



Real Estate Assets Department

November 1, 2019

Rodney Carey
Neighborhood House Association
5660 Copley Drive
San Diego, CA 92111

Subject: Lease Termination/Surrender of Premises - Non-Profit Lease - The City of
San Diego / Neighborhood House Association
Lease ID: S645PM 004 B00 / 415 N. Euclid Ave., San Diego, CA 92114

Dear Mr. Carey.

Pursuant to Section 2.1 Term, in the above-mentioned lease, your lease is due to expire and terminate on December 31, 2019.

In accordance with Section 2.3 Surrender of Premises, upon the expiration or earlier termination of the lease, the Lessee shall vacate the Premises and surrender it to City free and clear of all liens and encumbrances, and in a decent, safe, and sanitary condition.

Therefore, this is to notify you that there will be a site visit before you leave to ensure that the Premises is in a decent, safe and sanitary condition. Please prepare keys and ensure that all offices, including sub-tenants will be vacated.

I will contact you shortly to set up a time for the property.

Sincerely,


Jayne Vanderhagen
Supervising Property Agent



**CITY OF SAN DIEGO
PUBLIC PURPOSE LEASE**

BY AND BETWEEN

**THE CITY OF SAN DIEGO,
A CALIFORNIA MUNICIPAL CORPORATION**

AND

**THE NEIGHBORHOOD HOUSE ASSOCIATION IN SAN DIEGO
COUNTY,
A CALIFORNIA 501(c)(3) NON-PROFIT PUBLIC BENEFIT CORPORATION**

CITY OF SAN NON-PROFIT LEASE
1415 North Euclid Avenue, San Diego, CA 92114

THIS CITY OF SAN DIEGO NON-PROFIT LEASE ("Lease") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), as Lessor, and THE NEIGHBORHOOD HOUSE ASSOCIATION, a California non-profit benefit corporation ("LESSEE" and/or "Master Sublessor"), to be effective as of 3/5/19 (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney.

RECITALS

- A. CITY is the owner of that certain real property consisting of a 7,108 square feet building ("Building") and adjacent parking lot known as the Tubman-Chavez Multicultural Center located at 415 North Euclid Avenue, San Diego, California 92114 (collectively the "Premises"), which is further described in Exhibit A: **Description of Premises**.
- B. CITY and LESSEE entered into that certain City of San Diego Flat Rate Lease, dated May 14, 2014, which was amended by that certain City of San Diego First Amendment to Lease Agreement, dated June 4, 2014, and that certain City of San Diego Second Amendment to Lease Agreement, dated July 1, 2014 (collectively the "**Original Lease**"), for the purpose of operating and maintaining the Premises as a non-profit, non-religious community outreach center, and acting as the Master Sublessor for the Premises. LESSEE shall also be allowed to use the Premises for any other related or incidental uses as may be first approved in writing by CITY. The use of the Premises for any unauthorized purpose shall subject this Lease to termination at the sole discretion of the CITY.
- C. The Original Lease expired on May 13, 2017, and since that time LESSEE has continued to have use and occupancy rights to the Premises by means of legal holdover status under the Original Lease.
- D. CITY desires to lease the Premises to LESSEE, and LESSEE desires to lease the Premises from CITY as more specifically set forth below.
- E. LESSEE currently subleases portions of the Premises to Alternative Healing Network, Diamond Business Association, Inc., Minority Veterans Coalition of CA Southern Region, and Neighborhood Unity Foundation. Each of these subleases was previously approved by CITY.
- F. Council District 4 of CITY currently uses a portion of the Premises, as set forth in **Exhibit A: Description of the Premises**, and will continue to use a portion of the Premises through the Term of this Lease.

NOW THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

SECTION 1: PREMISES; USES

- 1.1 **Premises.** Under the terms and conditions of this Lease, CITY leases to LESSEE and LESSEE leases from CITY the Premises. The "Premises" shall mean that certain real property consisting of a 7,108 square foot building and adjacent parking lot known as the Tubman-Chavez Multicultural Center located at 415 North Euclid Avenue, San Diego, California 92114, as more particularly described in **Exhibit A: Description of Premises**, attached hereto and by reference made part of this Lease.
- 1.2 **Supersedes Prior Agreements.** Upon the Effective Date, CITY and LESSEE hereby terminate the Original Lease as of the Effective Date of this Lease. It is mutually agreed that this Lease shall supersede any and all prior agreements between the parties, and their predecessors in interest, related to all or any portion of the Premises, including the Original Lease. The Original Lease shall be of no further force or effect except as to any rentals and fees that may have accrued thereunder, and any rights and remedies accrued or granted thereunder and which by their nature or by agreement survive such termination.
- 1.3 **Allowed Uses.** The Premises are leased to LESSEE, and LESSEE covenants and agrees to use the Premises solely and exclusively for the following purposes (the "Allowed Uses"): (a) operating and maintaining the Premises as a non-profit, non-religious community outreach center; (b) acting as the Master Sublessor for the Premises; and (c) other uses which are incidental to the uses listed in this Section 1.3, upon the prior written approval of CITY. The LESSESE's four offices spaces within the Building (the reception area and Offices Nos. Four, Five, and Six) shall serve as an enrollment hub for children and families for the LESSEE's Child Development program. As part of this program, LESSEE will offer family and supportive services including but not limited to, an assessment of the needs, desires, and goals of the families residing in the surrounding community. LESSEE shall diligently pursue the use of the Premises solely for the Allowed Uses and for no other purpose whatsoever without CITY's prior written consent throughout the term of this Lease. The use of the Premises for any unauthorized purpose shall subject this Lease to termination at the sole discretion of the CITY.
- 1.4 **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.
- 1.5 **Responsibilities Other Than as Set forth Above.** As Master Sublessor:

- 1.5.1 Lessee shall manage the Building and all subleases, and assist City with the subleasing of the Center.
- 1.5.2 Each sublease agreement shall terminate on or before the termination date of this Lease.
- 1.5.3 LESSEE shall invoice and collect all rents and fees. All rents and fees collected shall be retained by the LESSEE to assist LESSEE with costs associated with the operation and maintenance costs of the Premises.
- 1.5.4 LESSEE shall at LESSEE'S sole expense, maintain the Premises with janitorial services, trash pick up, and landscape maintenance, in addition to other maintenance obligations set forth in Section 8. LESSEE must at all times keep the Premises in a decent, safe, healthy, and sanitary condition reasonably satisfactory to CITY.
- 1.5.5 Upon the expiration or earlier termination of any sublease, LESSEE shall have the sublessee vacate the offices and surrender them to CITY free and clear of all liens and encumbrances, and in a condition reasonably satisfactory to CITY.
- 1.5.6 LESSEE shall maintain conference room calendar scheduling for meeting and conference room use, and calculate and collect fees for special events and conference rooms.
- 1.5.7 LESSEE shall establish and maintain a regular schedule of days and hours of operation to best serve the public which shall be subject to the prior written approval of the CITY, and shall be similar to those set forth in **Exhibit C: Hours of Operation**, attached hereto and by reference made a part of this Lease.
- 1.5.8 Parking Lot. LESSEE shall, at LESSEE's sole expense, maintain the parking lot on the Premises to CITY's standards for similar CITY-owned properties and at all times keep the parking lot swept and clean and in a decent, safe, healthy, and sanitary condition reasonably satisfactory to CITY.
- 1.5.9 LESSEE shall use the Premises as allowed by this Lease to benefit the general public to CITY'S reasonable satisfaction.
- 1.5.10 Continuous Use. LESSEE shall continuously use the Premises throughout the term of this Lease.
- 1.5.11 Council District 4 Use. LESSEE shall continue to allow Council District 4 of the CITY to use the portion of the premises as depicted on **Exhibit A: Description of the Premises**.
- 1.6 Prohibited Uses. LESSEE shall at all times obey the "Building's Rules and Regulations" as may be amended from time to time, attached hereto as Exhibit B and by reference made part of this Lease, and shall cause its employees, suppliers, shippers,

customers, contractors, invitees, and sublessees to abide by the Rules and Regulations. CITY shall not be responsible to LESSEE for any sublessee's non-compliance with the Rules and Regulations.

