

ORIGINAL

LEASE

THIS LEASE ("Lease") is entered into by and between the City of San Diego, a municipal corporation, solely in its capacity as the designated successor housing entity to the Redevelopment Agency of the City of San Diego, a former public body corporate and politic ("CITY"), as lessor, and, The Neighborhood House Association, a California 501 (c) (3) NON-PROFIT PUBLIC BENEFIT CORPORATION ("LESSEE"), each individually referred to as a "Party" and collectively referred to as the "Parties." This Lease shall be effective as of September 1, 2014 (the "Effective Date"), when signed by the Parties and approved by the San Diego City Attorney.

FOR VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Premises. Under the terms and conditions of this Lease, CITY leases the Premises to LESSEE and LESSEE leases the Premises from CITY. "Premises" shall mean that certain real property located at 808 West Cedar Street, San Diego, California, which is comprised of a building totaling approximately 10,242 rentable square feet ("Building") and the enclosed exterior courtyard ("Courtyard") located at 808 West Cedar Street, San Diego, California, as more particularly depicted on the attached **Exhibit A**. LESSEE acknowledges and agrees that the square footage figures set forth in this Lease are approximations for reference only, that these approximations are reasonable, and shall not be subject to revision except with an actual physical change in the Facility.
2. Allowed Uses. LESSEE shall use the Premises solely and exclusively for operation of a Head Start Facility and Offices, a federally-funded comprehensive child development program for preschool children of low-income families, in accordance with and meeting or exceeding all requirements of all, federal, state, and local laws, including but not limited to the Head Start Act (42 USC 9801 *et seq.*), and for other related or incidental purposes as may be first approved in writing by CITY ("Allowed Uses"). The use of the Premises for any unauthorized purpose shall subject this Lease to termination at the sole option of the CITY. LESSEE covenants and agrees to use the Premises for the above-specified Allowed Uses and to diligently pursue the Allowed Uses throughout the term of this Lease. In the event LESSEE should seek to sublease the property, the Allowed Uses may be expanded to allow any legal use and occupancy subject to the approval of CITY. Such approval shall be at the sole discretion of the City.
3. Maintenance and Repairs. LESSEE shall, on an absolute net basis and at LESSEE's sole expense, be responsible for all operating costs, maintenance, and repairs of the entire Premises during the Term of this Lease including, but not limited to, the interior and exterior of the building, building systems, roof, and courtyard. LESSEE shall maintain the Premises to CITY's standards for similar CITY-owned properties, and at all times keep the Premises in a decent, safe, healthy, and sanitary condition reasonably satisfactory to CITY. Other than "City Work," as defined in Section 32, CITY shall not be responsible for the cost of any alterations of or repairs to the Premises of any nature whatsoever, structural or otherwise, whether or not now in the contemplation of the parties. To the fullest extent

allowed by law, LESSEE hereby waives and releases all rights now or hereinafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this Section 3.

4. Substantial Damage or Destruction. In the event any portion of the Premises necessary for LESSEE's performance of the Allowed Uses are damaged by fire, earthquake, act of God, the elements, or other casualty, LESSEE shall take all steps necessary to complete the repairs in a reasonable and timely manner. LESSEE shall receive a rental abatement covering rent hereunder for that part of the Premises rendered unusable in LESSEE's performance of the Allowed Uses, beginning thirty (30) days after the casualty event.
5. Extraordinary Repairs - Early Termination. Sections 3 (Maintenance and Repairs) and 4 (Substantial Damage or Destruction) of this Lease notwithstanding, the Parties acknowledge that due to the short term nature of the lease and the CITY's intention to later facilitate the future redevelopment of the Premises for the construction of a new affordable housing project, it may not be reasonable or practical for the CITY to require LESSEE to complete certain repairs or restoration of the PREMISES. Therefore, it is agreed that should a significant event of damage, destruction, or other need for repair or restoration occur, which would require an out of pocket expenditure by LESSEE in excess of \$25,000 on a single occurrence basis, to complete repairs or restoration of the PREMISES, LESSEE may request and CITY shall consider, in consultation with LESSEE, but at CITY's ultimate sole discretion, all options including but not limited to (i) requiring LESSEE to complete all or any portion of the required repairs or restoration, (ii) waiving or modifying the maintenance and/or repair requirement, (iii) allowing LESSEE to exercise an early termination of the lease without penalty, and/or (v) contributing to the repairs to reduce LESSEE's expense, unless the need for repair and/or restoration is caused by the action(s) or inaction of LESSEE including but not limited to failure to perform required maintenance.

Should an event occur subject to this section, LESSEE shall provide written notice to CITY which shall include, at a minimum, a description of the required repairs, an estimate of the cost to complete the repairs, an estimate of the time to complete the repairs, and an explanation as to why completion of the repairs may not be reasonable or practical.

6. Competent Management. LESSEE shall provide competent management of the Allowed Uses to CITY's reasonable satisfaction. "Competent management" shall mean management practices generally considered acceptable within LESSEE's industry for the management and operation of activities substantially similar to the Allowed Uses and in compliance with all applicable local, state, and federal laws, rules and regulations, and in a fiscally responsible manner. "Fiscally responsible manner" shall mean in accordance with generally accepted accounting principles consistently applied and absent financial malfeasance.
7. CITY's Consent, Discretion. CITY's consent or approval under this Lease shall mean the written consent or approval of the Mayor of San Diego, or his or her designee ("Mayor"), unless otherwise required by law or expressly provided herein. CITY's discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise required by law or expressly provided herein.

8. Quiet Possession. LESSEE, performing the covenants and agreements in this Lease, shall at all times during the term of this Lease peaceably and quietly have, hold, and enjoy the Premises. If CITY for any reason cannot deliver possession of the Premises to LESSEE at commencement of the term, or if LESSEE is temporarily dispossessed through action or claim of a title superior to CITY's, this Lease shall not be voidable nor shall CITY be liable to LESSEE for any loss, burden, or resulting damages, but there may be determined and stated in writing by CITY a proportionate reduction of the rent for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the Premises. Provided however, if CITY cannot deliver possession of the Premises within six (6) months of the scheduled commencement of the term, extended for any delays caused by LESSEE, then LESSEE shall have the unilateral right to terminate the Lease without penalty.
9. Reservation of Rights.
- a. Mineral Rights. CITY reserves all rights, title, and interest in and to any and all subsurface natural gas, oil, minerals, and water on or within the Premises.
 - b. Easements. CITY reserves the right to grant, establish, and use easements and rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable for the public good at no cost or liability to CITY provided the same does not unreasonably impact LESSEE's beneficial occupancy and quiet enjoyment of the Premises.
 - c. Repairs. CITY may at all reasonable times enter the Premises for the purpose of making repairs to or developing municipal resources and services provided the same does not unreasonably impact LESSEE's beneficial occupancy and quiet enjoyment of the Premises. Pursuant to Section 3 and Section 32 of this Lease, the LESSEE is taking the Premises "as-is" and on an absolute net basis. Nothing in this Lease shall be interpreted to obligate the CITY to make any repairs beyond the "City Work," as defined in Section 32.
 - d. Noninterference. CITY shall not substantially or unreasonably interfere with LESSEE's use of the Premises.
10. Rates and Charges. LESSEE's rates and charges for use of facilities on the Premises shall not exceed those generally considered reasonable within LESSEE's industry for the management and operation of activities substantially similar to the Allowed Uses.
11. Political Activities. LESSEE shall not use the Premises to promote, endorse, or campaign for the nomination or election of any individual to any public office, be it partisan or nonpartisan or for the adoption or defeat of any ballot measure; however, LESSEE may allow the use of the Premises as a forum for open public debate by two or more candidates of different political parties, such as occurs at a candidate forum and similar events.

