

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 ALPHA PROJECT FOR THE HOMELESS, a California nonprofit public benefit corporation ("LICENSEE"), to be effective when signed by the parties and approved by the San Diego City Attorney (the "Effective Date").

RECITALS

- A. CITY is the owner of that certain property improved with an approximately 24,000 square foot building with 42 units located at 1788 Palm Avenue, San Diego, California, 92154, which has been recently renovated.
- B. On February 14, 2020, the San Diego County Public Health Officer issued a Declaration of Local Health Emergency, pursuant to California Health and Safety Code section 101080, as a result of the international COVID-19 pandemic. Additionally, on February 14, 2020, pursuant to California Government Code sections 8630-8634 (Emergency Services Act), the Chief Administrative Officer, serving as the County of San Diego Director of Emergency Services and as the Coordinator of the Unified San Diego County Emergency Services Organization, issued a Proclamation of Local Emergency regarding COVID-19. On February 19, 2020, the San Diego County Board of Supervisors ratified the Declaration of Local Health Emergency and Proclamation of Local Emergency. On March 12, 2020, the City of San Diego proclaimed that a local emergency currently exists, and has existed since February 14, 2020, due to the continued threat of spread of the COVID 0-19 virus. The Emergency Services Act allows the County and City to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans, or agreements therefor.
- C. On March 25, 2019, the City of San Diego adopted Resolution R-312284 declaring a shelter crisis. Under California Government Code section 8698.4, the CITY has the authority to suspend the Conditional Use Permit ("CUP") requirements applicable to the Premises (defined in Section 1 below) if strict compliance would prevent, hinder, or delay mitigation of the effects of the shelter crisis. The CITY has a significant number of individuals and families experiencing homelessness and the CITY recognizes the substantially increased risk of infection that this population faces. The CITY has determined that strict compliance with the CUP requirements applicable to the Premises would prevent, hinder, or delay mitigation of the effects of the shelter crisis and, further, the current public health crisis
- D. CITY and LICENSEE desire to provide a safe and secure environment in order to offer temporary transitional shelter and services to families experiencing homelessness in San Diego County.

- E. CITY and LICENSEE desire to enter into a short-term license to use the Premises to allow LICENSEE to provide temporary shelter for those experiencing homelessness.

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. **Right to Enter.** Subject to the terms and conditions of this License, CITY hereby grants permission to LICENSEE to enter upon that certain property improved with an approximately 24,000 square foot building, which includes 42 rooms, located at 1788 Palm Avenue, San Diego, CA, 92154 ("Premises"), as further depicted in **Exhibit A: Legal Description of Premises, Exhibit B: Parcel Map of Premises, and Exhibit C: Aerial View of Premises** solely for the Allowed Uses (as defined below).
2. **Revocable License.** This License is not a lease. It is a license to access and use the Premises for the purposes stated herein, and may be revoked at will by CITY pursuant to requirements of Paragraph 61, 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 Premises.
3. **Term.** The term of this License ("Term") will commence on the Effective Date and will expire on June 30, 2022, subject to earlier termination by either party as set forth in Paragraph 61.
4. **Waiver of Rent and Processing Fee.** The standard processing fee and the annual rent are hereby waived due the public purposes, specifically assisting in the provision of housing and other services to homeless families within the City, that LICENSEE will provide under this License.
5. **Holdover.** Any holding over by LICENSEE after the expiration or earlier termination of this License shall not be considered a renewal or extension of this License. The occupancy of the Premises after the expiration or earlier termination of this License shall constitute a month-to-month at will revocable license, and all other terms and conditions of this License shall continue in full force and effect, except that LICENSEE shall then pay to CITY fair market rent as determined by CITY in its sole discretion.
6. **Allowed Uses.** LICENSEE may use the Premises for the purposes of operating, and maintaining an interim housing-focused family shelter on the Premises that provides transitional housing, onsite supportive services, including stabilization and housing relocation services utilizing trauma-informed care, motivational interviewing, and a harm reduction model, as required by the Operating Agreement between the LICENSEE and the San Diego Housing Commission ("SDHC Agreement") attached as **Exhibit D: Operating Agreement Between LICENSEE and SDHC and Exhibit E: MOU SDHC Shelters and Services** ("Allowed Uses"). LICENSEE will 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 License. The use of the Premises for any unauthorized purpose will subject this License to termination at the sole discretion of the CITY.

7. Competent Management. LICENSEE will provide competent management of the Allowed Uses to CITY's reasonable satisfaction. "Competent management" will mean management practices generally considered acceptable within LICENSEE's industry for the management and operation of activities substantially similar to the Allowed Uses and in compliance with all applicable local, state and federal laws, rules and regulations, and in a fiscally responsible manner. "Fiscally responsible manner" will mean in accordance with generally accepted accounting principles consistently applied and absent financial malfeasance.
8. Operation of Facilities. LICENSEE will conduct its business and operate the Premises continuously and without interruption, 24 hours a day, 7 days a week, in accordance with the SDHC Agreement.
9. Trash and Refuse. LICENSEE will, at its sole cost and expense, provide covered containers on the Premises to receive trash and refuse generated on the Premises. Refuse containers will not be located outside the Premises. LICENSEE will ensure that refuse containers are emptied on a regular basis and will prevent refuse containers from overflowing or creating unhealthful, unsightly, or unsanitary conditions. LICENSEE will ensure appropriate disposal of trash.
10. Parking. LICENSEE will provide and maintain the parking lot on the Premises in accordance with the Allowed Uses and terms and conditions of this License.
11. Waste, Damage, or Destruction. LICENSEE will not commit or allow to be committed any waste or any public or private nuisance on the Premises, will keep the Premises clean and clear of refuse and obstructions, and will dispose of all garbage, trash, and rubbish in a manner reasonably satisfactory to CITY. If the Premises are put into a condition which is not decent, safe, healthy, and sanitary, LICENSEE will restore the Premises to their prior condition within a reasonable time and to CITY's reasonable satisfaction.
12. Asbestos Disclosure. Portions of the structural components of the Premises may contain asbestos. LICENSEE acknowledges receipt of notice from CITY of the presence of such asbestos in accordance with California Health and Safety Code Section 25915. LICENSEE will disclose to all appropriate parties the existence of asbestos on the Premises, as required by California Health and Safety Code Section 25915. LICENSEE will protect, defend, indemnify and hold CITY harmless from any loss or claim which may result from the existence of asbestos on the Premises.
13. Asbestos. If LICENSEE makes improvements, alterations or repairs to the Premises, LICENSEE will be responsible for any asbestos removal, management, or containment, and will pay all costs associated therewith. Asbestos removal, management or containment will 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 Premises made

by LICENSEE. CITY may, at its discretion, station supervisory personnel at the work site to ensure that LICENSEE's obligations under this section are fulfilled. Each party will coordinate with the other any improvement, alteration or repair, and except in the event of an emergency, the party responsible for such work will provide written notice to the other party at least fifteen (15) days prior to commencing the work.