- 1.7 **LESSEE'S Waiver.** LESSEE expressly waives any claim against CITY and its elected officials, officers, employees, representatives, and agents for any burden, expense or loss which LESSEE incurs as a result of any sublessee's non-compliance with the Rules and Regulations.
- 1.8 **Superior Interests.** This Lease is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights-of-way pertaining to the Premises, whether or not of record. LESSEE shall obtain all licenses, permits, and agreements from such third parties as may be or become necessary or reasonably advisable to allow LESSEE's development and use of the Premises, relative to any such superior interest. If LESSEE's use of the Premises is or becomes inconsistent or incompatible with a preexisting, superior interest, LESSEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
- 1.9 **Governmental Approvals.** By entering into this Lease, neither CITY nor CITY's City Council is obligating itself to any governmental agent, board, commission, or agency with regard to any other discretionary action relating to LESSEE's occupancy, use, development, maintenance, or restoration of the Premises. Discretionary action includes without limitation re-zonings, variances, environmental clearances, and all other required governmental approvals. CITY makes no representation or warranty regarding review or approval of LESSEE's development or capital improvement plans for the Premises, and failure of the CITY or City Council to approve any plans or grant any required permits for development or capital improvements shall not give rise to any claim, liability, obligation, or cause of action related to this Lease. LESSEE shall obtain and maintain throughout the term of this Lease all legally required permits and licenses for the construction of improvements and the operation of its business on the Premises including as applicable, but not limited to, California Coastal permits, building permits, and the San Diego County food operator license.
- 1.10 **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 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.
- 1.11 **Security.** LESSEE shall at all times provide, at LESSEE's sole cost and expense, security measures to use reasonable care to protect persons and property on the Premises, including without limitation maintaining a plan for adequate patrol of all areas of the Premises with the goal of preserving order and preventing theft, vandalism, and other improper or unlawful use of the Premises or any of the facilities thereon.

- 1.12 **Public Use; No Discrimination.** LESSEE shall allow full and continuous public use of the Premises for the Allowed Uses during LESSEE's hours of operation. LESSEE shall make all facilities and services on the Premises available to the public without unlawful discrimination, in accordance with this Lease. The general public shall not be wholly or permanently excluded from any portion of the Premises. Notwithstanding the foregoing, LESSEE may apply reasonable restrictions, on a nondiscriminatory basis, for the general public's use of the Premises consistent with the Allowed Uses. In addition, LESSEE shall not unreasonably interfere with or deny public access and use of the public areas or any part thereof if the same is deemed by applicable laws, rules, regulations, or directives of competent governmental authorities to be public areas and designated or dedicated for public use. **Signs.** Signage that has received CITY's prior written approval and is currently installed on the Premises may remain in place. LESSEE shall not erect or display any other 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 summarily remove the item at LESSEE's cost.
- 1.13 **Quiet Enjoyment.** LESSEE, performing the covenants and agreements in this Lease, shall at all times during the Term (as defined below) 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 or resulting damages.
- 1.14 **Reservation of Rights.**
- 1.14.1 **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.
- 1.14.2 **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.
- 1.14.3 **Repairs.** CITY may at all reasonable times enter the Premises for the purpose of making repairs to or developing municipal resources and services.
- 1.14.4 **Noninterference.** CITY shall not substantially or unreasonably interfere with LESSEE's use of the Premises. CITY shall pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights and the costs of repairing any damage to LESSEE's improvements located on the Premises to their then-existing condition.
- 1.15 **Rates and Charges.** LESSEE's rates and charges for the public's and sublessees' 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, as shown as Exhibit D, Rates, and shall be pre-approved by CITY.

- 1.16 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.
- 1.17 Changes. CITY may, in CITY's sole discretion and from time to time, make changes to the common areas of the Premises, including without limitation making changes in the location, size, shape, and number of driveways, entrances, parking spaces, parking area, loading and unloading areas, ingress and egress, direction of traffic, landscaped areas, walkways and utility raceways. CITY may temporarily close any common area of the Premises for maintenance purposes, provided reasonable access to the Premises remains available. CITY may make improvements to the common areas of the Premises and use the common areas of the Premises while making improvements, alterations, or repairs to any part of the building, and do and perform such other acts and make other changes in, to or with respect to the building as CITY may deem appropriate.
- 1.18 Council District 4 and CITY Use. LESSEE shall continue to allow Council District 4 of the CITY to use the portion of the premises as depicted on Exhibit A: Description of the Premises. The Premises shall also be available to CITY for civic events and special programs, free of charge, except when 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.
- 1.19 Conflicting Use. LESSEE shall observe the established guidelines for the use of property. Should any conflict arise between LESSEE's use and parks and recreations uses, the City Manager and LESSEE shall meet and reconcile the conflict. If CITY and LESSEE are unable to reconcile such conflict, the City's Manager's decision will be final.

SECTION 2: TERM

- 2.1 Term. The term of this Lease ("Term") shall be nine (9) months, commencing on the Effective Date and shall terminate on December 31, 2019.
- 2.2 Holdover. Any holding over by LESSEE after the expiration of this Lease shall not be considered a renewal or extension of this Lease. The occupancy of the Premises after the expiration 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 CITY will not continue to reimburse LESSEE for utilities, as set forth in Section 8.5 below, and LESSEE shall then pay to CITY the current market rent for the Premises as determined by qualified staff of CITY's Real Estate Assets Department, in its sole

discretion; however, in no event shall the rent be reduced below the rent in effect at the expiration or earlier termination of this Lease.

- 2.3 **Surrender of Premises.** Upon the expiration or earlier termination of this Lease, LESSEE shall vacate the Premises and surrender it 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.

SECTION 3: CONSIDERATION

- 3.1 **Rent and Consideration.** LESSEE will pay no rent (\$0.00) to CITY during the term of this Lease for the reception area office and Office Nos. Four (#4), Five (#5), and Six (#6). LESSEE's consideration under this Lease shall be LESSEE's responsibilities, as set forth within this Lease, for the operation and maintenance of the Premises for the Allowed Uses. LESSEE may lease additional office space with advance approval and consent from CITY. Each additional space leased shall be leased at the current rental sublease rates within the Building All rents and fees collected by LESSEE for Allowed Uses shall be retained by the LESSEE to assist LESSEE with costs associated with the operation and maintenance costs of the Premises.
- 3.2 **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 by this Lease, and from any use or unauthorized sublease for which CITY has not given its prior written consent, 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.
- 3.3 **Time of the Essence.** Time is of the essence for each term, covenant, and condition of this Lease.
- 3.4 **Use of Proceeds.** LESSEE shall use all revenue received from the operation of the Premises in a fiscally responsible manner, consistent with other organizations performing work 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.

