide janitorial service for the leased space occupied by the County.

11. Repairs and Maintenance: Lessor shall maintain and keep in good working condition at Lessor’s own expense, the Premises including structural repairs to the interior and exterior thereof, and utility systems within the Premises, and make all repairs and replacements thereto, including the replacement of all glass and all repairs occasioned by any acts, omissions, or negligence of Lessor, its agents, invitees, licensees, visitors, contractors, or any third party.

Lessor shall put the Premises, the building, and all common areas under the control of Lessor, into a condition fit for occupation by the commencement of this Lease, and shall thereafter repair all subsequent dilapidation thereof which may render them untenable. “Untenable” within the context of this paragraph means that the Premises, or the building, or the areas under the control of Lessor, substantially lack any one or more of the following affirmative standard characteristics:

A. Effective waterproofing and weather protection of the roof and exterior walls, including broken windows and doors.

B. Plumbing facilities which conformed to applicable law in effect at the time of installation, maintained in good working order. County shall make all reasonable efforts to prevent the overflowing of toilets as a result of its usage.

C. A water supply approved under applicable law, which is under the control of the County, capable of producing hot and cold running water, or a system which is under control of Lessor, which produces hot and cold running water, furnished to appropriate fixtures and connected to a sewage disposal system approved under applicable law.

D. Heating, Ventilating, and Air Conditioning (HVAC) facilities, which conform to applicable law at the time of installation, maintained in good working order.

E. Electrical lighting, which conformed to wiring and electrical law at the time of installation, maintained in good working order. County shall be responsible for light bulb replacement.

F. Building and appurtenances and every part thereof clean, sanitary, and free from accumulations of debris, filth, rubbish, garbage, rodents, and vermin; and all areas under control of Lessor kept in every part clean, sanitary, and free from all accumulations of debris, filth, rubbish, garbage, rodents and vermin.

G. Floors, stairways, ramps, and railings maintained in good repair. Additionally, Lessor shall, at Lessor's expense, maintain and keep the leased Premises and every structural portion thereof in a good state of repair during the Lease term and any extensions or renewals thereof.

If Lessor fails or neglects to repair as set forth above, within thirty (30) days plus any additional period reasonably required by the circumstances after County's notice to Lessor of the need for repairs, County may repair the same and deduct the expenses of such repairs from the rent to the lawful extent without waiver; or County may, at its option, vacate the Premises, in which case County shall be discharged from further payment of rent, or performance of other conditions, and this Lease shall automatically terminate on the date that County vacates the Premises. For the purposes of this paragraph, if County acts to repair and deduct said costs on the 30th day following notice as above, County shall be presumed to have acted after a reasonable time; however, Lessor may affirmatively show the contrary to have been the case in any specific instance. No deductions are allowed County if the repairs necessary are as a result of acts or omissions by the County or any representative or employee.

Notwithstanding the foregoing, County shall reimburse Lessor for the cost to repair all damage caused to the interior of the building, to the extent resulting from the negligence or intentional misconduct of the County or of any of the County's agents, contractors or employees.

12. Surrender: County shall surrender the Premises unto Lessor on the last day of the term or sooner termination of this Lease in the same condition as when received, reasonable use and wear excepted.

13. Improvements, Remodeling, Alterations and Additions: County shall not make, or suffer to be made, any alterations (whether major or minor) of the Premises, or any part thereof, without the written consent of Lessor first had and obtained.

Lessor, at Lessor's sole cost and expense shall install telephone and data cabling to the County's specifications, install one conference room as shown on the attached Exhibit "A" with adequate HVAC, remodel kitchen #1 as shown on Exhibit "A" to provide an office with carpet installed and the sink removed, install an electric stove and appropriate outlet in kitchen # 2 and any necessary cosmetic

improvement including repainting where needed.

Any tenant improvements constructed exclusively on behalf of the County of San Luis Obispo, and in excess of \$1,000, shall comply with current prevailing wage laws. Lessor shall be solely liable for said compliance and shall defend and indemnify County against any claim to the contrary.

14. Landscaping / Grounds Maintenance: Lessor agrees to maintain, at Lessors sole cost and expense, all exterior landscaping, grounds, irrigation systems, and to provide parking lot repair and maintenance.

15. Parking: County shall have the exclusive right to utilize twenty-four (24) on-site parking spaces. The County may also use parking spaces in the Lessor's lot on Bridge Street on a first come first serve basis.

16. Assignment and Default: County shall not assign this Lease, nor sublet the whole or any part of the Premises, without the prior written consent of Lessor. Any attempt to do so shall be void, shall confer no rights on any third party, and shall be good cause for cancellation of this Lease by Lessor at Lessor's option. This Lease shall not be assignable by operation of the law.

