

COPY

4069 30th Street  
(First Floor)

THE CITY OF SAN DIEGO  
ELDERHELP OF SAN DIEGO  
Flat Rate Lease

DOCUMENT NO. PR-279832

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SAN DIEGO, CALIFORNIA

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CITY OF SAN DIEGO  
FLAT RATE LEASE

THIS LEASE AGREEMENT is executed between the CITY OF SAN DIEGO, a municipal corporation, herein called "CITY," and ELDERHELP OF SAN DIEGO, INC., a nonprofit California corporation, hereinafter called "LESSEE."

SECTION 1: USES

- 1.01 Premises. CITY hereby leases to LESSEE and LESSEE leases from CITY all of that certain real property located at 4069 - 30th Street, San Diego, California, in the City of San Diego, County of San Diego, State of California, described in Exhibit "A" attached hereto and by this reference made part of this agreement. Said real property is hereinafter called the "premises."
- 1.02 Uses. It is expressly agreed that the premises are leased to LESSEE for the purposes of operating and maintaining social services programs for senior citizens and for such other related or incidental purposes as may be first approved in writing by the City Manager and for no other purpose.

LESSEE covenants and agrees to use the premises for the above-specified purposes and to diligently pursue said purposes throughout the term hereof. Failure to continuously use the premises for said purposes, or the use thereof for purposes not expressly authorized herein, shall be grounds for termination by CITY.
- 1.03 Related Council Actions. By the granting of this lease, neither CITY nor the Council of CITY is obligating itself to any other governmental 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 rezonings, variances, environmental clearances or any other governmental agency approvals which may be required for the development and operation of the leased premises.
- 1.04 Quiet Possession. LESSEE performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold and enjoy the premises. If CITY for any reason cannot deliver possession of the premises to LESSEE at the commencement of the term, or if during the lease term LESSEE is temporarily dispossessed through action or claim of a title superior to CITY'S, then and in either of such events, this lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom, but there shall be determined and stated in writing by the City Manager of CITY a proportionate reduction of the minimum or flat rate rent for the period or periods during which LESSEE is

prevented from having the quiet possession of all or a portion of the premises.

1.05 Easements and Reservations.

- a. CITY hereby reserves all rights, title and interest in any and all subsurface natural gas, oil, minerals and water on or within the premises.
- b. CITY reserves the right to grant and use easements or establish and use rights-of-way over, under, along and across the leased premises for utilities, thoroughfares, or access as it deems advisable for the public good.
- c. CITY has the right to enter the premises for the purpose of making repairs to or developing municipal resources and services.

However, CITY shall not unreasonably or substantially interfere with LESSEE'S use of the premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the leased premises resulting from CITY exercising the rights reserved in this section. Such reimbursement may include a reduction in the rent proportionate to the amount of physical damage as determined by CITY. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

1.06 Competent Management. Throughout the term of this lease agreement, LESSEE shall provide competent management of the leased premises to the satisfaction of the City Manager. For the purposes of this paragraph, "competent management" shall mean demonstrated ability in the management and operation of a social services agency and related activities in a fiscally responsible manner.

1.07 Hours of Operation. LESSEE may operate the premises between the hours of 6 a.m. and 11 p.m. each day. Any changes in the schedule are subject to prior written approval by the City Manager or his authorized representative.

1.08 Rates and Charges. All charges for merchandise and services or facilities on said premises shall be in accordance with the schedule set forth in Exhibit "B" hereto. Any changes in said schedule are subject to prior written approval by the City Manager or his authorized representative. Provided, however, LESSEE shall be permitted to rent the premises or any part thereof on a per diem basis without the prior written consent of the City Manager. LESSEE shall furnish a quarterly report to the City Manager on its room rental activities. The report shall contain the name of the user, the room rental charged, the date of use and the disposition of the funds collected.

1.09 City Use. The premises shall be available to the CITY for civic events and special programs, free of charge, except where LESSEE has

scheduled events or programs. After every CITY use, the premises shall be left in the same condition found, and LESSEE shall not be required to incur any additional costs by reason of CITY use.

- 1.10 Political Activities. The leased premises shall be used exclusively for the purposes specified in Section I, USES, hereof. The premises shall not be used for working or campaigning for the nomination or election of any individual to any public office, be it partisan or nonpartisan. Provided, however, that LESSEE shall not be precluded from providing a forum for open public debate by candidates such as occurs at a "candidate forum" and similar events.
- 1.11 Public Use. The general public shall not be wholly or permanently excluded from any portion of the premises. LESSEE may develop reasonable restrictions for the facility use provided they are consistent with the rights of the general public, and are designed to allow the LESSEE to use the premises for the purposes specified herein. LESSEE agrees that all activities conducted on the premises will be as stated in Section 1.02, Uses, of this lease.

