



Real Estate Assets Department

SDC003

Mental Health Systems Inc.

STREET-933 AXX

Document Type

LEGAL DOCUMENTS



Sub - Category

AGREEMENTS



16

CITY OF SAN DIEGO
PUBLIC PURPOSE LICENSE

THIS CITY OF SAN DIEGO PUBLIC PURPOSE LICENSE ("License") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and MENTAL HEALTH SYSTEMS, INC., a California nonprofit corporation ("LICENSEE"), to be retroactively effective July 1, 2020 (the "Effective Date") when signed by the parties and approved by the San Diego City Attorney.

RECITALS

- A. In July 2020, CITY entered into a Memorandum of Understanding with the San Diego Housing Commission ("Commission") to transfer the administration and oversight of the Transitional Storage Center Program to the Commission to provide for the continued operation of the Transitional Storage Centers in the City of San Diego.
- B. The Commission selected LICENSEE to operate Storage Connect Center 2 ("SCC2"). LICENSEE has been operating the Transitional Storage Center Program under the San Diego Housing Commission Agreement for Transitional Storage Center with Mental Health Systems, Inc. ("Operating Agreement"), effective July 1, 2021, to serve individuals and families experiencing homelessness. SCC2 is located on CITY owned property at the Lea Street Terminus, approximately 5453 Lea Street, San Diego, California 92105 ("Property").
- C. CITY and LICENSEE desire to continue to provide a safe and secure storage space for individuals and families experiencing homelessness through operation of the Transitional Storage Center Program.
- D. LICENSEE's use of the License Area (defined below) is for a public purpose of operating the Transitional Storage Center Program.
- E. The parties desire for this License to apply retroactively to July 1, 2020.

NOW THEREFORE, based upon the foregoing Recitals, which are incorporated into this License by this reference, and for valuable consideration, the sufficiency of which is acknowledged, the parties agree as follows:

- 1. License Area. The License Area includes a portion of the CITY-owned real property located at the Lea Street Terminus, approximately 5453 Lea Street, San Diego, California 92105 (the "License Area"). The License Area is more particularly described on **Exhibit A: License Area**, attached hereto and by this reference incorporated herein.
- 2. Use of License Area. LICENSEE may use the License Area for the SCC2 ("Allowed Uses") in accordance with the Operating Agreement. The SCC2 shall operate Monday

through Friday from 8:00 a.m. through 5:00 p.m., Saturday and Sunday from 8:00 a.m. through 11:00 a.m. The SCC2 will provide a secure, protected space for individuals experiencing homelessness to store their personal belongings on an ongoing basis and have access to their belongings during hours of operation. Each client of the SCC2 will have access to one storage container free of charge.

3. Right to Enter. Subject to the terms and conditions of this License, CITY hereby grants permission to LICENSEE to enter upon the License Area solely for the Allowed Use (as defined above).
4. Revocable License. This License is not a lease. It is a license to access and use the License Area for the purposes stated herein and may be revoked at will by CITY pursuant to requirements of Paragraph 40 in its sole discretion. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by LICENSEE as a result of such revocation or the termination of this License. LICENSEE expressly waives any claim for expense or loss which LICENSEE might incur as a result of CITY's revocation or termination of this License. CITY may at all times enter upon the License Area.
5. Term. The term of this License ("Term") shall be three (3) years, commencing on July 1, 2020, and expiring on June 30, 2023, subject to earlier termination by either party as set forth in Paragraph 40.
6. License Fee. The License fee is hereby waived because the LICENSEE's Use provides a public benefit.
7. No Holdover. If LICENSEE continues to use the License Area after the expiration or earlier termination of this License, such use shall neither constitute a renewal or extension of this License, nor give LICENSEE any rights in or to the License Area. The occupancy of the License Area after the expiration of the License shall constitute a month to month at will revocable license, and all other terms and conditions of this License shall remain in full force and effect, except that CITY may demand and receive from LICENSEE rent for the License Area calculated on a per diem basis at the then market rental rate to be determined as of the date of the expiration or termination of this License by qualified City staff, by the CITY in its sole discretion. CITY'S acceptance of such rent shall neither constitute a renewal or extension of the license, nor give LICENSEE any rights in or to the License Area.
8. Rent. The rent is hereby waived because the LICENSEE's use provides a public benefit.
9. Maintenance of the License Area. LICENSEE shall, at LICENSEE's sole cost and expense, and to CITY's satisfaction, maintain the License Area in good order and repair, and in a safe, healthy and sanitary condition at all times during the Term, subject to normal and ordinary wear and tear resulting from LICENSEE's authorized use of the License Area. CITY and LICENSEE will work together in good faith to resolve requests for improvements to the License Area, without any obligation for the CITY to make any improvements. LICENSEE shall keep the License Area free and clear of rubbish, debris and litter at all times to CITY's satisfaction.