14. Maintenance. LICENSEE shall, at LICENSEE's sole cost and expense, and to CITY's satisfaction, maintain the Premises in good order and repair, and in a safe, healthy and sanitary condition at all times during the Term. Maintenance shall include janitorial and routine maintenance and repair services at the Premises, including but not limited to, pest control, basic maintenance of landscaping, technology repairs, and general repairs, such as of: basic plumbing and electrical issues, doors/hardware/electronic hardware, windows, laundry, walls, fixtures including lighting fixtures, entry gates/fencing, furniture, IT equipment, including security equipment. CITY shall at no time during the Term of this License be required to make any improvements or repairs to the Premises. LICENSEE shall keep the Premises free and clear of rubbish, debris and litter at all times to CITY's satisfaction. LICENSEE shall comply with all applicable laws, rules, regulations and directives of competent governmental authorities, at LICENSEE sole cost and expense, with respect to maintaining the Premises in a safe and secure manner during the Term. LICENSEE will, without limitation, perform all maintenance and repair to all components of the Premises in accordance with this License. CITY has no obligation to provide oversight of the project or staffing or resources for the maintenance of the Premises during the Term. If the Premises are not in a clean, decent, safe, healthy and sanitary condition, in City's reasonable determination, CITY will have the right but not the obligation, after thirty (30) days prior written notice to LICENSEE, to have any maintenance work done that is reasonably deemed by CITY in its sole discretion to be necessary, at LICENSEE's sole cost and expense. LICENSEE will promptly pay CITY for all costs incurred for such work immediately upon receipt of an invoice therefor. CITY may require LICENSEE to file with CITY a faithful performance bond to ensure the prompt correction of any condition which is not clean, decent, safe, healthy and sanitary. The bond will be in an amount reasonably determined by CITY to be adequate to correct the unsatisfactory condition. LICENSEE will pay the cost of the bond. In addition, LICENSEE is responsible for the following maintenance obligations:

- (a) LICENSEE shall conduct "Bi-monthly" inspections and submitting a detailed maintenance inspection report to the CITY's Department of Real Estate and Airports Management Director twice a month demonstrating that they have inspected every room and the common areas of the Premises and note any issues that need repair.
- (b) LICENSEE shall ensure that all ceiling exhaust fans in restrooms are operational at all times. Educational materials will be posted by the City in each room to inform occupants of the proper use of ceiling exhaust fans usage.
- (c) City shall install and LICENSEE shall maintain shower guards, to prevent water from spraying outside showers, in each room.

- (d) LICENSEE shall allow the City to clean and service room Air Conditioning units on a quarterly service schedule and provide a copy of the maintenance reports.
 - (e) LICENSEE shall maintain all appliances, including but not limited to the appliances contained in **Exhibit F: New Appliance Inventory**, in a decent, safe, and sanitary condition. LICENSEE is obligated to maintain, repair, or replace all appliances on the Premises in accordance with manufacturer recommendations to prevent damage and disrepair. LICENSEE shall take all reasonable action to ensure that any existing warranties are not voided.
 - (f) LICENSEE shall provide onsite facility and janitorial staff with training materials on identifying visible mold, proper cleaning, and cleaning products to use for mold. LICENSEE shall inspect for mold growth every two weeks.
 - (g) The LICENSEE shall strictly enforce the Communications/Litter Plan created to remove litter and maintain communication with the immediate neighborhood, contained in **Exhibit G: Communications/Litter Plan**.
15. **Security.** LICENSEE acknowledges and agrees that it assumes sole responsibility for continuous security at the Premises for its agents, employees, invitees, licensees, contractors, guests and visitors and will provide such systems and personnel for same, including, without limitation, while such person(s) are using the Premises, as is necessary or appropriate and at its sole cost and expense. Notwithstanding anything to the contrary contained in this License, CITY shall not be liable in any manner for any security personnel, services, procedures or equipment in, at, on or about the Premises (whether or not provided by CITY) or for the failure of the same to prevent or control, or to apprehend anyone suspected of personal injury, property damage or any criminal conduct in, on or about the Premises. The LICENSEE shall comply with the Security Plan for the Premises contained in **Exhibit H: Security Plan**.
16. **Rules of Conduct.** The LICENSEE shall ensure that patrons, residents, and visitors of the Premises shall comply with the Rules of Conduct contained in **Exhibit I: Rules of Conduct**.
17. **CITY's Right to Enter and Inspect.** CITY reserves the right to enter upon the Premises at all times, to perform any work or inspections on the Premises and to inspect the Premises as CITY deems necessary. Nothing in this section shall require CITY to perform any work or inspections. City will provide reasonable prior courtesy notice unless there is an emergency need to enter and inspect.
18. **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 Premises, 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 Premises for the Allowed Uses, relative to any such superior interest. If LICENSEE's use of the Premises 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.

19. Restoration of the Premises. Upon thirty (30) days after the expiration or termination of this License, LICENSEE shall remove all personal items and restore the Premises to substantially the same condition as existed immediately prior to the LICENSEE's use of the Premises for the Permitted Use, including any use under a previous agreement between the LICENSEE and the CITY, subject to the satisfaction of the City.
20. 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 or her 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.
21. Unauthorized Activities. LICENSEE shall not engage in any activity on the Property other than the Allowed Use. Any use of the Property 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 Premises 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.
22. Improvements/Alterations. No improvements, structures, or installations will be constructed on the exterior of the Premises, and the Premises may not be altered, by LICENSEE without CITY's prior written approval, not to be unreasonably withheld or conditioned. LICENSEE will not make any structural or architectural design alterations to approved improvements, structures, or installations on the Premises without CITY's prior written approval. This provision will not relieve LICENSEE of any maintenance obligation under this License. CITY will not be obligated by this License to make or assume any expense for any improvements or alterations to the Premises.
23. City Improvements/Alterations/Repairs. Notwithstanding the LICENSEE's responsibility for all maintenance, and without creating any obligation on the CITY to do so, LICENSEE acknowledges that CITY may choose to complete certain repairs to the Premises, and reserves the right to do so, upon notice to the LICENSEE. LICENSEE agrees that it will allow access to the building by CITY and CITY's contractors and agrees to ensure that areas where repairs are being completed are accessible and available for the repairs to be done. LICENSEE further agrees and acknowledges that CITY has not made any promises to complete any specific repairs and that CITY's failure to complete any specific repair will not be a breach by CITY of this License. LICENSEE specifically agrees to hold CITY harmless and waives all rights to damages for any loss resulting from CITY's exercise of its rights reserved under this section, and for CITY electing to not make any specific repairs.
24. Personal Property.

- (a) Personal Property. LICENSEE will remove LICENSEE-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 License. Any such items which LICENSEE fails to so remove will be deemed abandoned and become CITY's property free of all claims and liens, or CITY may, at its option, remove such items at LICENSEE's sole cost and expense. LICENSEE, at its sole cost and expense, will be responsible for the repair of any and all damage resulting from the removal of its personal property from the Premises.
 - (b) Late Removal. Notwithstanding any provision of this License to the contrary, LICENSEE will pay rent to CITY for any period of time after the expiration or termination of this License, whether by CITY or LICENSEE, needed to remove improvements or personal property as required by this License. Such rent will be calculated on a per diem basis using the then-current fair market rental rate as determined by an appraisal prepared by qualified CITY staff.
 - (c) CITY's Right to Acquire Personal Property. If LICENSEE wants to dispose of any of its personal property used in its operations on the Premises upon expiration or termination of this License, CITY will have the first right to acquire such personal property.
25. Utilities. City will order, obtain, and pay for all water, utilities, and service and installation charges in connection with the operation of the Premises. To the extent LICENSEE's operational budget between it and the SDHC contains budget for utilities, LICENSEE will make those funds available to the City for payment of those utility costs.
26. Construction Bond. If LICENSEE develops or constructs improvements on the Premises LICENSEE will deposit with CITY, prior to commencement of the construction, a faithful performance and a payment bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bonds may be in cash or may be a corporate surety bond or other security satisfactory to CITY. The bonds will insure that the construction commenced by LICENSEE will be completed in accordance with the plans approved by CITY or, at the option of CITY that the uncompleted construction will be removed and the Premises restored to a condition satisfactory to CITY, and that all contractors, subcontractors, and equipment and material providers will be paid for work performed. The bonds or cash will 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.
27. Liens. LICENSEE will 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 performed by or on behalf of the LICENSEE and the costs of defending against such claims, including without limitation reasonable attorneys' fees. If LICENSEE causes improvements, alterations, or repairs to be made to the Premises, and a lien or notice of lien is filed against the Premises, LICENSEE will notify CITY of the lien within five (5) days after LICENSEE 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.