12. Signs. Other than signage currently installed on the Premises, LESSEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without CITY's prior written consent. If any such unauthorized item is found on the Premises, LESSEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter remove the item at LESSEE's sole cost.
13. Term. The term ("Term") of this Lease shall be three (3) years, commencing on the Effective Date and expiring on August 31, 2017.
14. Option to Extend. In recognition of the CITY's plans to facilitate the redevelopment of the property for a new affordable housing project this Lease does not provide the LESSEE with an option to extend its term. However, should the CITY's plans change or become delayed, CITY may elect to offer to LESSEE the option to extend the term of this Lease ("Option") under the same terms and conditions, or such other conditions as agreed in writing, for one (1) additional period of up to one (1) year by giving written notice to LESSEE. LESSEE shall have 45 days to notify CITY, in writing, that LESSEE has chosen to accept or reject the Option. Pursuant to Section 18 below, LESSEE acknowledges that an extension pursuant to this Section 14 shall not entitle LESSEE to receive any payments under either the State or Federal Uniform Relocation Assistance Act.
15. Pre-Commencement Access. CITY shall provide LESSEE access to the Premises, under separate Right of Entry or similar agreement, for the purposes of constructing tenant improvements no later than August 15, 2014. LESSEE shall not have the right to occupy the Premises, except for the purpose of completing tenant improvements, nor shall LESSEE have the right to conduct its business, including engaging in the Allowed Uses, prior to the Effective Date.
16. Holdover. Any holding over by LESSEE after the expiration or earlier termination of this Lease shall not be considered a renewal or extension of this Lease. The occupancy of the Premises after the expiration or earlier termination of this Lease shall constitute a month-to-month tenancy at will, and all other terms and conditions of this Lease shall continue in full force and effect, except that LESSEE shall then pay to CITY fair market rent for the Premises, as determined by the CITY's Real Estate Assets Department in its sole reasonable discretion.
17. Surrender of Premises. Upon the expiration or earlier termination of this Lease, LESSEE shall vacate the Premises and surrender them to CITY free and clear of all liens and encumbrances, and in a decent, safe, and sanitary condition. At any time after the expiration or earlier termination of this Lease, LESSEE shall execute, acknowledge, and deliver to CITY, within thirty (30) days after CITY's demand, a valid and recordable quitclaim deed covering all of the Premises. If LESSEE fails or refuses to deliver the required quitclaim deed, CITY may prepare and record a notice reciting LESSEE's failure to perform this Lease provision, and the notice shall be deemed conclusive evidence of the termination of this Lease and all of LESSEE's rights in and to the Premises.

18. No Relocation. After expiration of this Lease, the CITY intends to demolish the existing Building and other improvements, and construct new affordable housing on the Premises. LESSEE acknowledges that it will commence occupancy of the Premises after the CITY acquired title to the Premises for the purpose of the affordable housing project. LESSEE also acknowledges the affordable housing project and that LESSEE is not entitled to receive any payments under either the State or Federal Uniform Relocation Assistance Act (Government Code section 7260, *et seq.*; United States Code section 4601, *et seq.*).
19. Rent. LESSEE shall pay to CITY rent in the amount of sixteen thousand three hundred eighty seven dollars and twenty cents (\$16,387.20) per month, paid monthly in advance during the first Lease year. The rent shall be adjusted annually, upward only, based on increases in the Cost of Living Adjustment ("COLA") as provided below.
- a. COLA Adjustments. On each anniversary of the Effective Date, the rent shall be adjusted, upward only, to reflect any increase in the Cost of Living Adjustment for the year as published by the United States Department of Health and Human Services for programs under the Head Start Act.
- b. Delinquent Payments. If LESSEE fails to make any payment under this Lease when due, LESSEE shall pay to CITY, in addition to the unpaid amount, five percent (5%) of the unpaid amount, which shall be additional rent. If any amount of such payment remains unpaid after fifteen (15) days past due, LESSEE shall pay to CITY an additional five percent (5%) of the unpaid amount [being a total of ten percent (10%)], which shall be additional rent. Notwithstanding the foregoing, in no event shall the charge for late payment of rent be less than Twenty-Five Dollars (\$25). After thirty (30) days past due, unpaid amounts due CITY under this Lease may be referred to the San Diego City Treasurer for collection, and shall be subject to San Diego Municipal Code section 22.1707, as may be amended from time to time. LESSEE shall pay to CITY any collection-referral fee and all other fees and charges plus interest as may then be charged by the CITY's City Treasurer under authority of the San Diego Municipal Code. Acceptance of late charges and any portion of the late payment by CITY shall neither constitute a waiver of LESSEE's breach or default with respect to the late payment nor prevent CITY from exercising any other rights and remedies available at law or in equity. As required by law, LESSEE is hereby notified that a negative credit report may be submitted to a credit reporting agency if amounts due CITY are not paid when due.
- c. Prepaid Rent and Security Deposit. Upon execution of this Lease by the Parties, LESSEE shall pay to CITY the first monthly rent installment of \$16,387.20 plus a security deposit equal to three months of lease year-one rent of forty nine thousand one hundred sixty one dollars and sixty cents (\$49,161.60).

- d. Time and Place of Payment. All payments to be paid by LESSEE under this Lease shall be made payable to the City of San Diego, and be mailed to:

Civic San Diego
c/o City of San Diego, Housing Successor Agency
401 B Street, Suite 400
San Diego, California 92101

or hand delivered to:

Civic San Diego
401 B Street, Suite 400
San Diego, California 92101

CITY may change the place of payment at any time upon thirty (30) days written notice to LESSEE. Mailed payments shall be deemed paid upon the date the payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed received only upon actual receipt.

- e. Rental Abatement. CITY shall provide two (2) months of rental abatement, to be applied in the 2nd and 3rd months of the Lease Term.
20. Invoicing Courtesy. CITY may invoice LESSEE for amounts payable under this Lease. However, any such invoicing shall be deemed a courtesy only; LESSEE shall make all payments under this Lease on or before each applicable due date, regardless of being invoiced. No grace period shall apply to any amount payable under this Lease.
21. Unauthorized Use Charge. LESSEE shall pay CITY one hundred percent (100%) of the gross receipts from any use of the Premises that is not allowed under this Lease, and from any use which has not received prior written consent therefor, regardless of any related penalties charged LESSEE by competent governmental authorities. Such unauthorized use charge shall be payable to CITY within thirty (30) days after LESSEE receives such gross receipts. The unauthorized use charge shall be considered "rent" under this Lease. The existence of such unauthorized use charge and CITY's acceptance thereof shall not constitute authorization for the use in question, and shall not waive any of CITY's rights under this Lease.
22. Broker Fees. CITY and LESSEE each represent and warrant to the other that it has not dealt with, consulted, or contacted any real estate broker, agent, or finder in connection with bringing about this Lease or the leasing of the Premises, other than NAI San Diego ("City's Representative") and Hughes Marino ("Lessee's Representative"), respectively. CITY agrees to pay a leasing commission to Tenant's Representative of four percent (4%) of the total rent owed during the Term, less rental abatement and COLA adjustments. The commission shall be 100% due and payable on the Effective Date, and shall be paid through CITY's representative.

