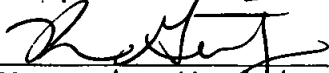


taking all necessary and retroactive measures with regarding to work or services previously rendered or completed.

- E. Pursuant to Master Lease section 3.3, LESSEE shall pay to CITY fifty percent (50%) of all sublease income and gross revenue earned by LESSEE from the Sublease, including fifty percent (50%) of the monthly amounts scheduled to be paid to LESSEE commencing on September 1, 2015 as stated in the Sublease, and all revenue earned by LESSEE pursuant to any amendment or modification of the consideration otherwise due LESSEE under the Sublease.
- F. Insurance. SUBLESSEE shall deliver to CITY'S Real Estate Assets Department a current certificate of insurance for a separate endorsement naming "The City of San Diego, its elected officials, officers, employees, representatives, and agents" as Additional Insureds in all policies. SUBLESSEE shall maintain said endorsement at all time SUBLESSEE occupies or uses any portion of the Premises. The policy required hereby shall specify that the policy may not be terminated, altered or canceled without thirty (30) days prior written notice to CITY by insurance company. Prior to each insurance renewal period, SUBLESSEE shall submit to CITY a copy of the new policy of insurance.

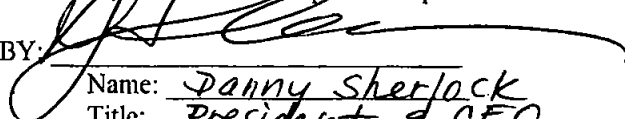
If at any time the foregoing provisions are not true, this Consent shall automatically and retroactively become null and void as of the Effective Date.

THE CITY OF SAN DIEGO, a California
municipal corporation

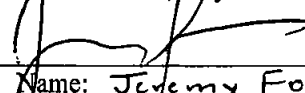
BY: 
Name: Kristin Galt
Title: Interim Director Real Estate Assets
Date: 9/16/14

Acknowledged and agreed to by LESSEE:

BOYS' & GIRLS' CLUBS OF INLAND NORTH
COUNTY, a California non-profit Corporation

BY: 
Name: Danny Sherlock
Title: President & CEO
Date: 9-15-14

Approved as to form and legality:
JAN I. GOLDSMITH, City Attorney

By: 
Name: Jeremy Fonseca
Title: Deputy
Date: 9/16/14

CRG/cb
9-15-14

I:\Support Staff Group\WPO\2014\GILLIS\CONSENT TO SUBLEASE-GIRLS AND BOYS CLUB.docx