LESSEE shall, at all times during the lease term, maintain a CITY-approved sign identifying the property as City-owned and available for public use consistent with the terms of this lease. The sign shall be installed by LESSEE at a location agreeable to CITY.

## SECTION 2: TERM

- 2.01 Commencement. The term of this agreement shall be twenty (20) years commencing on the first day of the calendar month following execution by the City Manager. Provided, however, this agreement may be terminated at any time by either party without cause upon 180 days' advance written notice to the other party of intent to so terminate.
- 2.02 Holdover. Any holding over by LESSEE after expiration or termination shall not be considered a renewal or extension of this lease. The occupancy of the premises after the expiration or termination of this agreement constitutes a month-to-month tenancy, and all other terms and conditions of this agreement shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover at will.

If LESSEE fails to or refuses to deliver the required deed, the CITY may prepare and record a notice reciting the LESSEE'S failure to execute this lease provision and the notice will be conclusive evidence of the termination of this lease and all LESSEE rights to the premises.

### SECTION 3: RENT

- 3.01 Place of Payment. Rent, if any, is due monthly in advance on or before the first day of each calendar month. All monthly rents will be prorated during the first and final months of any rental period in order to achieve payment on the first day of each calendar month. Checks should be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 2289, San Diego, California 92112-4165 or delivered to 1222 First Avenue, Third Floor, San Diego, California.

The place and time of payment may be changed at any time by CITY upon thirty (30) days' written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. LESSEE assumes all risk of loss and late payment charges if payments are made by mail, or if postmarks are illegible, in which case the payment shall be deemed paid upon actual receipt by the City Treasurer.

- 3.02 Rent. In lieu of rent, LESSEE as and for additional consideration, agrees to provide the following services: case management, shared housing, skills bank, benefits counseling, rental bank, grocery shopping, telephone reassurance and volunteer programs, and any such additional activities developed by LESSEE and approved by the City Manager.

As additional consideration, LESSEE shall pay CITY quarterly all revenue generated from its subleasing, if any, of the premises. A statement of the source of all revenues generated by the subleasing activities shall be submitted with each payment.

### SECTION 4: ASSIGNMENT

- 4.01 Assignment and Subletting. LESSEE shall not be permitted to assign this lease. Any subleasing of any portion of the lease premises must have prior written approval of the City Manager, and any monies derived from subleasing shall be paid to CITY pursuant to Paragraph 3.02 herein. LESSEE agrees to charge fair market rent for any use by any other party of any portion of the lease premises. Subleasing for the purpose of this paragraph shall mean the use by person or entity other than LESSEE of any portion of the premises on a regular, continuous day-to-day basis. Notwithstanding the foregoing, the LESSEE may, without payment of rent to CITY, conduct occasional fund raising events using all or portion of the premises, providing the City Manager's prior written approval is obtained and the proceeds derived from such event(s) are used exclusively to further the purpose of the LESSEE and/or programs offered at the premises. The City Manager's determination as to whether an event qualifies for rental exemption in accordance with this provision shall be final.

- 4.02 Encumbrance. LESSEE may not encumber this lease, its leasehold estate nor its improvements thereon.

#### 4.03 Defaults and Remedies.

a. Default. In the event that:

- (1) LESSEE shall default in the performance of any covenant or condition required by this lease to be performed by LESSEE and shall fail to cure said default within thirty (30) days following written notice thereof from CITY; or
- (2) LESSEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
- (3) LESSEE shall be adjudicated a bankrupt; or
- (4) LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, at its option, without further notice or demand upon LESSEE or upon any person claiming through LESSEE, immediately terminate this lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the premises or to possession thereof; and CITY may enter and take possession of the premises. Provided, however, in the event that any default described in Paragraph a.(1) of this section is not curable within thirty (30) days after notice to LESSEE, CITY shall not terminate this lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues such cure to completion.