28. Prevailing Wages. Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this License is subject to State prevailing wage laws. For any construction project performed under this License cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this License cumulatively exceeding \$15,000, LICENSEE, its contractors and its subcontractors will comply with State prevailing wage laws including, but not limited to, the requirements contained in ***Exhibit J: Prevailing Wages***.
29. Insurance. LICENSEE shall not enter or come onto the Premises, nor begin any use of the Premises 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 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.
- 29.1 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 Permit 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 Real Estate Assets Department.

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.

29.2 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.

29.3 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.

29.4 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.

29.5 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.

- 29.6 Required Endorsements. The following endorsements to the policies of insurance are required to be provided to the CITY before entering onto the Premises 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.
30. 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 Premises, including damages arising out of release of hazardous materials, and all expenses of investigating and defending against same, including without limitation 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.
31. 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 Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
32. 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 Permit from local residents and firms as opportunities occur. LICENSEE agrees to hire qualified local residents and firms whenever feasible.
33. 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 Premises resulting directly or indirectly thereby.
34. Nuisance and Noise Disturbances. LICENSEE shall not use the Premises 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).

35. No Assignment or Sublicense. LICENSEE shall not assign or sublicense 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.
36. Signs. LICENSEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising in the Premises without CITY's prior written consent. If any such unauthorized item is found on the Premises, 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.
37. Encumbrances. LICENSEE shall keep the Premises 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 Uses. 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 Premises, 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.
38. 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 Uses.
39. California Public Records Act. CITY will determine, in its sole discretion, whether information provided to CITY by LICENSEE is or is not a public record subject to disclosure under the California Public Records Act (CPRA). If LICENSEE notifies CITY that it objects to the disclosure of certain information to a third party, LICENSEE will 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 LICENSEE, LICENSEE will 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 will defend, at LICENSEE'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, LICENSEE will pay all of the costs related thereto, including without limitation reasonable

attorney fees and costs.

(a) CITY will not be liable or obligated for any burden or loss (financial or otherwise) incurred by LICENSEE as a result of CITY's disclosure or non-disclosure of LICENSEE information requested pursuant to the CPRA.

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

40. 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 Premises. LICENSEE and LICENSEE's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the Premises 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.

40.1 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.

40.2 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.

40.3 Remediation. If LICENSEE's occupancy, use, development, maintenance, or restoration of the Premises 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 Premises, and in accordance with all applicable laws, rules, and regulations of governmental authorities.

40.4 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 Premises, LICENSEE or LICENSEE's agent shall remove all Hazardous Substances

in any type of container, equipment or device from the Premises immediately upon or prior to the expiration or earlier termination of this License. CITY reserves the right to conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Premises. 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.

- 40.5 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 Premises, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, LICENSEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 40.6 Notice of Release. If LICENSEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Premises, 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 Premises.
- 40.7 Environmental Assessment. Upon reasonable cause to believe that LICENSEE's occupancy, use, development, maintenance, or restoration of the Premises 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 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 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. 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 Premises and compliance with environmental laws and regulations are achieved, and LICENSEE shall pay all costs and expenses therefore.

41. Repair. LICENSEE shall be responsible, at its sole cost and expense, for the repair or replacement of any damage to the Premises or the surrounding property caused directly or indirectly by LICENSEE's use of the Premises, including items that CITY staff has determined to be damaged. LICENSEE shall comply with the direction of CITY's Department of Real Estate and Airports Management with respect to the method of any repairs or replacement arising under this License.

42. 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 Premises 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.

43. Grading and Barriers. LICENSEE shall not change the surface grade or construct any permanent barriers within the Premises. 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.

44. 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 Premises 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.

45. RESERVED

46. Single Use Plastic Reduction Ordinance. Unless an exception applies, LICENSEE will comply with the Single Use Plastic Reduction Ordinance codified in San Diego Municipal

Code sections 66.0901 through 66.0907, as may be amended. By signing this License, LICENSEE certifies that it will comply with the requirements of the Single Use Plastic Reduction Ordinance throughout the Term.

47. 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 License. It is not the intent of this policy that these provisions apply to members of the City Council.
48. 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.
49. 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.
50. Charter Section 225. Pursuant to City Charter Section 225, LICENSEE shall make a full and complete disclosure of the name and identity of all natural persons who will receive more than 10% of the contracted amount or who own more than 10% of the entity contracting with the City. Each and every person and/or entity proposed to have an interest in this License shall be subject to CITY's review and approval, in CITY's sole discretion.
51. 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.
52. Exhibits. All 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.
53. RESERVED
54. Acceptance of Premises. By signing this License, LICENSEE represents and warrants that it has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself as to the condition of the Premises, and LICENSEE acknowledges that it is currently using the Premises subject to a previous License Agreement for the Premises, and that it has been doing so since July 20, 2020. LICENSEE acknowledges that the Premises are in good order and condition and will take possession of the Premises "as is." LICENSEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Premises 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 Premises in entering into this License. LICENSEE accepts the Premises 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 Premises at any time either prior to, on or after the Effective Date. LICENSEE shall not hold CITY responsible for any defects in the Premises. LICENSEE accepts and assumes all risk of harm to all persons and property from any defects in the Premises or any improvements thereon, and shall be solely responsible therefore.

55. Disabled Access Compliance. LICENSEE will, as applicable to the Premises and LICENSEE's possession, use, and occupancy of the Premises, comply with all applicable 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:

- 55.1 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.
- 55.2 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.
- 55.3 LICENSEE will include language in each sublicense which indicates the sublicensee's agreement to abide by the provisions of this section.
- 55.4 LICENSEE and each of its sublicensees will be individually responsible for their own ADA employment programs.
- 55.5 LICENSEE will post a statement addressing the requirements of the ADA in a prominent place at the work site.
- 55.6 Where required by law, all improvements, fixtures, structures, or installations on the Premises will 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 LICENSEE's sole expense.
- 55.7 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.

56. **Drug-free Workplace.** LICENSEE will abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:
- (a) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
 - (b) Establish a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) LICENSEE's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations.
 - (c) LICENSEE will include in each of its sublicenses and contracts related to this License language obligating each sublicensee and contractor to comply with the provisions of this section to maintain a drug-free workplace. LICENSEE, and each of its sublicensees and contractors, will be individually responsible for their own drug-free workplace program.
57. **RESERVED**
58. **Equal Pay Ordinance.** Unless an exception applies, LICENSEE will comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. By signing this License, LICENSEE certifies that it will comply with the requirements of the Equal Pay Ordinance throughout the Term.
- (a) **Licensee and Sublicensee Requirement.** The Equal Pay Ordinance applies to any sublicensee of the Premises to the same extent as it would apply to LICENSEE. LICENSEE will require sublicensee's to certify compliance with the Equal Pay Ordinance in their sublicense.
 - (b) **Notice Requirement.** LICENSEE must post a notice informing its employees of their rights under the Equal Pay Ordinance in their workplace or job site.
59. **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.

60. 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.
61. 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.
62. 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.
63. Survival. Any obligation which accrues under this License prior to its expiration or termination shall survive such expiration or termination.
64. 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 for the Term of this License. Any modification, alteration, or amendment of this License shall be in writing and signed by all the parties hereto.
65. Partial Invalidity. If any term, covenant, condition, or provision of this License is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
66. Controlling Law/Venue. This License and all License documents will be deemed to be made under, and will 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 License, including the interpretation or application of any of its terms or any related disputes, will be in the County of San Diego, State of California.
50. 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: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101
(619) 236-6020

ALPHA PROJECT FOR THE HOMELESS
Attention: Executive Director
3737 Fifth Avenue, Suite 203
San Diego, CA 92103

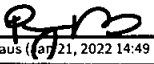
67. Governmental Approvals. By entering into this License, neither CITY nor CITY's City Council is obligating itself to LICENSEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to LICENSEE's occupancy, use, development, maintenance or restoration of the Premises. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.
68. 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.