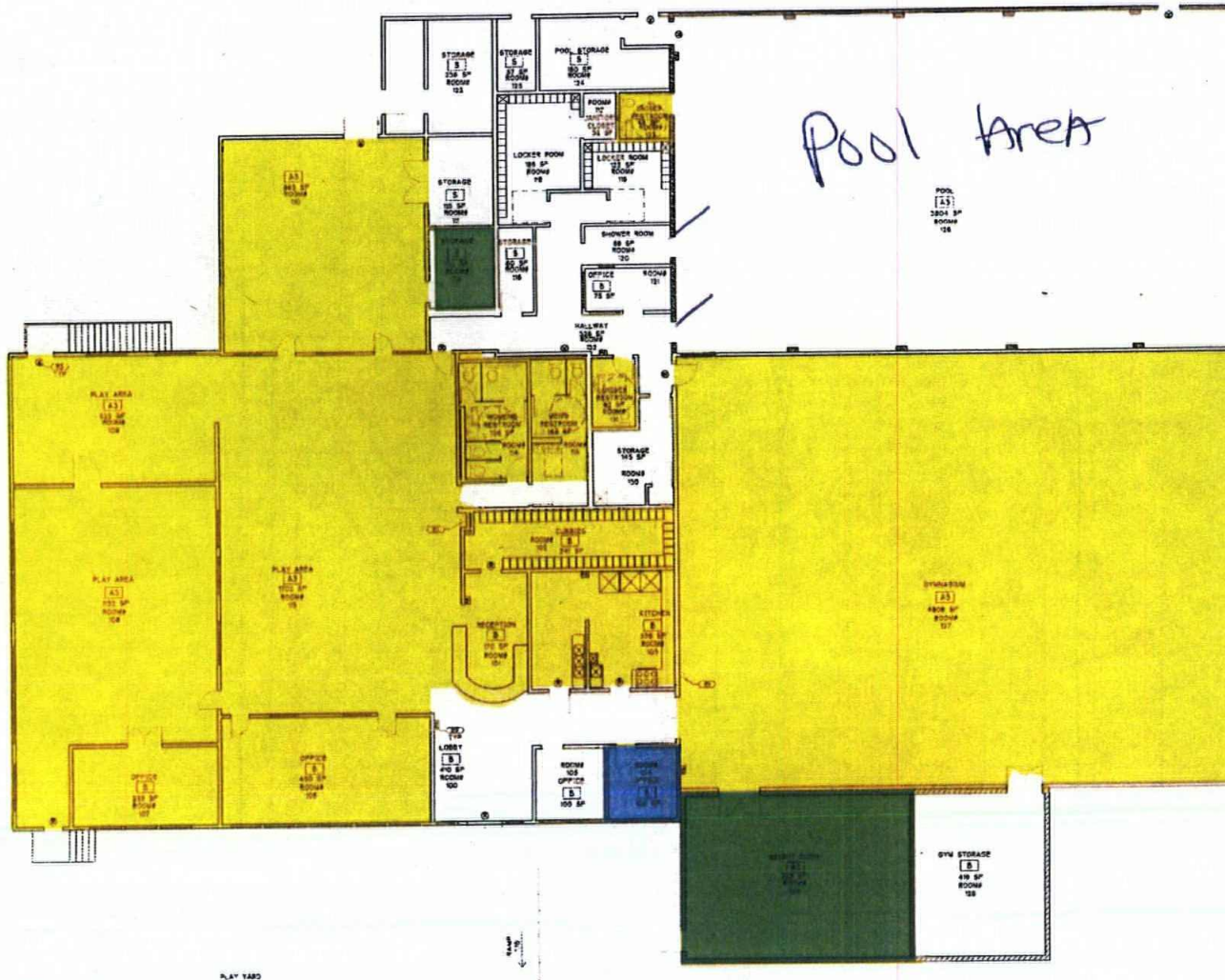
ADDENDUM A

Prevailing Wage Requirements--Boys' & Girls' Club Empower Charter School

1. **Compliance with Prevailing Wage Requirements.** Pursuant to California Labor Code (Labor Code) sections 1720 through 1861, the Boys and Girls Club (CLUB) and Empower Charter School (EMPOWER), and their contractors and subcontractors, shall ensure that all workers who perform work on the Project 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.
2. Copies of such prevailing rate of per diem wages are on file at CITY 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>. CLUB and EMPOWER, and their contractors and subcontractors, shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.
3. 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 duration of the Project. 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 the Project 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 duration of the Project, each successive predetermined wage rate shall apply on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the duration of the Project, such wage rate shall apply to the balance of the Project.
4. **Penalties for Violations** CLUB and EMPOWER, and their contractors and subcontractors, shall comply with 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.
5. **Payroll Records.** CLUB and EMPOWER, and their contractors and subcontractors, shall comply with Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. CLUB and EMPOWER shall require their contractors and subcontractors to also comply with section 1776. CLUB and EMPOWER, and their contractors and subcontractors, shall submit weekly certified payroll records online via the CITY's web-based Labor Compliance Program. CLUB and EMPOWER are responsible for ensuring its contractors and subcontractors submit certified payroll records to the CITY.

6. **Apprentices.** CLUB and EMPOWER, and their contractors and subcontractors, shall comply with Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. CLUB and EMPOWER shall be held responsible for the compliance of their contractors and subcontractors with sections 1777.5, 1777.6 and 1777.7.
7. **Working Hours.** CLUB and EMPOWER, and their contractors and subcontractors, shall comply with 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 Labor Code sections 1810 through 1815.
8. **Required Provisions for Subcontracts.** CLUB and EMPOWER shall include at a minimum a copy of the following provisions in any contract they enter into with a contractor, and shall cause the same to be included in any contracts with all subcontractors: Labor Code sections 1771, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.
9. **Labor Code Section 1861 Certification.** In accordance with Labor Code section 3700, CLUB and EMPOWER shall ensure that their contractors and subcontractors secure the payment of compensation to their respective employees, and that each contractor and subcontractor shall certify 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."
10. **Labor Compliance Program.** CITY has its own Labor Compliance Program as authorized by the DIR. CITY, and CLUB and EMPOWER, shall withhold contract payments when payroll records are delinquent or deemed inadequate by the CITY or other governmental entity, or it has been established after an investigation by the CITY or other governmental entity that underpayment(s) have occurred.

Pool Area



-  **EMPOWER CHARTER
SCHOOL USE DURING
SCHOOL HOURS**
-  **EMPOWER CHARTER
SCHOOL EXCLUSIVE
USE**
-  **EMPOWER CHARTER
SCHOOL EXCLUSIVE
USE FOR 10 MONTHS,
PARTIES WILL NEGOTIATE
CLUB ACCESS FOR
REGISTRATION**

811 TENTH AVENUE
SAN DIEGO CA 92101
phone (619) 238-3811
fax (619) 238-0442
mail@divyarchitecture.com

[illegible]

**BOYS & GIRLS CLUB
EMPOWER CHARTER**
2230 EAST JEWETT STREET
SAN DIEGO, CA 92111

ISSUE	DATE
PRELIMINARY REVIEW	8 MAY 74

BOYS & GIRLS CLUB EXISTING FLOOR PLAN



GRAPHIC SCALE
0' 4' 10' 20'
1/8" = 1' - 0"

PLAN NORTH



**EXISTING
FLOOR PLAN**

A2.0

8/26

SUBLEASE

This Sublease ("Sublease") is dated July 1, 2015 ("Effective Date") and is effective as of the latter of the signature dates below ("Effective Date") between the BOYS & GIRLS CLUBS OF GREATER SAN DIEGO, a California nonprofit corporation (the "Club" or "Landlord") and EMPOWER CHARTER SCHOOL, a California nonprofit corporation ("Empower" or "Tenant") (each a "party" and collectively the "parties").

Recitals

A. The Club leases the real property located at 2230 East Jewett Street, San Diego, California 92111, County of San Diego, State of California (the "Property" sometimes referred to as the "Linda Vista Branch" or the "Ron Roberts Family Branch"), as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, from the City of San Diego ("City"), which property is improved with buildings and recreational facilities (sometimes referred to as the "Building"). A true and correct copy of said Lease between the Club and the City of San Diego is attached hereto as Exhibit "B" and incorporated herein by reference.