In the event that there is a deed of trust or mortgage on the leasehold interest, CITY shall give the mortgagee or beneficiary written notice of the default or defaults complained of, and the same mortgagee or beneficiary shall have thirty (30) days from such notice to cure the default(s) or, if any such default is not curable within thirty (30) days, to commence to cure the default(s) and diligently pursue such cure to completion. The thirty-day period may be extended during such time as mortgagee or beneficiary pursues said cure with reasonable diligence.

b. Remedies. If the mortgagee or beneficiary shall be required to exercise its right to cure said default or defaults through litigation or through foreclosure, then CITY shall have the option of the following courses of action in order that the default or defaults may be expeditiously corrected:

- (1) CITY may correct said default or defaults and charge the costs thereof to the account of the LESSEE, which charge shall be due and payable on the date that the rent is next due after presentation by CITY to LESSEE and mortgagee or beneficiary of a statement of said costs.

- (2) CITY may correct said default or defaults and may pay the costs thereof 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 defaults or to pay the costs of correction performed by or at the direction of CITY.
- (3) 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 agrees to assume and pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition for early payoff of the related obligations by CITY. CITY may, as an alternative, substitute for the terminated LESSEE a new LESSEE reasonably satisfactory to the mortgagee or beneficiary. Any reasonable cost incurred by CITY in releasing to a new tenant shall be the responsibility of the terminated LESSEE, and LESSEE hereby agrees to reimburse CITY for any such costs.

Should the default or defaults be noncurable by LESSEE, then any lender holding a beneficial interest in the leasehold whose qualifications as an assignee have been approved by CITY shall have the absolute right to substitute itself to the estate of the LESSEE hereunder and to commence performance of this lease. If such mortgagee or beneficiary shall give notice in writing of its election to so substitute itself within the thirty-day period after receiving written notice by CITY of the default and the default, if curable, is cured by such mortgagee or beneficiary, then this lease shall not terminate pursuant to the default. In that event, the CITY expressly consents to the substitution and authorizes the mortgagee or beneficiary to perform under this lease with all the rights, privileges and obligations of the LESSEE, subject to cure of the default, if possible, by mortgagee or beneficiary. LESSEE expressly agrees to assign all its interest in and to its leasehold estate to mortgagee or beneficiary in that event.

- c. Abandonment by LESSEE. Even though LESSEE has breached the lease and abandoned the property, this lease shall continue in effect for so long as CITY does not terminate this lease, and CITY may enforce all its rights and remedies hereunder, including, but not limited to, the right to recover the rent as it becomes due, plus damages.
- d. Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy

or right is not a waiver of that or any other remedy or right under this lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. The CITY'S acceptance of any rents is not a waiver of any default preceding the rent payment. CITY and LESSEE specifically agree that the property constituting the premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the City Manager or the City staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but the CITY shall at all times, subject to applicable statute of limitations, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

- 4.04 Eminent Domain. If all or part of the premises is taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of the CITY and LESSEE (or beneficiary or mortgagee), will be as follows:
- a. In the event 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.
  - b. In the event of a partial taking, if, in the opinion of the CITY, the remaining part of the premises is 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. In the event of a partial taking, if, in the opinion of the CITY, the remainder of the premises is 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 of the condemning authority, whichever occurs first, but shall continue for the portion not taken. The minimum rent shall be equitably reduced to reflect the portion of the premises taken.
  - d. Award. All monies awarded in any such taking shall belong to CITY whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, 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 the 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, the LESSEE shall retain its possessory interest in the fair market value of any improvements placed on the premises in accordance with this lease by LESSEE.
- 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.

## SECTION 5: INSURANCE RISKS/SECURITY

- 5.01 Indemnity. LESSEE at all times shall relieve, indemnify, protect and save CITY and any and all of its boards, officers, agents and employees harmless from any and all claims and demands, actions, proceedings, losses, liens, costs, judgments, civil fines and penalties of any nature whatsoever in regard to or resulting from the use of the premises, including, but not limited to, expenses incurred in legal actions, death, injury or damage that may be caused directly or indirectly by:
  - a. Any unsafe or defective condition in or on the premises of any nature whatsoever which may exist by reason of any act, omission, neglect, or any use or occupation of the premises,
  - b. Any operation, use or occupation conducted on the premises,
  - c. Any act, omission or negligence on the part of LESSEE, its employees, agents, sublessees, invitees, licensees; or
  - d. Any failure by LESSEE to comply or secure compliance with any of the lease terms or conditions.
- 5.02 Insurance. LESSEE shall take out and maintain at all times during the term of this lease the following insurance at its sole expense:
  - a. Public liability and property damage insurance in the amount of not less than ONE MILLION DOLLARS (\$1,000,000) COMBINED SINGLE LIMIT LIABILITY with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties, from acts or failures to act by CITY or LESSEE or by authorized representatives of CITY or LESSEE, on or in connection with the use or operation of the premises.
  - b. Fire, extended coverage and vandalism insurance policy on all insurable property on the premises, in an amount to cover 100 percent of the replacement cost. Any proceeds from a loss shall be payable jointly to CITY or LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or

repairing the damaged property. If there is a mortgage or trust deed on the leasehold in accordance with the Encumbrance section hereof, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to CITY has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the premises.

