



**Agenda Item B.17**  
**CONSENT CALENDAR**  
**Meeting Date: June 18, 2019**

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**TO:** Mayor and Councilmembers

**FROM:** Vyto Adomaitis, Neighborhood Services and Public Safety Director

**CONTACT:** Jaime A. Valdez, Senior Project Manager

**SUBJECT:** Foodbank Lease at 27 South La Patera Lane

**RECOMMENDATION:**

Authorize the City Manager to enter into Commercial Lease Agreement No. 2019-\_\_\_ with the Foodbank of Santa Barbara County at 27 South La Patera Lane in an amount not to exceed \$1.00 in rent, plus associated marginal utility costs with the term of agreement expiring on June 18, 2020 (Attachment 1).

**BACKGROUND:**

On March 14, 2019 the Foodbank of Santa Barbara County (Foodbank) sent a letter requesting assistance with what they considered an unexpected, significant, and short-term need for food storage capacity (Attachment 2). The letter outlines how the City's building at 27 South La Patera Lane is the only viable option they identified that could meet their unique needs. Specifically, the building's compartmentalized setup has a space that meets their needs in terms of square footage (approximately 3,700 sf) with secure access, loading facilities, and climate control capability. The space is referred to as Warehouse ST1, or the Annex.

The City Council met in Closed Session on April 16<sup>th</sup> to discuss the March 14<sup>th</sup> request. Staff was directed to first confirm if another potential tenant for the building that had previously expressed interest desired to proceed with a lease. The potential tenant confirmed that they would not be pursuing the leasing of space at 27 South La Patera Lane, opening the door for the Foodbank as a possible tenant. In late April of 2019, Staff discussed with the Foodbank potential terms for a lease agreement including any payment of rent and duration of the lease.

On May 3, 2019 the Foodbank sent a follow-up letter clarifying their request and short-term need for food storage capacity (Attachment 3). The City Council met in Closed Session on May 7<sup>th</sup> to discuss the May 3<sup>rd</sup> Foodbank letter. Council directed staff to bring an item to a public meeting to consider leasing the Annex space to the Foodbank as outlined in the Commercial Lease (Attachment 1).

## **DISCUSSION:**

The 27 South La Patera Lane building is currently vacant, and the property is slated to become the Goleta Train Depot Project in the coming years. In the meantime, the City is limited as to what leasing arrangements it could pursue given the constrained window of availability to potential lessees.

The City's willingness to offer a \$1 per year lease is largely symbolic and intended to provide a public benefit as the Foodbank is the primary provider of food resources in the area to those in need during disasters. In addition to the \$1 per year lease, the Foodbank would pay for its marginal use in utilities and security as well as pay for any direct costs germane to their operations (pest control, minor internal modifications such as temporary racks, etc.).

There is precedent for government agencies allowing the Foodbank to use public facilities/property. The Foodbank currently leases both its North County and South County warehouses from the County of Santa Barbara for \$1 per year. Those lease agreements recognize the quasi-government function the Foodbank plays in feeding our community's most vulnerable populations as well as the direct government function of preparing for and responding to disasters.

## **ALTERNATIVES:**

The City Council is under no obligation to lease the Annex portion of 27 South La Patera Lane to the Foodbank or any other entity. It could choose to pursue other leasing arrangements or keep that portion of the building vacant.


## **FISCAL IMPACTS:**

The Commercial Lease requires the requires the Foodbank to pay for its marginal share of utilities (above and beyond the baseline charges currently paid by the City). The City would receive \$1.00 in actual rent from the Foodbank during the one-year lease term.

**Legal Review By:**

  
Michael Jenkins  
City Attorney

**Approved By:**

  
Michelle Greene  
City Manager

**ATTACHMENTS:**

1. Commercial Lease Agreement between the City of Goleta and the Foodbank of Santa Barbara County at 27 South La Patera Lane
2. Foodbank of Santa Barbara County letter requesting assistance with food storage needs, dated March 15, 2019
3. Foodbank of Santa Barbara County letter clarifying request for assistance with food storage needs, dated May 3, 2019



## **ATTACHMENT 1**

Commercial Lease Agreement between the City of Goleta and the Foodbank of  
Santa Barbara County at 27 South La Patera Lane



## COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (the "**Lease**") is made and entered into by and between the CITY OF GOLETA ("**Landlord**") and FOODBANK OF SANTA BARBARA COUNTY, a California nonprofit corporation ("**Tenant**"), under the following terms and conditions:

1. Description of the Leased Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord a portion of the building located at 27 La Patera Lane, Goleta, California ("the "**Building**"), consisting of approximately 3,700 square feet, referred to herein as the "**Premises**" and shown on **Exhibit A**. As used herein, the "**Property**" shall refer to the Building and the surrounding parking areas.