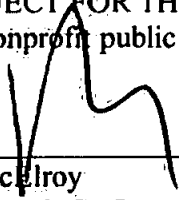
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IN WITNESS WHEREOF, this License is executed to be effective as of the Effective Date.

THE CITY OF SAN DIEGO,
a California municipal corporation

ALPHA PROJECT FOR THE HOMELESS,
a California nonprofit public benefit corporation

By: 
Penny Maus
Director, Department Real Estate
and Airport Management

By: 
Bob McElroy
President & CEO

Approved as to form this 27th day
of january, 2021.

MARA W. ELLIOTT, City Attorney

By: 
Name: Melissa Ables (Jan 27, 2022 14:19 PST)
Title: _____

Exhibit A: Legal Description of Premises

Exhibit B: Parcel Map of Premises

Exhibit C: Aerial View of Premises

Exhibit D: Operating Agreement between LICENSEE and SDHC

Exhibit E: MOU SDHC Shelters and Services

Exhibit F: New Appliance Inventory

Exhibit G: Communications/Litter Plan

Exhibit H: Security Plan

Exhibit I: Rules of Conduct For Residents and Visitors

Exhibit J: Prevailing Wages

EXHIBIT A
Legal Description of Premises

The land referred to herein below is situated in the City of San Diego, in the County of San Diego, State of California and is described as follows:

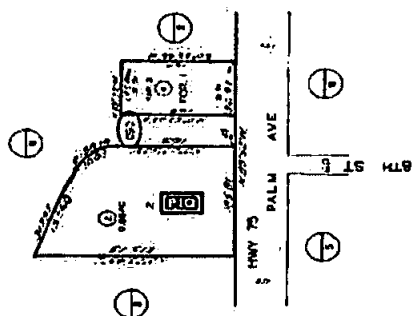
Lot 2 of Palm Avenue subdivision, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 3963. Filed in the office of the County Recorder of San Diego County, September 15, 1958.

APN: 627-090-02-00

10-12-68

[illegible]

**SUP 363 - PALM AVENUE SUB
R08 6297**



THE NEW YORK PUBLIC LIBRARY
ASTOR LENOX TILDEN FOUNDATION
155 FIFTH AVENUE
NEW YORK 17, N. Y.

80

640-259

and, are not a source of benefit derived, except by the owner a part of the income, an excess, resulting from employment, if any, the Court will direct no more determinants, distinctions, because of exemption, because of other matters which it meet

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EXHIBIT C:
Aerial View of Premises



EXHIBIT D:
Operating Agreement Between LICENSEE and SDHC

(Attached)

EXHIBIT E:
MOU SDHC Shelters and Services

(Attached)

EXHIBIT F:
New Appliance Inventory

The new appliances inventory is as follows:

Lower Level:

32 PTAC Units
2 Dryer Machines
2 Washing Machines
1 Water Heater (97 Gall.)
2 Stoves
4 Refrigerators
2 Extractors
2 Dishwashers
2 Microwaves

Upper Level:

31 PTAC Units
2 Dryer Machines
2 Washing Machines
2 Stoves
4 Refrigerators
2 Extractors
2 Dishwashers
2 Microwaves

EXHIBIT G:
Communications/Litter Plan

1. The LICENSEE shall establish, and will strictly enforce Regulations and Rules of Conduct applicable to all persons using the Facility.
2. The LICENSEE shall provide personnel 24-hours a day for the enforcement of all applicable rules.
3. The LICENSEE will be responsible for trash abatement on the Premises and within 100 feet of the building entrances, and shall keep the area free of graffiti, litter, trash, and other related nuisances.
4. At least twice a day, the LICENSEE shall inspect the site.
5. The LICENSEE shall provide sweeping and litter control for the site.

EXHIBIT H:
Security Plan

The following Security Plan is designed to provide a minimum set of standards to address exterior site security procedures at the Premises. This plan does not address interior building activities related to security procedures.

1. Facility:

The immediate Facility identified as 1788 Palm Avenue is in the South Bay area of San Diego, hereinafter referred to as the "Facility." The Facility is a multistory residential/office building. The LICENSEE shall sign a letter of agency giving the City of San Diego Police Department permission to enter the Facility as necessary to enforce laws.

2. Security Personnel:

The LICENSEE shall provide security personnel. The LICENSEE must provide a minimum of one security guard at the Premises at all times (24-hours). The LICENSEE may contract with a private security services company, whose security officers are licensed by the State of California's Bureau of Security & Investigative Services, to satisfy the security obligations in this License. LICENSEE shall provide physical security designed to safeguard employees, residents, visitors, and pedestrians, at and around the Facility. Such security duties shall include and not be limited to the prevention of loss, theft, damage, unauthorized use of the Facility, criminal acts, as well as the maintenance and preservation of the Facility's Rules of Conduct Regulations (Exhibit J) and the Communications/Litter Plan (Exhibit H). The LICENSEE will be responsible for maintaining a well-trained and equipped security force, including the hiring of security officers (herein referred to as "Officer"), to provide an effective means for implementing and monitoring the provisions of the Security Plan, explained below.

3. Security Services:

LICENSEE shall to furnish all labor, supervision, materials, equipment and personnel necessary to provide security services in accordance with the stated requirements below. The LICENSEE will implement all necessary hiring, scheduling, officer supervision and the implementation of established detailed procedures designed to ensure timely accomplishment of all security service requirements. Officers are responsible for the protection and safety of the Facility, its employees, visitors, and residents.

4. Security Staffing and Duties shall include:

- a. There will be at least one Officer on duty at the Facility at all times during the day, 24 hours a day, 365 days a year.

- b. Security staff Officers will conduct exterior site patrols of the Facility, using standard 45-minute patrols, with 15 minute periods for each hour throughout both the daytime and swing shifts. Foot patrols must be made of the entire exterior Facility boundaries during each 45 minute patrol. These patrols are designed to detect suspicious activity or other kinds of activity that affect the safety, security, and quality of life of the residents, visitors, clients and pedestrians of the area patrolled.
 - c. Officers will observe, report, communicate, and enforce the Rules and Regulations of the Facility as provided by LICENSEE.
 - d. These concerns include the prevention of urinating, vagrancy, sound and site disturbances, etc. Assigned Officers must visually and physically inspect the Facility boundaries and act to prevent a diminishment of quality of life issues for the community.
 - e. The assigned Officer must strictly implement the Communications/Litter Plan around the Facility boundaries at all times and accordance with those provisions.
 - f. The assigned Officer will identify and respond to as necessary and to their ability any potential risks to life, safety, and security to both persons and Facility. The assigned Officer must conduct perimeter security checks for exterior locked doors, windows, or other secured physical facilities conditions.
 - g. The assigned Officer during the course of their duties shall:
 - 1) Not leave their post of patrol for any reason other than an emergency.
 - 2) Remain on continuous patrol when not dealing with an incident.
 - 3) Be well versed with the Facility emergency, life, and safety procedures for the safety of visitors, residents, staff, and others at the Facility.
 - h. If a resident or visitor of the Facility refuses to cooperate with any necessary request to comply with the above Rules and Regulations or other related concerns, the Officer will use necessary means to respectfully and courteously enforce the Facility's security procedures.
5. Video Surveillance:
- a. The Facility contains video surveillance equipment to facilitate the LICENSEE's monitoring of activity within the Premises and along the sidewalk adjacent to the Premises.
 - b. Security cameras shall be properly kept in good maintenance at every exterior entrance, at each corner of the exterior perimeter of the Facility, interior stairs and elevators, and in the main hall of the multi-service center.

