



MEMORANDUM

TO: CITY COUNCIL

FROM: JAMES A. BERGMAN, CITY MANAGER

**SUBJECT: SUPPLEMENTAL INFORMATION
AGENDA ITEM 8.j. – JANUARY 28, 2020 CITY COUNCIL MEETING
CONSIDERATION OF RESIDENTIAL LEASE FOR 202 EAST LE POINT
STREET**

DATE: JANUARY 28, 2020

Attached is the Residential Lease which has been revised to include a possessory interest tax provision (Section 31) to ensure that the Tenant continues to pay the possessory interest tax levied against the Leased Premises.

cc: City Attorney
City Clerk
Public Review Binder

RESIDENTIAL LEASE

THIS RESIDENTIAL LEASE ("Lease") dated as of January 28, 2020, is entered into between the City of Arroyo Grande ("Landlord") and Jena Simmons and Chad Jackson (collectively "Tenant").

NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. Lease

Tenant leases from Landlord the premises located at 202 East Le Point Street, Arroyo Grande, California 93420, and consisting of a single family residence, on the terms and conditions contained in this Lease (collectively, "Leased Premises").

Section 2. Term

The term of this Lease shall commence on February 1, 2020 and continue for a period of one (1) year.

Section 3. Rent

Rent shall be One Thousand Two Hundred Dollars (\$1,200) for the month of February and then One Thousand Three Hundred Twenty Dollars (\$1,320) per month ("Monthly Rent") starting in March, payable in advance, on the first day of each calendar month to Landlord or Landlord's authorized agent, at the following address: Attn: Administrative Services Director, 300 East Branch Street, Arroyo Grande, CA 93420, or at any other place designated by Landlord from time to time. If Tenant takes possession of the Leased Premises on a date other than the first day of a calendar month, the first rent payment shall be prorated in accordance with the then remaining number of days in the month. Tenant agrees to pay a charge of Twenty-Five Dollars (\$25) for each dishonored check.

Section 4. Utilities

Tenant shall be responsible for the payment of all utilities and services to the Leased Premises.

Section 5. Use

The Leased Premises shall be used as a private dwelling.

Section 6. Compliance with Law

Tenant shall comply with all laws, statutes, ordinances, and requirements of all city, county, state, and federal authorities now or later in force pertaining to the use of the Leased Premises.

Section 7. Maintenance and Alterations

Except as set forth in this Lease, Tenant agrees that as of the delivery of possession the Leased Premises are in good working order and repair. Tenant shall, at Tenant's own expense and at all times, maintain the Leased Premises in good working order and repair, including all equipment, appliances, furniture, fixtures, and furnishings, and shall surrender the Leased Premises at termination of this Lease in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for damages caused by Tenant's negligence and that of Tenant's family, invitees, and guests. Tenant shall not make alterations to the Leased Premises without the prior written consent of Landlord. Tenant shall not commit or allow any person to commit any act resulting in the destruction, defacement, damage, impairment, or removal of any part of the Leased Premises, including wall, ceiling, and floor coverings, and the furniture, fixtures, and furnishings of the Leased Premises.

Section 8. Entry

Landlord shall have the right to enter the Leased Premises for the purposes of making necessary or agreed repairs and for showing the Leased Premises to prospective tenants, provided that, except in the case of an emergency, such entry shall be made during normal business hours and upon at least twenty-four (24) hours' prior notice. In the case of an emergency or Tenant's abandonment or surrender of the Leased Premises, Landlord or Landlord's agent may enter the Leased Premises at any time, without obtaining Tenant's prior consent. Tenant agrees not to change the locks or add locks to the entrances of the Leased Premises without the prior consent of Landlord and without providing Landlord with a key to any locks.

Section 9. Indemnification

Landlord shall not be liable for any damage or injury to Tenant or any other person, or to any property, occurring on the Leased Premises or any part of the Leased Premises or in common areas, unless the damage is the proximate result of the gross negligence or willful misconduct of Landlord, Landlord's agents, or Landlord's employees. Tenant agrees to indemnify, defend, and hold harmless Landlord for any liability, costs (including reasonable attorney's fees), or claims for personal injuries or property damage caused by the negligent, willful, or intentional act or omission to act of Tenant or Tenant's guests or invitees. Each party waives the right of subrogation against the other party.

Section 10. Assignment and Subletting

Tenant shall not assign this Lease or any interest under this Lease or sublet the Leased Premises or any portion of the Leased Premises without Landlord's prior written consent.

Section 11. Abandoned Property

If Tenant abandons or surrenders the Leased Premises, Landlord may consider any personal property left on the Leased Premises to be abandoned and may dispose of it in any manner allowed by law. If Landlord reasonably believes that the abandoned personal property has a total resale value of less than \$300, Landlord may keep the personal property for Landlord's use or otherwise dispose of it in accordance with law. All personal property on the Leased Premises is made subject to a lien in favor of Landlord for the payment of all sums due under this Lease, to the maximum extent allowed by law.

Section 12. Default

If Tenant fails to pay rent when due, or to perform any term of this Lease, after not less than three (3) days' written notice of default given in the manner required by law, Landlord, at Landlord's option, may terminate all rights of Tenant under this Lease, unless Tenant, within the time specified, cures the default.