2. Term, Occupancy, and Renewal.

a. Term. The term of this Lease shall be for one year; said term shall commence on June 19, 2019 (the "**Commencement Date**"), and end on June 18, 2020.

b. Option to Renew. Provided Tenant is not in default of any term of this Lease, Tenant is hereby granted an option to renew this Lease, under the same terms and conditions set forth in this lease, for an additional six (6) months from and after the expiration of the original term of this Lease set forth under Section 2.a (the "**Renewal Term**").

3. Rent. The initial annual rent during the term of this Lease shall be One Dollar (\$1) which shall be paid on the Commencement Date.

a. Late Charge. Tenant acknowledges that late payment by Tenant to Landlord of rent, and any other sums which shall be due under this Lease, will cause Landlord to incur costs not contemplated by this Lease. If any installment of rent due, or any other sum due under this Lease, from Tenant is not received by Landlord within five (5) days after it becomes due, Tenant shall pay to Landlord an additional sum of the greater of \$100 or 6% of the overdue amount as a late charge.

b. Interest on Unpaid Rent. Rent or other charges under this Lease not paid within five (5) days of the date due shall, in addition to any late charges under Section 3.a, above, bear interest at the lesser of the maximum legal rate or 10% per annum from the date due until paid.

4. Place of Payment of Rent. Rent and all other sums which shall become due under this Lease, including but not limited to late charges and additional rent, shall be payable by hand delivery or mail at the office of the Landlord located at 130 Cremona Drive, Suite B, Goleta, CA 93117, or at such other place as Landlord may designate from time to time in writing. Mailed payments must be received (not postmarked) by Landlord by the date due.

5. Condition of, and Improvements to, Premises.

a. Improvements. Under this Lease, Landlord shall have no obligation or responsibility, actual or implied, to install, construct, accommodate, or make any improvements to the Premises prior to, or as a condition of, Tenant's occupation of the Premises.

b. As-Is Condition. Tenant warrants and agrees that Tenant has inspected the Premises. Tenant agrees to take possession of the Premises in AS-IS condition (which exists on the date this Lease is signed) and Tenant further agrees that Landlord shall have no responsibility for any repairs or improvements to the Premises, prior to, or as a condition of, Tenant's occupation of the Premises. Landlord makes no representations regarding the condition, status, compliance with laws or suitability for a particular purpose for Tenant's use.

c. Condition Upon Surrender. Upon termination of this Lease, Tenant shall surrender the Premises to Landlord in as good condition as when received, ordinary wear and tear and damage by fire, earthquake, or act of God excepted, and including any repairs or improvements made by Tenant. If Tenant fails to maintain the Premises in good order and repair, after thirty (30) days' prior written notice, Landlord may, at its option, make such repairs, and Tenant shall pay the reasonable cost thereof as additional rent hereunder within ten (10) days after receipt of a written statement therefor. In the event the giving of thirty (30) days' prior notice may result in additional damage to the Premises, Landlord may make such repairs immediately, at Tenant's expense, and shall provide Tenant with notice of same.

6. Use. The Premises shall be used only for storage and warehousing purposes in connection with the operation of a community food bank. Tenant shall not use any portion of the Premises for purposes other than those specified without first obtaining the written consent of Landlord. Tenant shall not do, bring, or keep anything in, on, or about the Premises which will in any way increase the premium rate or cause the cancellation of any fire or other insurance upon the Premises, the building in which the Premises are located, or any of its contents.

7. Compliance with Laws/Hazardous Materials.

a. Tenant, at Tenant's expense, shall comply with and cause all of Tenant's agents to comply with all applicable laws, ordinances, rules and regulations of governmental authorities applicable to the Premises or the use or occupancy thereof, including, without limitation, the law commonly known as the Americans With Disabilities Act and California Code of Regulations Title 8, Sections 3281 through 3299 (collectively, "**Laws**").

b. Tenant shall not cause or permit any Hazardous Materials, as defined below, to be brought upon, kept, used, discharged, deposited or leaked in or about the Premises or the Building by Tenant or any of Tenant's agents or by anyone in the Premises (other than Landlord or its agents, employees or contractors), and shall indemnify Landlord against same.

8. Waste; Nuisance. Tenant shall not suffer or commit any waste or nuisance on the Premises, nor shall Tenant interfere with or obstruct the rights of or disturb the quiet enjoyment of any other tenant or occupant of the building or injure or annoy them. Tenant shall not use or allow the Premises to be used for any improper, immoral, or objectionable purposes, to be determined Landlord's sole and absolute judgment.



