

City of Las Cruces®

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Council Action and Executive Summary

Item # 2 Ordinance/Resolution# 11-013 Council District:

For Meeting of July 19, 2010
(Adoption Date)

TITLE: A RESOLUTION ADOPTING AMENDMENT NO. 1 TO THE LEASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA, INC. AND RATIFYING THE ASSISTANT CITY MANAGER'S APPROVAL TO MEET LEGISLATIVE APPROPRIATION DEADLINES.

PURPOSE(S) OF ACTION: This amendment has been required by the State of New Mexico Attorney General's Office to ensure the City does not violate the Anti-Donation Law as prescribed by the New Mexico Constitution.

Drafter and Staff Contact: Auguie Henry III		Department: Finance/GAO		Phone: 541-2281	
Department	Signature	Phone	Department	Signature	Phone
Finance Director	<i>Pat DeGnan (acting)</i>	541-2050	Budget	<i>[Signature]</i>	541-2107
Grants Administration Office	<i>[Signature]</i>	541-2281	Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: The original lease between the City of Las Cruces and La Casa, Inc. was entered into on October 18th, 1999. In this lease La Casa, Inc. agreed to pay the City \$1 annually for rent and provide a list of services to the public, specifically listed in the grant agreement to meet the "fair market value" established in the lease of \$120,000 annually. The lease is for a period of twenty-five (25) years and the Lessee shall have the option of one twenty-five (25) year extension.

During the period since the execution of the lease, the value of the services provided plus the \$1 rent have exceeded the established "fair market" value of \$120,000 annually. However, the NM Attorney General's Office was concerned that no escalator clause was included in the lease therefore making the rent stagnant and not representative of current market value. The NM Attorney General's Office did not express any preference to how "fair market" value could be established, they just want the adjustment to be recognized and established in the formal lease agreement.

To that end, discussions with the NM Attorney General's Office, the City Attorney, La Casa Inc., and the Grants Administration Office (GAO) resulted in the attached Amendment No. 1 (Exhibit A). This amendment has been approved by the Board of Directors for La Casa Inc. on June 28, 2010 and the City Attorney.

As stated in the Amendment, the first evaluation of "fair market value" will be completed within six (6) months of approval/execution and every five (5) years thereafter during the life of the lease (Exhibit B). The GAO and La Casa Inc. have tentatively agreed to contact the Doña Ana Assessor's Office for an evaluation of the property value. Once the value has been determined and approved by both parties, the GAO will inform the Department of Finance & Administration to ensure the lease stays in compliance.

SUPPORT INFORMATION:

1. Resolution
2. Exhibit "A" Amendment No. 1
3. Exhibit "B" Original Lease between the City of Las Cruces and La Casa, Inc.

SOURCE OF FUNDING:

Is this action already budgeted?	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

FUND SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A					

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will bring the lease agreement into compliance with the directives of the NM Attorney General's Office.

(Continue on additional sheets as required)

RESOLUTION NO. 11-013.

A RESOLUTION ADOPTING AMENDMENT NO. 1 TO THE LEASE AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND LA CASA, INC. AND RATIFYING THE ASSISTANT CITY MANAGER'S APPROVAL TO MEET LEGISLATIVE APPROPRIATION DEADLINES.

The City Council is informed that:

WHEREAS, the Attorney General for the Division of Finance & Administration (DFA) has determined there is a discrepancy in the original 1999 lease between the City of Las Cruces and La Casa, Inc.; and

WHEREAS, the La Casa, Inc., a 501(3)c non-profit organization has requested the City of Las Cruces enter into an amendment to the original lease as prescribed by DFA.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT, the City of Las Cruces agrees to an amendment to the original lease with La Casa, Inc.

(II)

THAT, the Amendment No.1 will contain language that provides for a periodic review of the "fair market" rental value and the resulting adjustment if needed.

(III)

THAT, all other conditions of the original lease will remain intact with no additional changes.

(IV)

THAT, the City Council hereby ratifies the approval of the Assistant City Manager under Council direction in Ordinance #1744.

(V)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 19th day of July, 2010.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

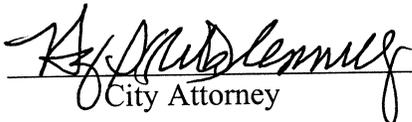
VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

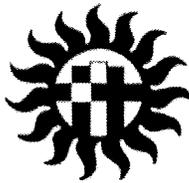
Moved by: _____

Seconded by: _____

Approved as to Form:



City Attorney



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Lease with Exclusive Option to Purchase City of Las Cruces and La Casa, Inc.

AMENDMENT NO. 1

THIS AMENDMENT is entered into by and between the City of Las Cruces, a New Mexico municipal corporation, (hereinafter called the "City"); and La Casa, Inc., P.O. Box 2463, Las Cruces, NM 88004. (hereinafter "Lessee").