- 3.4.1 **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.
- 3.4.2 **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, including after termination of expiration of this Lease.
- 3.4.3 **Financial Statements.** Within sixty (60) days after the termination of this Lease, LESSEE shall, at its sole cost and expense, deliver to CITY a statement of annual LESSEE income for the Term, prepared using generally accepted accounting principles consistently applied, with revenue categorized by source, and deductions categorized by type. The statement shall be signed by an officer, general partner or principal of LESSEE attesting to the accuracy and completeness thereof, which shall be legally binding upon LESSEE. LESSEE shall comply with all reasonable requests by CITY to modify the form and content of such financial statements. LESSEE shall provide such additional information reasonably requested by CITY regarding the operation of LESSEE's business and all other business activities conducted on the Premises, and all financial transactions resulting from LESSEE's use of the Premises. If LESSEE submits any statements or information clearly marked confidential or proprietary, CITY shall protect and treat the same with confidentiality to the extent permitted by law and in conformity with the California Public Records Act ("Act"). Should LESSEE request confidentiality and non-disclosure regarding any statement or information, LESSEE shall provide CITY with specific and detailed legal grounds, including any applicable case law, upon which CITY may rely for withholding any information in the event CITY receives a request under the 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 Act. In the event CITY elects to withhold any requested information based on LESSEE's request to withhold such requested information, LESSEE shall defend, at LESSEE's sole expense, any legal actions or challenges seeking to obtain from CITY any

information requested under the Act that CITY may have withheld at LESSEE's request. Furthermore, LESSEE shall release, indemnify, and hold CITY, and its elected officials, officers, and employees, harmless for or from any claim or liability, and defend any action brought against CITY, resulting from CITY's disclosure or non-disclosure of any information requested pursuant to the Act.

- 3.4.4 **CITY's Right to Inspect and Audit.** LESSEE shall keep all of its books of account, records, financial data, and supporting documentation throughout the Term, plus five (5) years. LESSEE shall make such books, records, financial data, and supporting documentation available for CITY's inspection and audit upon reasonable notice at the Premises or other suitable location mutually agreed upon by the parties. Upon reasonable prior notice, CITY may inspect and audit the operation of LESSEE's business and all other business activities conducted on the Premises, and all financial transactions resulting from LESSEE's use of the Premises, as CITY may deem necessary, in its sole discretion, to protect CITY's rights under this Lease. Failure to maintain records, make them available for inspection, or provide summary schedules and supporting documentation requested by the CITY is a breach of this Lease and cause for termination, subject to LESSEE's right to cure pursuant to this Lease. If required by competent governmental authority, LESSEE shall promptly deliver to CITY, at CITY's reasonable request and at LESSEE's sole cost and expense, any and all data reasonably needed to fully comply with such authority's requirements related to the operation of LESSEE's business and all other business activities conducted on the Premises, and all financial transactions resulting from LESSEE's use of the Premises. Notwithstanding anything to the contrary contained herein, CITY's right to audit the books and operations shall expire on the date five (5) years from the end of Term. 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.

SECTION 4: ENCUMBRANCES; ASSIGNMENT AND SUBLETTING

- 4.1 **Assignment and Subletting.** LESSEE shall not assign this Lease or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person, except employees, agents, invitees, and guests of LESSEE, to use or occupy the Premises or any part thereof, without CITY's prior written consent in each instance. 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 assignment or subletting without CITY's consent shall be void and shall, at the option of CITY, terminate this Lease. This Lease shall not, nor shall any interest in this Lease be assignable as to the interest of LESSEE by operation of law without the written consent of CITY. LESSEE shall pay all reasonable fees required by CITY for processing

requests for consent to assignments and subleases. "Assignment" for the purposes of this section shall include any transfer of any ownership interest in this Lease by LESSEE, and if LESSEE is other than a natural person, the transfer of a controlling interest in LESSEE or any of LESSEE's general partners, principals, or controlling shareholders. As a condition to any consent to an assignment, sublease, or other grant of rights related to the use and occupancy of the Premises, CITY may require that this Lease be revised to comply with current standard CITY lease requirements.

4.1.1 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. Further, each sublessee shall agree that its sublease shall be subject and subordinate to each and every provision of this Lease.

4.1.2 This section does not apply to the existing subleases with Alternative Healing Network, Diamond Business Association, Inc., Minority Veterans Coalition of CA Southern Region, and Neighborhood Unity Foundation which were previously approved by CITY. Each of the identified existing subleases must also terminate on December 31, 2019, or the earlier termination of this Lease, whichever is first.

4.1.3 Charter Section 225. Pursuant to San Diego City Charter Section 225, LESSEE and each of its subtenants, including sublessees and user groups, shall make a full and complete disclosure of the name and identity of any and all persons directly or indirectly involved or interested in this Lease, and in any sublease or assignment, and the precise nature of all interests of all such persons. Every person or entity proposed to have an interest in this Lease must be reviewed and approved by CITY, in its sole discretion.

4.2 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.

SECTION 5: DEFAULT AND REMEDIES

5.1 Default. LESSEE shall be in default of this Lease if any of the following occurs:

- (a) LESSEE fails to make any payment required under this Lease when due and fails to cure the default within five (5) days following written notice thereof from CITY;
- (b) LESSEE defaults in the performance of any covenant, term, or condition required by this Lease, other than those requiring payment to CITY, to be performed by LESSEE and fails to cure the default within thirty (30) days following written notice thereof from CITY, or if any such default is not curable within thirty (30) days, fails to commence to cure the default(s) within thirty (30) days and to diligently pursue the cure to completion;

- (c) LESSEE voluntarily files or involuntarily has filed against it any petition under any bankruptcy or insolvency act or law;
- (d) LESSEE is adjudicated as bankrupt;
- (e) LESSEE makes a general assignment for the benefit of creditors; or
- (f) LESSEE uses the Premises for any unauthorized purpose.

5.2 **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 this 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:

- (a) the worth at the time of award of any unpaid rent that was due at the time of termination; and
- (b) 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; and
- (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the Term after the time of award exceeds the amount of rental loss, if any, that LESSEE affirmatively proves could be reasonably avoided; and
- (d) 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
- (e) 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 (a) and (b) 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 (c), 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 payable by LESSEE under this Lease.

5.3 **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:

- (a) 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 to mortgagee or beneficiary;
- (b) 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
- (c) 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 such early payoff of the related obligations. 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.

- 5.4 Abandonment by LESSEE. If LESSEE 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.
- 5.5 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.

SECTION 6: EMINENT DOMAIN

6.1 **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:

6.1.1 **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.

6.1.2 **Partial Taking - Remainder Unusable.** If a partial taking of the Premises occurs, and in the opinion of 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.

6.1.3 **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.

6.1.4 **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.

6.1.5 **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.

6.1.6 **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 condemnation or inverse condemnation.

SECTION 7: INDEMNITY; HOLD HARMELESS; INSURANCE

7.1 **Indemnification and 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, subtenants, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this Lease or LESSEE's occupancy, use, development, maintenance, restoration, or improvement of the Premises or any areas outside the Premises used or occupied by LESSEE from time to time, 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 sole 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.

7.2 **Insurance.** Prior to the Effective Date, LESSEE shall have: (a) obtained, and upon the CITY's request provided to the CITY, insurance certificates reflecting evidence of all insurance required below; however, the CITY reserves the right to request, and the LESSEE shall submit, copies of any policy upon reasonable request by the CITY; (b) obtained CITY approval of each insurance company or companies; and (c) confirmed that all policies contain the specific provisions required below. LESSEE's liabilities, including but not limited to LESSEE's indemnity obligations, under this Lease, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Lease and LESSEE's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Lease may be treated as a material breach of contract by the CITY. The LESSEE shall not modify any policy or endorsement thereto which increases the CITY's exposure to loss for the duration of this Lease.

7.2.1 **Types of Insurance.** At all times during the Term of this Lease, LESSEE shall maintain insurance coverage as follows:

7.2.1.1 **Commercial General Liability (CGL).**CGL Insurance 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 or property damage in the amount of \$2 million per occurrence and subject to an annual aggregate of \$4 million. 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.