- c. Officers shall monitor the video cameras. Should an Officer need to leave the video-camera monitors, another staff member trained in security procedures shall provide visual coverage.
 - d. Upgrades to the existing surveillance system as well as installation of additional new surveillance system shall be as needed.
- 6. **Reporting and Documentation:** LICENSEE shall ensure that their security activities at the Facility are documented and reported and that such documents and reports are keeping in writing at the Facility for LICENSEE's immediate and periodic review. In addition, LICENSEE shall maintain records of activity outside of the Facility within its Facility boundaries that include:
 - a. Maintaining a daily activity report providing a detailed daily record report of all security or rules and regulations violations, litter and violations, patrols made, incidents, and other irregular activity or unusual events at the Facility. Included within this report will be all and other noteworthy concerns.
 - b. Maintaining a detailed contact sheet to report quality of life issue violations. Such violations will be identified by name, nature, time of the violation for such visitors, clients and residents of the Facility.
 - c. Maintaining a monthly activity summary report which summarizes, tracks, and trends each month, the Daily Activity Report and Contact Sheet, as well as other noteworthy security conditions at the Facility.
- 7. **Security Plan/Operating Procedures:** A Security Plan and Standard Operating Procedures shall be implemented for Facility security, which details the duties and responsibilities for the site and adjacent areas.

EXHIBIT 1:
Rules of Conduct For
Residents and Visitors

1. Each resident will sign house rules that are designated to ensure the community's safety and security. Any disruptive behavior in the Premises or around the building will not be allowed, and is grounds for expulsion from the Premises. Behavior that is threatening, violent, or illegal will be referred to the San Diego Police Department.
2. Weapons are not allowed in the Premises.
3. Communal trays, napkins, plates, utensils or food will not be removed from the communal dining areas.
4. Queuing around the outside of the Premises shall not be permitted at any time.
5. Illegal drugs are not allowed in the Premises.
6. Alcohol is not allowed in the Premises.
7. Smoking inside the Premises, except in designated smoking areas, is not allowed.
8. Anyone under 18 years of age must be accompanied by an adult.
9. Belongings may be searched and checked into the storage area should security deem it necessary.

EXHIBIT J:
Prevailing Wages

By signing this License, LICENSEE certifies that he or she is aware of the wage provisions described herein and shall comply with such provisions before commencing any construction or maintenance work as described in San Diego Municipal Code section 22.3019.

A. **PREVAILING WAGES.** Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this License is subject to State prevailing wage laws. For construction work performed under this License cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this License cumulatively exceeding \$15,000, LICENSEE, its contractors and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below. This requirement is in addition to the requirement to pay Living Wage pursuant to San Diego Municipal Code sections 22.4201 through 22.4245. LICENSEE must determine which per diem rate is highest for each classification of work (i.e. Prevailing Wage Rate or Living Wage Rate), and pay the highest of the two rates to their employees. Living Wage applies to workers who are not subject to Prevailing Wage Rates.

1. **Compliance with Prevailing Wage Requirements.** Pursuant to sections 1720 through 1861 of the California Labor Code, LICENSEE, its contractors and its subcontractors shall ensure that all workers who perform work under this License 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.

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>. LICENSEE, its contractor 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.

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 License. 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 License 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 License, each successive predetermined wage rate shall apply to this License 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 License, such wage rate shall apply to the balance of the License.

2. Penalties for Violations. LICENSEE, its contractor and its 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.

3. Payroll Records. LICENSEE, its contractor and its 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. LICENSEE and its contractor shall require its subcontractors to also comply with section 1776. LICENSEE, its contractor and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. LICENSEE is responsible for ensuring its contractors and subcontractors submit certified payroll records to the City. LICENSEE, its contractor and its 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.

4. Apprentices. LICENSEE, its contractor and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. LICENSEE's contractor shall be held responsible for their compliance as well as the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.

5. Working Hours. LICENSEE, its contractor and its subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

6. Required Provisions for Subcontracts. LICENSEE shall, and shall require its Contractor, to include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5,

1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. LICENSEE and its contractor in accordance with California Labor Code section 3700 are required to secure the payment of compensation of its employees and by signing this License, LICENSEE 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." LICENSEE shall require this certification in all of its contracts related to the License.

8. Labor Compliance Program. The City has its own Labor Compliance Program authorized in August 2011 by the DIR. The LICENSEE shall withhold contract payments when notified by the City that LICENSEE, its contractor's or subcontractor's 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.

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."

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: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor pursuant to Public Contract Code section 4107.

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.

9.3. By submitting a bid or proposal to the City, LICENSEE 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 LICENSEE shall provide proof of registration for themselves and all listed contractors and subcontractors to the City at the time of bid or proposal due date or upon request.

10. Stop Order. For LICENSEE, its contractor 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.

11. List of all Subcontractors. The City may ask LICENSEE for the most current list of contractors and subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this License at any time during performance of this License, and LICENSEE shall provide the list within ten (10) working days of the City's request.

Additionally, LICENSEE shall provide the City with a complete list of all contractors and subcontractors utilized on this License (regardless of tier), within ten working days of the completion of any project requiring the payment of prevailing wages under the License, along with their DIR registration numbers. LICENSEE shall withhold final payment to its contractor until at least 30 days after this information is provided to the City.

12. Exemptions for Small Projects. There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. The LICENSEE shall still comply with Labor Code sections 1720 et. seq. The only recognized exemptions are listed below:

12.1. Registration. The LICENSEE or its contractor will not be required to register with the DIR for small projects. (Labor Code section 1771.1).

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. The LICENSEE and its contractor will need to keep those records for at least three years following the completion of the contract. (Labor Code section 1771.4).

12.3. List of all Subcontractors. The LICENSEE's contractor shall not be required to hire only registered subcontractors and is exempt from submitting

the list of all subcontractors that is required in section 11 above. (Labor Code section 1773.3).

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN DIEGO
AND
THE SAN DIEGO HOUSING COMMISSION
FOR THE PROVISION OF HOMELESS SHELTERS AND SERVICES**

This Memorandum of Understanding ("MOU") between the SAN DIEGO HOUSING COMMISSION, a public agency ("SDHC") and the CITY OF SAN DIEGO, a California municipal corporation ("City"), is dated as of July 19, 2019, for reference purposes only. SDHC and City are sometimes referred to in this MOU, individually, as a "Party" and, collectively, as the "Parties." The Parties enter into this MOU with reference to the following recited facts (each, a "Recital"):

RECITALS

A. The City provides a variety of shelters and services programs to individuals and families to stabilize in permanent housing after experiencing a housing crisis or homelessness;

B. The City's five year consolidated plan for fiscal years 2020 to 2024 ("Consolidated Plan") estimates that as of the 2019 Point-in-Time count, 5,082 homeless persons were living in the City, representing 62.7% of all homeless people counted in the County of San Diego;

C. One of the seven goals identified in the City's Consolidated Plan is to assist individuals and families to gain stable housing after experiencing homelessness or a housing crisis;

D. The City submits to the United States Department of Housing and Urban Development ("HUD") an annual affordable housing fund action plan ("Annual Action Plan") that serves as the City's application to HUD for grant funds under four federal grant programs: (1) Community Development Block Grant ("CDBG"); (2) Emergency Solutions Grants ("ESG"); (3) HOME Investment Partnership Program ("HOME"); and (4) Housing Opportunities for Persons with AIDS ("HOPWA");

E. The City's Annual Action Plans outline goals and objectives defined by the City's Consolidated Plan, specify the federal entitlement grant program funds dedicated to specific programs and projects, and provide estimated project deliverables;

F. The City's Annual Action Plans have historically included homeless shelters and services programs;

G. The City has historically dedicated a portion of its annual CDBG allocation, ESG allocation, and at times, "General Fund," to the operation, management and oversight of the homeless shelters and services referenced in the Annual Action Plans;