10. CITY's Right to Enter and Inspect. CITY reserves the right to enter upon the License Area at all times, for any reason whatsoever and to perform any work or inspections on the License Area and to inspect the License Area as CITY deems necessary.
11. Superior Interests. This License is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights of way pertaining to the Property, whether or not of record. LICENSEE shall obtain all licenses, permits, and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the License Area for the Allowed Use, relative to any such superior interest. If LICENSEE'S use of the License Area is or becomes inconsistent or incompatible with a preexisting, superior interest, LICENSEE 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.
12. Restore and Vacate. Prior to the expiration or early termination of this License, LICENSEE shall restore the License Area to its condition prior to the LICENSEE's use of the License Area for the Allowed Use, normal wear and tear excepted, and upon such expiration or earlier termination immediately vacate the License Area.
13. CITY's Consent, Discretion. CITY's consent or approval under this License shall mean the written consent or approval of the Mayor of San Diego or his designee ("Mayor"), unless otherwise required by law or expressly provided herein, and shall be made in the Mayor's discretion, subject to all applicable laws, rules, regulations and directives of competent governmental authorities.
14. Unauthorized Activities. LICENSEE shall not engage in any activity on the License Area other than the Allowed Use. Any use of the License Area that was not previously approved in writing by the CITY or otherwise authorized by this License, shall subject LICENSEE to being liable for all costs and damages associated with inspecting, remediating, and/or taking other actions to ensure that the Property and the License Area shall be returned to its condition on the Effective Date, as well as being a basis for immediate termination of this License, all of which shall be subject to the sole discretion of the CITY.
15. Improvements/Alterations. LICENSEE shall not construct any improvements, structures, or installations on the License Area, and shall not alter the License Area without the express written consent of CITY. CITY shall not be obligated to make any repair or assume any expense for any improvements or alterations to the License Area.
16. Insurance. LICENSEE shall not enter or come onto the Property, nor begin any use of the Property under this License until it has done all of the following: (a) obtained, and provided to the CITY, insurance certificates reflecting evidence of all insurance required below, however, the CITY reserves the right to request, and the LICENSEE 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. LICENSEE's liabilities, including but not limited to LICENSEE's indemnity obligations, under this License, 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 License and LICENSEE's failure to maintain or renew coverage or to provide evidence of renewal during the term of this License may be treated as a material breach of contract by the CITY. The LICENSEE shall not modify any policy or endorsement thereto which increases the CITY's exposure to loss for the duration of this License.

16.1 Types of Insurance. At all times during the term of this License, the LICENSEE shall maintain insurance coverage as follows:

- a. Commercial General Liability (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.
- b. Commercial Automobile Liability. For all of the LICENSEE's automobiles including owned, hired and non-owned automobiles, the LICENSEE 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).
- c. Causes of Loss-Special Form Property Insurance. LICENSEE shall obtain and maintain, at its sole cost, Causes of Loss-Special Form Property Insurance on all of LICENSEE's insurable property related to the Allowed Uses of the Premises under this License or the Premises in an amount to cover 100 percent (100%) of the replacement cost. LICENSEE shall deliver a certificate of such insurance to the CITY's Department of Real Estate and Airport Management.
- d. Workers' Compensation. For all of the LICENSEE's employees who are subject to this License and to the extent required by the applicable state or federal law, the LICENSEE shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employer's liability coverage, and the LICENSEE 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.

16.1.2 Deductibles. All deductibles on any policy shall be the responsibility of the LICENSEE and shall be disclosed to the CITY at the time the evidence of insurance is provided.

- 16.1.3 Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by this License or in the Special General Conditions 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. The CITY will accept insurance provided by non-admitted, "surplus lines" carriers on 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.
- 16.1.4 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 LICENSEE thirty (30) days prior written notice. LICENSEE 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.
- 16.1.5 Accident Reports. LICENSEE shall immediately report to CITY any accident causing property damage or injury to persons on the Property or otherwise related to the Allowed Uses. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
- 16.1.6 Required Endorsements. The following endorsements to the policies of insurance are required to be provided to the CITY before entering onto the Property or initiating any of the Allowed Uses under this License.