- 7.2.1.2 Commercial Automobile Liability. For all of LESSEE's automobiles including owned, hired and non-owned automobiles, LESSEE shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).
- 7.2.1.3 Workers' Compensation. For all of LESSEE's employees who are subject to this Lease and to the extent required by the applicable state or federal law, LESSEE shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and LESSEE shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents, and representatives.
- 7.2.1.4 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 located at the Premises in an amount to cover one hundred percent (100%) of the replacement cost. LESSEE shall deliver a certificate of such insurance to CITY's Real Estate Assets Department.
- 7.2.1.5 Professional Liability. For all LESSEE's employees who are subject to this Lease, LESSEE shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of \$1 million per claim and \$2 million annual aggregate. LESSEE shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of this Lease; and (2) the policy will be maintained in force for the duration of this Lease, with no changes or endorsements to the policy that increase CITY's exposure to loss.
- 7.3 Deductibles. All deductibles on any policy shall be the responsibility of the LESSEE and shall be disclosed to the CITY at the time the evidence of insurance is provided.
- 7.4 Acceptability of Insurers. 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, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the CITY. CITY will 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 (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

7.5 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. 7.7 LESSEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to the Allowed Uses.

7.6 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, photos and other pertinent information. This information shall be given to the Parks and Recreation staff in addition to Real Estate Assets.

7.7 Required Endorsements. The following endorsements to the policies of insurance are required:

7.7.1 Commercial General Liability Insurance Endorsements:

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents, and representatives 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 but not limited to LESSEE's completed operations performed by LESSEE or on LESSEE's behalf, or (d) premises owned, leased, controlled, or used by LESSEE.

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents, and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents, and representatives shall be in excess of LESSEE's insurance and shall not contribute to it.

SEVERABILITY OF INTEREST. The policy or policies 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.

7.7.2 Automobile Liability Insurance Endorsements.

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or

policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of LESSEE.

SEVERABILITY OF INTEREST. The policy or policies 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.

7.7.3 Worker's Compensation Insurance Endorsements:

WAIVER OF SUBROGATION. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the CITY and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the CITY.

7.8 Additional Insurance. LESSEE may obtain additional insurance not required by this Lease.

7.9 Excess Insurance. All policies providing excess coverage to CITY shall follow the form of the primary policy or policies including but not limited to all endorsements.

SECTION 8: IMPROVEMENTS; ALTERATIONS; REPAIRS; MAINTENANCE

8.1 Waste, Damage, or Destruction. LESSEE agrees to give notice to CITY of any fire or other damage that may occur on the Premises within two (2) days of such fire or damage. 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 its prior condition within a reasonable time; or, at CITY's option, LESSEE agrees to clear and remove from the Premises all debris resulting from said damage and rebuild the Premises in accordance with plans and specifications submitted to 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 proceeds from the insurance required by this Lease. LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the Premises shall be commenced by LESSEE within thirty (30) days of any fire, flood, or damage event, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter.

8.2 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

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 condition or suitability of the Premises for LESSEE's intended use, and assumes no obligation to alter or improve the Premises. 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.

- 8.3 **Entry and Inspection.** CITY reserves and shall always have the right, but not the obligation, to enter the 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. During 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.
- 8.4 **Maintenance.** Throughout the Term, LESSEE shall maintain the Lease Premises in a decent, safe, healthy and sanitary condition reasonably satisfactory to CITY, including without limitation performing all regular maintenance, repair and replacements, and all maintenance, repair, and services to the structural components of improvements on the Premises. LESSEE shall, at its sole cost and expense, maintain the Premises with janitorial services, obtain and maintain trash receptacles and trash-removal service, and landscape services. CITY shall have no obligation or responsibility to remove debris, or to maintain, repair, or replace improvements on the Premises. LESSEE shall assume full responsibility and cost for the operation and maintenance of the Premises and all improvements located thereon. LESSEE shall, at LESSEE's sole cost, make or cause all repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with all laws.
- 8.5 **Utilities.** LESSEE shall order, obtain, and pay for all utilities, including installation and service charges, in connection with or for the operation of and activities on the Premises. All newly-installed utilities shall be subject to CITY's prior written approval

and may be required to be installed underground. Notwithstanding the foregoing, CITY, through Council District 4, will reimburse LESSEE for one-half (50%) of the invoiced amounts for electricity, water and sewer utility costs, not to exceed six hundred dollars (\$600.00) per month, upon receipt of said invoices by Council District 4. Reimbursement of said utilities by CITY or Council District 4 will terminate on December 31, 2019, and will not continue in the event of a holdover by LESSEE. LESSEE shall retain copies of all invoices for said electricity, water, and sewer services on file for a minimum of three (3) years after receipt thereof. LESSEE shall order, obtain and pay for telephone, cable, and/or internet services, and any other utilities, except as stated above, for the spaces it occupies, if so desired. LESSEE shall receive no reimbursements from LESSOR for any telephone, cable, and/or internet service costs incurred by LESSEE.

- 8.6 **Improvements/Alterations.** LESSEE shall not construct any improvements, structures, or installations on the Premises, or otherwise improve or alter the Premises without CITY's prior written approval. Additionally, once completed, LESSEE shall not make any structural or architectural design alterations to approved improvements, structures, or installations on the Premises without CITY's additional prior written approval. This provision shall not relieve LESSEE of any maintenance obligation under this Lease. CITY shall not be obligated by this Lease to make or assume any expense for any improvements or alterations to the Premises.
- 8.7 **Performance and Payment Bond.** CITY shall require LESSEE to deposit with CITY, prior to commencement of any construction at the Premises, a faithful performance bond in the amount of one hundred percent (100%) of the estimated design and construction costs 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 to be commenced by the 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. This requirement is not intended to be duplicative of a construction bond otherwise required of the LESSEE.

Prior to the commencement of any work on the Premises, the LESSEE shall deliver to CITY a payment bond (materials and labor bond) in an amount not less than one hundred percent (100%) of the total amount payable under the contract(s) for construction on the Premises to satisfy claims of material suppliers and of mechanics and laborers employed on the contract(s) for construction on the Premises. The bond shall be provided in compliance with California Civil Code Sections 9550-9566. The bond shall be executed by an admitted surety, consistent with California Code of Civil Procedure Section 995.670, that is authorized by the State of California Department of Insurance to transact surety insurance in the State. LESSEE shall maintain the bond in full force and effect until all improvements for the construction on the Premises are accepted by CITY and until all claims for materials and labor are paid, and must otherwise comply with the Government Code. Should the bond become insufficient, LESSEE shall renew, or cause the renewal of, the bond within ten (10) calendar days

after receiving notice from CITY.

- 8.8 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 CITY-owned property containing the Premises, 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.

- 8.9 Prevailing Wages. Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair, and maintenance work performed under this Lease is subject to State prevailing wage laws. For construction work performed under this Lease cumulatively exceeding \$25,000 and for alteration, demolition, repair, and maintenance work performed under this Lease cumulatively exceeding \$15,000, Lessee, its contractors and subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.

- 8.9.1 Compliance with Prevailing Wage Requirements. Pursuant to sections 1720 through 1861 of the California Labor Code, LESSEE, its contractors and subcontractors shall ensure that all workers who perform work under this Lease are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

- 8.9.1.1 Copies of such prevailing rate of per diem wages are on file at the City of San Diego's Equal Opportunity Contracting Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

LESSEE, its contractors and subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

- 8.9.1.2 The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Lease. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Lease in the same manner as if it had been published in said publication. If the

predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Lease, each successive predetermined wage rate shall apply to this Lease on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Lease, such wage rate shall apply to the balance of the Lease.