B. Pursuant to the Lease between the City and the Club approved and adopted by the City on December 9, 2002, Club is granted the right to sublet a portion of the Property, including the Building on the Property, only with the prior written consent of the City. Therefore, the effectiveness of this Sublease is expressly made contingent upon the Club's receipt of the City's written consent, if written consent is required by the City, as set forth below.

C. The parties intend that Empower have access to the Premises after the Effective Date of this Sublease to begin readying the Premises for operation of the charter school.

D. The Club desires to sublease a portion of the Property to Empower for said purpose.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Sublease-BOYS' AND GIRLS' CLUBS
AND EMPOWER CHARTER SCHOOL
RON ROBERTS/LINDA VISTA BRANCH

1. **Subleased Premises.** Subject to the written approval of this Sublease by the City, the written consent hereto by the City and to the provisions of the Lease as amended from time to time between the City and the Club, the Club hereby subleases to Empower and Empower subleases from the Club, upon all of the terms and conditions set forth in this Sublease, exclusive use of an office/administrative area, as well use of use of four (4) classrooms during school hours, shared use of restrooms (including restrooms which meet ADA guidelines), kitchen, Teen Center and outdoor areas and the gymnasium as listed and/or depicted on the Floor Plan attached hereto as Exhibit "C" and incorporated herein by reference (the "Premises") as well as non-exclusive use of the common areas as described below. Empower shall have no right of possession of any remaining portions of the real property or improvements located thereon. This Sublease subordinates to the applicable covenants and conditions of the Lease between the City and the Club. In the event of conflict between the provisions of this Sublease and those of the Lease between the City and Club, the Lease between the City and the Club shall control. Rules for shared use to be established jointly by the club and Empower.

In the event Empower desires to use the swimming pool located on the Property, the parties shall enter into a separate Pool Use Agreement prior to any use.

1.2 Acceptance of Premises.

1.2.1 By signing this Sublease, Empower represents and warrants that is has independently inspected the Premises and made or will make all tests, investigations, and observations necessary to satisfy itself of the condition of the real property. Empower agrees it is relying solely on such independent inspection, tests, investigations, and observations in making this Sublease. Empower further acknowledges that the Premises is in the condition called for by this Sublease and Empower does not hold Club responsible for any defects in the real property. Empower acknowledges that neither Landlord nor Landlord's agent, if any, has made any representation or warranty as to the present or future suitability of the Premises or the building for the conduct of Empower' business.

1.2.2 **California Civil Code Section 1983 Disclosure.** Empower further acknowledges that the Property has not been inspected by a Certified Access Specialist (CASp) and it has not been determined or reported whether the Property is in compliance with California Civil Code Section 55.53 to meet all applicable construction related access standards.

The Property has not been reviewed for any ecologically sensitive areas including but not limited to wetlands, flood plains, aquifers or conservation areas.

2. Term.

2.1 **Term.** The term ("Term") of this Sublease is for a period of four (4) years

Sublease-BOYS' AND GIRLS' CLUBS
AND EMPOWER
LINDA VISTA/RON ROBERTS FAMILY BRANCH

commencing on July 1, 2015 and ending at 11:59 on June 30, 2019 unless sooner terminated under the terms of this Sublease.

2.2 Options to Extend Term.

2.2.1 As long as Empower is not in default of any material term or condition of this Sublease and upon written approval of both parties and if necessary the City, Empower is granted the option to extend the Term of this Sublease for an additional term of five (5) years ("Extended Term"), on the same terms and conditions as provided in this Sublease, except that Base Rent for the Extended Term shall increase five (5) percent. Empower shall exercise its option to extend, if at all, by delivering written notice to Club of such election ("Notice of Election") no later than June 1, 2018. If approved, the Extended Term shall become effective upon the written approval by the Club no later than June 30, 2018, which approval shall not be unreasonably withheld.

2.2.2 In addition, as long as Empower is not in default of any material term or condition of this Sublease and upon written approval of both parties and if necessary the City, Empower is granted a right of first refusal to extend the Term of this Sublease for an additional two (2) year period ("Second Extended Term"), on the same terms and conditions as provided in this Sublease. Exercise of the right of first refusal/Second Extended Term must be no later than December 31, 2018 and as provided in Section 2.2.1 above.

3. Rent. Rent and Additional Costs paid to the Club by Empower shall be referred to as Monthly Consideration.

3.1 Base Rent. Empower shall pay to Club a Base Rent as minimum monthly rent, without deduction, setoff, prior notice, or demand the sum of \$12,500.00 per month ("Base Rent") for the ten (10) month school year. No Rent shall be required to be paid for the months of July and August for each year of this Sublease. Monthly installments of Base Rent shall be payable monthly, in advance, on the first day of each month. The first month's rent shall be paid no later than September 1, 2015. The rent for any partial month shall be prorated on the basis of a thirty (30) day month. Rent shall be paid in lawful money of the United States to Club at the address set forth on the signature page of this Sublease or to such other person or at such other place as Club may designate in writing.

Empower's obligation to pay rent under this Sublease is contingent on the city's approval of Empower's location at the Premises. If the city does not approve the location, the Sublease will terminate and Empower will not be liable for any future rent. All previous agreements related to the planning and preparation of this Sublease and site for use by Empower shall be reimbursed to the Club immediately.