WITNESSETH:

WHEREAS, The City and Lessee agree, the following changes are to be made and accepted to the original lease entered into on October 18, 1999:

1. Add the following sentences to Article 3.A. Rent Payments, and add a new Paragraph D. to Article 3. Rent Payments:

A. The Market Rate Annual Rental for this property at the time of execution (May, 1999) is estimated to be \$120,000 or \$10,000 per month. Within six months of the effective date of Amendment No. 1, and no less frequently than every five (5) years thereafter by December 31st of the calendar year, the parties shall update the Market Rate Annual Rental for this property to reflect the then current fair market value. The updated Market Rate Annual Rental shall thereafter be the minimum amount of services Lessee is required to provide in lieu of monetary rent under this Lease, until the Market Rate Annual Rental for this property is updated...."

D. In no event shall Lessor be liable to compensate Lessee in any way for the value of services Lessee provides in lieu of monetary rent that are in excess of the minimum amount of services due hereunder. Without in any way limiting the generality of the foregoing, Lessee shall not receive credit against the purchase price, if Lessee exercises an option to purchase in accordance with Article 8, Exclusive Option to Purchase Leasehold Property, for services rendered by Lessee in excess of the minimum amount of services Lessee is required to provide in lieu of monetary rent.

2. To be deleted:

Article 19 to be deleted. Remaining Articles are not to be renumbered.

3. All other provisions of the Lease Agreement entered into on October 18, 1999 are not amended herein remain in full force and effect.

IN WITNESS WHEREOF, City and Lessee have executed this Lease as of the date indicated below.

CITY

By:

Robert L. Garza
Assistant City Manager

LESSEE – La Casa, Inc.

By:

DONALD HARTMAN

LEASE WITH EXCLUSIVE OPTION TO PURCHASE

THIS LEASE WITH EXCLUSIVE OPTION TO PURCHASE, hereinafter so called, made and entered into this 18th day of October, 1999, by and between the City Of Las Cruces, a New Mexico municipal corporation, (hereinafter called the "City"); and La Casa, Inc. P.O. Box 2463, Las Cruces, NM 88004, (hereinafter "Lessee").

WITNESSETH:

WHEREAS, the City is the owner of certain real property located at 800 South Walnut Street in the City limits of Las Cruces in Dona Ana County, New Mexico, as described further in Exhibit "A" attached hereto and incorporated to this Lease by this reference, (hereinafter "Leasehold Property"); and

WHEREAS, the efforts of the Board of La Casa, Inc. have been commendable in achieving fund raising of \$1.3 Million to renovate the property and buildings in 1995 to start the new location of the La Casa Domestic Violence Center; and

WHEREAS, the Board of La Casa, Inc. is most grateful to the Las Cruces City Council for their continuing support to the La Casa Domestic Violence Center, and the Board pledges to continue to operate their programs and services to benefit all the citizens of Las Cruces and Dona Ana County; and

WHEREAS, the Board of La Casa, Inc. has requested assistance from the Las Cruces City Council to assist with long-term capital improvement and maintenance of the leasehold property in lieu of the value of La Casa's programs and services being provided to the residents of the City from the operations of the Domestic Violence Center; and

WHEREAS, Lessee desires to lease the real property described in Exhibit "A" to continue the operations at that location of the Domestic Violence Center and domestic violence counseling, education and advocacy programs providing services to all residents of Las Cruces and the La Casa service area(s) in the surrounding area of Dona Ana County; and

WHEREAS, the City is willing to lease with exclusive option to purchase the Leasehold Property described in Exhibit "A" to Lessee, and the parties desire to execute a written Lease containing the terms and conditions of their Lease Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable considerations, the following is agreed:

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 2.

Article 1. Leasehold Property Description.

A. The City, for and in consideration of the covenants and agreements hereinafter specified to be kept and performed by Lessee, its successors and assigns, hereby leases to the Lessee, that certain parcel of real property located within the City of Las Cruces in Section 17, Township 23 South, Range 2 East, N.M.P.M., in the County of Dona Ana and State of New Mexico, and described further in Exhibit "A" attached hereto and incorporated to this Lease by this reference.

Article 2. Leasehold Term, Extended Term And Possession.

A. The term of this Lease shall be Twenty-five (25) years (hereinafter "Lease Term") commencing on the "Commencement Date," as hereinafter defined, and terminating on the twenty-fifth (25th) anniversary of the Commencement Date. The Commencement Date shall be November 15, 1999, based on approval by the City Council of the City of Las Cruces. Possession of the Leasehold Property shall be on the Commencement Date.

B. The Lessee shall have the sole option to extend this Lease Agreement for one twenty-five (25) year term (the "Extended Term") upon the same terms and conditions herein provided. To exercise the Extended Term, the Lessee must notify the City in writing not later than six (6) months prior to the termination of the Lease Term. If the Lessee does not notify the City within the appropriate time period, the City may terminate the lease at the end of the Lease Term. The right to exercise the option for the Extended Term shall be solely at the discretion of the Lessee.

