



Meeting Date: 03/11/2008.

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input checked="" type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Will Reed Agenda Item No. 0-1
 Reviewed By: City Manager [Signature] (A. Holmberg) [Signature] City Attorney Finance SW Other (Specify) N/A

DATE: February 25, 2008

TO: City Council

FROM: Sal Gonzalez, Housing Director
Housing Department

[Handwritten signature]

SUBJECT: Residential Treatment Center Proposal for 1450 Rose Avenue (formerly the Rainbow House site)

RECOMMENDATION

That the City Council authorize the Housing Director to execute a three (3) year lease with Lighthouse Women & Children’s Mission for the purpose of providing residential treatment for women with alcohol and chemical dependency issues at 1450 South Rose Avenue.

SUMMARY

This report is a follow-up to the staff reports and prior Lease negotiations that have been provided to City Council by way of the City Attorney’s Office relating to the occupancy of the site at 1450 South Rose Avenue.

DISCUSSION

At its June 12, 2007 meeting, the Department presented its staff report to City Council from the RFP process regarding the proposed use of 1450 South Rose Avenue. At the conclusion of the hearing, City Council instructed the Department to enter into Lease Negotiations with each of the respondents and return with a recommendation. The respondents were as follows:

1. Lighthouse Women & Children’s Mission
104 & 150 North Hayes Street
Oxnard, CA 93031
2. Miracle Recovery Centers
1997 East Main Street
Ventura, CA 93001

3. Services United, Inc.
1300 West Gonzalez Road, Suite 102A
Oxnard, CA 93030

On July 6, 2007, the Lease Negotiations were held for Lighthouse Women's and Children's Mission and Services United, and the process for Miracle Recovery Centers was completed on July 12, 2007.

After awarding and entering into a three (3) year Lease Agreement with Miracle Recovery, we received an official notification from its Board of Directors on December 17, 2007 that the agency would not be occupying the site and would like to terminate the Lease Agreement based upon the fact that it did not want to comply with the requirements set forth by the U.S. Department of Housing and Urban Development (HUD). In January, staff met with the Board of Directors to attempt to reopen the discussion of occupancy of the facility, but its Board expressed no interest in continuing any further discussion.

Staff discussed these occupancy issues with the HUD Los Angeles Field Office. The federal agency could at this point have required the City to return the \$380,000 grant awarded for the acquisition and rehabilitation of the property. After a site visit by HUD Staff, it was agreed that a significant investment had been made by the City to improve and prepare the premises for operation of a facility for homeless women with alcohol and chemical dependencies, and also that there was a great need for this type of facility in Oxnard. It was after this visit that HUD made a determination to give the City until March 15, 2008 to find another service provider.

Upon receiving this final extension, Housing Staff contacted the other respondents to the original Request for Proposal, while also receiving inquiries from other service providers that had learned of Miracle Recovery's unwillingness to occupy the property. Of all of these agencies, the Lighthouse prepared a revised program proposal that included a monthly lease payment of \$1,000. While this Lease is half of what Miracle Recovery proposed, the updated proposal from the Lighthouse demonstrates its willingness to modify its program religious requirements that had originally excluded the organization from the process. Lighthouse is offering less because it has entered into another commitment which has required it to make monthly payments that it was not making at the time of the submission of its initial proposal.

However, if the City Council's direction is to not enter into this Lease Agreement with the Lighthouse Women & Children's Mission, the City will have to refund the original grant award in the amount of \$380,000 to HUD.

Lease Negotiation Results

Lighthouse Women & Children's Mission will pay the City of Oxnard the sum of \$1,000 per month for the duration of the three (3) year Lease Agreement. The Lighthouse has also demonstrated that it will modify its religious requirements to the degree that the attendance of some form of religious worship services is not mandatory as a condition for participation of the program. Additionally, this is an Oxnard based provider and it will be moving clients from its existing Oxnard program into the facility, whereas Miracle Recovery was planning on moving existing clients from Ventura to the facility and begin transitioning Oxnard residents into the program.

Monitoring/Accountability

Staff has worked with the Commission on Homelessness to develop and implement a Homeless Programs Compliance & Performance Monitoring Tool, which went into effect in December 2007. A similar tool is currently being used by the San Diego County and recommended by HUD's Los Angeles Field Office for all Supportive Housing Program awardees. The process calls for quarterly monitoring of all Supportive Housing Program and Emergency Shelter Grant recipients. These quarterly progress reports will be presented to City Council, and if necessary, providers will be asked to speak before City Council regarding specific issues.