- 8.9.2 Penalties for Violations. LESSEE, its contractors and subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 – 1861.
- 8.9.3 Payroll Records. LESSEE, its contractors and subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. LESSEE shall require its contractors and subcontractors to also comply with section 1776. Bidder and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. LESSEE is responsible for ensuring its contractors and subcontractors submit certified payroll records to the CITY. LESSEE, its contractors and subcontractors shall also furnish the records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required in Labor Code section 1771.4.
- 8.9.4 Apprentices. LESSEE, its contractors and subcontractors shall comply with California Labor Code sections 1777.5, 1777.6, and 1777.7 concerning the employment and wages of apprentices. LESSEE shall be held responsible for their compliance as well as the compliance of their contractors and subcontractors with sections 1777.5, 1777.6, and 1777.7.
- 8.9.5 Working Hours. LESSEE, its contractors and subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (a) restrict working hours on public works contracts to eight (8) hours a day and forty (40) hours a week, unless all hours worked in excess of eight (8) hours per day are compensated at not less than one and one-half (1½) times the basic rate of pay; and (b) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than eight (8) hours per day and forty (40) hours per week in violation of California Labor Code sections 1810 through 1815.
- 8.9.6 Required Provisions for Subcontracts. LESSEE shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor or subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860, and 1861.

- 8.9.7 Labor Code Section 1861 Certification. LESSEE in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Contract, LESSEE certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
- 8.9.8 Labor Compliance Program. The CITY has its own Labor Compliance Program authorized in August 2011 by the DIR. The CITY will instruct LESSEE to withhold contract payments pursuant to the agreement between LESSEE and LESSEE's contractors or subcontractors when payroll records are delinquent or deemed inadequate by the CITY or other governmental entity, or it has been established after an investigation by the CITY or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego's Equal Opportunity Contracting Department at 619-236-6000.
- 8.9.9 Contractor and Subcontractor Registration Requirements. This project is subject to compliance monitoring and enforcement by the DIR. A bidder or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or enter into any contract for public work, as defined in this chapter of the Labor Code unless currently registered and qualified to perform the work pursuant to Section 1725.5. In accordance with Labor Code section 1771.1(a), "[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."
- 8.9.9.1 A bidder's inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive provided that any of the following apply: (a) the subcontractor is registered prior to bid opening; (b) within twenty-four (24) hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (c) the subcontractor is replaced by another registered contractor pursuant to Public Contract Code section 4107.
- 8.9.9.2 A contract entered into with any bidder or subcontractor in violation of Labor Code section 1771.1(a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, bidder, or

any subcontractor to comply with the requirements of section 1725.5 of this section.

- 8.9.9.3 By submitting a bid or proposal to the CITY for work pursuant to this Lease, LESSEE is certifying that he or she has verified that all contractors and subcontractors used on this public works project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and LESSEE shall provide proof of registration for themselves and all listed subcontractors to the CITY at the time of bid or proposal due date or upon request.
- 8.9.10 Stop Order. For LESSEE, its contractors or its subcontractor(s) engaging in the performance of any public work contract without having been registered in violation of Labor Code sections 1725.5 or 1771.1, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or unregistered subcontractor(s) on ALL public works until the unregistered contractor or unregistered subcontractor(s) is registered. Failure to observe a stop order is a misdemeanor.
- 8.9.11 List of all Subcontractors. The CITY may ask LESSEE for the most current list of contractors and subcontractors (regardless of tier), along with their DIR registration numbers, utilized pursuant to this Lease at any time during the Term, and LESSEE shall provide the list within ten (10) working days of the CITY's request. Additionally, LESSEE shall provide the CITY with a complete list of all subcontractors utilized pursuant to this Lease (regardless of tier), within ten working days of the completion of the work, along with their DIR registration numbers.
- 8.9.12 Exemptions for Small Projects. There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. LESSEE shall still comply with Labor Code sections 1720 et seq. The only recognized exemptions are listed below:
- 8.9.12.1 Registration. LESSEE will not be required to register with the DIR for small projects. (Labor Code section 1771.1).
- 8.9.12.2 Certified Payroll Records. The records required in Labor Code section 1776 shall be required to be kept and submitted to the City of San Diego, but will not be required to be submitted online with the DIR directly. LESSEE will need to keep those records for at least three years following the completion of the contract. (Labor Code section 1771.4).
- 8.9.12.3 List of all Subcontractors. LESSEE shall not be required to hire only registered subcontractors and is exempt from submitting the list of all subcontractors that is required above. (Labor Code section 1773.3).

8.10 Taxes. LESSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon the Premises or upon LESSEE's use and occupancy of the Premises, including without limitation licenses and permits, and including the land, any buildings, structures, machines, equipment, appliances or other improvements or fixtures whatsoever erected, installed, or maintained by LESSEE thereon or levied by reason of the business or other LESSEE activities related to the Premises. 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'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.

8.11 Ownership of Improvements; Removal of Improvements, and Personal Property.

8.11.1 Improvements. During the Term, LESSEE shall own all improvements, fixtures, structures, and installations or additions to the Premises constructed or installed on the Premises by LESSEE during the Term. 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 shall thereafter be 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.

8.11.2 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. Subject to applicable California law, 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.

8.11.3 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 qualified CITY staff.

8.11.4 **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.

8.12 **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, pertaining to Hazardous Substances. 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.

8.12.1 **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.

8.12.2 **Hazardous Substance.** "Hazardous Substance" 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 all types of petroleum-related substances and their chemical constituents.

8.12.3 **Remediation.** If LESSEE's occupancy, use, development, maintenance, or restoration of the Premises results in a release of a Hazardous Substance, 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.

8.12.4 **Removal.** If LESSEE or LESSEE's contractor or agent has received approval and permits to store, utilize, generate, or install, or otherwise bring Hazardous Substances 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, the expiration of the said approval or permit, or prior to the expiration or earlier termination of this Lease whichever occurs first. CITY reserves the right to conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the

Hazardous Substances and/or hazardous wastes or other containers, equipment, or devices from the Premises. Upon CITY's request, LESSEE shall deliver to CITY true copies of documentation demonstrating the legal removal and/or disposal of the Hazardous Substances and/or hazardous wastes, 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.

8.12.5 **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 Operations, including without limitation: (a) costs of environmental assessments; (b) costs of regulatory remediation oversight; (c) costs of remediation and removal; (d) any necessary CITY response costs; (e) all fines, penalties, or fees assessed by any regulatory agency; (f) damages for injury to natural resources, LESSEE's officers, employees, invitees, guests, agents, or contractors, or the public; and (g) all costs of any health assessments or health effect studies.

8.12.6 **Notice of Release.** If LESSEE knows or has reasonable cause to believe that a Hazardous Substance 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.

8.12.7 **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.

- 8.13 Asbestos Disclosure. Portions of the structural components of the improvements on the Premises may contain asbestos. If so, LESSEE acknowledges receipt of notice from CITY of the presence of such asbestos in accordance with Health and Safety Code Section 25915. LESSEE shall disclose to all appropriate parties the existence of asbestos on the Premises, as required by Health and Safety Code Section 25915. LESSEE shall protect, defend, indemnify, and hold CITY harmless for any loss or claim which may result from the existence of asbestos on the Premises.
- 8.14 Asbestos. If either CITY or LESSEE make improvements, alterations, or repairs to the Premises, the party causing such improvements, alterations, or repairs shall be responsible for any asbestos removal, management, or containment, and shall pay all costs associated therewith. Asbestos removal, management, or containment shall be conducted in accordance with all applicable laws and as approved by CITY. CITY reserves the right to inspect any improvements, alterations, or repairs to the improvements on the Premises made by LESSEE. CITY may, at its discretion, station supervisory personnel at the work site to ensure that LESSEE's obligations under this section are fulfilled. Each party shall coordinate with the other any improvement, alteration or repair, and except in the event of an emergency, the party responsible for such work shall provide written notice to the other party at least fifteen (15) days prior to commencing the work.