H. In 2010, the City Council approved Resolution R-305962, effective July 8, 2010 and the Housing Authority of the City of San Diego ("Housing Authority") approved Resolution HA-1473, effective June 29, 2010, authorizing the transfer of responsibility for the operation of

the City's homeless shelters and services programs and administration of the ESG program to the SDHC;

I. In 2012, the City Council approved Resolution R-307396, effective April 24, 2012, authorizing an agreement with the SDHC for the administration of the ESG program;

J. On June 25, 2014, the City Council approved Resolution R-309057, and the Housing Authority approved Housing Authority Resolution HA-1623, approving an agreement between the City and the SDHC for the provision of homeless shelters and services ("2014 MOU");

K. The 2014 MOU will expire on June 30, 2019;

L. The City desires to continue to assign to the SDHC the responsibility of administering and monitoring the contracts for the operation of the homeless shelters and services programs as described and defined in the Annual Action Plans and City budget documents;

M. On April 23, 2019, City Council approved Resolution R-312442, authorizing the Mayor or his designee to negotiate and enter into an agreement with the SDHC for the administration and provision of homeless shelters and services to begin July 1, 2019;

N. On June 25, 2019, the Housing Authority of the City of San Diego ("Housing Authority") approved Resolution HA-1623 authorizing SDHC to enter into this MOU for the administration and provision of homeless shelters and services to begin July 1, 2019;

NOW, THEREFORE, the City and SDHC agree as follows:

1. Applicability. This MOU does not apply to any programs which are controlled by a separate independent agreement between the Parties.

2. Term, Amendment and Termination

2.1. Term. The term of this MOU is for one (1) fiscal year beginning on July 1, 2019 and ending June 30, 2020, with four (4) additional one (1) fiscal year options to extend the term. Only one option may be exercised at a time. If all four options are exercised, the MOU will continue from July 1, 2019 to June 30, 2024. The term of the MOU, including all options to extend, will coincide with the City's Consolidated Plan for fiscal years 2020 to 2024.

2.2. Amendments to MOU. SDHC's President and Chief Executive Officer or designee, and the Mayor or designee, shall have the authority to execute amendments to this MOU, which do not otherwise require City Council or Housing Authority approval. Any amendment to this MOU shall be memorialized in a written instrument signed by the Parties.

2.3. Termination. Either the SDHC or the City may terminate this MOU for any reason by providing 45 days written notice to the other.

2.4. Status of Prior Memoranda of Understanding. This MOU supersedes and terminates the 2014 MOU between the City and SDHC related to the provision of services and shelters for homeless persons.

3. SDHC Responsibilities. The SDHC shall manage and oversee those City programs that provide shelter, services and assistance to individuals and families to stabilize in permanent housing after experiencing a housing crisis or homelessness by providing client appropriate housing and supportive services solutions, provided that sufficient funding is appropriated by the City Council annually to fund these services. The SDHC shall be responsible for the general management, administration, and oversight of the City's shelters and services for homeless individuals and families, as further defined below and in the subrecipient agreements, once executed, and the Annual Actual Plans and City budget documents:

3.1. Interim and Transitional Shelters and Related Services

3.1.1. Provision of beds and/or units, with supportive services , for individual adults and families, including Cortez Hill Family Center, Interim Shelter for Homeless Adults, and Connections Housing (PATH) Interim Bed Program;

3.1.2. Provision of interim beds and/or units for individual adults, including a certain number of beds for individuals with special needs; and

3.1.3. Provision of beds and/or units for current and future City-funded diversion programs, including Homeless Outreach Team ("HOT"), Serial Inebriate Program ("SIP") and San Diego Misdemeanant At-Risk Track ("SMART") Diversion program.

3.2. Day Facilities and Related Services

3.2.1. Provision of a centralized access point for referral and walk-in services; and

3.2.2. Provision of restroom and shower facilities.

3.3. Care and Maintenance of City Owned or Leased Facilities.

3.3.1. Provide annual metrics on facility maintenance at the end of each term of this MOU; such metrics will be agreed upon in writing by both Parties and provided to the City prior to June 30th of each fiscal year during the term of this Agreement;

3.3.2. Work with the City to identify appropriate staffing and expertise to conduct semiannual facility inspections of City owned or leased facilities and require semiannual inspections of all City owned or leased facilities in all agreements with program operators and/or subcontractors; and

3.3.3. Require program operators and/or subcontractors to perform maintenance as detailed in each provider's operating agreement with SDHC and/or lease agreement with the City and inform the City and/or facility owners of any issues and/or problems at City owned or leased facilities.

3.3.4. Nothing herein shall make the SDHC liable for care or maintenance of City Owned or Leased Facilities, unless agreed to in writing by the Parties.

3.4. Homeless Management Information System ("HMIS") Program. Input of all program data into the Homeless Management Information System ("HMIS");

3.4.1. SDHC shall ensure that all homeless data collected by the homeless programs referenced in this MOU will be entered into a single HMIS system, as operated by the Regional Task Force on the Homeless ("RTFH"), or other contracted entity, as required by the City, the SDHC, the RTFH, or HUD.

3.4.2. SDHC's subcontractors and operators of the City's homeless shelters and services programs shall be required to use a coordinated intake and assessment system.

3.5. Regional Task Force on the Homeless ("RTFH"). The SDHC shall maintain its general membership and voting privileges in the RTFH for the term of this MOU. The SDHC's participation in the RTFH shall ensure the City's efforts to address homelessness using HUD entitlement funds and other resources are aligned with the region's priorities and adhere to the RTFH Community Standards to be responsive to the most critical needs. The SDHC shall consult with the RTFH to establish standardized outcome measures for the homeless program and define best practices.

3.6. Homelessness Prevention and Rapid Rehousing Assistance Program. Provision of a Rapid Rehousing Assistance Program with ESG funds to assist homeless families and individuals in exiting homeless situations (e.g., shelters and transitional housing programs) and secure permanent housing. This program will provide pre-housing financial assistance, short or medium term rental assistance, and case management services.

3.7. Storage Centers. Provision of storage centers for homeless families and individuals to safely store their personal belongings.

3.8. Other Homeless Services and Programs. The SDHC may undertake general management and administration of additional programs for homeless persons proposed by the City, provided that sufficient funding is appropriated by the City Council to fund these programs. These programs may be intended to service the general population of individuals and families experiencing homelessness or specific subcategories, including homeless veterans, homeless youth and youth at risk of homelessness, or homeless families.

3.9. Procurement, Management and Monitoring of Contracts. Procurement, management, and monitoring of contracts with the subcontractors and operators of each of the homeless shelters and services programs, including the related review and approval of monthly expenses, and the input of program data into HMIS.

3.10. Oversight and Storage of Equipment. Unless Parties agree otherwise in writing, oversight and storage of any equipment purchased by the SDHC and/or subcontractors when the equipment is not in use.

3.11. Permitting. Unless Parties agree otherwise in writing, if permitting is required for any of the City's shelters and services programs, the SDHC shall be responsible for processing such applications and the City will cooperate with the SDHC and/or the operator to obtain such permits. To the extent that facility modifications are required by the City during the course of permitting, the parties shall determine responsibility for those costs by a separate agreement. This section does not relate to any privately owned facilities.

3.12. Compliance with Federal, State and Municipal Regulations. The SDHC shall comply with all applicable federal, state, and municipal laws and regulations, including CDBG, ESG and Homeless Emergency Assistance and Rapid Transition to Housing ("HEARTH"), including the monitoring on a periodic basis but not less than annually of all contracts with subcontractors to ensure compliance with all applicable federal, state and municipal regulations.