9. Additional Rent. In addition to the Base Rent required to be paid hereunder, Tenant shall pay as additional rent as provided in this Section 9, an amount equal to (i) Operating Expenses assessed, billed, or charged separately against the Premises, plus (ii) Tenant's Proportionate Share of Property Operating Expenses not so separately assessed, billed, or charged in the manner set forth below (Tenant's "**Operating Expense**").

a. Landlord shall reasonably allocate to Tenant portions of Operating Expenses not assessed, billed or charged separately against the Premises between the Premises and the other areas within the Building. The portion of an Operating Expense so allocated by Landlord to the Premises shall be Tenant's share of such Operating Expense. Additional Rent shall be invoiced on a monthly basis after Operating Expenses have been incurred by Landlord, and shall be due thirty (30) days following invoice.

b. Operating Expenses shall include all costs to operate, repair, restore, maintain and manage the Property, the Building, improvements, roofs, parking lots, sidewalks, driveways and other areas used in common by the tenants or occupants of the Property ("**Common Areas**"); all costs to supervise and administer said common areas, parking lots, sidewalks, driveways, and Common Areas, including such fees as may be paid to a third party in connection with same; and all parking charges, utility charges and surcharges, or any other costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations, or interpretations thereof, promulgated by any governmental authority in connection with the use or occupancy of the Premises or the parking facilities serving the Premises. Operating Expenses include the following costs by way of illustration, but shall not be limited to: general and special real property taxes and assessments (including any tax imposed by changes in laws or which is imposed as a result of this transaction or any transfers hereof), rent taxes; gross receipt taxes (whether assessed against Landlord or assessed against Tenant and collected by Landlord, or both); water and sewer charges; insurance premiums on property and liability insurance maintained by Landlord; any deductible portion of an insured loss; utilities; refuse disposal; painting, and decoration of non-tenant areas; Common Area lighting; fire detection systems; security and security systems; common area clean-up; labor; reasonable costs incurred in the management of the Property and the Building; air-conditioning and heating; supplies, materials, equipment and tools, including maintenance and repair costs and service contracts; costs of licenses, permits and inspections; maintenance, repair and restoration of Common Areas, including repair/installation of asphalt overlay, resurfacing, restriping and cleaning of parking areas (all of which parking area expenses shall be non-capital improvements); cost of Landlord's compliance under the Lease; landscaping and gardening; cost of utilities not separately metered; rental value of manager's office; wages, salaries and benefits; and other services to be provided by Landlord that are stated elsewhere in this Lease to be Operating Expenses.

c. Tenant at its own expense shall provide and maintain all trade fixtures and equipment reasonably required to enable it to conduct its business in the Premises in a business-like manner. Tenant shall keep all trade fixtures and equipment clean and in good repair. Kitchens or other food preparation facilities shall be steam cleaned annually. Landlord may inspect the Premises annually to ensure good maintenance practices and review the current condition of the Premises. Such fixtures and equipment shall remain the property of Tenant, and Tenant may remove or if required to do so by Landlord, shall remove the same or any part thereof upon the termination of this Lease. Prior to lease expiration or earlier termination,

Tenant shall repair at its own expense any damage to the Premises caused by its removal of said fixtures or equipment. All trade fixtures and equipment installed by Tenant pursuant thereto shall not be subject to, and shall be free of any lien for payment of rent by Tenant or for the performance of any other obligation of Tenant. Tenant shall keep Tenant's fixtures and equipment insured for full replacement value.

d. To the extent separately assessed, billed or charged, Tenant shall pay, during the term hereof, all electric, water, gas, telephone, and other public utility charges in connection with its occupancy and use of the Premises, including all costs of operating and maintaining all equipment therein, and all business taxes and all taxes upon the property and fixtures of the Tenant. To the extent not separately assessed, billed or charged, such charges shall be subject to this Section 9 (Additional Rent). Landlord shall not be responsible for any interruptions or disturbance of service regardless of whether Tenant is paying directly for such services or if such services are being contracted for by Landlord, nor shall there be any abatement of rent resulting from any cessation or interruption of utility service or other service contemplated by this section. Tenant hereby waives the provisions of California Civil Code Section 1932(1) or any other applicable existing or future law, ordinance or governmental regulation permitting the termination of this Lease due to the interruption of failure of any services to be provided under this Lease.

e. Revenue & Taxation Code Section 107.6 Possessory Interest Tax. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxes and that, if a possessory interest is created, Tenant shall, in accordance with this Section 9(e) hereof, be responsible for payment of property taxes levied against such possessory interest. Tenant shall be responsible for all real property taxes and assessments resulting from leasehold improvements by Tenant.