23. Time of the Essence. Time is of the essence of each term, covenant, and condition of this Lease.
24. Successors. Each term, covenant, and condition of this Lease shall jointly and severally apply to, benefit, and bind the successors and assigns of the respective parties.
25. Assignment and Subletting.
- a. LESSEE may sublease or assign any portion of the Premises to an Affiliate upon providing CITY notice, including a full and complete disclosure pursuant to San Diego City Charter section 225.
 - b. "Affiliate" means (1) any Person directly or indirectly controlling, controlled by or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, any company for which such Person acts in any such capacity. The term "control" as used in the immediately preceding sentence, means the power to direct the management or the power to control election of the board of directors. It shall be a presumption that control with respect to a corporation or limited liability company is the right to exercise or control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, control is the possession, indirectly or directly, of the power to direct or cause the direction of the management or policies of the controlled entity. It shall also be a presumption that the managing General Partner of a limited partnership controls the limited partnership.
 - c. "Assignment" includes any transfer of any ownership interest in this Lease by LESSEE.
 - d. "Person" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, domestic or foreign.
 - e. Any assignment or sublease to an Affiliate shall be conditioned upon the Affiliate agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired.
 - f. LESSEE shall not assign any rights granted by this Lease or any interest in this Lease to any Person other than an Affiliate. LESSEE shall not sublease any rights granted by this Lease or any interest in this Lease to any Person other than an Affiliate without CITY's prior written consent in each instance, which consent shall not be unreasonably withheld, delayed or conditioned by CITY. A consent to assignment, subletting, occupation, or use by any other Person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another Person. Any subletting to any Person other than an Affiliate without CITY's consent shall be void and shall, at the option of CITY, terminate this Lease. This Lease shall not, nor shall any LESSEE

interest in this Lease be assignable to any Person by operation of law, without the written consent of CITY. LESSEE shall pay all reasonable fees required by CITY for processing requests for consents to assignments and subleases. As a condition to such consent by CITY in each instance, CITY may require that this Lease be revised to comply with then-current standard CITY lease requirements.

- g. No raising of capital or Initial Public Offering event shall trigger an assignment under this Lease so long as the LESSEE is substantially the same legal entity and there is no fundamental change in the nature of LESSEE.
 - h. Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired. Pursuant to San Diego City Charter section 225, any prospective assignee or subtenant shall make a full and complete disclosure of the name and identity of each and every Person directly or indirectly involved in this Lease, and the precise nature of all interests of all such persons. Each and every Person proposed to have an interest in this Lease shall be subject to CITY's review and approval, in CITY's sole discretion.
 - i. No sublease or assignment shall release LESSEE from liability under this Lease.
26. Sublease Income. Subject to CITY's right to prior consent to a sublease or assignment of the Premises or part thereof, in addition to any rent and fees set forth above, LESSEE shall pay to CITY, monthly in a sum of money equal to fifty percent (50%) of the gross revenue from any sublease or assignment income earned by LESSEE for the subletting or assigning of the Premises or any part thereof, after deducting LESSEE's reasonable costs of subleasing or assigning (including commissions, legal fees, tenant improvements, and any other concessions reasonably required to induce a subtenant).
27. Encumbrance. LESSEE shall not encumber this Lease, its leasehold estate, or any improvements on the Premises by deed of trust, mortgage, chattel mortgage, or other security instrument without CITY's prior written consent.
28. Default and Remedies.
- a. Default. LESSEE shall be in default of this Lease if any of the following occurs:
 - i. LESSEE fails to make any payment required under this Lease when due;
 - ii. LESSEE breaches any of its obligations under this Lease, other than those requiring payment to CITY, and fails to cure the breach within thirty (30) days following written notice thereof from CITY, or if not curable within thirty (30) days, fails to commence to cure the breach within thirty (30) days and diligently pursue the cure to completion;

- iii. LESSEE voluntarily files or involuntarily has filed against it any petition under any bankruptcy or insolvency act or law;
 - iv. LESSEE is adjudicated as bankrupt;
 - v. LESSEE makes a general assignment for the benefit of creditors; or
 - vi. LESSEE uses the Premises for any unauthorized purpose.
- b. Remedies. Upon LESSEE's default, CITY may, at its option, give LESSEE, or any person claiming rights through LESSEE, a written "Three Day Notice to Pay or Quit," or CITY may terminate the Lease and all rights of LESSEE, and all persons claiming rights through LESSEE, to the Premises or to possession of the Premises. Upon termination, CITY may enter and take possession of the Premises, and may recover from LESSEE the sum of:
- i. the worth at the time of award of any unpaid rent that was due at the time of termination;
 - ii. the worth at the time of award of the amount by which the unpaid rent, that would have been earned after termination until the time of award, exceeds the amount of rental loss, if any, that LESSEE affirmatively proves could have been reasonably avoided;
 - iii. 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 rental loss, if any, that LESSEE affirmatively proves could be reasonably avoided;
 - iv. any other amount necessary to compensate CITY for all the detriment proximately caused by LESSEE's breach and default, or that in the ordinary course of things, would be likely to result; and
 - v. all other amounts in addition to or in lieu of those previously stated as may be permitted from time to time by California law.

As used in clauses b(i) and b(ii), above, the "worth at the time of award" is computed by allowing interest at the rate of ten percent (10%) per annum. As used in clause b(iii), above, the "worth at the time of award" is computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus two percent (2%). As used in this section, the term "rent" shall include rent and any other amounts due from LESSEE under this Lease.

- c. Default if Leasehold is Encumbered. If there is a CITY-approved deed of trust or mortgage on the leasehold interest, CITY shall give the mortgagee or beneficiary written notice of LESSEE's default under this Lease, and the same mortgagee or beneficiary shall have thirty (30) days from the notice to cure the default, or, if the

default is not curable within thirty (30) days, to commence to cure the default and diligently pursue the cure to completion. CITY may extend the cure period if the mortgagee or beneficiary uses reasonable diligence to pursue a cure. If the mortgagee or beneficiary chooses to cure the default through litigation or foreclosure, then CITY may exercise any of the following options:

- i. CITY may correct the default and charge the costs to the account of LESSEE, which charge shall be due and payable on the date that the rent is next due after CITY's notice of such costs to LESSEE, and mortgagee or beneficiary;
- ii. CITY may correct the default and pay the costs from the proceeds of any insurance fund held by CITY, CITY and LESSEE, or by CITY and mortgagee or beneficiary, or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct the default or to pay the costs of correction performed by or at the direction of CITY; and
- iii. CITY may terminate this Lease as to the rights of LESSEE by assuming or causing the assumption of liability for any trust deed or mortgage. LESSEE shall assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition of early payoff of the related obligations by CITY. CITY may, as an alternative, substitute the terminated LESSEE with a new lessee reasonably satisfactory to the mortgagee or beneficiary. LESSEE shall pay to CITY all reasonable costs incurred by CITY in re-leasing to a new lessee.

If the default is incurable by LESSEE, then any lender holding a beneficial interest in the Premises, whose qualifications as an assignee have been approved by CITY, shall have the absolute right to substitute itself to the estate of LESSEE hereunder and to commence performance of this Lease. If the mortgagee or beneficiary gives notice in writing of its election to substitute itself within the thirty (30) day period after receiving CITY's written notice of a default, and the default, if curable, is cured by the mortgagee or beneficiary, then this Lease will not terminate pursuant to the default. In that event, CITY consents to the substitution and authorizes the mortgagee or beneficiary to perform under this Lease with all the rights, privileges, and obligations of LESSEE, subject to the curing of the default, if possible, by mortgagee or beneficiary. In that event, LESSEE shall assign to mortgagee or beneficiary all of its interest in and to the leasehold estate under this Lease.

- d. Abandonment by LESSEE. If LESSEE breaches the Lease and abandons the Premises, this Lease shall continue in effect as long as CITY does not terminate this Lease, and CITY may enforce all of its rights and remedies under this Lease, including but not limited to the right to recover the rent as it becomes due, plus damages.
- e. Waiver. Any waiver by CITY of a breach or default by LESSEE shall not be a waiver of any other breach or default. No waiver shall be valid and binding unless in writing and executed by CITY. CITY's delay or failure to enforce a right or remedy shall not

be a waiver of that or any other right or remedy under this Lease. The enforcement of a particular right or remedy for a breach or default shall not waive any other right or remedy for the same breach or default, or for any other or later breach or default. CITY's acceptance of any rents shall not be a waiver of any default preceding such payment. LESSEE acknowledges that the Premises are publicly-owned property held in trust for the benefit of the citizens of the City of San Diego, and that any failure by CITY to discover a breach or default, or take prompt action to require the cure of any breach or default, shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any breach or default. CITY's acceptance of a partial payment of rent shall not constitute a waiver of the balance of the rent payment due.