3.13. Reporting and Provision of Data. The SDHC shall, in a timely manner, provide the City or HUD directly with all ESG-, CDBG-, and General Fund-related or other data related to homeless shelter and services programs. The City may use such data in order to complete Consolidated Plans, Annual Action Plans, Consolidated Annual Performance Evaluation Reports, monitoring reports, audits, and other reports and documents required by the City in relation to the homeless shelters and services described herein, or for any other purpose.

3.14. Performance Metrics and Outcomes. Documenting performance metrics and outcomes for each homeless shelter and services program, as defined in each applicable subrecipient agreement.

3.15. Regular Meetings With City Representative. Regular meetings with City Representative (defined in section 6), on a schedule to be determined by City Representative, to exchange information and provide informal reporting as to the SDHC's activities related to this MOU.

3.16. Notification to City Representative. Provide notice to City Representative of any public meetings and events regarding the SDHC's activities related to this MOU, within a reasonable time to allow City Representative to identify City staff to appear on its behalf.

4. City Responsibilities. The City shall provide funding, oversee, manage, and monitor the SDHC's administration of the shelter and services programs described in section 3 of this MOU.

4.1. Subrecipient Agreements. The City shall draft one or more annual "Subrecipient Agreement" between the City and the SDHC to define the scope of services and annual budgets based upon each of the CDBG, ESG and General Fund funding sources;

4.2. City Council Approval. Subrecipient Agreements are subject to annual City Council approval through either the Annual Action Plan approval process (ESG and CDBG funds) or the annual City budget approval process (General Funds). The City and SDHC shall execute Subrecipient Agreements on an annual basis, on or about July 1 of each year, to detail the dollar amounts available from the sources of funds described in section 5 of this MOU and the specific scopes of services to be provided by the SDHC, and agreed upon by the City, based on the funds available each fiscal year. The Subrecipient Agreements will outline the terms and conditions associated with the SDHC's use of federal funds on behalf of the City.

4.3. Unforeseen Maintenance Costs for City Owned or Leased Facilities. The City is responsible for determining how unforeseen maintenance costs for City owned or leased facilities will be funded and shall endeavor to provide additional funding for those costs.

5. Sources of Funds.

5.1. Maintenance of Funds. The SDHC shall ensure compliance with CDBG, ESG and other applicable federal, state and municipal regulations and requirements with regard to the administration and utilization of funds allocated to the homeless shelters and services programs and shall ensure the administration, management and monitoring of all subcontractors associated with the homeless shelters and services programs described in this MOU.

5.1.1. For each fiscal year this MOU is in place, the City will endeavor to make funds available at a level no less than that of the previous fiscal year. If such level of funding is not made available or if program elements are changed, however, the SDHC's responsibilities under this MOU will be changed accordingly as mutually agreed to by the parties in writing. In no event shall the SDHC be required to provide the services referenced within this MOU without the appropriation of sufficient funding by the City, as approved by the SDHC, in its reasonable discretion. Sufficiency of funding for specific levels of service will be established by the Subrecipient Agreements.

5.2. ESG Funds. To the extent that HUD ESG funds are made available to the City each year by HUD, the City will dedicate 100% of ESG funds received to the homeless shelters and services discussed herein. The specific dollar amount of the funds to be provided to the SDHC will be determined subject to the annual approval process as described in section 4 of this MOU. As required by the ESG Program 24 CFR §576.100(b)(1), a maximum of 60% of ESG funds may be expended for street outreach and emergency shelter programs.

5.3. CDBG Funds. To the extent that CDBG funds are made available to the City by HUD each year, the City shall set aside a portion of the Public Services funds for the City's homeless programs, which funding shall be contingent upon and at the discretion of the City Council each fiscal year, in compliance with City Council Policy 700-02.

5.4. General Funds. At its sole discretion, the City may dedicate and expend revenue from the General Fund appropriated by the City Council for the purposes set forth herein, contingent upon the City's Chief Financial Officer certifying availability of such funds.

5.5. SDHC's Contribution. The SDHC's financial contribution from sources other than the federal entitlement programs and City General Funds mentioned herein for the programs and services covered by this MOU shall be subject to the Housing Authority's annual approval of a SDHC budget to allocate and appropriate such funds. Once the annual contribution is approved, the SDHC shall provide the City with a description of the homeless shelters or services to receive the SDHC's contribution, the designated purpose of the funds, and the total amounts to be contributed.

5.6. Reimbursement of Funds. Funding made available to the SDHC by the City is subject to the City's HUD Grant Programs reimbursement process.

5.6.1. Prior to July 1 of each year, the City will provide the SDHC with an operating manual which will contain, at a minimum, a detailed description of the documentation required from the SDHC and its subcontractors for the reimbursement of funds provided through the City;

5.6.2. The SDHC shall submit monthly invoices and documentation for eligible reimbursement expenses no later than 30 days after the completion of the prior month's payment period (e.g., requests for reimbursement for expenses incurred in July shall be submitted to the City by August 30th);

5.6.3. The City agrees that reimbursement requests from the SDHC will be paid within thirty (30) days of receipt, provided that the required documentation is included with the reimbursement request and all expenditures are eligible based on their respective Subrecipient Agreement Scope of Services and budgets. The parties acknowledge that applicable Subrecipient Agreements may establish additional procedures regarding reimbursement.

5.6.4. The City may transfer funds allocated to the SDHC before the actual cash disbursement for an activity has been made by the SDHC. In such an event, the SDHC must disburse the cash advance as expenses are incurred. Documentation of the eligible expenses shall be provided as defined in this section 5.6. The SDHC must return any excess advance funds to the City within forty-five (45) calendar days of the end of the fiscal year when it is determined that the cash advance resulted in more funds being transferred by the City than what was required by the SDHC disbursement needs.

6. City Representative. The person identified in **Exhibit "A"** attached to this MOU as City's Notice recipient is the City's representative for all purposes of this MOU ("City Representative"). The City Representative shall communicate with SDHC on all matters related to the administration of this MOU and SDHC's performance of its obligations under this MOU. When this MOU refers to communications to or with City, those communications shall be with the City Representative, unless this MOU or the City Representative specifies otherwise. When this MOU refers to an act or approval to be performed by City, that act or approval shall be performed by the City Representative, unless this MOU specifies otherwise. The City may change the identity of the City Representative at any time by Notice to SDHC at least ten (10) days in advance of the effective date of such change.

7. SDHC Representative. The person identified in **"Exhibit A"** attached to this MOU as SDHC's Notice recipient is SDHC's representative for all purposes of this MOU ("SDHC Representative"). The SDHC Representative shall communicate with City on all matters related to this MOU. When this MOU refers to any act or approval to be performed by SDHC, that act or approval shall be performed by the SDHC Representative. SDHC may change the identity of the SDHC Representative at any time by Notice to City at least ten (10) days in advance of the effective date of such change.

8. Indemnification. To the fullest extent permitted by law, City and SDHC agree to indemnify, protect, and hold harmless one another, and their elected officials, officers, agents, representatives, employees, departments, and subcontractors from and against any and all claims, demands, actions, proceedings, liabilities, damages, costs (including reasonable attorneys' fees),

or expenses for, including damage to property, the loss of use thereof, or injury or death to any person, caused by, arising out of, or related to the performance of services under this MOU by City or SDHC, their elected officials, officers, agents, representatives, departments, subcontractors and employees. The City's and SDHC's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the other, or the other's elected officials, officers, agents, representatives, departments, subcontractors and employees.

9. Insurance. SDHC shall procure and maintain for the duration of this MOU insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by SDHC, its agents, representatives, employees or subcontractors, as further described in the Subrecipient Agreement(s).