10. Repairs and Maintenance.

a. Landlord's Maintenance. Except as otherwise provided herein, Landlord, at its cost, shall be responsible to maintain only the structural parts of the Building, which structural parts include only the foundations, bearing and exterior walls, sub-flooring and roof and those portions of the unexposed electrical, plumbing, and sewage systems lying outside the Premises. Landlord shall have an obligation to repair damage to the Premises only if such damage was caused by (a) the acts or omissions of Landlord, or its authorized representatives, or (b) Landlord's failure to perform its obligations under this paragraph.

b. Tenant's Maintenance. Except as otherwise provided, Tenant at its cost shall maintain, in good condition, the Premises, including without limitation, all of Tenant's personal property, signs, windows, doors, including maintenance and servicing of the existing heating, ventilating, and air-conditioning systems servicing the Premises.

11. Alterations and Liens. Tenant shall not make or cause to be made any alterations, additions, or improvements to or of the Premises or any part thereof without the prior written consent of Landlord

12. Assignment and Subletting. Tenant shall not assign or encumber this Lease or any interest therein or sublet the Premises or any portion thereof either voluntarily or by operation of law without the prior written consent of Landlord, which consent shall not be unreasonably withheld

13. Entry by Landlord. Landlord and its agents shall have the right to enter the Premises at reasonable times to inspect and examine the same and to make such repairs to the Premises as the Landlord shall deem advisable, and to show the Premises to prospective tenants, buyers or lenders.

14. Indemnification.

a. Waiver of Claims. To the extent permitted by law, Tenant waives all claims against Landlord for damage to person or property arising for any reason. Tenant assumes all such risks for Tenant and any employees, licensees, invitees, agents, or contractors.

b. General Indemnity. Tenant agrees, as an independent unsecured obligation, separate from any of its promises or covenants in this Lease, to indemnify, defend (with counsel selected by Landlord at Tenant's expense), protect and hold harmless Landlord, its employees, agents, officers, wardens, officiants, legal counsel, assigns, any successor or successors to Landlord's interest in the Premises and any future owners of the Premises to whom this Lease is assigned (hereinafter collectively referred to as the "**Indemnitees**") from and against all claims, actual damages (including but not limited to special and consequential damages), punitive damages, injuries, costs, response costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses arising out of any damage to any person or property occurring in, on, or about the Premises, except for any acts of gross negligence or willful misconduct by Landlord. Tenant's obligation under this paragraph to indemnify and hold the Indemnitees harmless shall be limited to the sum that exceeds the amount of insurance proceeds, if any, received by the party being indemnified. Landlord shall not be liable to Tenant for any damage by or resulting from any act or negligence of any other tenant of property adjoining the Premises or by the owner or occupant of any adjoining or contiguous property.

15. Insurance.

a. Property Insurance. During the Lease Term, Tenant shall, at Tenant's expense, maintain, or cause to be maintained, "All risk" property insurance including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any of Tenant's personal property, fixtures, equipment and alterations, including electronic data processing equipment (collectively, "**Tenant's Property**") (and coverage for the full replacement cost thereof including business interruption of Tenant);

b. Liability Insurance. Commercial General Liability Insurance (Occurrence Form). A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) in aggregate, providing coverage for, among other things, blanket contractual liability, Premises, products/completed operations with an "Additional Insured-Managers or

Lessors of Premises Endorsement" and containing the "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire, and personal and advertising injury coverage, with deletion of (a) the exclusion for operations within fifty (50) feet of a railroad track (railroad protective liability), if applicable, and (b) the exclusion for explosion, collapse or underground hazard, if applicable. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, and shall include coverage for liability assumed under this Lease as an "**Insured Contract**" for the performance of Tenant's indemnity obligations under this Lease;

c. Automobile Liability Insurance. Business automobile liability insurance having a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence and insuring Tenant against liability for claims arising out of ownership, maintenance, or use of any owned, hired or non-owned automobiles;

d. Worker's Compensation. Workers' compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by Tenant in the conduct of its operations on the Premises including coverage for all states and, if applicable, voluntary compensation, together with employer's liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000);

e. Other Insurance. Any other form or forms of insurance as Landlord or mortgagees of Landlord may reasonably require from time to time in form, in amounts and for insurance risks against which a prudent tenant would protect itself;

f. Business Interruption. Loss of income and extra expense insurance in amounts as will reimburse Tenant for direct or indirect loss of earnings attributable to all peril commonly insured against by prudent Tenants in the business of Tenant or to prevention of access to the Premises as a result of such perils;

g. Umbrella/Excess Liability Insurance. Umbrella or excess liability insurance may be used to satisfy the limits required in Section 14(a) and (b) above. The umbrella liability or excess liability policy shall be written on an "occurrence" form with a self-insured retention no greater than Ten Thousand Dollars (\$10,000). Such policies shall name Landlord as an additional insured and shall be primary to any insurance maintained by Landlord.