C. If Lessee should remain in possession of the Leasehold Property after the expiration or termination of this Lease, without the execution by City and Lessee of a new Lease, or without the request for the Extended Term, the Lessee shall be deemed to be occupying the Leasehold Property as a tenant-at-sufferance, subject to all the covenants and obligations of this Lease, and shall pay as rent an amount equal to the base rent.

Article 3. Rent Payments.

A. The Market Rate Annual Rental for this property at the time of execution (May, 1999) is estimated to be \$120,000, or \$10,000 per month. In lieu of the rental payment, and beginning on the Commencement Date, the Lessee shall pay to the City a rental fee ("Rent"), in the amount of One Dollar (\$1.00), and provide public service for the sick

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 3.

and indigent as described hereafter. No additional rent shall be charged to Lessee by the City during the Lease, unless written approval in advance is obtained from Lessee. The services to the public shall be at least equal in value to the market value of the rent, and are to be performed on an on-going basis during the Lease Term by the Lessee as follows:

1) Lessee, on behalf of the City shall continue the operations of the Domestic Violence Center and domestic violence counseling, education and advocacy programs providing services to all residents of Las Cruces and the La Casa service area(s) in the surrounding area of Dona Ana County.

2) Lessee shall operate programs to carry out the goals outlined in Section 3A1 of this Lease, with programs such as the following:

- a) Emergency Shelter Program;
- b) Non-Resident Counseling Program;
- c) Children's Program;
- d) Transitional Housing Program;
- e) Men's Program;
- f) Domestic Abuse Response Team;
- g) South Valley Outreach Counseling Program;
- h) Outreach and Education;
- i) Working With Police & Sheriff's Officers
- j) Additional Programs As May Be Needed In The Future, as determined by Lessee.

3) Lessee shall provide services regardless of race, color, religion, sex, national origin, age, disability or sexual preference. No person shall be excluded from participation in or denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities based on race, color, religion, sex, national origin, age, disability or sexual preference.

B. Lessee shall provide a report to the City at least annually to document the type of services with both quantity and quality measures which describes the caseload of services and the approximate amount of same being offered to residents of the City.

C. The rent for an Extended Term following the Lease will be an additional rent fee of One Dollar (\$1.00), plus continuation of the provision of services to the public, as defined in Section A above.

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 4.

Article 4. Existing Property Encroachments By City.

A. The City hereby acknowledges the following encroachments which have existed since approximately 1994 on the property which has been sub-leased from the City to Lessee during the period from October of 1994 to the date of Commencement of this Lease:

- 1) A 1.678 acre tract to the south of the south La Casa building fence, which tract was converted to use as a City parking lot to serve Young Park in 1994, comprising roughly 50% of the existing Young Park parking lot; and
- 2) A 0.498 acre tract comprising a portion of the existing Young Park between the west building fence on the La Casa Leasehold Property and the City Water Well #26.
- 3) The encroachments are shown on a Sketch Map which is attached hereto and made a part of this lease as Exhibit "B".

B. Lessee hereby releases any and all claims to these encroachment areas except for the rights of overflow parking and other parking uses on the Young Park parking lot. Further, Lessee releases the City of all claims for any financial loss resulting from the lack of use for these areas during the sub-lease.

Article 5. Maintenance And Repairs.

A. Lessee and City shall jointly share the responsibility for maintenance and repair of the Leasehold Property as defined in this Article 5. The City shall be responsible for servicing the building and equipment therein and maintaining compliance to all relevant building codes. Lessee shall retain an existing part-time custodial position as necessary to share minor responsibilities with maintenance.

B. The City shall be responsible for capital improvement and major maintenance items including roof replacement, re-carpeting or re-painting of the building, parking lot repaving, boiler replacement, heating and cooling system equipment replacement, plumbing systems, kitchen refrigeration equipment, light fixtures, landscaping irrigation system, and any other systems within the building owned by City. The City shall also be responsible for necessary building renovations, as determined by the City, and as deemed necessary from time to time during the Lease. The City shall maintain an annual report of building maintenance activities and costs.

C. Lessee shall maintain the Leasehold Property and any improvements, fixtures or

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 5.

equipment on the Leasehold Property in a worker-like manner excluding City's responsibilities in Sections 5A and 5B above. Lessee shall be responsible for all kitchen equipment repair and replacement except for built-in refrigerated equipment, all laundry equipment repair and replacement, and for any other equipment at the Leasehold Property that is owned by Lessee or Lessee's clients or visitors. Lessee shall maintain and keep the interior of the Leasehold Property in good repair and condition at Lessee expense, including all plate glass, glass doors, windows or glass walls. Lessee shall not knowingly permit or allow any waste or damage to be committed on any portion of the Leasehold Property. Lessee's responsibility will include all light bulbs, windows, doors, and landscaping plants, lawn and landscaping materials. Lessee shall also be responsible for expenses related to building expansion as defined in Section 7D herein.

D. Lessee shall be responsible for any expenses required to repair or replace any damage or injury done to the Building, or any part thereof, caused by Lessee, Lessee's agents, employees, licensees, invitees or visitors, provided, however, if Lessee fails to make such repairs or replacements promptly, City may, at its option, make such repairs or replacements and Lessee shall pay the cost thereof to City on demand.