29. Eminent Domain. If all or part of the Premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or beneficiary or mortgagee) will be as follows:

- a. Full Taking. If the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs, and any advance rents paid to CITY shall be prorated based upon the actual number of calendar days the Premises was held by LESSEE.
- b. Partial Taking - Remainder Unusable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises are unsuitable for the Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.
- c. Partial Taking - Remainder Usable. If a partial taking of the Premises occurs, and in the opinion of CITY, the remaining part of the Premises are suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The rent shall be equitably reduced to reflect the portion of the Premises taken, only to the extent that LESSEE's operations are reduced or impaired.
- d. Award. All monies awarded in any taking shall belong to CITY, whether the taking results in diminution in value of the leasehold or the fee or both. LESSEE shall be entitled to any award attributable to the taking of, or damages to LESSEE's then remaining leasehold interest in installations or improvements of LESSEE. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.
- e. Transfer. CITY has the right to transfer CITY's interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.

- f. No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.
30. Indemnification & Hold Harmless. LESSEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with LESSEE's occupancy, use, development, maintenance, restoration, and improvements of/to the Premises, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that LESSEE's duty to indemnify and hold CITY harmless shall not include any established liability arising from the established gross negligence or intentional misconduct of CITY and its elected officials, officers, employees, representatives, and agents. CITY may, at its own discretion, conduct the defense, or participate in the defense, of any claim related in any way to this indemnification. If the City elects to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, LESSEE shall pay the City for all costs related thereto, including, without limitation, attorneys' fees and costs.
31. Insurance.
- a. LESSEE shall obtain and maintain throughout the term of this Lease, at its sole cost and expense, all insurance required by this Lease. LESSEE's liabilities under this Lease, including without limitation LESSEE's indemnity obligations, shall not be deemed limited in any way to the insurance coverage required herein. LESSEE's maintenance of the required insurance coverage is a material consideration for this Lease. Notwithstanding any provision of this Lease to the contrary, if LESSEE fails to maintain or renew the insurance coverage required herein, or fails to deliver evidence of same to CITY, LESSEE shall be in default of this Lease. LESSEE shall not modify any policy or endorsement thereto which increases CITY's exposure to loss for the Term of this Lease. LESSEE shall obtain and deliver to Civic San Diego a current certificate of insurance and relevant endorsements for (and subject to CITY's written approval of same):
- i. Commercial General Liability Insurance ("CGL") written on an *ISO Occurrence form CG 00 01 07 98* or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury, including death, and property damage with limits of at least Two Million Dollars (\$2,000,000) per occurrence, subject to an annual aggregate of at least Four Million Dollars (\$4,000,000). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

- ii. Workers' Compensation Insurance, as required by applicable laws, for all of LESSEE's employees who are subject to this Lease, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000), and an endorsement that the insurer waives the right of subrogation against The City of San Diego and its elected officials, officers, employees, representatives and agents.
- b. Additional Insureds. To the fullest extent allowed by law, including without limitation California Insurance Code section 11580.04, each policy must be endorsed to include as an insured "The City of San Diego and its elected officials, officers, employees, representative and agents" and "Civic San Diego and its officers, employees, representatives, and agents" with respect to liability arising out of: (a) ongoing operations performed by LESSEE or on LESSEE's behalf; (b) LESSEE'S products; (c) LESSEE's work, including without limitation LESSEE's completed operations performed by LESSEE or on LESSEE'S behalf; or (d) the Premises.
- c. Primary & Non-Contributory. Each policy must be endorsed to provide that the insurance afforded by Commercial General Liability policies is primary to any insurance or self-insurance of The City of San Diego and its elected officials, officers, employees, representatives and agents as respects operations of the named insured. Any insurance maintained by The City of San Diego and its elected officials, officers, employees, representatives and agents shall be in excess of LESSEE's insurance and shall not contribute to it.
- d. Severability of Interest. Each policy must be endorsed to provide that LESSEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.
- e. Qualified Insurer(s). Except for the State Compensation Insurance Fund, all insurance required by this Lease shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, and which are authorized by the California Insurance commissioner to do business in the State of California, and that have been approved by CITY. CITY may accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (i.e. the LESLI list). All policies of insurance carried by non-admitted carriers shall be subject to all of the requirements for policies of insurance provided by admitted carriers described herein. Each insurer shall be subject to CITY's approval in each instance.
- f. Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of LESSEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
- g. Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on

commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Lease. LESSEE shall provide proof of continuing insurance at least annually during the Term and otherwise upon CITY's request. If insurance lapses or is discontinued for any reason, LESSEE shall immediately notify CITY and shall immediately obtain replacement insurance as soon as possible.

- h. Modification. To assure protection from and against the kind and extent of risk existing with the Allowed Uses, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time by giving LESSEE thirty (30) days prior written notice. LESSEE shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of accident, the names and addresses of any witnesses, and other pertinent information.
 - i. Accident Reports. LESSEE shall immediately report to CITY any accident causing property damage or injury to persons on the Premises or otherwise related to the Allowed Uses. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
 - j. Causes of Loss – Special Form Property Insurance. LESSEE shall obtain and maintain, at its sole cost, Causes of Loss – Special Form Property Insurance on all of LESSEE's insurable property related to the Allowed Uses of the Premises under this Lease or the Premises in an amount to cover 100 percent (100%) of the replacement cost. LESSEE shall deliver a certificate of such insurance to CITY's Real Estate Assets Department.
32. Waste, Damage, or Destruction. LESSEE shall not commit or allow to be committed any waste or any public or private nuisance on the Premises, shall keep the Premises clean and clear of refuse and obstructions at all times, and shall dispose of all garbage, trash, and rubbish in a manner satisfactory to CITY. If the Premises are put into a condition which is not decent, safe, healthy, and sanitary, LESSEE shall restore the Premises at LESSEE's sole cost and expense to their prior condition within a reasonable time.
33. Acceptance of Premises. LESSEE acknowledges that the Premises are in good order and condition and shall take possession of the Premises "as is." CITY has not made and makes no representation or warranty as to the suitability of the Premises for LESSEE's intended use. CITY has determined that certain repairs to the building's roof and HVAC system are necessary prior to delivering the Premises to LESSEE ("City Work"). CITY shall cause such City Work to be performed following execution of this Lease. CITY anticipates that the City Work will be completed prior to LESSEE's Pre-Commencement Access described above; however, CITY reserves the right to complete the City Work concurrent with LESSEE's tenant improvement work, if necessary. CITY assumes no obligation to alter or improve the Premises beyond the City Work. LESSEE has relied solely on its own

independent investigations of the condition and suitability of the Premises, and is satisfied with the condition thereof. LESSEE further acknowledges that the Premises are in the condition called for by this Lease and that LESSEE shall not hold CITY responsible for any defects, whether apparent or latent, in the Premises, including the presence of any Hazardous Substances as defined in this Lease.

34. Entry and Inspection. LESSEE may quietly enjoy the Premises, free from unreasonable interference by CITY, except as reasonably required in emergency situations. During such an emergency, CITY may at all times enter and inspect the Premises and the operations conducted on the Premises. For all non-emergency situations, CITY may at all reasonable times, but only upon reasonable prior notice to LESSEE, enter and inspect the Premises and the operations conducted on the Premises. If entry or inspection by CITY discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, but not the obligation, after ten (10) days written notice to LESSEE, to have any necessary maintenance work done at the sole expense of LESSEE, and LESSEE shall pay promptly any and all costs incurred by CITY in having necessary maintenance work done in order to keep the Premises in a decent, safe, healthy, and sanitary condition. If at any time CITY determines that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY may, at its sole option, without additional notice, require LESSEE to file a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. The bond shall be in an amount adequate in the opinion of CITY to correct the unsatisfactory condition. LESSEE shall pay the cost of the bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this Lease imposed on CITY.
35. Utilities. LESSEE shall order, obtain, and pay for all utilities and service and installation charges in connection with the operation of the Premises.
36. Improvements/Alterations.
- a. No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered, by LESSEE without CITY's prior written approval.
 - b. Upon execution of this Lease by the Parties, LESSEE shall provide to CITY for approval a list of anticipated tenant improvements.
 - c. Additionally, LESSEE shall not make any structural or architectural design alterations to approved new improvements, structures, or installations on the Premises without CITY's prior additional written approval.
 - d. This provision shall not relieve LESSEE of any maintenance obligation under this Lease.
 - e. LESSEE shall be responsible for the cost of improvements to the Premises. Except as specifically provided herein, CITY shall not be obligated by this Lease

to make or assume any expense for any improvements or alterations to the Premises.