h. Waiver of Subrogation. The parties release each other, and their respective authorized representatives, from any claims (for damage to any person or to the Premises and/or the building in which the Premises are located, and to the fixtures, personal property, Tenant's improvements, and alterations of either Landlord or Tenant in or on the Premises and/or the building in which the Premises are located) that are caused by or result from risks which are insured against under any insurance policies carried by the parties and in force at the time of any such damage and to the full extent of any proceeds paid under said policies.

i. Ratings, Certificates. All policies shall be taken out with insurers licensed to do business in California with a current Best Rating of (A, XII) and in form satisfactory from time to time to Landlord. Certificates of insurance evidencing all such insurance and acceptable to the Landlord shall be filed with Landlord prior to occupancy of the Premises and at least ten (10)

days prior to the expiration of the term of each policy thereafter. Such certificates of insurance must specifically show all the special policy conditions required in this Section 14, including "additional insured," "waiver of subrogation," "notice of cancellation," and "primary insurance" wording applicable to each policy. Alternatively, a certified, true and complete copy of each properly endorsed policy may be submitted. All policies shall contain an undertaking by the insurers to notify Landlord and the mortgagees of Landlord in writing not less than thirty (30) days prior to any material change, reduction in coverage, cancellation, or other termination thereof. Tenant shall furnish Landlord with proof of renewal or binders for new insurance at least thirty (30) days before the expiration date of each policy.

16. Destruction of Premises.

a. Destruction Due to Risk Covered by Insurance. If, during the term of this Lease and any renewal term, the Premises or the Building and other improvements in which the Premises are located are totally or partially destroyed from a risk covered by insurance carried by either Tenant or Landlord for the Building, rendering the Premises totally or partially inaccessible or unusable, Landlord shall restore the Premises or the Building, and other improvements in which the Premises are located, to substantially the same condition as they were immediately before destruction if they can be repaired within 270 days from date of destruction. Landlord can elect to terminate this Lease by giving notice to Tenant within fifteen (15) days after determining that the restoration cost will exceed the insurance proceeds.

b. Destruction Due to Risk Not Covered by Insurance. If, during the term of this Lease and any renewal term, the Premises or the Building and other improvements in which the Premises are located are totally or partially destroyed by a risk not covered by the insurance, rendering the Premises totally or partially inaccessible or unusable, Landlord can elect to terminate this Lease by giving notice to Tenant within fifteen (15) days after determining the restoration cost and replacement value.

c. Abatement or Reduction of Rent. In case of destruction, there shall be an abatement or reduction of rent between the date of destruction and the date of substantial completion of restoration based on the extent to which the destruction interferes with Tenant's use of the Premises.

d. Waiver of Civil Code Sections. Tenant waives the provisions of California Civil Code Section 1932(2) and California Civil Code Section 1933(4) with respect to any destruction of the Premises.

17. Default and Landlord's Remedies.

a. Default. The occurrence of any of the following shall constitute a default by Tenant:

(1) Tenant shall fail to pay when due any rent or any other monetary sum payable under this Lease.

(2) Tenant shall fail to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease.

(3) Tenant shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or take or have taken against Tenant any proceedings of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event any such proceedings are involuntary, Tenant is not discharged from the same within thirty (30) days thereafter.

(4) A receiver is appointed for a substantial part of the assets of Tenant, and such receivership is not released within thirty (30) days.

(5) The abandonment of the Premises by Tenant, or the vacation (hereby defined to be ten (10) or more consecutive days of continual absence from the Premises) of the Premises by Tenant.

(6) This Lease or any estate of Tenant hereunder shall be levied upon by any attachment or execution and such levy is not released within thirty (30) days.

b. Landlord's Remedies. If any default by Tenant shall occur, and following notice of default as required by this Lease (for the period applicable to the default under the applicable provision of this Lease), Landlord shall have the following remedies in addition to all other rights and remedies provided by law or equity, to which Landlord may resort cumulatively or in the alternative.

(1) Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall so elect to terminate this Lease, then Landlord may recover from Tenant:

(a) The worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(b) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves could have been reasonably avoided; plus

(c) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(d) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and

(e) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

As used in Subparagraphs (a) and (b) above of this section, the "worth at the time of award" is computed by allowing interest at the maximum rate an individual is permitted by law to charge. As used in subparagraph (c) above, the "worth at the time of award" is computed

by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(2) In the event of the vacation or abandonment of the Premises by Tenant, or in the event that Landlord shall elect to reenter as provided herein or shall take possession of the Premises pursuant to legal proceeding or pursuant to any notice provided by law, then Landlord shall have the remedy specified by Civil Code Section 1951.4, in which Landlord may from time to time recover all rental as it becomes due or relet the Premises or any part thereof for the account of Tenant on such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, with the right to make alterations and repairs to the Premises.