Sublease-BOYS' AND GIRLS' CLUBS
AND EMPOWER CHARTER SCHOOL
RON ROBERTS/LINDA VISTA BRANCH

3.2 Intentionally left blank.

3.3 Utilities. The club shall be responsible for utilities and janitorial services. In the event the cost of utilities' rates increase by 20% or more from the Fiscal Year 2013-2014, Empower shall pay 50% of the cost of the utilities' rates increase.

3.4 Conditional Use Permit. The currently existing Conditional Use Permit ("CUP") for the Property must be amended if Empower is to be permitted to use the Teen Center facility. The parties hereby agree that the Club will pay the cost of any amendment to the CUP required to permit the use of the Teen Center by Empower or for any other amendment for the benefit of Empower and that Empower will reimburse the Club in full for any and all costs incurred for said amendment. The parties shall determine the repayment schedule, which repayment schedule in any event shall be completed within three (3) years of the date of this Agreement or early termination of this Sublease, whichever should first occur. In no event shall the reimbursement of costs related to the CUP be considered as rent. The costs incurred on behalf of Empower for a consultant and architect are the subject of a separate agreement and also shall not in any event be considered as rent.

3.5 Club Membership Fees. In addition to the Base Rent, Empower shall ensure all students are Members of the Club which will enable them to participate in the Club's afterschool program. If Empower receives an ASES Grant at this location, the club shall be the sole contractor and provider of the services of the ASES Grant.

4. Use and Obligations of Parties.

4.1 Use. Empower shall use those portion of the Club's Property subleased to Empower herein solely for the charter school, with a maximum limit of three hundred eighty-four (384) school children grades Kindergarten through sixth (6th) grade, located on the subleased Premises at any one time, and for no other purpose.

4.2 Compliance With Law; Rules and Regulations.

4.2.1 Compliance with Law. Empower shall comply with and observe all statutes, ordinances, regulations, orders and decrees of federal, state and city governments, or any departments, bureaus or agencies thereof, and all covenants and restrictions and requirements regulating the use of the Premises, whether now in force or promulgated in the future. Any and all expense resulting from such compliance shall be born by Empower. Empower shall not use nor permit the use of the Premises in any manner which will tend to create waste or a nuisance or shall tend to disturb any other tenants in the Building and recreational facilities in which the Premises is located.

Sublease-BOYS' AND GIRLS' CLUBS
AND EMPOWER
LINDA VISTA/RON ROBERTS FAMILY BRANCH

4.2.2 Rules and Regulations. Empower agrees that it will abide by, keep and observe all reasonable rules and regulations which the Club may make from time to time for the management, safety, care and cleanliness of the Premises, the Building and the surrounding areas as well as for the convenience of other occupants and tenants of the Building, if any. The violation of any such rules and regulations shall be deemed a material breach of this Agreement by Empower.

4.3 Obligations of Empower.

4.3.1 Empower shall obtain all required regulatory certificates necessary for the operation of the charter school on the Premises.

4.3.2 In addition to any other requirements hereunder, Empower shall provide the Club with copies of all licenses, regulatory permits and the required documentation needed to maintain currency, including but not limited to proof of insurance and other documents reasonably required by the Club and/or by the City.

4.3.2 Empower shall provide all staff, equipment and supplies, including educational curriculum, required to meet the specified requirements of the charter school.

4.3.3 Empower shall, at Empower's sole expense keep in good order and condition the Premises and all parts thereof. Empower shall not cause or permit any waste or injury to the Premises and shall keep the Premises free from any and all objectionable noises, odors, rubbish and debris inconsistent with the proper operation of the charter school. Empower shall be responsible for paying the cost for repair of any property damaged by its staff, students, guests, invitees, and the like.

4.3.4 Empower acknowledges and agrees that the club's primary purpose is to provide after school and school break programs for the children of the community. If Empower's schedule deviates from that of the local schools, Empower acknowledges and agrees that the Club's programs will run as normally as possible and that the space will be shared between the Club and Empower for that time period, with the Club's use of primary concern. The parties shall work together to review the calendar and develop a plan for days where both programs will be running simultaneously, if any.

4.3.5 Taxes.

4.3.5.1 Taxes. Tenant recognizes and understands that this Sublease may create a possessory interest subject to property taxation, and that Tenant may be subject to the payment of real property taxes levied on such interest. Empower further agrees to

pay any and all property taxes assessed during the term of this Sublease, pursuant to Section 107 and 107.1 of the Revenue and Taxation Code, against Tenant's possessory interest in the Subleased Premises. Provided, however, Tenant shall have no obligation to pay taxes, whether real property or possessory interest, properly assessed to the owner of the Property, the Club or the Club's interest under the Lease.

4.3.5.2 Taxes. Empower shall pay before delinquency all taxes, assessments, license fees, and other charges ("Taxes") that are levied and assessed against Empower's business property installed or located in or on the Premises, if any, and that become payable during the Term. Empower shall furnish the Club with satisfactory evidence of these payments, if any. If any Taxes on Empower's business property are levied against the Club or the Club's property, or if the assessed value of the Premises or Building is increased by the inclusion of a value placed on Empower's business property, and if the Club pays the Taxes on any of these items or the Taxes based on the increased assessment of these items, Empower, on demand, shall immediately reimburse the Club for the sum of the Taxes levied against the Club and attributable to Empower's business property. The Club shall have the right to pay these Taxes regardless of the validity of the levy.