10. Notice. Unless otherwise specified, in all cases where Notice is required under this MOU, Notice shall be in writing and transmitted to the address of City or SDHC, as applicable, as designated in **Exhibit A**, by one or more of the following methods: (a) electronic mail; (b) messenger for immediate personal delivery; (c) a nationally recognized one Business Day delivery service (i.e., Federal Express, United Parcel Service, etc.); or (d) registered or certified mail, postage prepaid, return receipt requested, through the United States Postal Service. Notice may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice, in accordance with this section 10. Notice shall be deemed received by the addressee on the date sent by electronic mail, if sent before 3:00 p.m. Pacific Time, the date the Notice is delivered by personal delivery, on the date the Notice is delivered (or the date of the second attempted delivery, as set forth in a written statement of the delivery service) by a nationally recognized overnight delivery service, or three (3) calendar days after the Notice is deposited with the United States Postal Service as provided in this section 10. Rejection, other refusal to accept or the inability to deliver a Notice because of a changed address of which no Notice was given, shall be deemed receipt of the Notice. City or SDHC may change its Notice address by Notice delivered in accordance with this section 10.

11. Miscellaneous Provisions.

11.1. Governing Law. The terms and conditions of this MOU shall be construed and interpreted in accordance with the laws of the State of California.

11.2. Jurisdiction and Venue. The Parties agree to submit to the personal jurisdiction of, and that venue shall be in, any State of California court within the City of San Diego, State of California, for any dispute, claim, or matter arising out of, or related to, this MOU.

11.3. Integration and Amendment. This MOU and the exhibits attached to this MOU fully express all understandings of the Parties concerning the matters covered in this MOU. All prior negotiations and agreements between the Parties regarding the subject matter of this MOU are merged into this MOU. No change, alteration, amendment, or modification of the terms or conditions of this MOU, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid, unless made in the form of a written amendment to this MOU signed by both Parties. The Parties agree to enter into any and all amendments to this MOU that are

necessary to comply with any and all new or modified federal or State of California laws applicable to this MOU.

11.4. No Waiver. No failure of either City or SDHC to insist upon the strict performance by the other of any term, covenant, or condition of this MOU, nor any failure to exercise any right or remedy consequent upon a breach of any term, covenant, or condition of this MOU, shall constitute a waiver of any such breach or the requirement to comply with such term, covenant, or condition. No waiver of any breach shall affect or alter this MOU, and each and every term, covenant, and condition in this MOU shall continue in full force and effect regarding any existing or subsequent breach.

11.5. Successors in Interest. This MOU and all rights, obligations, or duties under this MOU, shall be in full force and effect, whether or not any Party to this MOU has been succeeded by another entity, and all rights, obligations, or duties under this MOU shall be vested and binding on any Party's successor in interest, subject to the limitations in this MOU on assignment of this MOU.

11.6. No Assignment. Neither Party may assign any rights or obligations under this MOU without the prior written consent of the other Party.

11.7. Severability. The unenforceability, invalidity, or illegality of any provision of this MOU shall not render any other provision of this MOU unenforceable, invalid, or illegal.

11.8. Conflicts between Terms. If an apparent conflict or inconsistency exists between the main body of this MOU and any exhibit, the main body of this MOU shall control. If a conflict exists between an applicable law, rule, regulation, order, or code and this MOU, then the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this MOU, the exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other in writing immediately upon the identification of any apparent conflict or inconsistency concerning this MOU.

11.9. Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this MOU. The Parties have both participated substantially in the negotiation, drafting, and revision of this MOU, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in this MOU may be used in the singular, plural, past tense or future tense, regardless of how it is defined, all in accordance with ordinary principles of English grammar, which shall govern all language in this MOU. The words "include" and "including" in this MOU shall be construed to be followed by the words: "without limitation." Each collective noun in this MOU shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this MOU, refers to such document, as modified from time to time (excepting any modification that violates this MOU), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this MOU includes the word "and," except where the context requires otherwise. Every reference to a law, statute, regulation, order, form or similar governmental requirement in this MOU refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time.

11.10. Counterparts. This MOU may be signed in multiple counterparts, which, when taken together, shall constitute a single signed original, as though all Parties had signed the same MOU.

11.11. Headings. All headings in this MOU are for convenience of reference only and shall not affect the interpretation of this MOU.

11.12. Exhibits Incorporated. All exhibits referenced in or attached to this MOU are incorporated into this MOU.

11.13. Survival of Obligations. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this MOU, and all continuing obligations set forth in this MOU, shall survive expiration or earlier termination of this MOU.

11.14. Incorporation of Recitals. The Recitals preceding this MOU are true and correct and are incorporated into and made a part of this MOU.

11.15. Time of Essence. Time is of the essence of each provision of this MOU, unless otherwise specified in this MOU.

11.16. Further Assurances. City and SDHC agree to cooperate fully and execute any and all supplementary documents and take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this MOU.

[Remainder of page intentionally blank. Signatures appear on the immediately following page.]

IN WITNESS WHEREOF, this MOU is entered into by City, acting by and through its Mayor or designee, and by SDHC, by and through the signature of SDHC's authorized representative(s), all as set forth below.

SAND DIEGO HOUSING COMMISSION,
a public agency

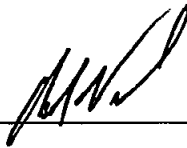
CITY OF SAN DIEGO,
a California municipal corporation

By: 

Print Name: Jeff Davis

Title: Exec VP & Chief of Staff

Date: 7-18-19

By: 

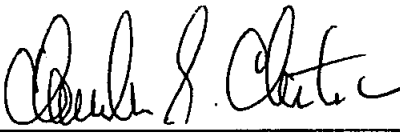
Print Name: ROBERT VACCHI

Title: DCOO

Date: 7/19/19

APPROVED AS TO FORM:

CHRISTENSEN & SPATH LLP
A California limited liability partnership

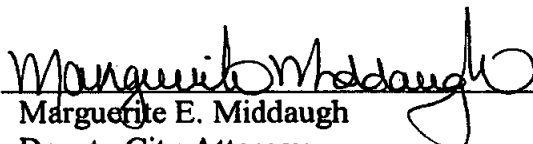
By: 

Charles B. Christensen
General Counsel

Date: 7/2/19

APPROVED AS TO FORM:

MARA W. ELLIOTT
City Attorney

By: 
Marguerite E. Middaugh
Deputy City Attorney

Date: 7/19/2019

EXHIBIT A

Notice Addresses

City:

City of San Diego
Keely Halsey
Chief of Homelessness Strategies & Housing Liaison
Office of the Chief Operating Officer | Neighborhood Services Division
202 C Street, MS 9A
San Diego, CA 92101

SDHC:

San Diego Housing Commission
Lisa Jones, Senior Vice President
Homeless Housing Innovations Division
1122 Broadway, Ste. 300
San Diego, CA 92101

From: Ash-Reynolds, Tara
To: Vanderhagen, Jayne
Subject: RE: Alpha Project License
Date: Thursday, November 18, 2021 5:36:37 PM
Attachments: NORA Public Purpose Lease for the Alpha Project for the Homeless removed.pdf
Public Purpose Lease for the Alpha Project for the Homeless -- Attachment B.pdf
image001.png

Hi Jayne,

The previous NORA and Attachment B can cover this activity as the use has not changed and no time limit was placed in the NORA project description.

Please let me know if you have any questions,

Tara Ash-Reynolds
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City of San Diego
Planning Department
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tashreynolds@sanidiego.gov

From: Vanderhagen, Jayne <JVanderhagen@sanidiego.gov>
Sent: Friday, November 12, 2021 4:05 PM
To: PLN NORA Processing <PlanningNORA@sanidiego.gov>
Subject: Alpha Project License

Hi.

Attached for your review and determination is the NORA and Public Service License for Alpha Project. This is the second License which will extend their service until 12/31/21.

Thank you.

Jayne Vanderhagen
Supervising Property Agent, Real Estate Lease Administration
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