(3) No reentry or taking possession of the Premises by Landlord pursuant to this section shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction.

18. Estoppel Certificate. Tenant shall execute and deliver to Landlord within ten (10) days of request a commercially reasonable estoppel statement. Landlord and Tenant intend that any estoppel statement delivered pursuant to this Section may be relied upon by any mortgagee, beneficiary, purchaser or prospective purchaser of the building or any interest therein and failure to execute and return such estoppel shall be a material breach of the Lease.

19. Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of suit.

20. Notices. Any notice required or permitted to be given hereunder must be given in writing.

21. Waiver; Accord and Satisfaction. No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such right or be construed as a waiver. The receipt and acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular rent payment involved. Time is of the essence of this Lease as to the performance of all terms, covenants, and conditions stated herein.

22. Successors and Assigns. Except as otherwise provided herein, all of the terms and conditions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. In the event of any transfer, assignment or other conveyance or transfers of any such title or tenant, Landlord herein named (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from and after the date of such transfer. Landlord may transfer its interest in the Premises without the consent of Tenant and such transfer or subsequent transfer shall not be deemed a violation on Landlord's part of any of the terms and conditions of this Lease.

23. Entire Agreement. This Lease contains the entire agreement of the parties and supersedes all prior negotiations, drafts, and other understandings which the parties may have

concerning the subject matter hereof. This Lease may not be modified except by written instrument duly executed by the parties hereto or their successors in interest. This Lease shall be governed by and construed pursuant to the laws of the State of California.

24. Counterparts. The parties agree that this Lease may be signed in any number of counterparts, each of which shall constitute an original, and that a facsimile copy or electronic copy of any signature of any party will be deemed as enforceable and effective as an original signature. All such counterparts, taken together, will constitute one and the same instrument.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the day and year set forth below.

**LANDLORD:**

CITY OF GOLETA

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**TENANT:**

FOODBANK OF SANTA BARBARA  
COUNTY, a California nonprofit  
corporation

Dated: 6-4-19

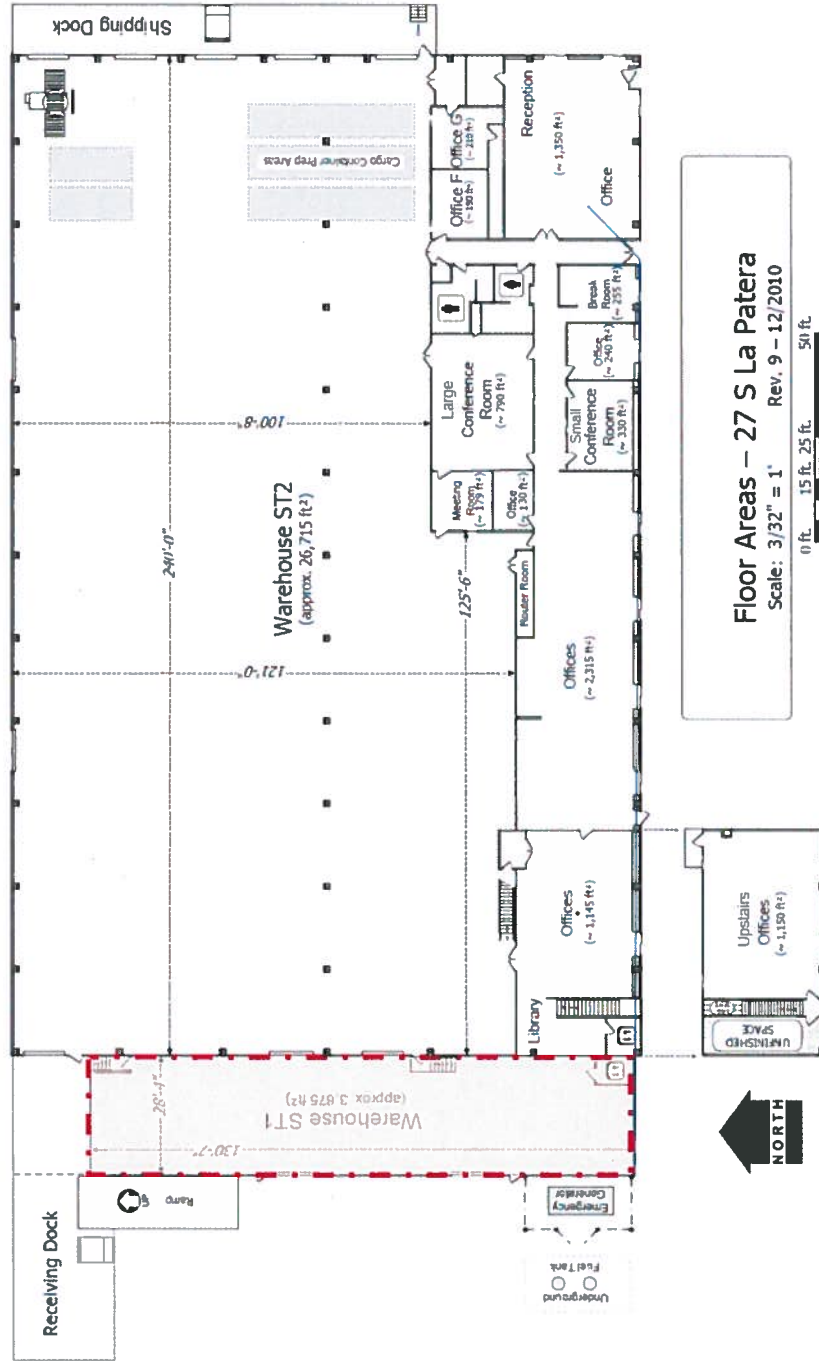
By: 