E. City and Lessee shall agree on written maintenance and repair procedures and scheduling. Regular repairs and maintenance shall be conducted according to building maintenance needs with pre-arranged appointments made with Lessee. City shall have the right to enter the Leasehold Property to make emergency repairs as necessary.

F. City, its officers, agents and representatives, subject to any security regulations imposed by any governmental authority or Lessee, shall have the right to enter all parts of the premises, subject to a forty-eight (48) hour notice and at a reasonable hour, to inspect, clean, make repairs, conduct safety inspections on the building or premises which are reasonably required and it may deem necessary or desirable, or to provide any service which it is obligated to furnish to Lessee. Notwithstanding the above, the City shall have the right to enter the Leasehold Property without notice in the event of an accident or urgent situation, such as a fire, medical or police emergency being declared on the Leasehold Property.

G. All trade fixtures, portable buildings, equipment and other personal property brought, installed, erected or placed by Lessee in, on or about the Leasehold Property shall be deemed to be personal and shall be and remain the property of Lessee, except as otherwise provided herein; and Lessee shall have the right at any time during the term hereof when not in default and when not prohibited by any mortgages of Lessee to remove any or all of its property, subject to Lessee's obligation to repair all damage, if any, resulting from such removal. All such portable buildings, trade fixtures, and other personal property of Lessee shall be removed by Lessee from the Leasehold Property at

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 6.

the expiration of this Lease or the expiration of any renewal hereof, whichever occurs last, unless this Lease is earlier terminated as provided for herein.

Article 6. General Provisions.

- A. No hazardous waste or storm water run-off shall be permitted to be disposed of on the Leasehold Property.
- B. City of Las Cruces Design Standards For Construction and Landscaping Regulations are applicable to the Leasehold Property for any construction and development activities which may occur in the future. Lessee must meet minimum City standards for infrastructure construction, including water, waste water, gas, streets, drainage, signs, and landscaping, etc.
- C. Lessee acknowledges that it has fully inspected the demised premises and Lessee hereby accepts the demised premises, buildings, improvements and each appurtenance thereto as is, in their present state and condition, as suitable for the purpose for which the same are leased and agrees to allow for changes in such condition, occurring by reasonable deterioration between the date this Lease is executed and the date such changes shall occur.
- D. Lessee shall pay all utility costs for electric power, water, waste water and natural gas utilities during the lease term and extended term. Lessee shall pay all other charges made against the Leasehold Property, including telecommunications, or any other utility furnished to the premises during the continuance of this lease, as the same shall become due. Lessee shall also be responsible for paying or putting up any bonds or deposits required by electric power, water, waste water and natural gas utility services to the Leasehold Property which is the subject matter of this lease agreement.
- E. Lessee covenants and agrees to pay when due all valid taxes, special assessments, excises, license fees and permit fees of whatever nature applicable to its operation or levied or assessed against Leasehold Property and to take out and keep current all licenses (City, County, State and Federal) required for the conduct of its business, and further agrees not to permit any of said taxes, excise or license fees to knowingly become delinquent. Lessee shall furnish to the City, upon request, satisfactory evidence showing prompt payment by it of Social Security, Unemployment Compensation and Workmen's Compensation Insurance, all required licenses, all taxes, all undisputed bills, debts and obligations incurred by it in connection with its operation on the Leasehold Property, and to protect the City from any lien, judgment or execution filed against said property or improvements thereon which could in any way impair the rights of the City.

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 7.

F. The City shall not sell or lease the Leasehold Property for any reason during the Lease Term, without first seeking written permission in the form of a Partial Leasehold Relinquishment Statement to be approved by Lessee. Lessee may request fair and equitable compensation for approval of any such complete or partial leasehold relinquishment.

G. The parking area on the Leasehold Property shall be for the exclusive use of the customers, clients, patrons, officers and employees of the Lessee. Lessee is also granted the right to use a necessary portion of the Young Park Parking Lot as overflow parking, if ever needed to accommodate parking needs, whether parking needs result from a single day event, or as a result from building expansion, such as a multi-story addition on the Leasehold Property which may require additional parking spaces pursuant to a zoning ordinance code requirement to achieve a land to building area ratio for number of parking spaces which may not be available due to size limitations of the Leasehold Property.

Article 7. Permitted Uses.

A. Lessee shall have use of the Leasehold Property granted in this Lease for the purpose of operating a Domestic Violence Shelter; and related programs such as domestic violence counseling, education and advocacy programs, as described in Article 3 above; and providing services to all residents of Las Cruces and the La Casa service area(s) in the surrounding area of Dona Ana County. Lessee shall also be permitted to operate related social service programs as these may relate to the provision of services to victims of domestic violence, and solely as deemed necessary by Lessee, with these additional programs, if any, to be reported annually to the City.