- c. Conditions. All insurance policies will name the CITY as an additional insured, protect the CITY against any legal costs in defending claims and will not terminate without sixty (60) days' prior written notice to the CITY. All insurance companies must be satisfactory to the CITY and licensed to do business in California. All policies will be in effect on or before the first day of the lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the premises and full applicable Fire Insurance Coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with CITY during the entire term of the lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this lease.
- d. Modification. CITY, at its discretion, may require the revision of amounts and coverages at any time during the term by giving LESSEE sixty (60) days' prior written notice. CITY'S requirements shall be designed to assure protection from and against the kind and extent of risk existing on the premises. LESSEE also agrees to acquire any additional insurance required by CITY for new improvements, in order to meet the requirements of this lease.
- e. Accident Reports. LESSEE shall report to CITY any accident causing more than Ten Thousand Dollars (\$10,000) worth of property damage or any serious injury to persons on the premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.
- f. Failure to Comply. If the LESSEE fails or refuses to take out and maintain the required insurance, or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer or insurers and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY.

Notwithstanding the preceding provisions of this Subsection f., if LESSEE fails or refuses to take out or maintain insurance, CITY has the right to declare this lease in default without further notice to LESSEE or CITY shall be entitled to exercise all legal remedies in the event of such default.

- 5.03 Waste, Damage or Destruction. LESSEE agrees to give notice to the CITY of any fire or other damage that may occur on the leased premises within ten (10) days of such fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash and rubbish in a manner satisfactory to the CITY. If the leased premises shall be damaged by any cause which puts the premises into a condition which is not decent, safe, healthy and sanitary, LESSEE agrees to make or cause to be made full repair of said damage and to restore the premises to the condition which existed prior to said damage, or at the CITY'S option, LESSEE agrees to clear and remove from the leased premises all debris resulting from said damage and rebuild the premises in accordance with plans and specifications previously submitted to the CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage using for either purpose the insurance proceeds as set forth in Section 5.02 Insurance, hereof.

LESSEE agrees that preliminary steps toward performing repairs, restoration or replacement of the premises shall be commenced by LESSEE within thirty (30) days and the required repairs, restoration or replacement shall be completed within a reasonable time thereafter. CITY may determine an equitable deduction in the minimum annual rent requirement for such period or periods that said premises are untenable by reason of such damage.

## SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 6.01 Acceptance of Premises. By signing this lease, LESSEE represents and warrants that it has independently inspected the premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the premises. LESSEE agrees it is relying solely on such independent inspection, tests, investigations and observations in making this lease. LESSEE further acknowledges that the premises are in the condition called for by this lease, that CITY has performed all work with respect to the premises and that LESSEE does not hold CITY responsible for any defects in the premises.
- 6.02 Entry and Inspection. CITY reserves and shall always have the right to enter said premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the premises or to inspect the operations conducted thereon. In the event that such entry or inspection by CITY discloses that said premises are not in a decent, safe, healthy and sanitary condition,

CITY shall have the right, after ten (10) days written notice to LESSEE, to have any necessary maintenance work done for and at the expense of LESSEE and LESSEE hereby agrees to pay promptly any and all costs incurred by CITY in having such necessary maintenance work done in order to keep said premises in a decent, safe, healthy and sanitary condition. Further, if at any time the CITY determines that said premises are not in a decent, safe, healthy and sanitary condition, CITY may at its sole option, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy and sanitary. Said bond shall be in an amount adequate in the opinion of the CITY to correct the said unsatisfactory condition. LESSEE shall pay the cost of said bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this lease imposed on CITY.

- 6.03 Maintenance. LESSEE agrees to assume full responsibility and cost for the operation and maintenance of the premises throughout the term. LESSEE shall be responsible for maintaining the building in sound structural condition, including exterior plumbing and electrical wiring leading to said structure, roofing and parking lot. LESSEE shall perform all such repairs and replacements necessary to maintain and preserve the premises in a decent, safe, healthy and sanitary condition satisfactory to the CITY and in compliance with all applicable laws. Appropriate codes and standards of CITY, state and federal agencies shall be observed in all maintenance, repairs and replacements on the premises.