FINANCIAL IMPACT

If the Housing Department's request to enter into a Lease Agreement with Lighthouse Women & Children's Mission is granted, there will be revenues of \$12,000 annually received by the Housing Department and placed into a designated account for future uses at 1450 South Rose Avenue, as directed by HUD.

Attachment 1 - Lease with Lighthouse Women & Children's Mission

LEASE, 1450 SOUTH ROSE AVENUE

This Lease ("Lease") is made and entered into in the County of Ventura, State of California, effective the 1st day of September 2007, by and between the City of Oxnard, a municipal corporation ("City") and Lighthouse Women & Children's Mission, a California corporation ("Lessee").

Background

1. The City has received an Emergency Housing and Assistance Capital Development (EHAPCD) deferred loan from the State of California, and a Continuum of Care Supportive Housing Program grant. The purpose of the loan and grant together is to fund the acquisition of a residence for homeless recovering alcoholic and chemically dependent women, at which lodging and support services will be provided. The residence is located at 1450 South Rose Avenue, in the City of Oxnard, California.
2. Lessee is a non-profit corporation and is a provider of lodging and support services for homeless recovering alcoholic and chemically dependent women.

Agreement

1. **Premises**

City hereby leases to Lessee and Lessee hereby leases from City, on the terms and conditions set forth herein and in consideration of prompt payments of rents, the real property consisting of (the "Land") and all improvements thereon (the "Improvements"), located at 1450 South Rose Avenue, Oxnard, California 93033. A diagram of the premises is attached as a reference.

2. **Term**

This Lease grants Lessee a tenancy on the Premises commencing on the date the City informs Lessee that the Premises are ready for occupancy (the "Commencement Date") and ending on April 30, 2011 (the "Initial Term"). The parties may agree to extensions of the terms as set forth below.

3. **Use**

- a. Lessee shall use the Premises solely and exclusively as a residence for recovering alcoholic and chemically dependent females and related support staff, and for no other purpose.

- b. Lessee shall provide at the Premises to its clients the services described in Exhibit 2 hereto. No more than a total of 25 clients and reasonable number of support staff are to occupy the Premises on an overnight basis. Use of the Premises as a general public hostel, hotel or rooming house is specifically prohibited.
- c. A Special Use Permit may be required by the City.
- d. Lessee shall prepare and maintain a written policy, and make a copy of such policy available to the City, allowing preference for the acceptance of residents of the City of Oxnard.

4. **Rent**

- a. From the Execution Date through April, 2011, the Premises shall be provided by City to Lessee for **\$1,000** per month payable in advance on the first day of each month, without deduction, offset, prior notice or demand.
- b. On April 1, 2008, and at each twelve-month interval thereafter (an "adjustment date") that the Lease remains in effect, both during the initial term and the term of any option, City may adjust the monthly rent to reflect the change in the consumer price index for the Los Angeles/Long Beach/Riverside areas (all consumers) from a date fifteen months preceding the adjustment date to a date three months preceding the adjustment date.
- c. Lessee shall pay the monthly rent to:

Housing Department
City of Oxnard
435 South "D" Street
Oxnard, California 93030
Attention: Housing Director

5. **Improvements of Premises**

Lessee shall obtain the written consent of the City's Housing Director ("Director") before improving or altering the Premises in any manner, including but not limited to painting, wallpapering, adding or changing locks, or making any other alterations ("improvements"). The City may withhold its consent for any reason. Lessee agrees, at its sole expense, to pay for any improvements to the condition of the Premises during the term of the Lease.

6. **Maintenance and Repairs**

- a. By entering possession of the Premises, Lessee accepts the Premises in its existing condition as of the Commencement Date and agrees to keep the Premises in good repair.

b. Lessee shall be responsible, at its sole cost and expense, to keep the Premises in good order and in a neat and clean condition at all times.

c. Lessee shall perform and pay for ordinary maintenance, repairs, and replacements necessary and appropriate for Lessee's continued use of the Premises; major repairs (in excess of \$7,000) shall be the responsibility of Lessor, except to the extent such repairs are necessitated by the negligent or willful acts or omissions of Lessee or persons on the Premises with the permission of Lessee, in which case Lessee shall be obligated to make and pay for such repairs.

d. Lessee shall, at its sole cost and expense, keep and maintain all landscaping, including trees, bushes, flowers, and grass upon the Premises in a good, neat, orderly and nonhazardous condition. Such maintenance shall be to a standard that satisfies the reasonable standards of the Superintendent.

e. While there are

7. **Utilities**

Lessee shall pay for all utility services and similar services to the Premises including electric, telephone, solid waste, other utility services, and cable or satellite television. The City, however, shall pay for sewer and water services.