Commercial General Liability Insurance Endorsements.

- i. 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 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 you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you
- ii. 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 Contractor's insurance and shall not contribute to it.

- iii. Severability of Interest. The policy or policies must be endorsed to provide that the LICENSEE'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.

Automobile Liability Insurance Endorsements.

- iv. 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 insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased hired or borrowed by or on behalf of the LICENSEE.
 - v. Severability of Interest. The policy or policies must be endorsed to provide that LICENSEE'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.
 - vi. 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.
17. Indemnification & Hold Harmless. LICENSEE shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LICENSEE's officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this License or LICENSEE's occupancy, use, development, maintenance, or restoration of the License Area, including damages arising out of release of hazardous materials, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that LICENSEE's duty to indemnify and hold harmless shall not include any established liability arising from the sole negligence or willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. 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, LICENSEE shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.
18. No Discrimination. LICENSEE shall not discriminate in any manner against any person

or persons on account of race, color, religion, gender, gender identity, gender expression, sexual orientation, medical status, national origin, age, marital status, or physical disability in LICENSEE'S use of the License Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

19. Local Business and Employment. LICENSEE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. LICENSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this License from local residents and firms as opportunities occur. LICENSEE agrees to hire qualified local residents and firms whenever feasible.
20. Licensee's Risk. LICENSEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with the Allowed Use and any damages to the improvements on, under, or in the vicinity of the License Area resulting directly or indirectly thereby.
21. Nuisance and Noise Disturbances. LICENSEE shall not use the License Area in any manner which, in the opinion of the CITY creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area or that violates the CITY's Noise Abatement and Control Ordinance (Chapter 5, Article 9.5 of the San Diego Municipal Code, as amended from time to time).
22. No Assignment. LICENSEE shall not assign any rights granted by this License nor any interest therein without the prior written approval of the CITY. Approval of any such proposed assignment may be withheld at the sole and absolute discretion of the CITY. Any assignment by operation of law shall automatically terminate this License.
23. Signs. LICENSEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising in the License Area without CITY's prior written consent. If any such unauthorized item is found on the License Area, LICENSEE 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 LICENSEE's cost.
24. Security and Safety of License Area. LICENSEE shall be responsible for the cleanup and securing of the License Area. LICENSEE shall comply with all applicable laws, rules, regulations and directives of competent governmental authorities, at LICENSEE's sole cost and expense, with respect to maintaining the License Area in a safe and secure manner during the Term. CITY has no obligation to provide oversight of the License Use or staffing or resources for the maintenance of the License Area during the Term.
25. Encumbrances. LICENSEE shall keep the License Area free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with this License or the Allowed Use. LICENSEE shall protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and

from and against any claim, liability, cost or expense, including without limitation reasonable attorney fees and costs, relating to or charged against the License Area, including without limitation LICENSEE'S failure or the failure of any contractor or subcontractor hired by LICENSEE to pay any person or persons referred to in Section 3181 of the California Civil Code or other applicable sections thereof.

26. Compliance with Laws. LICENSEE shall, at its sole cost and expense, comply with all the requirements of all rules, regulations, ordinances, laws and direction of governing authorities now in effect or which may hereafter be in effect, which pertain to the Allowed Use.
27. Hazardous Materials. LICENSEE shall not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance or otherwise regulated substances in, on, under or from the License Area. LICENSEE and LICENSEE's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the License Area without CITY's prior written consent. LICENSEE shall, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.
- 27.1 Release. For all purposes of this License, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
- 27.2 Hazardous Substance. For all purposes of this License, "Hazardous Substance" shall mean any substance 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.
- 27.3 Remediation. If LICENSEE's occupancy, use, development, maintenance, or restoration of the License Area results in a release of a Hazardous Substance, LICENSEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the License Area, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 27.4 Removal. If LICENSEE or LICENSEE's agent has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the License Area, LICENSEE or LICENSEE's agent shall remove all Hazardous Substances in any type of container, equipment or device from the License Area immediately upon or prior to the expiration or earlier termination of this License. CITY reserves the right to conduct inspections of the License Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous

materials, wastes or other containers, equipment or devices from the License Area. LICENSEE 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.