LESSEE shall have joint maintenance and repair responsibilities with all other tenants in the building for all permanent building features and common areas of the premises. Each tenant shall assume an equal share of all expenses. Specific permanent structural features include, but are not necessarily limited to the following:

- Roof
- Exterior paint and vandalism
- Rear stairs
- All exterior walls
- All windows
- Main power panel and breakers
- Parking lot
- All building entry access doors
- Awnings
- Main lobby
- Elevator service and maintenance contract
- Pest control inspections and maintenance

- 6.04 Improvements/Alterations. No improvements, structures or installations shall be constructed within the premises and the premises may not be altered by the LESSEE without prior written approval by the City Manager. Further, LESSEE agrees that major structural or architectural design alterations to approved

improvements, structures or installations may not be made on the premises without prior written approval by the City Manager, and such approval shall not be unreasonably withheld. This provision shall not relieve the LESSEE of any obligation under this lease to maintain the premises in decent, safe, healthy and sanitary condition, including structural repair and restoration of damaged or worn improvements. The CITY shall not be obligated by this lease to make, or assume any expense for, any improvements or alterations.

- 6.05 Utilities. LESSEE agrees to order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the leased premises. CITY understands that the premises will not be individually metered for water service and, therefore, tenants of 4069 30th Street shall be responsible for a 50-50 share of costs for water service to the building.
- 6.06 Liens. LESSEE will at all times save CITY free and harmless and indemnify CITY 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 reasonable attorney's fees.

If improvements, alterations or repairs are made to the premises by LESSEE or by any party other than CITY and a lien or notice of lien is filed, LESSEE shall within five (5) days of such filing either:

- a. Take all actions necessary to record a valid release of 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.

- 6.07 Taxes. LESSEE agrees to pay, before delinquency, all taxes, assessments and fees assessed or levied upon LESSEE or the premises including the land, any buildings, structures, machines, equipment, appliances or other improvements or property of any nature whatsoever, erected, installed or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the leased premises, including any licenses or permits. LESSEE recognizes and agrees that this lease may create a possessory interest subject to property taxation and that the LESSEE may be subject to the payment of taxes levied on such interest and that LESSEE shall pay all such possessory interest taxes.
- 6.08 Signs. LESSEE agrees not to erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising without the prior written consent of the CITY. If any such unauthorized item is found on the premises, LESSEE agrees to remove the item at its expense within 24 hours notice thereof by CITY or CITY may thereupon remove the item at LESSEE'S cost.

6.09 Ownership of Improvements and Personal Property.

- a. All and any improvements, trade fixtures, structures and installations or additions to the premises now existing or constructed on the premises by LESSEE, shall at lease expiration or termination, be deemed to be part of the premises and shall become at CITY'S option the CITY'S property, free of all liens and claims except as otherwise provided in this lease.
- b. If the CITY elects not to assume ownership of all or any improvements, trade fixtures, structures and installations, CITY shall so notify LESSEE thirty (30) days prior to termination or 180 days prior to expiration and the LESSEE shall remove all such improvements, structures and installations as directed by the CITY at LESSEE'S sole cost on or before lease expiration or termination. If the LESSEE fails to remove any improvements, structures and installations as directed, the LESSEE agrees to pay CITY the full cost of any removal.
- c. LESSEE-owned machines, appliances, equipment (other than trade fixtures) and other items of personal property shall be removed by LESSEE by the date of the expiration or termination of this lease. Any said items which LESSEE fails to remove will be considered abandoned and become the CITY'S property free of all claims and liens, or CITY may at its option remove said items at LESSEE'S expense.
- d. If any removal of such personal property by LESSEE results in damage to the remaining improvements on the premises, LESSEE agrees to repair all such damage.
- e. Any necessary removal by either CITY or LESSEE which takes place beyond said expiration or termination hereof shall require rental by LESSEE to CITY at the rate in effect immediately prior to said expiration or termination.
- f. Notwithstanding any of the foregoing, in the event LESSEE desires to dispose of any of its personal property used in the operation of said premises upon expiration or termination of this lease, then CITY shall have the first right to acquire or purchase said personal property.