SECTION 9: GENERAL PROVISIONS

- 9.1 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:

The Neighborhood House Association
Attention: General Counsel
5660 Copley Drive
San Diego, California 92111

If to CITY:

THE CITY OF SAN DIEGO
Attention: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700, MS 51A
San Diego, California 92101

- 9.2 **Compliance with Law.** LESSEE shall at all times in the construction, maintenance, occupancy, restoration, improvement, and operation 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 CITY under the authority of any law, statute, ordinance, or regulation.
- 9.3 **Single Use Plastic Reduction Ordinance.** Unless an exception applies, LESSEE will comply with the Single Use Plastic Reduction Ordinance codified in San Diego Municipal Code sections 66.0901 through 66.0907. By signing this Lease, LESSEE certifies that it will comply with the requirements of the Single Use Plastic Reduction Ordinance throughout the Term.
- 9.4 **Trash and Refuse.** LESSEE shall, at its sole cost and expense, provide covered containers on the Premises to receive trash and refuse generated on the Premises. Refuse containers shall not be located outside the Premises. LESSEE shall ensure that refuse containers are emptied on a regular basis and shall prevent refuse containers from overflowing or creating unhealthful, unsightly, or unsanitary conditions. LESSEE shall ensure that the contents of all refuse containers on the Premises are disposed of at authorized landfills or other garbage reception areas, as provided under applicable law at the time of refuse collection.
- 9.5 **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 (CPRA). If LESSEE notifies CITY that it objects to the disclosure of certain information to a third party, LESSEE shall deliver to CITY with such notice specific and detailed legal grounds, including any applicable case law, upon which CITY may rely for withholding any information requested pursuant to the CPRA. If CITY withholds disclosure of information in reliance on such legal analysis provided by LESSEE, LESSEE shall protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents harmless for and from legal actions or challenges seeking to obtain the information from CITY and all costs incurred by CITY associated therewith, and shall defend, at LESSEE's sole expense, any action brought against CITY resulting from CITY's nondisclosure of the information. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election 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 all of the costs related thereto, including without limitation reasonable attorney fees and costs.
- 9.5.1 CITY shall not be liable or obligated for any burden or loss (financial or otherwise) incurred by LESSEE as a result of CITY's disclosure or non-disclosure of LESSEE's information requested pursuant to the CPRA.

9.5.1.1 LESSEE Waiver. LESSEE EXPRESSLY WAIVES ANY CLAIM AGAINST CITY AND ITS ELECTED OFFICIALS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FOR ANY BURDEN, EXPENSE, OR LOSS THAT LESSEE INCURS AS A RESULT OF CITY'S DISCLOSURE OR NON-DISCLOSURE OF LESSEE'S INFORMATION REQUESTED PURSUANT TO THE CPRA.

9.6 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, gender identity, gender expression, sexual orientation, disability, medical condition or place of birth. LESSEE shall cause the foregoing provisions, as well as the mandatory language required by San Diego Municipal Code Section 22.2704, 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.

9.7 Equal Benefits. LESSEE will comply with San Diego Municipal Code sections 22.4301-22.4308, as may be amended from time to time, which require lessees of CITY-owned property to offer the same employment benefits to employees with spouses and employees with registered domestic partners. By signing this Lease, LESSEE certifies that it will maintain such equal benefits throughout the term of this Lease. LESSEE's failure to maintain equal benefits will be a default of this Lease.

9.8 Equal Pay Ordinance. Unless an exception applies, LESSEE will comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. By signing this Lease, LESSEE certifies that it will comply with the requirements of the Equal Pay Ordinance throughout the Term.

9.8.1 LESSEE and Sublessee Requirement. The Equal Pay Ordinance applies to any sublessee of the Premises to the same extent as it would apply to LESSEE. LESSEE will require sublessees to certify compliance with the Equal Pay Ordinance in their subleases.

9.8.2 Notice Requirement. LESSEE must post a notice informing its employees of their rights under the Equal Pay Ordinance in their workplace or job site.

9.9 Accessibility Compliance. LESSEE shall, as applicable to the Premises and

LESSEE's possession, use, and occupancy of the Premises, comply with all accessibility requirements under California Government Code sections 11135-11139.5; Title 24 of the California Code of Regulations; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and all other applicable state and federal laws, rules, and regulations of competent governmental authority protecting the rights of individuals with disabilities. When a conflict exists between any federal or state accessibility requirements, LESSEE will follow the most restrictive accessibility requirement (i.e., that which provides the most access). LESSEE's compliance will include without limitation the following:

- 9.9.1 LESSEE shall not discriminate against qualified individuals 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.
- 9.9.2 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.
- 9.9.3 LESSEE shall include language in each sublease which indicates the sublessee's agreement to abide by the provisions of this section 9.10. LESSEE and each of its sublessees will be individually responsible for their own ADA employment programs.
- 9.9.4 LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- 9.9.5 Where required by law, all improvements, fixtures, structures, or installations on the Premises shall comply with municipal, state, and federal accessibility requirements by bringing up to code and making accessible any areas of the Premises which deny access to individuals with disabilities. All improvements and alterations will be at LESSEE's sole expense.
- 9.9.6 LESSEE's failure to comply with the accessibility requirements of this section 9.10 or submitting false information in response to these accessibility requirements, or both, will be a default of this Lease.
- 9.10 **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). Further, pursuant to California Civil Code section 1938(e), CITY is required to state: "A Certified Access Specialist (CAsp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law." Although state law does not require a CAsp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CAsp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CAsp inspection, the payment of the fee for the CAsp

inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

- 9.11 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:

9.11.1 Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition; and

9.11.2 Establish a drug-free awareness program to inform employees about all of the following:

9.11.2.1 The dangers of drug abuse in the workplace;

9.11.2.2 LESSEE's policy of maintaining a drug-free workplace;

9.11.2.3 Any available drug counseling, rehabilitation, and employee assistance programs; and

9.11.2.4 The penalties that may be imposed upon employees for drug abuse violations.

9.11.3 LESSEE shall include in each of its subleases and contracts related to this Lease language obligating each sublessee and contractor to comply with the provisions of this section to maintain a drug-free workplace. LESSEE, and each of its sublessees and contractors, shall be individually responsible for their own drug-free workplace program.

- 9.12 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.

- 9.13 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.

- 9.14 Water Quality – Best Management Practices. CITY and LESSEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities

on the Premises in a manner which aids in the protection of CITY's precious water resources. It is LESSEE's responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of San Diego Storm Water Management and Discharge Control Ordinance (San Diego Municipal Code sections 43.0301 to 43.0312).

Therefore, LESSEE will, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under the San Diego Municipal Code section 43.0307(a).

It is ultimately LESSEE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, LESSEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

- 9.15 **Nondiscrimination.** This Lease is made and accepted upon and subject to the covenant and condition, which will 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, gender identity, gender expression, disability, sexual orientation, marital status, national origin, ancestry, familial status or source of income in the possession, use, or occupancy of the Premises or in the selection, location, number, use, or occupancy of tenants, subtenants, or vendees in the Premises.
- 9.16 **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.
- 9.17 **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.
- 9.18 **Survival.** Any obligation which accrues under this Lease prior to its expiration or termination shall survive such expiration or termination.
- 9.19 **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.
- 9.20 **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.
- 9.21 **Controlling Law and Venue.** This Lease and all Lease documents shall be deemed to be made under, and shall be construed in accordance with and governed by the laws of

the State of California without regard to the conflicts or choice of law provisions thereof. The venue for any suit or proceeding concerning this Lease, including the interpretation or application of any of its terms or any related disputes, shall be in the County of San Diego, State of California or the District Court for the Southern District of California.

- 9.22 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 to 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.
- 9.23 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.
- 9.24 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.
- 9.25 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.
- 9.26 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.

