SECOND AMENDMENT TO AGREEMENT FOR LEASE
OF 5353 – 5357 TRUXTUN AVENUE, BAKERSFIELD, CALIFORNIA

(County of Kern – Truxtun Business Plaza, LLC)

THIS SECOND AMENDMENT TO AGREEMENT FOR LEASE ("Second Amendment") is made and entered on ____________, 2015 ("Execution Date") by and between TRUXTUN BUSINESS PLAZA, LLC, a California limited liability company ("Lessor"), and the COUNTY OF KERN, a political subdivision of the State of California ("County"). County and Lessor are referred to individually as a "Party" and collectively as the "Parties."

RECATALS:

A. On December 7, 1999, the Parties entered into a lease agreement known as Kern County Agreement No. 1028-99 for use of 5357 Truxtun Avenue, Bakersfield, CA, which is on file with the County Clerk of the Board.

B. On April 27, 2010, the Parties entered into a new lease agreement known as Kern County Agreement No. 320-2010 for use of expanded space at 5353 – 5357 Truxtun Avenue, Bakersfield, CA ("Agreement"), also on file with the County Clerk of the Board.

C. On June 4, 2013, the Parties amended the Agreement for the first time to extend the term, amend the rental consideration, and provide for tenant improvements (Kern County Agreement No. 370-2013, "First Amendment").

D. The Parties now desire to amend the Agreement a second time to redefine the Premises, redefine and extend the term, redefine the rental consideration, and acknowledge Lessor’s improvements of additional adjacent space at 5343 Truxtun Avenue.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. The first paragraph of Section 1 “Premises” of the Agreement is deleted and replaced with the following:

For and in consideration of the terms, covenants, and conditions contained in this Agreement, Lessor leases to County, and County leases from Lessor, exclusive use of: i) 5353 - 5357 Truxtun Avenue, Bakersfield, CA to include 23,178 rentable square feet ("Space A");
and ii) 5343 Truxtun Avenue, Bakersfield, CA to include 4,525 rentable square feet ("Space B"), collectively, the "Premises." The Premises is depicted on the floor plans attached as "Exhibit A to the Second Amendment," which shall replace Exhibits "A1" and "A2" from this Agreement. In addition, County shall have the appurtenant right to use non-exclusive parking spaces in the parking lot adjacent the Premises and an option to fence and use, at County's expense, an exclusive parking area to be designated by Lessor for overnight parking of County-owned vehicles. County shall have the exclusive right to use an outside break area.

2. **Section 2 “Term”** of the Agreement, as amended, is deleted and replaced with the following:

   The termination date of this Agreement shall be June 30, 2020.

3. **Section 3 “Option to Extend Term”** of the Agreement is deleted and replaced with the following:

   Provided County is not in default in any of the terms, covenants, or conditions of this Agreement, Lessor hereby grants to County the option to renew and extend this Agreement one, five-year term from and after the expiration of the original term ("Option Term"). County may exercise said option by giving Lessor written notice of its intention to do so not less than 90 calendar days prior to the expiration of the then-current term. All terms, covenants and conditions of this Agreement shall remain in full force and effect during any extension hereof or holding over, except Rent, which shall be defined pursuant to **Section 6**. If option is exercised, "Term" shall include the Option Term. "Term" shall also include any hold over period.

4. **Section 6 “Rental Consideration”** of the Agreement, as amended, is deleted and replaced with the following:

   As and for consideration, County agrees to pay, in lawful money of the United States, to Truxtun Business Plaza, LLC, c/o MD Atkinson Co., Inc., 1401 19th Street, Suite #400, Bakersfield, CA, 93301, Lessor, or such person or persons and at such place or places as may be designated from time to time by Lessor. The monthly rent, to include both interior and exterior maintenance, janitorial services, and all common area maintenance, shall be as follows:

   a) **Space A** –
   i. For the period commencing on the Execution Date and continuing through June 30, 2017, the monthly rental consideration shall be $25,545.00.
   ii. For the period commencing on July 1, 2017 and continuing through
June 30, 2020, the monthly rental consideration shall be $25,960.00.

iii. For the duration of the Option Term, the monthly rental consideration shall be $26,887.00.

b) **Space B**

i. For the period commencing on October 1, 2015 and continuing through March 31, 2018, the monthly rental consideration shall be $5,883.00.

ii. For the period commencing on April 1, 2018 and continuing through June 30, 2020, the monthly rental consideration shall be $6,064.00.

iii. For the duration of the Option Term, the monthly rental consideration shall be $6,245.00.