- 6.10 Unavoidable Delay. If the performance of any act required of CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes or other causes beyond the reasonable control of the party required to perform an act, said party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision shall not apply to obligations to pay rental as required pursuant to this lease. In the event LESSEE or CITY claim the existence of such a delay, the party claiming the delay shall notify

the other party in writing of such fact within ten (10) days after the beginning of any such claimed delay.

## SECTION 7: GENERAL PROVISIONS

### 7.01 Notices

- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to LESSEE at the leased premises or at such other address designated in writing by LESSEE; and to CITY as follows:

City Manager, Attention Property Director  
City Administration Building  
202 "C" Street, M.S. 9B  
San Diego, CA 92101-4155

or to any mortgagee, trustee or beneficiary, as applicable at such appropriate address designated in writing by the respective party.

- b. Written notice to LESSEE shall be delivered or mailed to:

4069 - 30th Street  
San Diego, CA

- 7.02 Compliance with Law. LESSEE will at all times in the construction, maintenance, occupancy and operation of the premises, comply with all applicable laws, statutes, ordinances and regulations of the CITY, County, State and Federal Government, at LESSEE'S sole cost and expense. In addition, LESSEE will comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation.
- 7.03 CITY Approval. The approval or consent of the CITY, wherever required in this lease, shall mean the written approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.
- 7.04 Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, age or physical handicap in LESSEE'S use of the premises, including, but not limited to, the providing of goods, services, facilities, privileges, advantages and accommodations, and the obtaining and holding of employment.
- 7.05 Equal Opportunity. LESSEE shall comply with the CITY'S Equal Opportunity and Minority and Women Business Enterprise Contracting

Programs, approved by the City Council, and filed with the City Clerk as Document RR-262633. LESSEE shall submit a Certificate of Compliance with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable federal and state laws and regulations hereinafter enacted. LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this agreement.

- 7.06 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 will remain in full force and effect.
- 7.07 Legal Fees. In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorney's fees.
- 7.08 Number and Gender. Words of any gender used in this lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.
- 7.09 Captions. The lease Table of Contents, section headings and captions for various articles and paragraphs shall not be held to define, limit, augment or describe the scope, content or intent of any or all parts of this lease. The numbers of the paragraphs and pages of this lease may not be consecutive. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this lease.
- 7.10 Entire Understanding. This lease contains the entire understanding of the parties. The LESSEE, by signing this agreement, agrees that there is no other written or oral understanding between the parties in respect to the leased premises. 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 this 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. No modification, amendment or alteration of this lease will be valid unless it is in writing and signed by all parties.

- 7.11 Bylaws. Membership in LESSEE'S organization shall be open to anyone meeting the requirements of its rules and bylaws. All restrictions, rules, bylaws, and fees, if any, and changes thereto proposed by LESSEE'S organization shall, before being put into effect, be submitted to and receive the written approval of the City Manager.

SECTION 8: SIGNATURES

IN WITNESS WHEREOF, this Lease Agreement is executed by CITY, acting by and through its City Manager, and by LESSEE, acting by and through its lawfully authorized officers.