37. Construction Bond. If LESSEE constructs improvements on the Premises, CITY may require LESSEE to deposit with CITY, prior to commencement of the construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to CITY. The bond shall insure that the construction commenced by LESSEE shall be completed in accordance with the plans approved by CITY or, at the option of CITY that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to CITY. The bond or cash shall be held in trust by CITY for the purpose specified above, or at CITY's option may be placed in an escrow approved by CITY.
38. Liens. LESSEE shall protect, defend, indemnify, and hold CITY harmless from and against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the Premises and the costs of defending against such claims, including without limitation reasonable attorneys' fees. If LESSEE causes improvements, alterations, or repairs to be made to the Premises, and a lien or notice of lien is filed against the Premises or any part thereof, LESSEE shall notify CITY of the lien within five (5) days after LESSEE first becomes aware of the existence of the lien, and within thirty (30) days after the filing either: (a) take all actions necessary to record a valid release of the lien; or (b) file with CITY a bond, cash, or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.
39. Taxes. Pursuant to the provisions of Article XIII, Section 3(b) of the California Constitution the Premises and underlying property is not currently subject to general property taxes. CITY shall continue to pay the Maintenance Assessment District assessment levied against the property. LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE's use and occupancy of the Premises, including without limitation licenses and permits, and including any improvements or fixtures installed or maintained by LESSEE thereon. LESSEE acknowledges that this Lease may create a possessory interest subject to property taxation and that LESSEE may be subject to the payment of taxes levied on that possessory interest. LESSEE shall pay all such possessory interest taxes. LESSEE shall pay all applicable business taxes, assessments, and fees as a result of LESSEE's use of the property. LESSEE's payment of taxes, fees, and assessments shall not reduce any rent due to the CITY. CITY shall not assume any responsibility for any taxes whatsoever resulting from LESSEE's possession, use, or occupancy of the Premises.
40. Ownership of Improvements; Removal of Improvements and Personal Property.
 - a. Improvements. During the Term of this Lease, or until earlier termination thereof, LESSEE shall own all improvements, fixtures, structures, and installations or additions to the Premises constructed or installed on the Premises by LESSEE. Upon expiration or termination of this Lease, all such improvements, fixtures, structures, and installations or additions shall be deemed a part of the Premises and owned by CITY.

Notwithstanding the foregoing, CITY may, upon notice to LESSEE at Lease termination or at any time prior to the expiration of the Term, elect to have part or all of such improvements, fixtures, structures, and installations or additions removed by LESSEE at the end of the Term. In that case, LESSEE shall, at LESSEE's sole cost and expense, remove those items designated for removal in CITY's notice and restore the Premises to CITY's reasonable satisfaction as soon as practicable, but in no event later than sixty (60) days after the expiration or earlier termination of this Lease. LESSEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of such items. If LESSEE fails to remove the items as required herein, CITY may, at its option, remove them at LESSEE's sole cost and expense.

- b. Personal Property. LESSEE shall remove LESSEE-owned machines, appliances, equipment, trade fixtures, and other items of personal property upon the expiration of the Term, or as soon as practicable after termination, but in no event later than thirty (30) days after the expiration or earlier termination of this Lease. Any such items which LESSEE fails to so remove shall be deemed abandoned and become CITY's property free of all claims and liens, or CITY may, at its option, remove such items at LESSEE's sole cost and expense. LESSEE, at its sole cost and expense, shall be responsible for the repair of any and all damage resulting from the removal of its personal property from the Premises.
 - c. Late Removal. Notwithstanding any provision of this Lease to the contrary, LESSEE shall pay rent to CITY for any period of time after the expiration or termination of this Lease needed to remove improvements or personal property as required by this Lease, whether by CITY or LESSEE. Such rent shall be calculated on a per diem basis using the then-current fair market rental rate as determined by competent CITY staff, in its sole discretion.
 - d. CITY's Right to Acquire Personal Property. If LESSEE wants to dispose of any of its personal property used in its operations on the Premises upon expiration or termination of this Lease, CITY shall have the first right to acquire such personal property.
41. Unavoidable Delay. If the performance of an act required by this Lease is directly prevented or delayed by a cause beyond the reasonable control of the party required to perform the act, that party shall be excused from performing the act for a period equal to the period of the prevention or delay. This provision shall not apply to obligations to pay rent. The party claiming a delay shall notify the other party in writing within ten (10) calendar days after the beginning of any claimed delay.
42. Hazardous Substances. LESSEE shall not allow the illegal installation, storage, utilization, generation, sale or release of hazardous or otherwise regulated substances in, on, under, or from the Premises. LESSEE and LESSEE's agents and contractors shall not install, store, utilize, generate, or sell any hazardous substance on the Premises without CITY's prior written consent. LESSEE shall obtain and maintain all required licenses and permits from applicable regulatory agencies, including without limitation the San Diego County

Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a hazardous substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment, or device which holds or incorporates a Hazardous Substance or hazardous waste.

- a. Release. For the purposes of this provision, a release shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean any hazardous liquid, solid, or gaseous material substances listed by the Environmental Protection Agency or the State of California as a hazardous substance, and any type of petroleum-related substances and their chemical constituents.
- b. Remediation. If LESSEE's occupancy, use, development, maintenance, or restoration of the Premises results in a release of a hazardous substance, or petroleum related substance or its chemical constituents, LESSEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Premises, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- c. Removal. If LESSEE or LESSEE's contractor or agent has received approval and permits to store, utilize, generate, or install, or otherwise bring hazardous materials or hazardous wastes to the Premises, LESSEE and/or LESSEE's contractor or agent shall remove all hazardous substances and hazardous wastes in any type of container, equipment, or device from the Premises immediately upon or prior to the expiration or earlier termination of this Lease. CITY reserves the right to conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment, or devices from the Premises. LESSEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment, or device requiring disposal or removal as required by this provision.
- d. Indemnity. LESSEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE's occupancy, use, development, maintenance, or restoration of the Premises, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties, or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, LESSEE's officers, employees, invitees, guests, agents, or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- e. Notice of Release. If LESSEE knows or has reasonable cause to believe that a hazardous substance or petroleum related substance or its chemical constituents has

been released on, from, or beneath the Premises, LESSEE shall immediately notify CITY and any appropriate regulatory or reporting agency per California Administrative Code Title 19 and any other applicable laws or regulations. LESSEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If LESSEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, LESSEE shall take all actions necessary to alleviate the danger. LESSEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Premises.

- f. Environmental Assessment. Upon reasonable cause to believe that LESSEE's occupancy, use, development, maintenance, or restoration of the Premises ("LESSEE's Operations"), resulted in any hazardous substance being released on, from or beneath the Premises, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at LESSEE's sole cost and expense, and shall establish what, if any, hazardous substances have more likely than not been caused by LESSEE's Operations on, in, from or under the Premises, and in what quantities. If any such hazardous substances exist in quantities greater than allowed by city, county, state, or federal laws, statutes, ordinances, or regulations, or require future restricted re-use of the Premises, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. LESSEE shall cause, or if LESSEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Premises and compliance with environmental law and regulations are achieved, and LESSEE shall pay all costs and expenses therefor.