8. **Indemnity**

Lessee agrees to indemnify, hold harmless and defend City, its City Council and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to occupancy of the Premises by Lessee or its agents, employees, subconsultants, consultants and other persons acting on Lessee's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence or acts for which Lessee or its agents, employees, subconsultants, consultants and other persons acting on Lessee's behalf would be held strictly liable.

9. **Insurance**

a. Lessee shall obtain and maintain during the term of this Lease the necessary insurance coverage(s) as specified in Exhibit INS, attached hereto and incorporated herein by this reference, issued by a company satisfactory to City's Risk Manager ("Risk Manager"), unless the Risk Manager waives, in writing, the requirement that Lessee obtain and maintain such insurance coverages.

b. Lessee shall, prior to the execution of this Lease, file with the Risk Manager evidence of insurance coverage as specified. Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in Exhibit INS. Such insurance policies shall name the City as an additional named insured.

c. Lessee's maintenance of proper insurance coverages is a material element of this Lease. Lessee's failure to maintain or renew the necessary insurance coverage(s) or to provide evidence of renewal may be considered as a material breach of this Lease.

10. **Destruction of Improvements**

a. If the Improvements are damaged or destroyed during the term of the Lease, Lessee will, as soon as practicable after the casualty, restore the Improvements to substantially the condition which existed immediately prior to such damage or destruction.

b. If the Land is damaged or rendered unusable, the City may immediately terminate this Lease; provided Lessee, at the City's option, may continue the occupancy of the Land if the damage or destruction to the Land does not totally impair the Lessee's use of the Land.

c. Insurance proceeds shall be applied by Lessee to the payment of the costs of restoration as such costs are incurred by Lessee. Lessee shall not apply insurance proceeds to any use other than restoration of the Improvements or Land.

11. **Frustration of Purpose**

At any time during the term of this Lease, if the governing body of any political subdivision having competent jurisdiction over the Premises should enact any valid zoning ordinance, law or regulation which prohibits the use of the whole or substantial part of the Premises for the purposes as provided in this Lease, The City agrees that Lessee may elect, within 120 days after the effective date of such ordinance, law or regulation, to cancel this Lease and surrender possession of the Premises and all Improvements. Any such cancellation and surrender shall act to release and discharge Lessee from any further obligation under this Lease.

12. **Condemnation**

a. In case the whole of the Premises or such part thereof as shall substantially interfere with Lessee's use and occupancy thereof shall be taken by any lawful power or authority by exercise of the right of eminent domain, or sold to prevent such taking, either Lessee or the City may terminate this Lease effective as of the date possession is required to be surrendered to such authority. Lessee shall not because of such taking assert any claim against the City or the taking authority for any

compensation because of such taking, and the City shall be entitled to receive the entire amount of any award without deduction for any estate or interest of Lessee except as provided below.

b. In the event the amount of the Premises or the type of estate taken shall not substantially interfere with the conduct of Lessee's business, the City shall be entitled to the entire amount of the award without deduction for any estate or interest of Lessee. In such event, the City shall promptly proceed to restore the Premises to substantially their condition prior to such partial taking and Lease shall remain in effect. In no event, however, shall Lessee be required to incur expense greater than compensation received by the City and in no event shall the City be required to expend funds prior to receipt of compensation.

13. **Compliance with Laws**

Lessee shall comply with all City, State County and federal laws, rules and regulations, now or hereafter in force, pertaining to Lessee's use of the Premises pursuant to this Lease and to Lessee's engagement in the activities described in paragraph 2 of the "Background" and paragraph number 3 set forth hereinabove. Lessee's use of the Premises must comply with all zoning, public health, safety and fire laws and ordinances, as well as the rules and regulations of all government entities having competent jurisdiction.