Name: ERIK TARKENTON

Its: CEO



# EXHIBIT A DEPICTION OF THE PREMISES



27 S. La Patera Rough SF	
Description	Space
<b>Warehouse ST1</b>	<b>3,675</b>
Offices	1,145
Offices	2,315
Small Conference Room	330
Office	240
Break Room	255
Large Conference Room	790
Meeting Room	179
Office	130
Upstairs Offices	1,145
<b>Warehouse ST2</b>	<b>26,715</b>
ST2 Reception	1,350
Office F	190
Office G	210
<b>TOTAL</b>	<b>38,669</b>

Floor Areas – 27 S La Patera  
Scale: 3/32" = 1'

Rev. 9 – 12/2010



## **ATTACHMENT 2**

Foodbank of Santa Barbara County letter requesting assistance with food storage needs, dated March 15, 2019



*Ending Hunger and Transforming  
the Health of Santa Barbara County  
Through Good Nutrition*

[www.foodbanksbc.org](http://www.foodbanksbc.org)

**South County Facility**

4554 Hollister Avenue  
Santa Barbara, CA 93110  
805 967 5741

**North County Facility**

490 West Foster Road  
Santa Maria, CA 93455  
805 937 3422

**Education &  
Administration Center**

1525 State Street, Suite 100  
Santa Barbara, CA 93101  
805 967 5741

**Board of Trustees**

Vibeke Weiland  
*Board Chair*

George L. Bean  
*Vice Chair*

Cindy Halstead  
*Treasurer*

Carol Olson  
*Secretary*

Frank Abatemarco

Peter N. Brown

Narded Eguiluz

Wayne Elias

Scott Hansen

Tim Harrington

Helen John-Kelly, M.D.

Betsey von Summer Moller

Cynthia Schur

Ian Stewart

Barbara Tzur

Erwin Villegas

**Chief Executive Officer**

Erik Talkin



March 15, 2019

Michelle Greene, City Manager  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

Dear Ms. Greene,

I am writing to ask for your assistance in exploring a potential partnership between the Foodbank of Santa Barbara County and the City of Goleta to help address a time-sensitive, unexpected, significant, and short-term need for food storage capacity in our community.

The need for additional food storage capacity relates to unexpected distributions of excess food from the US Department of Agriculture's "Tariff Mitigation Offerings" program. Through this government program, these valuable nonperishable food items will significantly benefit the more than 200,000 residents in Santa Barbara County who depend on the Foodbank for nutritious food, including the more than 10,500 residents of the Goleta Valley who are served by the Foodbank each year.

This additional food will also help to significantly enhance our community's preparedness for disasters. The Foodbank is the primary provider of food resources to those in need during disasters. However, the Foodbank's existing warehouse space in South County is too small to store the food necessary to feed the community in cases where we become isolated by closures of Highways 101 and 154. This ongoing threat to our community would, at least partially and temporarily, be addressed by finding the capacity to store this food in South County.

The Foodbank has been exploring a number of options for additional food storage capacity, including communications with your staff team in the Department of Neighborhood Services and Public Safety. Specifically, working with your team we have explored the possibility of using a small portion of the old Direct Relief International (DRI) warehouse which currently stands empty in anticipation of the development of a new train station depot project.