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

THE NEIGHBORHOOD HOUSE ASSOCIATION, a
CALIFORNIA nonprofit public benefit corporation

BY: 

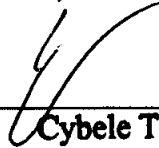
Name: Rudolph A. Johnson, III

Title: President and CEO

Date: 4/8/19

Dwight D. Smith
Reviewed
By 
NHA Legal Dept

THE CITY OF SAN DIEGO, a California municipal corporation

BY: 
Name: Cybele Thompson
Title: Director, Real Estate Assets
Date: 5/17/19

ENVIRONMENTAL ANALYSIS SECTION:

Categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

Date: 5/13/19 By: 
Name: Alyssa Murb
Title: Deputy Director, Planning Dept

APPROVED AS TO FORM:

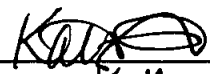
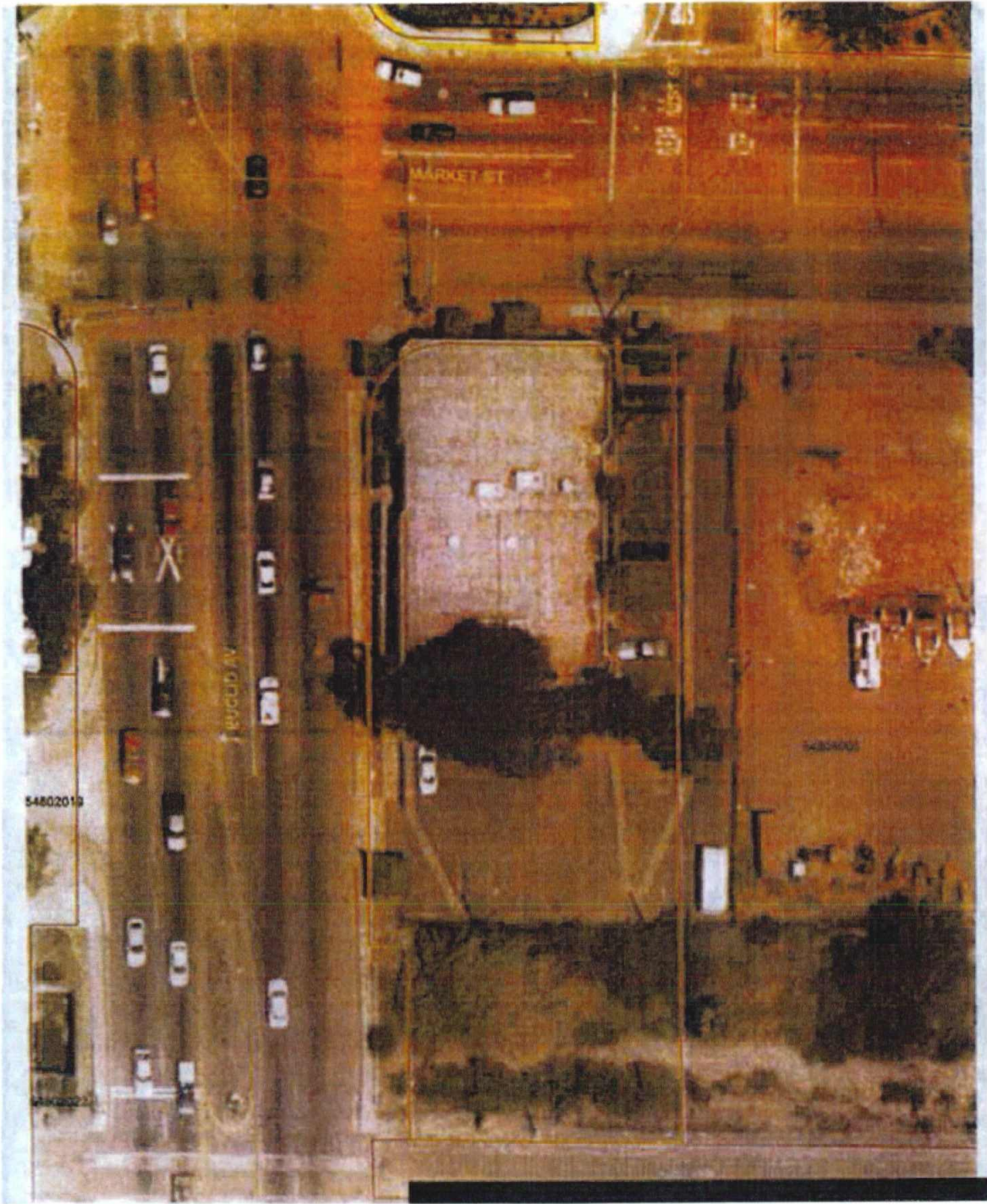
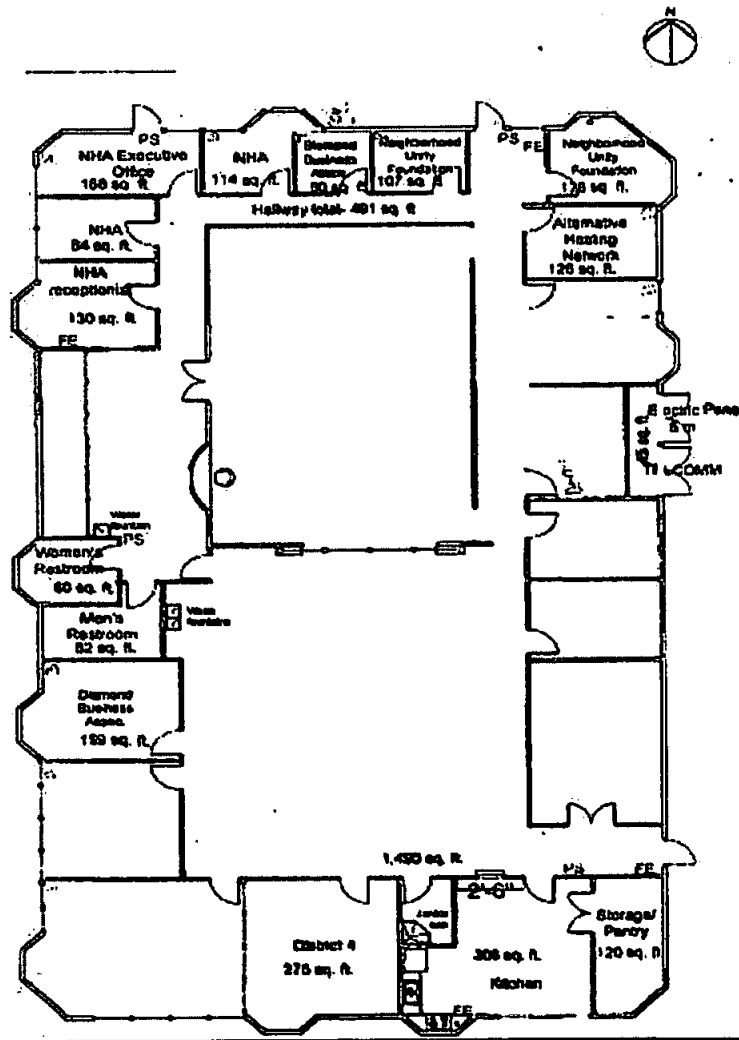
Date: 5/21/19 By: 
Name: Kathy J. Steinman
Title: Deputy City Attorney

Exhibit A: DESCRIPTION OF PREMISES
Exhibit B: RULES AND REGULATIONS
Exhibit C: HOURS OF OPERATION
Exhibit D: RATES & CHARGES
Exhibit E: SUBLESSEES