Should County violate any of the terms or conditions hereof, Lessor may, thirty (30) days after giving written notice of said violation to the County, terminate this Lease and re-enter the Premises and remove all persons therefrom.

17. Right of Entry: Lessor shall have the right with reasonable notice and at reasonable times, to inspect the premises and to perform maintenance, repairs and improvements to the premises or the building of which the premises is a part.

18. Signs: County at its cost shall have the right to place, construct and maintain a sign on the Premises, advertising its business on the Premises.

Any sign that County has the right to place, construct, and maintain shall comply with all laws, and County shall obtain any approval required by such laws. Lessor makes no representation with respect to County's ability to obtain such approval.

19. Destruction of Premises: If during the term of this Lease, the Premises are injured or destroyed by fire or other cause, so as to render the Premises, in County's judgment, unfit for occupancy, or so as to substantially prevent or impair, in County's judgment, County's use of the Premises for intended purposes, then this Lease shall terminate at the option of either party hereto; provided that if the Premises can

be repaired to the satisfaction of County under the laws and regulations of any governmental agency thereunto applicable, using the same type of construction, within thirty (30) days or such reasonable time per circumstance up to one hundred twenty (120) days from date of occurrence with abatement of rent thereof, then Lessor may forthwith repair the same, in which event such injury or destruction shall in no way annul or void this Lease. The County shall be entitled to a proportionate reduction in the rent herein reserved corresponding to the time during which, and to the portion of the Premises of which, County shall be deprived of possession. In the event Lessor elects not to make such repairs, or in the event repairs cannot be made to the satisfaction of the County, using the same type of construction, within thirty (30) days under the laws and regulations of any governmental agency thereunto applicable, the Lease shall then terminate at the option of either party hereto. County has no right of termination if any destruction was caused by their acts or omission.

20. Condemnation: If the whole of the Premises shall be taken or condemned by any competent authority under power of eminent domain for a public or a quasi-public use or purpose, then the leasehold estate hereby created shall cease and terminate as of the date actual physical possession of the leased Premises is taken by the condemnor or the date County is required to vacate the Premises in order to continue its business operations with minimum interruption; whichever is earlier. Compensation and damages awarded for such total taking shall belong to Lessor, except that County shall be entitled to receive any award for the taking of or damage to County's equipment, fixtures, or any improvements made by County to the leased Premises for which County would have had, but for the condemnation, the right to remove on expiration or sooner termination of this Lease. Further, County shall be entitled to that portion of the award granted for disruption to business, business relocation costs, and similar awards to offset County's Lease with appropriate offsets on rents.

In the event that there shall be partial taking of the leased Premises during the Lease term under the power of eminent domain, this Lease shall terminate as to the portion of the leased Premises so taken on the date when actual physical possession of said portion is taken by the condemnor, but this Lease shall at County's option, continue in force and effect as to the remainder of the leased Premises, provided, however, that the rental payable by County for the balance of the term where County elects to continue this Lease shall be abated in the proportion that the square footage of floor area of the leased Premises taken bears to the total floor space of the leased Premises at the time of such taking. In the event of such partial taking,

compensation and damages for such partial taking shall belong to Lessor, except that County shall be entitled to receive any award for the taking of, or damage to, County's equipment, fixtures, and any improvements made by County to the leased Premises which County would have had, but for the condemnation, the right to remove on expiration or sooner termination of this Lease, and, in the event that this Lease is continued as to the portion of the leased Premises not taken in a suitable condition for the continuance of County's tenancy. Further, County shall be entitled to that portion of the award granted for disruption to business, business relocation costs, and similar awards to offset County's Lease with appropriate offsets on rents.

21. Environmental Matters / Covenants Regarding Hazardous Materials: Lessor and County shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations ("Hazardous Materials Laws") relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic, contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under such laws, ordinance or regulations (collectively, "Hazardous Materials").

Lessor and County shall further indemnify, defend, protect, and hold each other free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys' fees) or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by:

(A) the presence in, on, under or about the premises or discharge in or from the premises of any Hazardous Materials or Lessor's use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials to, in, on, under, about or from the premises, or

(B) Lessor's or County's failure to comply with any Hazardous Materials Law. Lessor's and County's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification or decontamination of the premises, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith, and shall survive the expiration or earlier termination of the term of this lease. For purposes of the release and indemnity provisions hereof, any acts or omissions of Lessor or County, or by employees, agents, assignees, contractors or subcontractors of Lessor or County or others acting for or on behalf of Lessor

(whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessor or County.

22. Holding Over: In the event that County shall hold over after expiration of the Lease term or any extension or renewal thereof, with the consent, express or implied, of Lessor, such holding over shall be deemed merely a tenancy from month-to-month on the terms, covenants, and conditions, so far as applicable, and subject to the same exceptions and reservations, as herein contained, until such tenancy is terminated in manner prescribed by law.