B. No other use shall be permitted unless the City, in writing, has previously granted its consent.

C. Lessee will not use, occupy, or knowingly permit or allow the use or occupancy of the Leasehold Property for any purpose which is directly or indirectly forbidden by law, ordinance, or governmental or municipal regulation or order, or which may be dangerous to life, limb, or property, or permit the maintenance of any public or private nuisance; or to do or permit any act or thing which may disturb the quiet enjoyment of adjacent City uses.

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 8.

Article 8. Exclusive Option To Purchase Leasehold Property.

A. The City hereby grants to Lessee the Exclusive Option To Purchase the Leasehold Property at any time during the Lease Term or the Extended Term. The purchase must be in compliance with NMSA 3-54-1, et. seq., 1978, as amended. A separate real estate purchase agreement shall be negotiated by the parties to address terms and conditions of the purchase.

B. The option price shall be the fair market value on the date of the exercise of the option, as determined by an independent qualified appraiser hired by the City, unless an adjustment is made to the option price appraised value, as determined necessary by the Las Cruces City Council, pursuant to New Mexico Statutes. The appraiser shall use comparable commercial property in the Las Cruces to determine fair market value.

C. The exclusive option to purchase shall be exercised by Lessee giving written notice to the City not less than one hundred twenty (120) days prior to the exercise of the option to purchase.

Article 9. Insurance.

A. Lessee shall maintain insurance coverage at all times on the Leasehold Property, its operations, and the building and building contents, as follows:

1. General Commercial Liability Insurance in the amount of one million dollars (\$1,000,000) with the City named as an additional insured.

2. All Risk Property Insurance on the building in the amount of One Million Three Hundred Thousand dollars (\$1,300,000) with the City named as the loss payee.

3. All Risk Property Insurance on the building contents in the amount of Sixty Thousand Dollars (\$60,000).

4. Workmen's Compensation Insurance, including occupational disease provisions, in an amount as set by New Mexico statutes, insuring the payment of Workmen's Compensation benefits to all its employees.

B. Lessee and City shall review insurance coverage limits at periodic intervals during the Lease, with Lessee to make necessary adjustments in the coverage limits to comply with City's insurance requirements.

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C. If the Leasehold Property is partially or totally destroyed or damaged by fire or other casualty covered by the all risk property insurance carried by Lessee under the terms hereof, then City and Lessee shall work jointly in a cooperative manner to repair and restore the Leasehold Property as soon as it is reasonably practicable, to substantially the same condition in which the Leasehold Property was prior to such damage. City and Lessee shall negotiate at such a time as to each parties' pro rata share of financial responsibility to fund the repair and reconstruction. However, in the event the Leasehold Property may be completely destroyed or so badly damaged that repairs cannot be commenced within thirty (30) days and completed within three (3) months thereafter, then this Lease shall be terminable, as of the date of the occurrence of the damage or destruction, by Lessee hereto by serving written notice upon the City. In such event Lessee and City shall jointly determine if the building should be rebuilt or if the proceeds from the property insurance settlement should be used to reconstruct facilities at another location.

D. If the premises shall be damaged by fire or other casualty resulting from the fault or negligence of Lessee, or the agents, employees, licensees, or invitees of Lessee, the City may require such damage to be repaired by and at the expense of Lessee pursuant to Article 10 of this Lease.

Article 10. Construction And Ownership Of Improvements.

A. During the Term or Extended Term of this Lease, title to all permanent improvements existing or constructed upon the Leasehold Property shall be vested in City. Lessee shall not construct any improvements, which represent an increase in the square footage of the building, on the Leasehold Property without the express written consent of the City, which consent shall not be unreasonably withheld.

B. All temporary buildings and other temporary improvements owned by the Lessee shall meet City codes.

C. Lessee covenants and agrees that it will make no structural change or addition without City's prior written consent, and without first furnishing the City fifteen (15) days advance written notice outlining in detail the proposed changes or alterations, including a set of building plans and specifications.

D. Lessee shall be permitted to expand the building(s) and facilities on the Leasehold Property, based on needs as determined by Lessee, according to applicable regulations. Lessee shall be responsible for all expenses related to building expansion, consistent with the City as the fiscal agent. The Lessee and the City shall work cooperatively in all

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 10.

building expansion and construction projects. The City shall seek input from the Lessee regarding the selection and supervision of all architectural and building construction firms to be employed by the City for Lessee's building expansion program(s) pursuant to City purchasing regulations. The City shall not seek bids nor begin construction of any improvements on the Leasehold Property unless the Lessee has granted written approval of the construction drawings and specifications. Lessee shall also have the right to construct detached storage buildings and other facilities on the leasehold property pursuant to applicable regulations.

Article 11. Assignment And Sublease.

A. Lessee shall not assign or sublease the Leasehold Property granted by this Lease or the improvements on the Leasehold Property without the prior written consent of the City, which consent shall not be unreasonably withheld. The City's consent shall be conditioned by the continued use and purpose of the Leasehold Property, as stated herein, and may require other conditions or covenants before consenting to an assignment or sublease. Such additional conditions or covenants shall not be unreasonable but shall be in accord with the proper administration of the Leasehold Property and the dedicated purposes granted by this Lease. If the Lease is assigned, all clauses herein binding the parties hereto are also binding on any and all successors and/or assigns.