THE CITY OF SAN DIEGO

Date \_\_\_\_\_

By \_\_\_\_\_  
City Manager

LESSEE: ELDERHELP OF SAN DIEGO

Date \_\_\_\_\_

By   
Susan J. Hoekenga,  
Executive Director

APPROVED as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

JOHN W. WITT, City Attorney

By \_\_\_\_\_  
Deputy City Attorney

CEBK:st(3)  
3-4-92

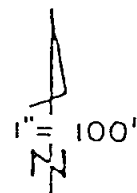
1. PARK GLENN CONDM.  
DOC. 74-139921

2. (CONDM. PEND.)  
KANSAS STREET VILLAS  
DOC. 82-169054

5. CONDM  
ROSALIND GARDENS  
DOC. 84-359753  
(SEE SHT 3)

-13-

446-36  
SHT. 1 OF 3



3. CONDM. (SEE SHT. 2)  
UTAH PARK  
DOC. 84-215688

4. CONDM  
4031 IDAHO ST  
DOC. 84-270991  
(SEE SHT. 2)



POLK

AVE

363

364

|        |    |   |         |
|--------|----|---|---------|
| 1      | 2  | 3 | 48      |
| 1      | 2  | 3 | 47 (27) |
|        |    | 3 | 46      |
| 4      | 5  | 4 | 45 (26) |
|        | 5  | 5 | 44      |
|        | 5  | 5 | 43 (25) |
|        | 6  | 7 | 42      |
|        | 8  |   | 41 (24) |
|        | 7  | 9 | 40      |
|        | 10 |   | 39      |
| 3      | 11 |   | 38 (23) |
|        | 12 |   | 37      |
|        | 13 |   | 36 (22) |
| 9      | 14 |   | 35      |
|        | 15 |   | 34 (21) |
| 10     | 16 |   | 33 (20) |
| 17 BLK |    |   | 165 32  |
| 11     | 18 |   | 31      |
|        | 19 |   | 30 (19) |
| 12     | 20 |   | 29 (18) |
|        | 21 |   | 28 (17) |
|        | 22 |   | 27 (14) |
| 13     | 23 |   | 26      |
|        | 24 |   | 25      |
|        |    |   | 15      |
|        |    |   | 16      |

ST.

30 TH.

|         |     |    |              |
|---------|-----|----|--------------|
| 1       | 2   | 3  | 48           |
| 2       | 3   | 2  | 47 (25) (26) |
|         |     | 3  | 46           |
|         | 4   | 4  | 45 (24)      |
|         |     | 5  | 44           |
|         | 5   | 6  | 43 (23)      |
| SUBJECT |     | 7  | 42           |
|         | (5) | 8  | 41 (22)      |
|         |     | 9  | 40           |
|         | 7   | 10 | 39 (21)      |
|         |     | 11 | 38           |
|         | 8   | 12 | 37 (20)      |
|         |     | 13 | 36           |
|         | 9   | 14 | 35 (19)      |
|         |     | 15 | 34           |
|         | 10  | 16 | 33 (18)      |
| 17 BLK  |     |    | 164 32       |
|         |     | 18 | 31 (17)      |
|         |     | 19 | 30           |
|         |     | 20 | 29 (16)      |
|         | 11  | 21 | 28           |
|         |     | 22 | 27 (12) (15) |
|         |     | 23 | 26           |
|         |     | 24 | 25           |
|         |     |    | 13           |
|         |     |    | 14           |

ST.

OHIO

38

LINCOLN

AVE

EXHIBIT

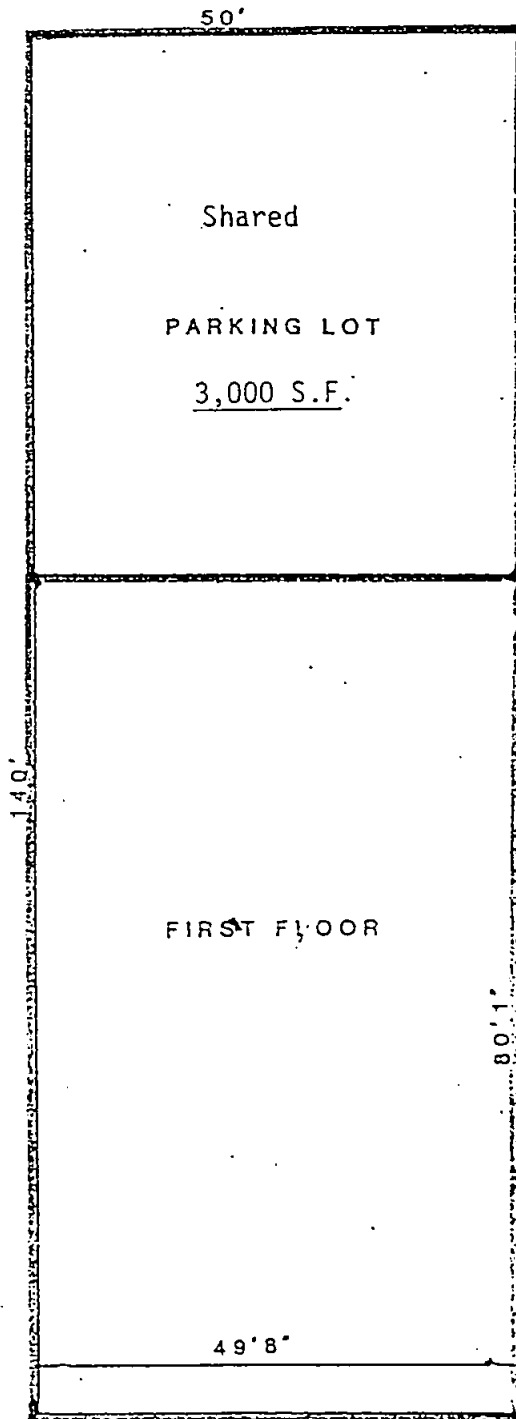
A

PAGE 1 OF 2

MAP 10276-KANSAS STREET VILLAS CONDOMINIUM  
MAP 10275-ONEIL MANOR CONDOMINIUM

ALLEY

1" EQUALS 20'