23. Notices: Any notices, demands, or communication, under or in connection with this Lease, may be served upon County by personal service, or by mailing the same by certified mail in the United States Post Office, postage prepaid, and directed to County at:

County of San Luis Obispo
General Services Agency
1087 Santa Rosa
San Luis Obispo, CA 93408
Attention: Property Manager

and may likewise be served on Lessor at:

Westwind Business Park, LLC
Attn: Charles E. French
P.O. Box 1796
San Luis Obispo, CA 93406

Either County or Lessor may change such address by notifying the other party in writing as to such new address as Lessor or County may desire used and which address shall continue as the address until further written notice.

24. Successors: The agreements herein made shall apply to, bind and inure to the benefit of the successors and assigns of Lessor, and the successors and permitted assigns of County.

25. Provisions Deemed Covenants and Conditions: The parties hereto agree that all the provisions hereof are to be construed as covenants and conditions as though the words importing such covenants and conditions are used in each instance, and that all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representative, successors and assigns.

26. Estoppel: Each party, within ten (10) days after notice from the other party, shall execute and deliver to the other party, in recordable form, a certificate stating that this Lease is unmodified and in full

force and effect, or in full force and effect as modified, and stating the modifications. The certificate also shall state the amount of monthly rent, the dates to which the rent has been paid in advance, and the amount of any prepaid rent.

27. **Binding Effect Law:** Subject to any provisions hereof restricting assignment or subletting by County and subject to the provisions of Paragraphs 11, 19 and 20, this Lease shall bind the parties, their personal representatives, successors and assigns. This Lease shall be governed by the laws of the State where the Premises are located and any litigation concerning this Lease between the parties hereto shall be initiated in the County of San Luis Obispo.

28. **Prior Agreements:** This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior or contemporaneous agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only signed by the parties in interest at the time of the modification. Except as otherwise stated in this Lease, County hereby acknowledges that neither the broker (if applicable) acting as agent for Lessor nor any cooperating agent on this transaction nor the Lessor or any employee or agents of any said persons has made any oral or written warranties or representations to County relative to the condition or use by County of the Premises.

29. **Subordination Agreement:** The County's rights under this Lease shall take priority over any ground lease or mortgage, deed of trust or any other hypothecation or security entered after or placed upon the Premises and to any and all advances made on the security thereof and to all renewals, modifications, consolidations, replacements and extensions thereof. County's right to quiet possession of the Premises shall not be disturbed if County is not in default and so long as County shall pay the rent and observe and perform all of the provisions of this Lease, unless this Lease is otherwise terminated pursuant to its terms. If any mortgage, trustee, or ground lessor shall elect to have this Lease prior to the lien on its mortgage, deed of trust or ground lease, and shall give written notice thereof to County, this Lease shall be deemed prior to such mortgage, deed of trust or ground lease, whether this Lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof.

County agrees to and shall attorn to any purchaser in good faith and for value or any successor in interest of the Lessor herein.

30. **Waivers:** No waiver by Lessor of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by County of the same or any other provision. Lessor's consent

to or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to or approval of any subsequent act by County. The acceptance of rent hereunder by Lessor shall not be a waiver of any preceding breach by County of any provisions hereof, other than the failure of County to pay the particular rent so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent.

31. **Americans With Disabilities Act:** Lessor shall be responsible for alterations necessary to comply with the Americans With Disabilities Act of 1990, 42 U.S.C. sect. 12101 et seq., as currently enacted and in accordance with applicable laws.

32. **Smoking:** Entire Premises occupied by County and County clients shall be a non-smoking building and no smoking shall be allowed in or on the premises, including but not limited to all balconies, courtyards, walkways and parking areas leased by the County.

33. **Severability:** The invalidity of any provision of this Lease shall not affect the validity, enforceability of any other provision of this Lease.

34. **Entire Agreement and Modifications:** This Lease embodies the whole Lease between the parties hereto as it pertains to the subject real property and there are no promised terms, conditions, or obligations referring to the subject matter hereof, other than as contained herein. Any alterations, changes or modifications to this Lease must be in writing and executed by both Lessor and County.

/////////////////////////////////NOTHING FURTHER PAST THIS POINT/////////////////////////////////

IN WITNESS WHEREOF, the parties have executed this Lease this _____ day of _____, 2012.

COUNTY OF SAN LUIS OBISPO

Lessor: Westwind Business Park, LLC
a California limited liability company

By: _____
Chairperson of the Board of Supervisors

By Its Sole Member:
French Brothers Investments, LLC
a California limited liability company

Approved by the Board of Supervisors this
_____ day of _____, 2012

By: 
Charles E. French, Managing Member

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN

County Counsel ,

By: 
Deputy County Counsel

Date: 4/4/12

EXHIBIT A