**With this letter, we are pleased to submit this official request to formally explore this option with the City of Goleta.**

The old DRI warehouse is the only viable option we have uncovered during our extensive search for solutions to the temporary need for additional warehouse space. Specifically, this warehouse meets all of our key criteria for a viable short-term solution:

- Adequate storage capacity: (~3,700 sq. ft. & ceiling heights allowing stacking of pallets)
- Availability for at least one year
- Loading dock and truck access for delivery
- Insulation/ventilation necessary to protect nonperishable food items from weather extremes
- Ability to access the warehouse fairly regularly during normal business hours (7 AM-4 PM) with estimated deliveries 2-3 times per week and Foodbank transfers occurring each business day; warehouse staff will need to come and go depending on scheduling

While the cost of rent for this unexpected need is not included in the Foodbank's annual budget, we are confident that we will be able to cover any incidental or direct costs tied to our use of the building. This would include expenses such as utilities, security, pest control, minor internal modifications such as temporary racks, etc. There is precedent for government agencies allowing the Foodbank to use public facilities/property. The Foodbank currently leases both its North County and South County warehouses from the County of Santa Barbara for one-dollar a year. These lease agreements recognize the quasi-government function the Foodbank plays in feeding our community's most vulnerable populations as well as the direct government function of preparing for and responding to disasters.

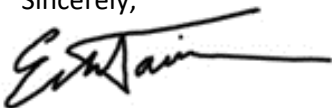
If the Foodbank's use of the old DRI warehouse is deemed viable for meeting this community need, we respectfully request that the City consider a short-term lease agreement with terms similar to those that we have with the County as described above. In consultation with your City Attorney, we would be sure to secure the insurance coverage and provide proper indemnifications necessary to fully protect the City from any liability related to our use of the building.

Finally, we recognize that this building is at the center of a major and very time-sensitive effort to create an exciting and valuable community asset in the City. Your staff team has made clear that any potential use of the building in the short-term can in no way impede with the processing of that development project. We are fully confident that our temporary use of a small and already sectioned off portion of the building foot print will not present challenges to these larger City goals.

In closing, on behalf of the Foodbank's Board of Directors, staff, and the people we serve across Santa Barbara County, I would like to thank you and the City for considering this request for support. I would also like to share our deepest appreciation for your excellent and highly responsive staff team who have helped us determine the proper process through which to facilitate consideration of this request.

Please let me know if you need additional information to support the City's consideration of this request. I look forward to working with you and the City on this and other issues in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik Talkin', with a stylized, flowing script.

Erik Talkin, Executive Director  
Foodbank of Santa Barbara County

## **ATTACHMENT 3**

Foodbank of Santa Barbara County letter clarifying request for assistance with food storage needs, dated May 3, 2019



*Ending Hunger and Transforming  
the Health of Santa Barbara County  
Through Good Nutrition*

[www.foodbanksbc.org](http://www.foodbanksbc.org)

**South County Facility**

4554 Hollister Avenue  
Santa Barbara, CA 93110  
805 967 5741

**North County Facility**

490 West Foster Road  
Santa Maria, CA 93455  
805 937 3422

**Education &  
Administration Center**

1525 State Street, Suite 100  
Santa Barbara, CA 93101  
805 967 5741

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Ian Stewart

Barbara Tzur

Erwin Villegas

**Chief Executive Officer**

Erik Talkin



May 3, 2019

Michelle Greene, City Manager  
City of Goleta  
130 Cremona Drive, Suite B  
Goleta, CA 93117

Dear Ms. Greene,

We deeply appreciate the time and energy that you and your staff team have devoted to our March 15, 2019 request for assistance in meeting our community's need for short-term food storage for vulnerable populations facing food insecurity in Goleta and Santa Barbara County.

We also very much appreciate the City Council's interest in helping meet this community need by exploring the possibility of allowing Foodbank to use the old Direct Relief International warehouse for short-term storage of food for hungry people. I am writing this letter in response to a question posed by staff about Foodbank's ability to pay for use of the warehouse.

As I shared in my March 15 letter (attached), the need for additional food storage is not one we expected when we created Foodbank's budget for the year. The need came about as a result of surprise shipments of excess food from the federal government. As a nonprofit, we run a very lean operation and depend on charitable contributions for our ongoing operations. While we have been fully confident in our ability to cover any direct costs for use of the old DRI warehouse, we had hoped that the City would allow our use rent-free. This use of government resources to address food insecurity and hunger among local residents is consistent with long-standing agreements with the County of Santa Barbara, which allows Foodbank to use their land at the cost of \$1 per year on two properties: an 11,000 square foot warehouse on Hollister, and a 30,000 square foot warehouse in North County.

Recognizing the City's desire to earn revenue from our use of this asset, we propose that Foodbank pay \$5,000 per year in rent for use of the smaller warehouse space in the back portion of the building. We request that the City allow that use for at least two years.

Thank you again for the attention you and your staff have devoted to this request and the City Council's consideration. The City's partnership would significantly enhance our ability to support the more than 200,000 Santa Barbara County residents served by the Foodbank, including the more than 10,500 residents served in the Goleta Valley.

Sincerely,

Erik Talkin, Executive Director  
Foodbank of Santa Barbara County