4.4 Responsibilities of the Parties Collectively.

4.4.1 The Parties shall work together toward the mutual goal of increasing the growth and development of youth.

4.4.2 The Parties shall be responsible to ensure that prior to their individual performance of this Agreement, the Parties' employees, contractors and/or agents assigned to work at the Property are fingerprinted at a California State recognized facility for fingerprint clearance. The Parties agree not to place at the Property any of its employees, contractors or agents who have a conviction of a serious or violent felony, or sex offense, or controlled substance offense. Upon request by either Party to the other, evidence of its compliance with this Section shall be provided in a commercially reasonable time frame.

4.4.3 Cooperate with the each other to ensure effective communication, optimum utilization of resources and the achievement of program goals and objectives.

4.4.4 Each Party shall establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business or other ties.

4.4.5 The Parties acknowledge and agree that they shall not publish or use each other's name in any advertising, sales, promotional or other publicity materials without the

prior written consent of the other party.

5. **Maintenance, Repair and Alteration of Premises.** No material alterations, improvements, installations or modifications may be made to the Premises without the prior written consent of the Club.

5.1 **Club's Obligations For Repair and Maintenance.** Club shall repair and maintain in good condition those portions of the Premises as required by the Lease with the City of San Diego. The Club shall keep all amenities, including, but not limited to the bathrooms and the kitchen, in good working order. If repairs, improvements, or maintenance of Premises is necessary, the Club will work with Empower to minimize disruption to school activities. The club will not make changes to the Premises that do not comply with the requirements of Educational Occupancy or hinder Empower's ability to operate a school on the premises. To the fullest extent allowed by law, Empower hereby expressly waives the benefits of any statute now or hereafter in effect including, but not limited to, Civil Code Sections 1941 and 1942, which would otherwise give Empower the right to make repairs and deduct the cost thereof from rent or the right to terminate this Sublease because of Club's failure to keep the Premises in good order, condition and repair.

5.2 **Empower's Obligations For Repair and Maintenance.** Subject to Club's obligations in Section 5.1 above and to the City's obligations under the Lease and ordinary wear and tear, damage due to casualty and condemnation as set forth below, at all times during the Term, Empower' at Empower' sole expense, keep in good order, condition and repair the Premises. All operation, maintenance, repair and replacement shall be made in compliance with all applicable laws and governmental regulations. If Empower fails to perform Empower's obligations under this Section 5.2 the Club may, at Club's sole option, enter the Premises and perform such obligations on Empower's behalf and put the Premises or any part thereof in good repair. The cost therefor, together with interest thereon at the maximum rate then allowed by law, shall be immediately due and payable to the Club.

5.3 **Common Areas.** Common areas ("Common Areas") means all areas and facilities outside the Premises and within the exterior boundaries of the real property on which the Building and Premises are located and which are for the general use and convenience of Empower and other tenants of the Building. Common Areas include, without limitation, sidewalks, entrance ways, service areas, patios, landscaped areas, hallways, public restrooms, stairways, parking areas, driveways, roadways, loading areas, elevators, and hallways. Club shall repair and maintain the Common Areas in good condition. Club may establish and enforce reasonable rules and regulations concerning the Common Areas. Further, Club may temporarily close any of the Common Areas for maintenance or repair purposes. Club may select a person or organization to maintain and operate any of the Common Areas. Club shall also have the right

Sublease-BOYS' AND GIRLS' CLUBS
AND EMPOWER CHARTER SCHOOL
RON ROBERTS/LINDA VISTA BRANCH

to make changes to the Common Areas including, without limitation, changes in the location of driveways, entrances, exits and parking spaces.

5.5 Alterations, Additions and Improvements. Empower shall not make any alterations, additions or improvements to the Premises or the Building without the prior written consent of Club and the City, if required under the Lease. If such consent is granted, any such alteration, addition or improvement shall be made in accordance with all applicable federal, state and municipal laws, rules and regulations as well as all covenants and restrictions. This Section shall specifically include carpeting, window coverings, air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing, cabinets and fencing. If Club grants such consent, Club may require Empower to remove any and all such alterations, additions or improvements at the expiration of the Term and restore the Premises and/or the Building to its condition as of this commencement of this Sublease. If Club does not require such removal and restoration, all alterations, additions and improvements shall become the property of Club and remain upon and be surrendered with the Premises at the expiration of the Term.

Empower shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Empower at or for use in the Premises or the Building, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises, Building or any interest therein. Club may also require Empower to provide Club, at Empower's sole cost and expense, a lien and completion bond in an amount equal to 1 1/2 times the estimated cost of such alterations, additions or improvements to insure Club against any liability for mechanic's and materialmen's liens and to insure completion of the work. The bond shall meet the requirements of Civil Code Section 3143. If Empower shall, in good faith, contest the validity of any such claim, lien or demand, then Empower shall, at its sole expense, defend itself and Club against the same and shall pay and satisfy any such adverse judgement that may be rendered thereon before the enforcement thereof against the Club or the Premises, upon the condition that if Club shall require, Empower shall furnish to Club a surety bond satisfactory to Club in an amount equal to such contested lien, claim or demand indemnifying Club against liability for the same and holding the Premises free from the effect of such lien, claim or demand. In addition, Club may require Empower to pay Club's attorneys fees and costs of participating in such action.