B. Lessee may assign its rights under this Lease to any third party successor agency in connection with the divestiture or conversion of management of the Domestic Violence Shelter. No assignment shall be valid however until a written instrument containing the name and address of the assignee, and an assumption by the assignee of this Lease has been provided to the City, following written consent by the City, which consent shall not be unreasonably withheld.

Article 12. Default And Cancellation.

A. The violation by Lessee of any of the terms, conditions or covenants of this Lease due under this Lease shall be considered a default and may cause this Lease to be cancelled and terminated following at least three-hundred-sixty-five (365) day advance written notice of such default from City to the Lessee; provided, however, said cancellation shall not be made if, within the three-hundred-sixty-five (365) day notice period, Lessee cures or remedies said default or otherwise complies with any demand contained within such written notice which cures or remedies the default.

B. If Lessee is determined to be in default by the City, and in a state of continuing default after the designated period has elapsed to cure a default as defined in Section 12A

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herein, the City may, at its option, immediately or at any time thereafter, without further notice or demand, enter upon and into the Leasehold Property.

Article 13. Relinquishment.

A. At any time, upon 45 days prior written notice, provided all rentals then due and owing have been fully paid and Lessee is not in default under this Lease, Lessee may cancel and relinquish this to the City whereupon Lessee shall be relieved of any further liabilities and obligations under this Lease. Article 10 shall apply with respect to ownership and removal of temporary improvements upon such termination; and Article 8 shall apply to removal of fixtures and furniture. Lessee shall not be entitled to a refund of any rentals paid.

Article 14. Compliance With Laws.

A. Lessee shall at its own expense fully comply with all laws, regulations, rules, ordinances, and requirements of the applicable city, county, state and federal authorities and agencies which have been or may be enacted or promulgated, in all matters and things affecting the Leasehold Property granted by this Lease and operations thereon.

Article 15. Indemnification

A. Lessee shall save and hold harmless, indemnify and defend the City, its elected officials, employees and agents, in their official and individual capacities, of and from any and all liabilities, claims, losses, or damages arising out of or alleged to arise out of or indirectly connected with the negligent operations of Lessee under this Lease, or arising out of the presence on the Leasehold Property of any agent, contractor or subcontractor of Lessee.

Article 16. Scope Of Agreement.

A. This Lease incorporates all the agreements, covenants, and understandings between City and Lessee concerning the Leasehold Property granted by this Lease and the use permitted by this Lease and all such agreements, covenants, and understandings have been merged into this written Lease. No prior agreement or understanding, verbal or otherwise, between the City and Lessee or their agents shall be valid or enforceable unless embodied in this Lease.

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 12.

Article 17. Amendment.

A. This Lease shall not be altered, changed or amended except by instrument in writing executed by the City and Lessee.

Article 18. Waiver.

A. No waiver of any breach or default by Lessee of any of the terms, conditions or covenants of this Lease shall be held to be a waiver of any subsequent breach. No waiver shall be valid or binding unless the same is in writing and signed by City.

Article 19. Attorney's Fees And Costs.

A. If either City or Lessee is found by a court to have breached this Lease, reasonable attorney's fees and cost of litigation may be recovered from the defaulting party.

Article 20. Applicable Law.

A. This Lease shall be governed by the laws of the State of New Mexico. If any clause or provision of this Lease is found to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, the remainder of this Lease shall not be affected thereby.

Article 21. Notices.

A. Whenever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered, when deposited in the United States mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses set forth below. Notice shall be deemed to be received on the fifth day following posting.

City Manager
City of Las Cruces
P.O. Box 20000
Las Cruces, New Mexico 88004
(Copy to Special Projects Office)
(Copy to City Attorney)

President
La Casa, Inc.
P.O. Box 2463
800 S. Walnut Street
Las Cruces, NM 88004 (mail address)
Las Cruces, NM 88001 (physical address)
(Copy to Executive Director)

Article 22. Covenants Of The City.

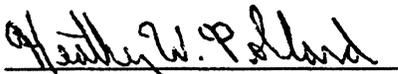
B. The City covenants that Lessee, upon payment of the rent reserved herein and the performance of each of the covenants, agreements and conditions on the part of Lessee to be observed and performed, shall and may, peaceably and quietly have, hold and enjoy the Leasehold Property for the term thereof, free from molestation, eviction or disturbance by the City or any person claiming by, through, or under it, subject to the terms and conditions of this Lease.

IN WITNESS WHEREOF, City and Lessee have executed this Lease as of the date first written above.

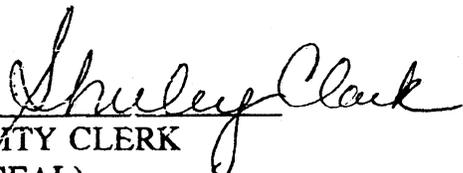
CITY

LESSEE - La Casa, Inc.