- 27.5 Indemnity. LICENSEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LICENSEE's occupancy, use, development, maintenance, or restoration of the License Area, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, LICENSEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 27.6 Notice of Release. If LICENSEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the License Area, LICENSEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. LICENSEE 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 LICENSEE 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, LICENSEE shall take all actions necessary to alleviate the danger. LICENSEE 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 License Area.
- 27.7 Environmental Assessment. Upon reasonable cause to believe that LICENSEE's occupancy, use, development, maintenance, or restoration of the License Area resulted in any Hazardous Substance being released on, from or beneath the License Area, 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 LICENSEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by LICENSEE's occupancy, use, development, maintenance, or restoration of the License Area, 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 License Area, 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. LICENSEE shall cause, or if LICENSEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the

remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the License Area and compliance with environmental laws and regulations are achieved, and LICENSEE shall pay all costs and expenses therefore.

28. Repair. LICENSEE shall be responsible, at its sole cost and expense, for the repair or replacement of any damage to the License Area caused directly or indirectly by LICENSEE's use of the License Area, including items that CITY staff has determined to be damaged. LICENSEE shall comply with the direction of CITY's Department of Real Estate and Airport Management with respect to the method of any repairs or replacement arising under this License.
29. Water Quality – Best Management Practices. CITY and LICENSEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities on the License Area in a manner which aids in the protection of CITY's precious water resources. It is LICENSEE'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, LICENSEE 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 LICENSEE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, LICENSEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

30. Grading and Barriers. LICENSEE shall not change the surface grade or construct any permanent barriers within the License Area or on the Property. Any violations shall be corrected by LICENSEE at its sole expense to the satisfaction of the CITY and are grounds, at the CITY's option, for immediate termination of this License.
31. Waiver. CITY's failure to insist upon the strict performance of any of LICENSEE's obligations under this License, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. The property constituting the License Area is CITY-owned and held in trust for the benefit of CITY's citizens. CITY's failure to discover a breach of any obligation of this License or take prompt action to require the cure of any such breach shall not result in an equitable estoppel, but CITY may at any and all times require the cure of any such breach.
32. CITY Employee Participation Policy. CITY may unilaterally and immediately terminate this License if LICENSEE 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 City Council related to the selection of LICENSEE for this Lease. It is not the intent of this policy that these provisions apply to members of the City Council.

33. Local Business and Employment. LICENSEE acknowledges that CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. LICENSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this License from local residents and firms as opportunities occur. LICENSEE agrees to hire qualified local residents and firms whenever feasible.
34. Vehicular Traffic. All vehicular traffic shall be confined to concrete, asphalt, or decomposed aggregate surfaces unless otherwise approved in writing by CITY Contact prior to the commencement of the License Use.
35. Charter Section 225. Pursuant to City Charter Section 225, LICENSEE shall disclose the names and identities of all natural persons, if any, who will receive more than 10% of the contracted amount or who own more than 10% of the entity contracting with the City.
36. Counterparts. This License may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument.
37. Incorporation of Recitals and Exhibits. All recitals and exhibits referenced in this License are incorporated into this License by this reference. In the event of a conflict between this License and any exhibit to this License, the terms, conditions, and obligations of this License shall control.
38. Acceptance of License Area. By signing this License, LICENSEE represents and warrants that it has independently inspected the License Area and made all tests, investigations and observations necessary to satisfy itself as to the condition of the License Area. LICENSEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the License Area or its suitability for the Allowed Uses, and that LICENSEE is relying solely on its own and independent inspections, tests, investigations and observations of the License Area in entering into this License. LICENSEE accepts the License Area in its current condition. LICENSEE acknowledges and agrees that unless set forth in this License, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the License Area at any time either prior to, on or after the Effective Date. LICENSEE shall not hold CITY responsible for any defects in the License Area. LICENSEE accepts and assumes all risk of harm to all persons and property from any defects in the License Area or any improvements thereon, and shall be solely responsible therefore.
39. No Affiliation. Nothing contained in this License shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and LICENSEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of LICENSEE or any other party or entity.
40. Termination. CITY may terminate this License for any reason upon thirty (30) days prior written notice delivered to LICENSEE by CITY; however, in the event of a default or emergency during which the CITY in its sole discretion determines it necessary to

terminate the License, termination may occur upon 24 hours prior written notice. LICENSEE may terminate this License for any reason upon thirty (30) days prior written notice delivered to CITY by LICENSEE.