Empower shall give Club not less than ninety (90) days written notice prior to the commencement of any work in the Premises, and Club shall have the right to post notices of nonresponsibility in the Premises. Any proposed alterations, additions or improvements shall be presented to Club in written form with detailed plans. If Empower makes any alteration, addition or improvement without the prior written consent of Club and the City, the Club may require Empower to remove any or all of the same.

5.6 Construction Bond. Prior to the commencement of any construction at the Premises, Empower shall deposit a faithful performance bond with the City of San Diego in a mount equal to 100% of the estimated cost of the work to be performed.

6. Insurance and Indemnity.

6.1 Insurance.

6.1.1 Empower's Liability Insurance. Empower shall, at Empower's sole expense, obtain and keep in force during the Term of this Sublease a policy of public liability insurance including combined single limit bodily injury and property damage insurance insuring the Club, the City and Empower against any liability arising out of the ownership, use, occupancy and maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be a combined single limit policy in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The policy shall insure performance by Empower of the indemnity provisions of Section 6.2. Insurance required hereunder shall be with companies holding a general policy holders rating of at least A plus, or such other rating as may be required by the Club and the City. No policy shall be cancelable or subject to reduction in coverage or other modification except after thirty (30) days prior written notice to Club. Empower shall not do or permit to be done anything which will invalidate any insurance policies required in this Section 6. All policies of insurance shall name Club and City (and at Club's option any additional parties designated by Club) as an additional insured. The limits of the insurance shall not, however, limit the liability of Empower hereunder. Certificates of Insurance showing Club and the City as an additional insured shall be provided to Club and the City within ten (10) days of execution of this Sublease and each time said policy is renewed.

6.1.2 Empower's Failure to Obtain Insurance. If Empower fails to procure and maintain any insurance required by Section 6.1.1, Club may, but shall not be required to, procure and maintain such insurance. Empower shall immediately reimburse Club for all costs therefor together with interest thereon at the maximum rate then allowed by law.

6.1.3 Increase of Insurance. Empower shall not operate, occupy, maintain, or use the leased portions of the Property in such a manner as to result in cancellation of the Club's insurance or results in an increase of the Club's liability and/or property damage insurance. In the event that the Club's insurance is increased solely by reason of Empower's use, occupancy, maintenance, or operation of the leased premises, then Empower shall promptly reimburse the Club for such increased cost upon demand by the Club.

Empower acknowledges that it shall have the sole responsibility for maintaining property damage insurance on its fixtures and equipment and other personal property located at the

Premises.

6.1.4 Club's Insurance. Club at its sole cost and expense shall procure and maintain during the Term, commercial General Liability Insurance in an amount not less than \$2,000,000 per occurrence. Coverage shall include but shall not be limited to coverage for bodily injury, loss of life or property damage occurring in or about the Building, the Common Area or the Premises.

6.2 Indemnity.

6.2.1 Empower's Indemnity. Empower shall indemnify and hold the Club and the City harmless from and against any and all claims arising from Empower's use of the Premises, or from the conduct of Empower's business or from any activity, work or thing done, permitted or suffered by Empower in or about the Premises or the Building or elsewhere. Empower shall further indemnify and hold Club and the City harmless from and against any and all claims arising from any breach or default in the performance of any obligation of Empower under this Sublease or arising from any gross negligence of the Empower or any of Empower's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding is brought against Club by reason of any such claim, Empower, upon notice from Club, shall defend the same at Empower's expense by counsel satisfactory to Club. Empower, as a material part of the consideration to Club, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises arising from any cause and Empower hereby waives all claims in respect thereof against Club. The indemnification provisions contained herein shall survive the termination of this Sublease with respect to any claim or liability occurring prior to such termination.

6.2.2 Club's Indemnity. Club hereby indemnifies and agrees to hold Empower harmless from, and to defend Empower against any and all claims of liability for any injury or damage to any person or property occurring as a result of gross negligence or willful misconduct on the part of the Club, its agents, contractors or employees. The indemnification provisions contained herein shall survive the termination of this Sublease with respect to any claim or liability occurring prior to such termination.

6.3 Exemption of Club from Liability. Empower hereby agrees that the Club and the City shall not be liable for injury to Empower's business or for any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Empower, Empower's employees, invitees, customers or any other person in or about the Premises. Further, the Club and the City shall not be liable for any injury to Empower, Empower's employees, agents or contractors whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain or from breakage, leakage, obstruction or other defects of

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pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the damage or injury results from conditions arising upon the Premises or upon other portions of the Building or from other sources or places and regardless of whether the cause of damage or injury or the means of repairing the same is inaccessible to Empower. Club shall not be liable for any damages arising from any act or neglect of any other tenants of the Building.

7. Damage or Destruction.

7.1 Partial or Total Damage or Destruction of Premises. Notwithstanding anything herein to the contrary, and subject to the cost requirements and City approval requirements under the Term of the Lease, in the event that the Premises or the Building are partially or totally damaged or destroyed, from any cause whatsoever, except through fault of Empower, whether or not such damage or destruction is covered by the insurance required under Section 6, then Club may, at Club's sole option, either: 1) restore the Premises, Building, or improvements to the condition existing immediately prior to such damage or destruction and this Sublease shall remain in full force and effect; or 2) terminate this Sublease immediately; provided, however, that if the cost of restoration of the damage or destruction is Ten Thousand Dollars (\$10,000.00) or less and insurance proceeds are available for such restoration, Club shall repair the Premises or Building to their condition existing immediately prior to the damage or destruction. Any damage caused through fault of the Empower shall be repaired and restored to the condition existing immediately prior to such damage or destruction at the sole cost and expense of the Empower. Empower agrees that preliminary steps toward performing repairs, restoration or replacement shall be commenced within thirty (30) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter in a manner acceptable to Club, in Club's sole discretion.