43. Notices. Any notice required or permitted to be given under this Lease shall be in writing and may be served personally or by United States mail, postage prepaid, addressed as follows:

If to LESSEE:

Neighborhood House Association
5660 Copley Drive
San Diego, CA 92111
Attention: Director - Facilities Support Services

If to CITY:

Civic San Diego
c/o City of San Diego, Housing Successor Agency
401 B Street, Suite 400
San Diego, California 92101

44. Compliance with Law. LESSEE shall at all times in the occupancy, use, development, maintenance, restoration and improvement of the Premises comply with all applicable laws, rules, regulations, and requirements of competent legal authority at LESSEE's sole cost and expense. LESSEE shall promptly deliver to City copies of all documentary evidence of such compliance received by or otherwise available to LESSEE (e.g., validation of periodic inspection of LESSEE's fire-suppression equipment in the Premises). In addition, LESSEE shall comply with any and all notices issued by the Mayor or designee under the authority of any law, statute, ordinance, or regulation.
45. California Public Records Act. CITY shall determine, in its sole discretion, whether information provided to CITY by LESSEE pursuant to this Lease is or is not a public record subject to disclosure under the California Public Records Act. LESSEE shall hold CITY, its elected officials, officers and employees harmless for CITY's disclosure of any such information in response to a request for information under the CPRA.
46. Equal Opportunity and Contracting. LESSEE shall comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and all other laws, rules and regulations of competent governmental authority. LESSEE shall not discriminate against any employee or applicant for employment based on race, religion, color, ancestry, age, gender, sexual orientation, disability, medical condition or place of birth. LESSEE shall cause the foregoing provisions to be inserted in all commercial subleases and all contracts for any work covered by this Lease so that such provisions will be binding upon each commercial sublessee and contractor. LESSEE shall fully cooperate with any investigation conducted by the City of San Diego, in its governmental capacity, pursuant to its Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517, as amended from time to time], and upon CITY's request, LESSEE shall submit a current Workforce Report. LESSEE acknowledges that failure to comply with the requirements of this section and/or submitting false information in response to these requirements may result in termination of this Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.
47. Equal Benefits. LESSEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require lessees of City-owned property to offer the same employment benefits to employees with spouses and employees with domestic partners. LESSEE shall certify that it will maintain such equal benefits throughout the term of this Lease. LESSEE's failure to maintain equal benefits shall be a default of this Lease.

48. Disabled Access Compliance. LESSEE shall, as applicable to the Premises and LESSEE's possession, use and occupancy thereof, comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE's compliance shall include but not necessarily be limited to the following:
- a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
 - b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE.
 - c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
 - d. Where required by law, any improvements made to the Premises by LESSEE shall comply with municipal disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All improvements and alterations shall be at the sole cost of LESSEE.
 - i. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessees shall be individually responsible for their own ADA employment programs.
 - ii. LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.
49. Accessibility Assessment. In accordance with California Civil Code section 1938, CITY hereby states that the Premises has not been inspected by a Certified Access Specialist (CAsp).
50. Drug-free Workplace. LESSEE shall abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:
- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Permit Area and specifying the actions that will be taken against employees for violations of the prohibition; and

- b. Establish a drug-free awareness program to inform employees about all of the following:
 - i. The dangers of drug abuse in the workplace;
 - ii. LESSEE's policy of maintaining a drug-free workplace;
 - iii. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - iv. The penalties that may be imposed upon employees for drug abuse violations.
 - c. LESSEE shall include in each of its sublicenses and contracts related to this Permit language obligating each sublicensee and contractor to comply with the provisions of this section to maintain a drug-free workplace. LESSEE, and each of its sub-licensees and contractors, shall be individually responsible for their own drug-free workplace program.
51. CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this Lease if LESSEE employs an individual who, within the twelve (12) months immediately preceding such employment did, in their capacity as a CITY officer or employee, participate in negotiations with or otherwise have an influence on a recommendation made to the San Diego City Council related to the selection of LESSEE for this Lease. It is not the intent of this policy that these provisions apply to members of the City Council.
52. Local Business and Employment. LESSEE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. For work associated with this Lease and to the extent legally possible, LESSEE shall use its best efforts to solicit applications for employment and bids and proposals for contracts from local residents and firms as opportunities occur. LESSEE shall use its best efforts to hire qualified local residents and firms whenever practicable.
53. Water Quality – Best Management Practices. LESSEE shall comply with San Diego Municipal Code Chapter 4, Article 3, Division 3: Stormwater Management and Discharge Control (the "Stormwater Code"), and employ "Best Management Practices" including a "Storm Water Pollution Prevention Plan" as those terms are defined by the Stormwater Code (collectively, "Prevention Plan") and as approved by CITY under its Stormwater Management Program. Within the first thirty (30) days of the Term, LESSEE shall submit a Prevention Plan satisfactory to CITY that will control erosion and reduce the amount of "Pollutants," as defined by the Stormwater Code, and other sediments discharged from the Premises. CITY may review the Prevention Plan periodically. Within thirty (30) days after written notice from CITY requesting an update of the Prevention Plan, LESSEE shall submit an updated Prevention Plan to CITY's satisfaction. LESSEE shall implement all changes to the Prevention Plan as required by CITY and to ensure compliance with all applicable laws, ordinances, and regulations. LESSEE shall inform its employees,

contractors, subcontractors, agents and vendors of the Prevention Plan and ensure their compliance therewith.

54. Nondiscrimination. This Lease is made and accepted upon and subject to the covenant and condition, which shall run with the land, that LESSEE or any person claiming under or through LESSEE shall not establish or allow any discrimination against or segregation of any person or group of persons on account of race, color, religion, gender, disability, sexual orientation, marital status, national origin, ancestry, familial status, or source of income in the possession, use and occupancy of the Premises or in the selection, location, number, use or occupancy of tenants, subtenants or vendees in the Premises.
55. Cumulative Remedies. CITY's rights and remedies under this Lease are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
56. Survival. Any obligation which accrues under this Lease prior to its expiration or termination shall survive such expiration or termination.
57. Joint and Several Liability. If LESSEE is comprised of more than one person or legal entity, such persons and entities, and each of them, shall be jointly and severally liable for the performance of each and every obligation of LESSEE under this Lease.
58. No Affiliation. Nothing contained in this Lease shall be deemed or construed to create a partnership, joint venture, or other affiliation between CITY and LESSEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of LESSEE or any other party or entity.
59. Entire Agreement and Understanding. This Lease constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties, and agreements between them pertaining to this Lease and LESSEE's occupancy, use, development, maintenance, and restoration of the Premises. Any modification, alteration, or amendment of this Lease shall be in writing and signed by all the parties hereto. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each of the parties in the Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease. The failure or refusal of any party to read the Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions.
60. Partial Invalidity. If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

61. Standard of Employees. LESSEE and its employees shall at all times conduct themselves and the operations on the Premises in a creditable manner, as determined by CITY in its sole reasonable discretion.
62. Conformity. The policies established by LESSEE for the operation of the Premises shall conform to the general policies established by CITY for the use and operation of similar CITY-owned properties.
63. Use of Proceeds. LESSEE shall use all revenue received from the operation of the Premises in a fiscally responsible manner, relative to other organizations reasonably similar to LESSEE, for the Allowed Uses and the operation, maintenance, and improvement of the Premises as set forth in this Lease. LESSEE's compliance with this requirement shall be certified in LESSEE's annual financial report as required herein.
- a. Annual Report. LESSEE shall deliver to CITY an annual financial report for each of LESSEE's fiscal years during the Term, certified by an independent certified public accountant. LESSEE shall deliver each such financial report within one hundred twenty (120) days after its fiscal year end. The financial report shall include an operating statement and a report of net worth, shall be in a form reasonably satisfactory to CITY, and shall be subject to CITY's review and audit. Within one hundred twenty (120) days after the expiration or earlier termination of this Lease, LESSEE shall deliver to CITY a final financial report that complies with the above requirements for an annual financial report, and covering the period between the last annual report and the expiration or termination date of this Lease.
- b. Financial Records. LESSEE shall keep or cause to be kept true, accurate, and complete accounting records using generally accepted accounting principles consistently applied, including double-entry books, a profit-and-loss statement, and a balance sheet, making it possible at all times to determine the nature and amount of revenue and expenditures. All of LESSEE's expenditures and transactions shall be supported by documents of original entry such as sales slips, cash register tapes, purchase invoices, and receipts. LESSEE shall retain documents supporting its profit-and-loss statements for a minimum period of five (5) years.
- c. Inspection of Records and Audit. LESSEE shall make all of its books, statements, documents, records, and financial data open at all reasonable times for CITY's inspection and audit upon reasonable notice at the Premises or other suitable location mutually agreed upon by the parties. LESSEE shall maintain all records and accounts for a minimum period of five (5) years. This section shall survive expiration or earlier termination of this Lease. LESSEE's failure to keep and maintain records and make them available for inspection by CITY is a breach of this Lease and cause for termination. CITY may conduct an audit of LESSEE's books, statements, documents, records, and financial data, or demand and receive from LESSEE the results of a complete audit as conducted by an independent certified public accountant in the event that: (i) LESSEE's chief executive officer, executive director, or other such manager resigns, retires, or is discharged; (ii) a majority in the membership of LESSEE's

governing body changes; or (iii) the purposes for which LESSEE was created are materially or substantially changed.