EXHIBIT A: DESCRIPTION OF PREMISES





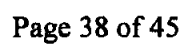


EXHIBIT B: RULES AND REGULATIONS

1. The sidewalks, entrances, halls, corridors of the Building and Premises shall not be obstructed or used as a waiting or lounging place by any tenant or any tenant's agent, servant, employee, invitee, licensee, or visitor.
2. In case of invasion, riot, public excitement, or other commotion, CITY may prevent access to the Building during the continuance of same. CITY shall in no case be liable for damages for the admission or exclusion of any person to or from the Building. CITY may exclude or expel from the Building any person who, in CITY's judgment, is intoxicated or under the influence of liquor or drugs, or who is in violation of any of these Rules and Regulations.
3. CITY may require payment of a reasonable charge for any additional keys requested by LESSEE. LESSEE shall not have any keys made for the Premises, alter any lock, or install new or additional locks on any door without CITY's prior written consent in each instance. LESSEE shall provide CITY with a key for any such lock or bolt. Upon the expiration or termination of its tenancy, LESSEE shall deliver to CITY all keys in its possession for all locks in the Building. LESSEE shall pay to CITY immediately upon demand all costs related to LESSEE's loss of any Building or Premises key or access card.
4. LESSEE shall permit CITY's employees (or CITY's agents' employees) to maintain the Building.
5. CITY may prescribe the date, time, method, and conditions that any personal property, equipment, trade fixtures, merchandise, and other similar items shall be delivered to or removed from the Building. No iron safe or other heavy or bulky object shall be delivered to or removed from the Building, except by experienced safe men, movers, or riggers approved in writing in advance by CITY. LESSEE shall pay CITY immediately upon demand for all damage done to the Building by the delivery or removal of such items, or by reason of their presence in the Building. Unless equipped with rubber tires, no hand trucks shall be used in any space, or in the halls of the Building, either by LESSEE, jobbers, or others in the delivery or receipt of merchandise. LESSEE's initial move-in and subsequent deliveries of bulky items, such as furniture, safes, and similar items shall be subject to such scheduling as CITY, in its reasonable discretion, shall deem appropriate. Unless otherwise agreed to in writing by CITY, deliveries during normal office hours shall be limited to normal office supplies and other small items. No deliveries shall be made which unreasonably impede or interfere with other tenants or the operation of the Building.
6. LESSEE shall not cover or obstruct the walls, partitions, skylights, windows, doors, or transoms that reflect or admit light into passageways or into any other part of the Building.
7. The restrooms, toilets, urinals, wash bowls, drains, and water apparatus shall not be used for any purpose other than that for which they were constructed or installed, and no sweepings, rubbish, chemicals, or other unsuitable substances shall be thrown or placed therein.
8. No sign, name, placard, advertisement, or notice visible from the exterior of any Premises, shall be inscribed, painted or affixed by LESSEE on any part of the Building without CITY's

prior written consent in each instance. All signs or letterings on doors or otherwise must be approved by CITY and shall be inscribed, painted or affixed by a person approved by CITY at LESSEE's sole cost and expense.

9. No signaling, telegraphic or telephonic instruments or devices, burglar alarm systems or similar service, or other wire, instruments or devices, shall be installed in or on the Premises without CITY's prior written consent in each instance. Such installations and the boring or cutting for wires shall be made at LESSEE's sole cost and expense and under CITY's direction. CITY may require:
 - (a) the installation and use of such electrical protecting devices that prevent the transmission of excessive currents of electricity into or through the Building;
 - (b) the changing of wires and of their installation and arrangement underground or otherwise as CITY may direct; and
 - (c) compliance on the part of all using or seeking access to such wires with such rules as CITY may establish relating thereto. All such wires used by LESSEE must be clearly tagged at the distribution boards and junction boxes and elsewhere in the Building, with the number of the Premises to which said wires lead, the purpose for which said wires are used, and the name of the provider operating same.
10. LESSEE, its agents, servants, and employees, shall not:
 - (a) go on the roof of the Building;
 - (b) use any additional method of heating or air conditioning the Premises;
 - (c) sweep or throw any dirt or other substance from the Premises into any of the halls, corridors, elevators, or stairways of the Building;
 - (d) bring in or keep in or about the Premises any vehicles or animals of any kind, except for service animals, without CITY's prior written consent;
 - (e) install any radio or television antennae or any other device or item on the roof, exterior walls, windows, or window sills of the Building;
 - (e) place objects against glass partitions; doors, or windows which would be unsightly from the interior or exterior of the Building;
 - (f) use the Premises for any manufacturing, storage, or sale of merchandise or property of any kind;
 - (g) cause or permit unusual or objectionable odor to be produced or permeate from the Premises, including without limitation, duplicating or printing equipment fumes;
 - (h) install or operate any vending machines in the Premises without CITY's prior written consent in each instance; or

- (i) allow the operation of any musical or sound producing instrument or device which may be heard outside the Premises or Building, or which may emit electrical waves which will impair radio or television broadcast or reception from or into the Building.
- 11. No canvassing, soliciting, distribution of hand bills or other written material, or peddling shall be permitted in the Building, and LESSEE shall cooperate with CITY in preventing and eliminating same.
- 12. LESSEE shall promptly notify CITY of all damage to or defects in heating, ventilating and air conditioning equipment, plumbing, electrical facilities, or any part or appurtenance of the Building.
- 13. If the Premises becomes infested with pests or vermin, LESSEE, at its sole cost and expense, shall cause such pests or vermin to be exterminated from time to time to the CITY's reasonable satisfaction, and shall employ such exterminators as shall be approved by CITY.
- 14. No curtains, blinds, shades, screens, awnings, or other coverings or projections of any nature shall be attached to or hung in, or used in connection with any door, window or wall of the Premises or of the Building without CITY's prior written consent in each instance.
- 15. LESSEE shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. CITY may prescribe the weight, size, and position of all equipment, materials, furniture, or other property brought into the building. Heavy objects shall stand on such platform as determined by CITY to be necessary to properly distribute the weight, which platform shall be provided at LESSEE's sole cost and expense. Business machines and mechanical equipment belonging to LESSEE which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be reasonably objectionable to CITY or to any tenant in the Building shall be placed and maintained by LESSEE, at LESSEE's sole expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. CITY shall not be responsible for the loss or damage of any such equipment or other property for any cause. LESSEE shall pay CITY immediately, upon demand, all costs of damage done to the Building by maintaining or moving such equipment or other property.
- 16. LESSEE shall cooperate with CITY to assure the most efficient operation of the Building's heating, ventilating, and air conditioning system.
- 17. LESSEE shall be responsible for the acts and omissions of its associates, employees, agents, and any other person entering the Building or the Premises under LESSEE's express or implied invitation. LESSEE shall cooperate with CITY to assure compliance by all such parties with these Rules and Regulations.
- 18. CITY may make reasonable amendments, modifications, and additions to these Rules and Regulations, and make additional reasonable rules and regulations, as in CITY's sole judgment may be needed from time to time for the safety, care, cleanliness, and

preservation or good order of the Building.

19. A request by LESSEE will be attended to only upon written application.
20. CITY may waive any one or more of these Rules and Regulations for the benefit of any tenant. No such waiver by CITY shall be construed as a waiver of such Rules and Regulations in favor of LESSEE or any other tenant, or prevent CITY from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.
21. LESSEE assumes all responsibility for protecting the Premises from theft, robbery, and pilferage, which includes keeping doors locked and other means of entry to the Premises secured.

EXHIBIT C: HOURS OF OPERATION

Tubman Chavez Center will operate Monday through Friday from 8 am to 5 pm.

The holidays that will be observed will include:

Cesar Chavez Day

Independence Day

Memorial Day

Labor Day

Veteran's Day

Thanksgiving Day and the Day after Thanksgiving

Christmas Day

New Year's Eve and New Year's Day

EXHIBIT D: RATES & CHARGES

Full Community Room Without use of Kitchen-\$150/hour & \$600 deposit
Full Community Room With use of Kitchen-\$150/hour & \$800 deposit
Partial Community Room Without use of Kitchen-\$100/hour & \$400 deposit
Partial Community Room With use of Kitchen-\$100/hour & \$600 deposit
Conference Room Without use of Kitchen-\$50/hour & \$200 deposit
Conference Room With use of Kitchen-\$50/hour &--\$400 deposit

EXHIBIT E: Sublessees

Alternative Healing Network

Diamond Business Association

Minority Veterans Coalition of CA Southern Region

Neighborhood Unity Foundation

San Diego Council District 4