Each monthly Rent payment shall only be in consideration for the right to possess, occupy and use the Premises for the subsequent month. In the event County occupies the Premises for a partial month at any time, County shall only be responsible for a prorated portion of the monthly rental consideration.

5. **Lessor Improvements:** Lessor has committed to the completion of tenant improvements to Space B, as previously agreed upon by the Parties, prior to October 1, 2015 (“**Improvements**”). When the Improvements are substantially complete, in compliance with all applicable building codes, environmental aspects, and approval of County, Space B is deemed clean and operational, and a Certificate of Occupancy has been issued (if applicable), Lessor shall give County written notice that Space B is ready for occupancy. Within five working days after receiving such notification, County shall inspect the Improvements and provide to Lessor written notice of either its acceptance of the Improvements and any punch list items, or disapproval of the Improvements. If the Improvements satisfy the conditions of this **Section 5**, County shall execute an acceptance, the date of which shall be the date that County determines that the Improvements are substantially complete (“**Acceptance Date**”). If the Improvements are determined not to satisfy such conditions, County shall, in written notice to Lessor, specifically detail the unacceptable conditions. If County notifies Lessor that such conditions have not been satisfied, County shall provide Lessor with an opportunity to resolve or dispute the notice within the time period for completion of the Improvements.

6. **Prevailing Wage** – The County has identified that the improvement work contemplated by this Agreement falls within the definition of “Public Works” set forth in the California Labor Code. Lessor acknowledges that Lessor is fully aware of prevailing wage requirements for public works projects as set forth in Article 2 (commencing with section 1770) of Chapter 1, Part 7 of the California Labor Code (“**Prevailing Wage Requirements**”) and Lessor agrees to comply with the provisions of that Article to the extent the Prevailing Wage Requirements are applicable to the work conducted under this Agreement. Lessor further agrees that to the extent applicable, Lessor shall require any
subcontractor it contracts with to comply with the Prevailing Wage Requirements. Lessor also agrees to indemnify, defend (upon request of County) and hold County, its officers, agents and employees, harmless from all claims, costs, causes of action, attorney fees, damages or liability from the failure of Lessor or Lessor’s contractors to comply with the Prevailing Wage Requirements.

7. **Exhibits:** All exhibits attached to this Second Amendment are incorporated into this Agreement by reference.

8. **Ratification of Agreement:** Except as modified by this Second Amendment, all terms and conditions of the Agreement, as amended, shall be in full force and effect. All rights provided to County in this Second Amendment are in addition to those provided in the Agreement, the First Amendment, and those provided by law.

9. **Authority to Execute:** Each of the individuals executing this Second Amendment on behalf of Lessor and County represent and warrant that he or she is duly authorized to execute and deliver this Second Amendment on behalf of Lessor or County, respectively, and that this Second Amendment is binding upon Lessor and County, respectively, in accordance with its terms.

*Remainder of page intentionally left blank.*
The Parties have executed this Second Amendment on the Execution Date.

APPROVED AS TO CONTENT:
Department of Aging & Adult Services

By ________________________________
Lito Morillo, Director

County Administrative Office

By ________________________________
Assistant County Administrative Officer
for General Services

COUNTY OF KERN

By ________________________________
Chairman, Board of Supervisors
"County"

TRUXTUN BUSINESS PLAZA, LLC, a
California limited liability company

By ________________________________
Anthony L. Leggio, Manager
"Lessor"

APPROVED AS TO FORM:
Office of County Counsel

By ________________________________
Brian Van Wyk, Deputy

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