Section 13. Remedies

If Tenant defaults, Landlord may elect to:

(a) continue the lease in effect, and enforce all Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due, or

(b) at any time, terminate all of Tenant's rights under this Lease, and recover from Tenant all damages Landlord may incur by reason of the breach of the lease, including the cost of recovering the Leased Premises and including the worth at the time of the termination or at the time of an award if suit is instituted to enforce this provision, of the amount by which the unpaid rent for the balance of the term exceeds the amount of the rental loss that the tenant proves could be reasonably voided.

In addition to any other rights and remedies allowed by this Lease or by law, Landlord shall have the remedies as set forth in Civil Code §§1951.2 and 1951.4.

Section 14. Security Deposit

Tenant will deposit with Landlord the sum of One Thousand Dollars (\$1,000) as a security deposit. Landlord shall not be obligated to pay interest on the Deposit. Landlord will hold the deposit for the full and timely performance by Tenant of Tenant's obligations under this Lease, including payment of rent and cleaning, maintaining, and repairing the Leased Premises after surrender. If all or any portion of Tenant's security deposit is applied by Landlord during the term of this Lease, Landlord may demand that Tenant replenish the full amount applied. Tenant's failure to replenish the amount within five (5) days after written demand will constitute a breach of this Lease. The balance of all deposits shall be refunded no later than twenty-one (21) calendar days from the date possession is delivered to Landlord or Landlord's agent, together with a statement showing any charges made against the deposits by Landlord.

Section 15. Attorney Fees

In any legal action brought by either party to enforce the terms of this Lease or relating to the Leased Premises, the prevailing party shall be entitled to all costs incurred in connection with that action, including reasonable attorney's fees.

Section 16 Waiver

No failure of Landlord to enforce any term of this Lease shall be deemed a waiver, nor shall any acceptance of a partial payment of rent be deemed a waiver of Landlord's right to the full amount of rent.

Section 17. Notices

Any notice that either party may or is required to give, may be given by mailing the notice, postage prepaid, to Tenant at the Leased Premises or to Landlord at the address shown below or at any other place designated by the parties from time to time.

Section 18. Successors and Assigns

This Lease is binding upon and inures to the benefit of the heirs, assigns, successors, executors, and administrators of Landlord and Tenant.

Section 19. Time

Time is of the essence in this Lease.

Section 20. Holding Over

Any holding over after expiration of the Lease, with the consent of Landlord, shall be construed as a month-to-month tenancy in accordance with the terms of this Lease, as applicable. Rent during any hold over period shall be One Hundred Fifty Percent (150%) of the rent payable prior to the expiration of the Lease term.

Section 21. Late Charges and Default Interest

If Tenant fails to pay the Monthly Rent within five (5) days after the due date, Tenant agrees that it would be impracticable or extremely difficult to fix the actual damage to Landlord caused by that failure and therefore agrees to pay a late charge of Twenty Five Dollars (\$25) plus interest at Ten Percent (10%) per annum commencing on the date on which the delinquent amount was due. The amounts due under this Section are in addition to and not in lieu of any other remedies of Landlord.

Section 22. Construction

Headings at the beginning of each section are solely for the convenience of the parties and are not a part of and shall not be used to interpret this Lease. The singular form shall include plural, and vice versa. This Lease shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this Lease.

Section 23. Further Assurances

Whenever requested to do so by the other party, each party shall execute, acknowledge, and deliver any further conveyances, agreements, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, and any further instruments and documents as may be necessary, expedient, or proper to complete any conveyances, transfers, sales, and agreements contemplated by this Lease. Each party also agrees to do any other acts and to execute, acknowledge, and deliver any documents requested to carry out the intent and purpose of this Lease.

Section 24. Third-Party Rights

Nothing in this Lease, express or implied, is intended to confer upon any person, other than the parties and their respective successors and assigns, any rights or remedies under or by reason of this Lease.

Section 25. Integration

This Lease and the attached exhibits contain the entire agreement between the parties regarding the subject matter of the Lease, and this Lease expressly supersedes all previous or contemporaneous agreements, understandings, representations, or statements between the parties regarding those matters.

Section 26. Counterparts

This Lease may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

Section 27. Amendment

This Lease may not be amended or altered except by an instrument in writing executed by Landlord and Tenant.

Section 28. Partial Invalidity

Any provision of this Lease that is unenforceable or invalid or the inclusion of which would adversely affect the validity, legality, or enforcement of this Lease shall have no effect, but all the remaining provisions of this Lease shall remain in full force.

Section 29. Joint and Several Liability

If Tenant is more than one person, each person shall be jointly and severally liable for the performance of Tenant's obligations under this Lease.

Section 30. Conduct of Tenant

Tenant shall not create a nuisance on the Leased Premises or otherwise disturb other tenants of the property.

Section 31. Possessory Interest Tax

Tenant shall pay and discharge all taxes, general and special assessments, and other charges of every description which during the term of the Lease shall be levied on or assessed against the Leased Premises and all interest therein including Tenant's leasehold interest and all improvements and other property thereon, whether belonging to City or Tenant, or as to which either of them may become liable.

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Section 31. Governing Law

The validity, meaning, and effect of this Lease shall be determined in accordance with California law.

IN WITNESS WHEREOF, Tenant has executed this Lease as of the date first above written.

TENANT:

Jena Simmons
Date:

Chad Jackson
Date:

Landlord accepts and agrees to this Lease.

LANDLORD:

James A. Bergman, City Manager
Date:

ATTEST:

Kelly Wetmore, City Clerk
Date:

APPROVED AS TO FORM:

Timothy J. Carmel, City Attorney
Date:

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