By: 
Mayor Ruben A. Smith

By: 
Heather Pollard

Its: President


CITY CLERK
(SEAL)

APPROVED AS TO FORM:


CITY ATTORNEY

Article 22. Covenants Of The City.

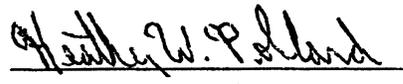
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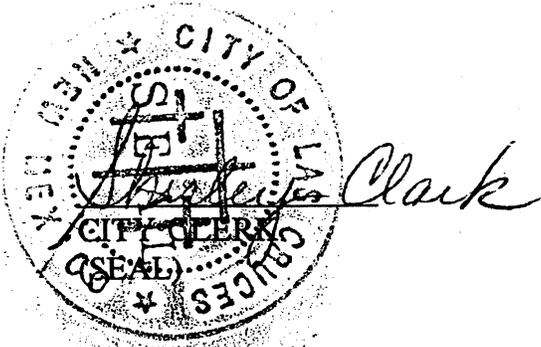
CITY

LESSEE - La Casa, Inc.

By: 
Mayor Ruben A. Smith

By: 
Heather Pollard

Its: President



APPROVED AS TO FORM:


Deputy CITY ATTORNEY

City of Las Cruces & La Casa, Inc. Lease, May, 1999, Page 14.

STATE OF NEW MEXICO)
(SS.
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me on this 29th day of November, 1999, by Ruben A. Smith, Mayor, on behalf of the City of Las Cruces, a New Mexico municipal corporation.

Esther Whitmer
Notary Public

My Commission Expires:

July 15, 2000



OFFICIAL SEAL
ESTHER WHITMER
NOTARY PUBLIC - STATE OF NEW MEXICO

My commission expires: July 15, 2000

STATE OF NEW MEXICO)
(SS.
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me on this 21st day of April, 1999, by Heather Pollard, President, on behalf of La Casa Inc., a New Mexico corporation.

Carol Ann Martin
Notary Public

My Commission Expires:

02/14/2000



City of Las Cruces

98062-B
September 11, 1998

DESCRIPTION OF A 2.8732 ACRE TRACT

A parcel of land situate within the corporate limits of the city of Las Cruces, Dona Ana County, New Mexico being in Section 17, T.23S., R.2E., NMPM of the USRS Surveys. Being that property described in a Quit Claim Deed filed November 21, 1990 and recorded in Deed Record 345, at page 783 of the Dona Ana County records and being more particularly described as follows, to wit:

BEGINNING at a rebar with an illegible plastic cap found on the west line of South Walnut Street for the northeast corner of this tract whence a chiseled cross found for the northeast corner of White Sands Federal Credit Union No.1 as filed December 7, 1994 in Plat Record 18, page 160 of the Dona Ana County records bears N25°07'30"E, 545.33 feet;

THENCE FROM THE POINT OF BEGINNING S25°07'30"E along the west line of South Walnut Street, 336.84 feet to a ½ inch rebar with a City of Las Cruces identification cap set for the southeast corner of this tract;

THENCE leaving South Walnut Street, along the north face of a retaining wall and partially along a chain link fence line, S54°32'30"W, 381.66 feet to a fence post found for the southwest corner of this tract;

THENCE N34°30'45"W, 285.07 feet, partially along a chain link fence, to a ½ inch rebar with a City of Las Cruces identification cap set for the northwest corner of this tract;

THENCE N48°53'11"E, 187.57 feet to a ½ inch rebar with a City of Las Cruces identification cap set for an angle point on the north line of this tract;

THENCE N48°11'58"E, 252.19 feet to the point of beginning containing 2.8732 of land more or less.

SUBJECT TO a 6 foot wide right of way easement granted to the City of Las Cruces along the east boundary and a 10 foot wide utility easement along the north boundary.

AUTHORIZATION STATEMENT: I, Gilbert Chavez, a New Mexico registered professional surveyor certify that I directed and am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, and that this survey and description meet the Minimum Standards for Surveying in New Mexico.