- d. Proposed Budget. At least forty-five (45) days prior to each Lease year during the Term, LESSEE shall deliver to CITY one (1) copy of documents evidencing LESSEE's proposed programs, business plan, and fiscal status of LESSEE for the next year. Without limiting the generality of the foregoing, these documents shall include (i) a copy of LESSEE's proposed programs; (ii) a copy of a detailed operating budget showing expected sources of revenue and the nature of all proposed expenditures, including compensation for the director and each staff member of LESSEE; and (iii) an adequate reserve account for maintenance of the Premises. Such documents shall be in form and content reasonably satisfactory to CITY.
 - e. Activities and Inventory. LESSEE shall deliver to CITY once a year during each Lease term an annual report of LESSEE's programs on the Premises.
64. Related Governmental Actions and Approvals. By entering into this Lease, the CITY is not obligating itself to any other government agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes, but is not limited to, rezoning, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Premises. LESSEE shall be solely responsible for processing all land use, development, and construction approvals required for the use and occupancy of the Premises. This Lease shall not be interpreted by any decision-maker on any CITY-issued permit or approval to override or dictate the outcome of any findings required for any permit or development approval.

65. Authority to Contract. Each individual executing this Lease on behalf of another person or legal entity represents and warrants that they are authorized to execute and deliver this Lease on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Lease is binding upon such person or entity in accordance with its terms. Each person executing this Lease on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

IN WITNESS WHEREOF, this Lease is executed to be effective as of the Effective Date.

THE NEIGHBORHOOD HOUSE ASSOCIATION, a
California 501(c)(3) nonprofit public benefit
corporation

BY: 

Name: Michael G. Kemp

Title: EVP & COO

THE CITY OF SAN DIEGO, a California municipal
corporation,

BY: 

Name: David Graham

Title: DCOO

Approved as to form and legality:

JAN I. GOLDSMITH, City Attorney

BY: 

Name: Adam Wander

Title: Deputy City Attorney

Date: 8/27/14

Exhibit "A": Premises

Exhibit A: Premises

[TO FOLLOW BEHIND THIS PAGE]

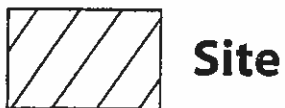
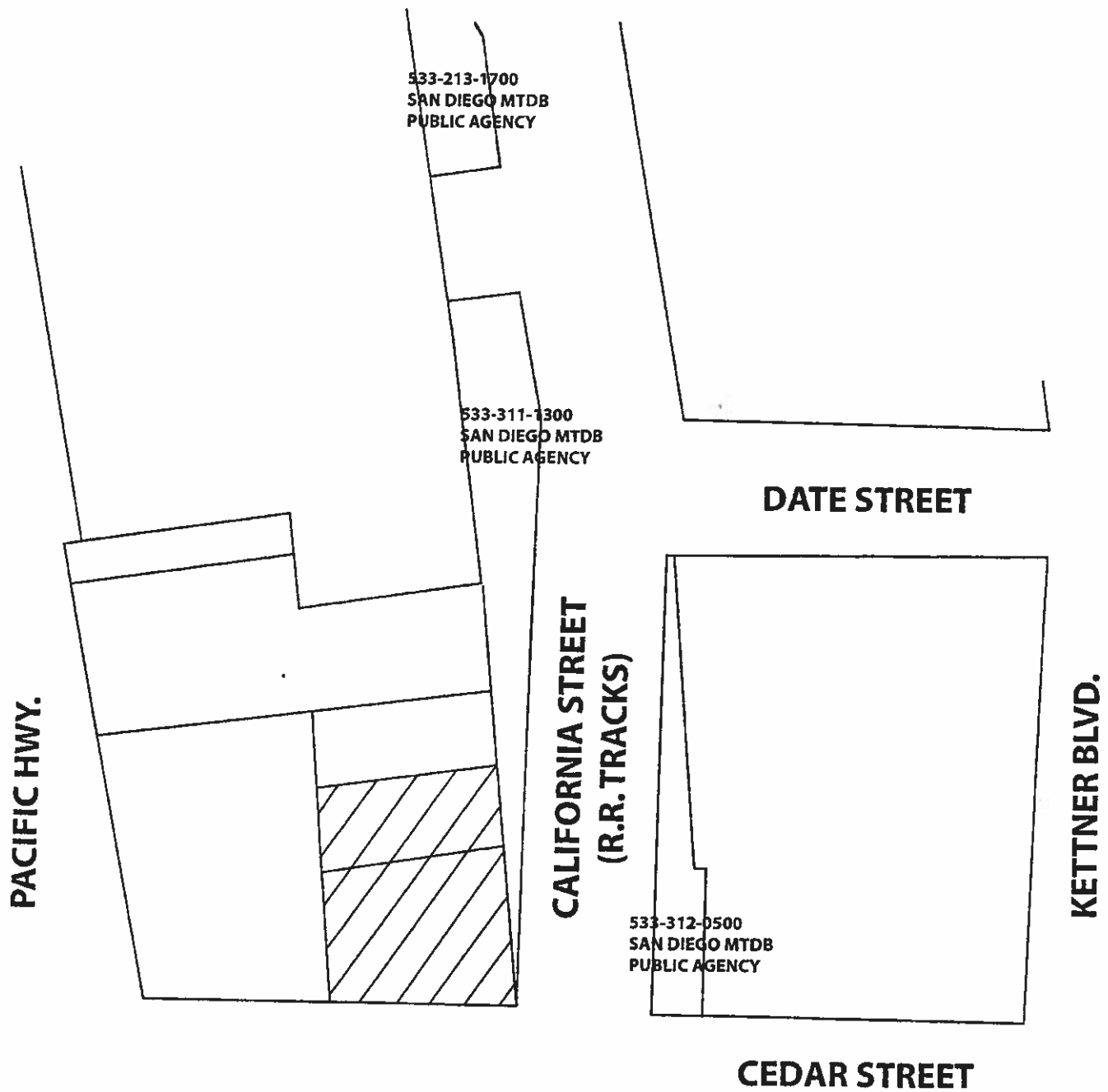


Exhibit A
Premises – Site Map

Legal Description

All the certain real property located in the County of San Diego, State of California, described as follows:

RIGHT OF WAY LOTS 13, 14 AND 15 OF MIDDLETOWN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE PARTITION MAP THEREOF MADE BY J. E. JACKSON, ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID SAN DIEGO COUNTY.