14. **Taxes and Assessments**

Lessee shall pay all real property and possessory interest taxes and assessments levied or assessed against Lessee's interest in and occupancy of the Premises.

15. **Assignment - Subletting**

Lessee agrees not to assign this Lease or any interest therein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person to occupy or use the Premises, or any portion thereof, without the prior written consent of the Director. In no event will the Director consent to an assignment which modifies the use of the Premises. The parties understand that because an EHAPCD deferred loan and other grant funds were used to purchase the Premises, the use of the Premises is limited as described in this Lease. The Director's consent to any assignment, subletting, occupation or use by persons other than Lessee shall not be deemed to be a consent to any subsequent assignment, subletting or grant of permission for use. No interest of Lessee in the Premises shall be assignable by operation of law without the written consent of the Director.

16. **Entry by City**

Lessee shall permit City, its agents, or employees to enter into and upon the Premises at all reasonable times for the purpose of inspecting, maintaining, and

repairing the Premises. City agrees that such right of entry shall not be exercised in such a manner as to unreasonably interfere with any services or activities conducted by Lessee on the Premises.

17. **Options**

The City and Lessee may renew the Lease for successive 3-year periods on mutually agreed terms.

18. **Termination for Default**

a. The breach of any obligation contained in this or the failure of Lessee to satisfy any obligation of this Lease is a default.

b. The following events are also defaults under this Lease:

1. The appointment of a receiver, trustee, conservator, or liquidator of Lessee; or
2. A filing by Lessee of (a) a voluntary petition in bankruptcy, seeking reorganization or rearrangement or taking advantage of any debtor relief laws, or (b) an answer admitting the material allegations of a petition filed against Lessee, or (c) an admission in writing confirming the inability to pay its debts as they become due; or
3. The making by Lessee of a general assignment for the benefit of creditors; or
4. The entry of an order, judgment or decree by any court of competent jurisdiction adjudicating Lessee as bankrupt or insolvent, or approving a petition seeking reorganization of Lessee, or an arrangement of the debts of any of them, or appointing a receiver, trustee, conservator, or liquidator of Lessee; or
5. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Lessee or any creditor or by any government agency; or
6. The cessation of operations by Lessee.

c. In the event of default, City shall be entitled to terminate this Lease and to exercise all remedies available under California law.

19. **Surrender of Premises**

Upon termination of the Lease, Lessee agrees to restore the Premises to its original condition, as of the Commencement Date, ordinary wear and tear accepted, and to surrender the Premises to City.

20. **Governing Law**

Lessee and City agree that the construction and interpretation of this Lease and the rights and duties of Lessee and City hereunder shall be governed by the laws of the State of California.

21. **Severability**

Lessee and City agree that the invalidity in whole or in part of any provision of this Lease shall not void or affect the validity of any other provision.

22. **Expenses of Enforcement**

Lessee and City agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees, and expert witness fees, shall be paid by the nonprevailing party in any dispute involving the terms and conditions of this Lease.

23. **Notices**

Notices under this Lease shall be sent to:

CITY:
Housing Department
City of Oxnard
435 South "D" Street
Oxnard, California 93030
Attention: Housing Director

LESSEE:
Lighthouse Women & Children's Mission
1450 South Rose Avenue
Oxnard, California 93033
Attention: Cassie Sorenson, Executive Director

24. **Amendment**

City and Lessee agree that the terms and conditions of this Lease may be reviewed or modified at any time. Any modifications to this Lease, however, shall be

effective only when agreed to in writing by both City and Lessee.

25. **Entire Lease**

City and Lessee agree that this Lease constitutes the entire agreement of the City and Lessee regarding the subject matter described herein and supersedes all prior communications, agreements and promises either oral or written.

26. Attached hereto as Exhibit 1 is a Regulatory Agreement in favor of the State of California, which Regulatory Agreement governs and restricts use of the Premises. Lessor and Lessee agree that this Lease is subject to the provisions of the Regulatory Agreement.

CITY OF OXNARD

HOUSING DEPARTMENT

Edmund F. Sotelo, City Manager

Sal Gonzalez, Executive Director

APPROVED AS TO FORM:

Gary L. Gillig, City Attorney

APPROVED AS TO INSURANCE:

Susan Winder, Finance Director

Lighthouse Women & Children's Mission

Cassie Sorenson, Executive Director