7.2 Abatement of Rent. If the Premises are partially or totally damaged or destroyed, and if Club restores the Premises under the provisions of Section 7.1, monthly rent shall be abated proportionately with the degree to which Empower's use of the Premises is impaired commencing from the date of damage or destruction and continuing during the period of such restoration until the restoration is completed so that Empower may use the Premises for Empower's usual business.

7.3 Waiver. Empower waives the provisions of any statutes which relate to termination of leases when the thing leased is destroyed and agrees that such event shall be governed by the terms of this Sublease.

8. Intentionally Left Blank.

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RON ROBERTS/LINDA VISTA BRANCH

9. **Licenses and Permits.** It shall be the sole and full responsibility of Empower, at its cost, to obtain all permits and licenses as are necessary to the use, operation, occupancy and/or maintenance of the Premises.

10. **Hours of Operation.** Subject to the written consent of the City, if required, Empower shall conduct its operation of the charter school on the Premises during the following hours:

10.1 Monday through Friday, except holidays, 8:00 a.m. to 3:00 p.m. during the charter school year operated at the Premises ("Operating Hours") which conforms with the current CUP or as the CUP is amended from time to time. Empower may schedule office hours beyond the regular school day with the Club's written approval.

10.2 School events that occur outside of school hours will be scheduled so as not to conflict with Club events and shall be subject to any requirement by the City and/or the Club and written request of approval of such events shall be made at least one (1) week in advance.

11. **Default.**

11.1 **Empower's Default.** The occurrence of any of the following shall constitute a default by Empower:

11.1.1 Failure to pay rent or other sums when due.

11.1.2 Abandonment and vacation of the Premises (failure to occupy and operate the Premises for four (4) consecutive weeks, except for scheduled holidays or breaks shall be deemed an abandonment and vacation).

11.1.3 Failure to perform any other provision of this Sublease (a non-monetary default) if the failure to perform is not cured within thirty (30) days after notice has been given to Empower. If the default cannot reasonably be cured within thirty (30) days, Empower shall not be in default of this Sublease if Empower commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default.

Notices given under this Section shall specify the alleged default and the applicable Sublease provisions, and shall demand that Empower perform the provisions of this Sublease or pay the rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises. No such notice shall be deemed a forfeiture or a termination of this Sublease unless Club so elects in the notice.

The purpose of the notice requirements set forth in this paragraph is to extend the notice requirements of the unlawful detainer statutes of California.

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11.1.4 Violation by Empower of any provisions of covenants, conditions and restrictions ("CC&Rs") and/or any other recorded documents affecting the Premises.

11.1.5 No interest of Empower in this Sublease shall be assignable by operation of law. Each of the following acts shall be considered an involuntary assignment and a default hereunder:

11.1.6 If Empower is or becomes bankrupt or insolvent or is unable to pay Empower's debts as they become due, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which Empower is the bankrupt; or, if Empower is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

11.1.7 If a writ of attachment or execution is levied on this Sublease;

11.1.8 If, any proceeding or action to which Empower is a party, a receiver is appointed with authority to take possession of the Premises.

An involuntary assignment shall constitute a default by Empower and Club shall have the right to elect to terminate this Sublease, in which case this Sublease shall not be treated as an asset of Empower.

12. Termination. This Sublease may be terminated as follows:

12.1 In the event that during the term of this Sublease, governmental funding is either eliminated or reduced to a point so as to render continued operation of the Empower Charter School impractical or impossible, Empower may terminate this Sublease upon ninety (90) days' written notice to the Club.

12.2 By Club, for Empower's breach of any covenant or condition contained in this Sublease which is not cured within thirty (30) days immediately following written notice from the Club of such alleged breach.

12.3 By mutual agreement of the Parties hereto.

12.4 By Club in the event the Lease between the City and Club is terminated for any reason.

12.5 By the club in the event the Club finds it is practicably unable to continue

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RON ROBERTS/LINDA VISTA BRANCH

operation of the Club at this site.

12.6 By either party in the event San Diego Unified School District were to revoke or not renew the charter. All previous agreements and costs related to this Sublease shall be reimbursed to the Club immediately.

12.7 Surrender; Termination. Upon termination of this Sublease, Empower shall surrender the Premises to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Empower shall repair any damage to the Premises occasioned by the installation or removal of its trade fixtures, furnishings and equipment. Unless Landlord requests the removal all alterations, improvements and additions shall become the property of the Club and remain upon and be surrendered with the Premises at the expiration of the Term. Notwithstanding this Section 12.7, nothing in this Section shall conflict with laws regarding public school property.