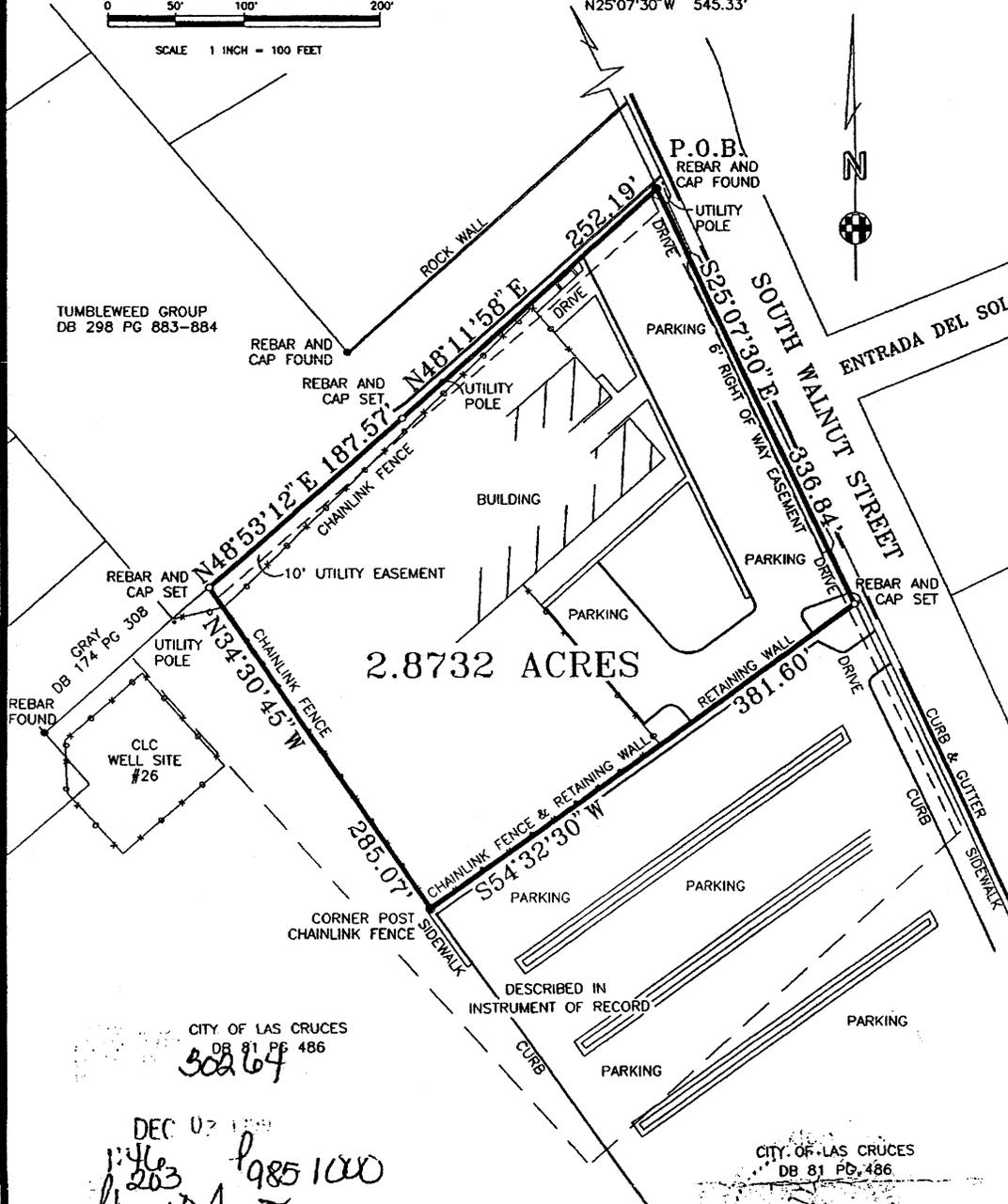
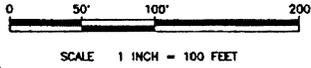
Gilbert Chavez
NMPS 6832

4/2/99
AN EQUAL OPPORTUNITY EMPLOYER
LAS CRUCES, NEW MEXICO 88004-9002

PLAT OF SURVEY OF A
2.8732 ACRE TRACT
 SECTION 17, T.23S., R.2E., N.M.P.M. OF THE U.S.R.S. SURVEYS
 CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

EXHIBIT "A"
 Page 1 of 2

CHISELED CROSS FOUND AT NORTHEAST
 CORNER OF WHITE SANDS FEDERAL CREDIT
 UNION NO. 1 AS FILED DECEMBER 7, 1994
 PLAT RECORD 18, PAGE 160 OF THE COUNTY RECORD.
 N25°07'30"W 545.33'



2.8732 ACRES

CITY OF LAS CRUCES
 DB 81 PG 486
 30264

DEC 07 1999
 FILE 203 1985 1000
[Signature]

CITY OF LAS CRUCES
 DB 81 PG 486

BASIS OF BEARINGS: WEST LINE OF SOUTH WALNUT AS DESCRIBED IN INSTRUMENT OF RECORD.
 INSTRUMENT OF RECORD: QUIT CLAIM DEED FILED NOVEMBER 21, 1990 IN DEED RECORD 345, PAGE 783
 DATE OF SURVEY: SEPTEMBER 9, 1998 CO MH SB

I, GILBERT CHAVEZ, A NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR, CERTIFY THAT I DIRECTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

GILBERT CHAVEZ
 N.M.P.S. 6832

4/2/99

		PROJECT TITLE: CLC LEASE	
		PROJECT NO. 98062 - B	
SCALE 1" = 100'	DATE	REVISIONS	SHEET
SURVEYOR GILBERT CHAVEZ PS	SEPT 98		1
DRAWN BY CHRISTINE OGHS PS	SEPT 98		OF
CHECKED BY			1