**EXHIBIT A**

EXHIBIT "B"

The following charges may be made for groups or entities using the community meeting room. All revenues shall be used to defray utilities, management, community center expenses, and staff, and shall be the property of Lessee:

\$20 per meeting of less than 50

\$40 per meeting of more than 50

EXHIBIT "C"

City has performed the following repairs and improvements to the leased premises.

- A. Initial roof patch as needed and coat.
- B. Resurface parking lot.

MEMORANDUM OF UNDERSTANDING

between the City of San Diego, Elderhelp of  
San Diego, Inc., and Alpha of San Diego, Inc.

DUPLICATE

In accordance with Section 1.02, Uses, of City Clerk Documents RR-279832  
and RR-279833 ), the following conditions are agreed to by all parties:

1. Joint Use.

Elderhelp of San Diego, Inc., shall allow Alpha of San Diego use of the partitioned conference room on its premises (first floor) from 1:00 p.m. to 5:00 p.m., Tuesday, Wednesday and Thursday.

And, Alpha of San Diego shall allow Elderhelp of San Diego use of two offices on the second floor from 9 a.m. to 1:00 p.m. Monday through Friday.

It is understood that this arrangement is based on peak hour use and that the areas will be utilized only when the respective organization has reached capacity on its assigned floor.

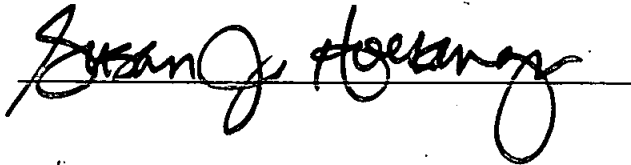
In addition, each agency shall be responsible for providing the City with proof of compliance with Section 5, Insurance Risk/Security, for utilization of the joint use space.

The City Manager has entered into this agreement based on a demonstrated need by both agencies for additional space.

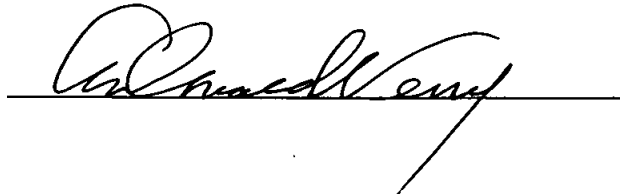
The City Manager specifically reserves the right to modify or discontinue any uses approved by this memorandum if and when the City Manager deems such change necessary and in the best interest of the public. LESSEE agrees that the City manager shall retain the authority to make such changes by giving not less than 90 days advance written notice.

Nothing herein is intended to modify or delete any other condition of said agreement. This memorandum shall be effective upon the date of execution by the City Manager.

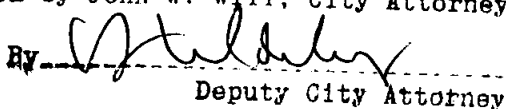
ELDERHELP OF SAN DIEGO, INC.



ALPHA OF SAN DIEGO, INC.



APPROVED as  
to form by JOHN W. WITT, City Attorney

By   
Deputy City Attorney

CEBK:st(3)  
2-26-92

CITY OF SAN DIEGO

  
JAMES L. SPOTTS, PROPERTY DIRECTOR  
FOR: JACK MC GRORY, CITY MANAGER

(R-92-1622)

279832

RESOLUTION NUMBER R-

ADOPTED ON APR 27 1992

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is hereby authorized to execute, for and on behalf of The City of San Diego, a 20-year lease agreement (with a right of termination at any time with 180 days notice) with ELDERHELP OF SAN DIEGO, a California nonprofit corporation, for the use of City-owned property located at 4069-71 30th Street, including contiguous parking lot, in consideration of community services provided by the lessee, under the terms and conditions set forth in that lease agreement on file in the office of the City Clerk as Document No. RR- 279832.

APPROVED: JOHN W. WITT, City Attorney

By

  
Harold O. Valderhaug  
Deputy City Attorney

HOV:ps  
04/14/92  
Or.Dept:Prop.  
Job:220642  
R-92-1622  
Form=r-t

RECEIVED  
MAY 04 1992  
PROPERTY DEPT