41. Disabled Access Compliance. LICENSEE will, as applicable to the License Area and LICENSEE's possession, use, and occupancy of the License Area, 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, LICENSEE will follow the most restrictive accessibility requirement (i.e., that which provides the most access). LICENSEE's compliance will include without limitation the following:
 - 41.1 LICENSEE will 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.
 - 41.2 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 LICENSEE.
 - 41.3 LICENSEE will include language in each sublicense which indicates the sublicensee's agreement to abide by the provisions of this section.
 - 41.4 LICENSEE and each of its sublicensees will be individually responsible for their own ADA employment programs.
 - 41.5 LICENSEE will post a statement addressing the requirements of the ADA in a prominent place at the work site.
 - 41.6 Where required by law, all improvements, fixtures, structures, or installations on the License Area will comply with municipal, state, and federal accessibility requirements by bringing up to code and making accessible any areas of the License Area which deny access to individuals with disabilities. All improvements and alterations will be at LICENSEE's sole expense.
 - 41.7 LICENSEE's failure to comply with the accessibility requirements of this section or submitting false information in response to these accessibility requirements, or both, will be a default of this License.
42. Taxes. LICENSEE shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LICENSEE or the License Area, including the land and any buildings, structures, machinery, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed or maintained by LICENSEE, or levied by reason of the business of other LICENSEE activities related to the License Area, including without

limitation licensing and permitting costs and fees. LICENSEE recognizes and agrees that this License may create a possessory interest subject to property taxation, and that LICENSEE may be subject to the payment of taxes levied on that interest. LICENSEE shall pay all such possessory interest taxes. LICENSEE's payment of such taxes, fees, and assessments shall not reduce any payment due CITY. CITY shall not assume any responsibility for any taxes whatsoever resulting from LICENSEE's possession, use, or occupancy of the License Area.

43. Equal Benefits. LICENSEE shall comply with San Diego Municipal Code sections 22.4301-22.4308, which require applicable parties to offer the same employment benefits to employees with spouses and employees with domestic partners. LICENSEE shall certify that it will maintain such equal benefits throughout the term of this License. LICENSEE's failure to maintain equal benefits shall be a material breach of this License.
44. Equal Pay Ordinance. Unless an exception applies, Licensee shall comply with the Equal Pay Ordinance codified in SDMC sections 22.4801 through 22.4809. Licensee shall certify in writing that it will comply with the requirements of the Equal Pay Ordinance. The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of Licensee to the same extent as it would apply to Licensee. Licensee shall require all its subcontractors to certify compliance with the Equal Pay Ordinance in written subcontracts.
45. Cumulative Remedies. CITY's rights and remedies under this License are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
46. Survival. Any obligation which accrues under this License prior to its expiration or termination shall survive such expiration or termination.
47. Entire Agreement. This License constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between them and pertaining to this License and the Allowed Use. Any modification, alteration, or amendment of this License shall be in writing and signed by all the parties hereto.
48. Notices. Any notice required or permitted to be given under this License shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to CITY or LICENSEE, respectively, as follows:

THE CITY OF SAN DIEGO
Attention: Department Director
Homelessness Strategies and Solutions Department
202 C Street, 9th Floor, MS 9A
San Diego, CA 92101

With a copy to:
Attention: Department Director
Department of Real Estate and Airport Management

1200 Third Ave, Suite 1700
San Diego, CA 92101

MENTAL HEALTH SYSTEMS, INC.
James C. Callaghan Jr.
9465 Farnham Street
San Diego, California 92123

49. Governmental Approvals. By entering into this License, neither CITY nor CITY's City Council is obligating itself to LICENSEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to LICENSEE's occupancy, use, development, maintenance or restoration of the License Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.

[Remainder of page intentionally left blank.]

50. Authority to Contract. Each individual executing this License on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this License 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 License is binding upon such person or entity in accordance with its terms. Each person executing this License on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

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

THE CITY OF SAN DIEGO,
a California municipal corporation

MENTAL HEALTH SYSTEMS, INC.,
a California nonprofit organization

By: Penny Maus
Penny Maus (Sep 12, 2022 13:59 PDT)
Penny Maus
Director, Department of Real Estate
and Airport Management

By: James C. Callaghan Jr.
James C. Callaghan Jr. (Sep 12, 2022 13:35 PDT)
James C. Callaghan Jr.
CEO and President

Approved as to form this 13th day
of September, 2022.

MARA W. ELLIOTT, City Attorney

By: Jose A. Garcia
Name: Jose A. Garcia
Title: Deputy City Attorney

Exhibit A: License Area

Lea Street Terminus - Approximately 5453 Lea Street, San Diego, California 92105