APN: 533-311-07-00 and 533-311-08-00

DUPLICATE ORIGINAL

FOURTH AMENDMENT TO THE LEASE BETWEEN THE CITY OF SAN DIEGO AND THE NEIGHBORHOOD HOUSE ASSOCIATION RELATING TO 808 WEST CEDAR STREET

This Fourth Amendment to the Lease between the City of San Diego and The Neighborhood House Association ("Fourth Amendment") is made and entered into by and between the City of San Diego, solely in its capacity as the designated housing successor to the Redevelopment Agency of the City of San Diego, a former public body corporate and politic ("City"), as lessor, and The Neighborhood House Association, a California 501(c)(3) non-profit public benefit corporation ("Lessee") (collectively, the Parties), to be effective upon execution by City and Lessee, and approved as to form by the San Diego City Attorney.

RECITALS

A. Effective September 1, 2014 ("Effective Date"), the Parties entered into a lease ("Lease") whereby Lessee leases from City real property located at 808 W. Cedar, San Diego, California ("Premises").

B. The initial term ("Term") of the Lease was for three (3) years expiring on August 31, 2017.

C. The Parties entered into a First Amendment to the Lease effective August 24, 2017, which allowed for extensions of the Term until August 31, 2019.

D. The Parties entered into a Second Amendment to the Lease ("Second Amendment") effective September 18, 2019, which extended the Term until August 31, 2020, with options to extend the Lease for two additional periods of one year each.

E. Lessee accepted both options under the Second Amendment to extend the Term of the Lease until August 31, 2022.

F. The Parties entered into a Third Amendment to the Lease ("Third Amendment") effective August 16, 2022, which extended the Term until August 31, 2023, with the option to extend the Term for one additional period of up to one year.

G. The Parties agreed to the option under the Third Amendment to extend the Term of the Lease until August 31, 2024.

H. The Parties now wish to extend the Term of the Lease to August 31, 2025, with options to extend the Lease for two additional periods of up to one year each, in accordance with amended section 14 of the Lease.

DOCUMENT NO. RR-315608 1
FILED JUN 11 2024
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

In consideration of the above recitals and the mutual covenants and conditions set forth in the Lease and this Fourth Amendment, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Lessee agree as follows:

1. Delete section 13 of the Lease and replace it with the following:

13. Term. The Term ("Term") of this Lease shall be eleven (11) years, commencing on the Effective Date and expiring on August 31, 2025.

2. Delete Section 14 of the Lease and replace it with the following:

14. Option to Extend. In recognition of the CITY's plans to facilitate the redevelopment of the property, this Lease does not provide the LESSEE with an option to extend its Term. However, should the CITY's plans change or become delayed, CITY may elect to offer to LESSEE the option to extend the Term of this Lease ("Option") under the same terms and conditions, or such other conditions as agreed in writing, for two (2) additional periods of up to one (1) year each by giving written notice to LESSEE. LESSEE shall have 45 days to notify CITY, in writing, that LESSEE has chosen to accept or reject the Option. Pursuant to Section 18 below, LESSEE acknowledges that an extension pursuant to this Section 14 shall not entitle LESSEE to receive any payments under either the State or Federal Uniform Relocation Assistance Act.

3. Add Section 66 to the Lease as follows: #

#

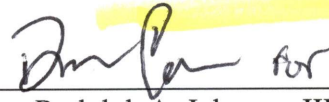
66. Zero Emissions Municipal Buildings and Operations Policy. LESSEE shall comply with the applicable provisions in Council Policy 900-03 (Zero Emissions Municipal Buildings and Operations Policy), as may be amended from time to time, and which is incorporated into the Lease by this reference.

4. All other terms and conditions of the Lease shall remain in full force and effect.


[SIGNATURES ON THE FOLLOWING PAGE]

Dwight D. Smith
Reviewed
By 
NHA Legal Dept.

**THE NEIGHBORHOOD HOUSE
ASSOCIATION, a California 501(c)(3) non-profit
public benefit corporation**

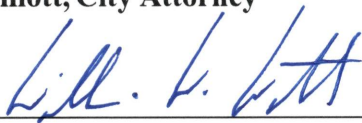
By: 
Name: Rudolph A. Johnson, III
Title: President and CEO
Date: 6/23/24

**THE CITY OF SAN DIEGO,
a California municipal corporation**

By: 
Name: Christina Bibler
Title: Director, Economic Development
Date: 06/25/2024

Approved as to form this 1st day
of July, 2024

Mara W. Elliott, City Attorney

By: 
Name: William W. Witt
Title: Deputy City Attorney

RESOLUTION NUMBER R- **315608**
DATE OF FINAL PASSAGE JUN 18 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING THE FOURTH AMENDMENT TO
THE LEASE WITH THE NEIGHBORHOOD HOUSE
ASSOCIATION FOR PROPERTY LOCATED AT 808 WEST
CEDAR STREET.

WHEREAS, the City of San Diego (City), in its capacity as the housing successor to the former Redevelopment Agency of the City, owns that certain real property located at 808 West Cedar Street in the Downtown Community Plan Area (Property); and

WHEREAS, the ultimate disposition of the Property is subject to the Affordable Housing Master Plan adopted by the City Council on May 13, 2013, by Resolution R-308142, and updated on January 11, 2016, by Resolution R-310183, on September 24, 2018, by Resolution R-311975, and on October 9, 2023, by Resolution R-315144 (collectively, Master Plan); and

WHEREAS, the Master Plan proposes the Property be developed as an affordable housing development; and

WHEREAS, the future disposition of the Property will be subject to the Surplus Land Act (SLA), California Government Code sections 54220 through 54234; and

WHEREAS, City staff discussed the Property with the California Department of Housing and Community Development to ensure that the City's intended future disposition of the Property for affordable housing purposes will comply with relevant provisions of the SLA; and

WHEREAS, it is anticipated that the City may soon issue a Request for Qualifications/Proposals to select a development partner for a future affordable housing development on the Property; and

WHEREAS, on September 1, 2014, the City entered into a Lease with the Neighborhood House Association (NHA) for the interim use of the Property as a Head Start facility (Lease); and

WHEREAS, Head Start is a federally funded child development program that serves children of low-income families; and

WHEREAS, the City entered into the Lease as an interim use to generate additional revenue for the Low and Moderate Income Housing Asset Fund, to facilitate the provision of needed services to the community, and to minimize property management expenses; and

WHEREAS, the term of the Lease, as amended on three occasions, will expire on August 31, 2024; and

WHEREAS, the City and NHA have negotiated a proposed Fourth Amendment to the Lease to extend the term to August 31, 2025, with options to extend the Lease for two additional periods of up to one year each (Fourth Amendment); and

WHEREAS, the Lease, as amended, is not subject to the SLA because it (a) is not for a term longer than 15 years, including renewal options; and (b) does not involve any development or demolition; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:


1. The City Council approves the Fourth Amendment.

2. The City Council authorizes the Mayor or designee, on behalf of the City, to sign and deliver the Fourth Amendment and all documents necessary or appropriate to perform the City's obligations under the Fourth Amendment. A copy of the Fourth Amendment, once fully executed, shall be placed on file in the Office of the City Clerk as Document No.

RR- 315608.

3. The Chief Financial Officer is authorized and directed to accept the rent payable to the City under the Lease and deposit such rent into the Low and Moderate Income Housing Asset Fund 200708.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
William Witt
Senior Deputy City Attorney

WWW:jdf
05/28/2024
Or.Dept: Economic Development
Doc. No.: 3664659

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 11 2024.

DIANA J.S. FUENTES
City Clerk

By 
Deputy City Clerk

Approved: 6/17/24
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 11 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 18 2024.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

(Seal)

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 315608

Passed by the Council of The City of San Diego on June 11, 2024, by the following vote:

YEAS: **LACAVA, CAMPBELL, WHITBURN, FOSTER, VON WILPERT, LEE, CAMPILLO, MORENO, & ELO-RIVERA.**

NAYS: **NONE.**

NOT PRESENT: **NONE.**

RECUSED: **NONE.**

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California

(Seal)

By: **Krystell Medina**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of
RESOLUTION NO. **R-315608** approved on **June 11, 2024**. The date of final
passage is **June 18, 2024**.

DIANA J.S. FUENTES

City Clerk of the City of San Diego, California

(Seal)

By: *Krystell Medina*, Deputy