13. Late Charges. Empower hereby acknowledges that late payment by Empower to the Club of rent and other sums due under this Sublease will cause the Club to incur costs not contemplated by this Sublease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on the Club by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent or any other sum due from Empower is not received by the Club within ten (10) days after such amount is due then Empower shall immediately pay to Club a late charge equal to six percent (6%) of the overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs the Club will incur by reason of late payment by Empower. Acceptance of the late charge by the Club shall in no event constitute a waiver of Empower's default with respect to such overdue amount, nor prevent the Club from exercising any of the other rights and remedies granted under this Sublease. If a late charge is payable hereunder, whether or not collected, for three (3) installments of rent, then rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding any other provision of this Sublease to the contrary.

14. Condemnation.

14.1 Definitions. "Condemnation" means: (a) the exercise of any governmental power, whether by legal proceedings or otherwise, by a condemnor; and (b) a voluntary sale or transfer by Club to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

"Date of Taking" means the date the condemnor has the right to possession of the property being condemned.

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"Award" means all compensation, sums, or anything of value awarded, paid or received on a total or partial condemnation.

"Condemnor" means any public or quasi-public authority, or private corporation or individual, having the power of condemnation.

If, during the Term or during the period of time between the execution of this Sublease and the date the Term commences, there is a taking of all or any part of the Premises, Building, other improvements or real property of which the Premises are a part or of any interest in this Sublease by condemnation, the rights and obligations of the parties shall be determined pursuant to this Section.

14.2 Total Taking. If all of the square footage in the Premises is taken by Condemnation, this Sublease shall terminate on the Date of Taking.

14.3 Partial Taking. If a portion of the square footage but less than all of the square footage of the Premises or of the Building or the real property of which the Premises are a part, is taken by condemnation, Landlord, within sixty (60) days after the Date of Taking, may terminate this Sublease as of a date specified in a written notice given to Empower by Landlord within that sixty (60) day period. If Landlord does not give notice of termination to Empower within that sixty (60) day period, then this Sublease shall continue in full force and effect; provided, however, that if a portion of the square footage but less than all of the square footage in the Premises is taken, monthly rent shall be reduced by an amount that is in the same ratio to monthly rent as the total square footage in the Premises taken bears to the total square footage in the Premises immediately before that Date of Taking.

14.4 Waiver of California Code of Civil Procedure Section 1265.130. Empower waives the provisions of Code of Civil Procedure Section 1265.130 allowing a party to petition the superior court to terminate this Sublease in the event of a partial taking of the Premises.

14.5 Restoration of Premises. If there is a partial taking of the Premises and this Sublease remains in full force and effect Empower at its cost shall accomplish all necessary restoration with no abatement of rent.

14.6 Award. The entire award shall belong to and be paid to Landlord except that Empower shall receive from the award a sum attributable to Empower's improvements or alterations made to the Premises by Empower in accordance with this Sublease which Empower has the right to remove from the Premises pursuant to the provisions of this Sublease but elects not to remove.

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RON ROBERTS/LINDA VISTA BRANCH

15. No Broker. Empower represents that neither the Premises, nor any portion of the Building, was presented to it or to any person representing it by any broker or finder and that no broker or finder was involved in the leasing of the Premises. Empower warrants that no claim for commission for the leasing shall be presented to Landlord. Further, Empower agrees to indemnify and defend Landlord in the event of any such claims.

16. Assignment.

16.1 No Assignment. Empower shall not voluntarily assign or encumber its interest in this Sublease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity to occupy or use all or any part of the Premises, without first obtaining Landlord's and the City's prior written consent which consent shall not be unreasonably withheld. Any assignment, encumbrance, or sublease without Landlord's prior written consent shall be voidable and, at Landlord's election, shall constitute a material default of this Sublease. No consent to any assignment, encumbrance, or sublease shall constitute a further waiver of the provisions of this Section.

16.2 If Consent is Given. If Landlord consents to a sublease or assignment of this Sublease, Empower immediately and irrevocably assigns to Landlord, as security for Empower's obligations under this Sublease, all rent from any subletting of all or any part of the Premises as permitted by this Sublease, and Landlord, as assignee and as attorney-in-fact for Empower, may collect such rent and apply it towards Empower's obligations under this Sublease; except that, until the occurrence of an act of default by Empower, Empower shall have the right to collect such rent. All rent received by Empower from its sublease in excess of the rent payable by Empower to Landlord under this Sublease shall be paid to Landlord, or any sums to be paid by an assignee to Empower in consideration of the assignment of this Sublease shall be paid to Landlord if Landlord consents to a sublease or assignment. If Empower requests Landlord to consent to a proposed assignment or subletting, Empower shall pay to Landlord, whether or not consent is ultimately given, Landlord's reasonable attorney's fees incurred in connection with each such request.

16.3 Assignment by Operation of Law. No interest of Empower in this Sublease shall be assignable by operation of law. Each of the following acts shall be considered an involuntary assignment:

16.3.1 If Tenant is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors or institutes a proceeding under the Bankruptcy Act in which Tenant is the bankrupt; or, if Tenant is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

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16.3.2 If a writ of attachment or execution is levied on this Sublease;

16.3.3 If, in any proceeding or action to which Tenant is a party, a receiver is appointed with authority to take possession of the Premises.

An involuntary assignment shall constitute a default by Tenant and Landlord shall have the right to elect to terminate this Sublease, in which case this Sublease shall not be treated as an asset of Empower.

17. **Estoppel Certificate.** Tenant shall at any time and from time to time, upon not less than ten (10) days prior written notice from Landlord, execute, acknowledge, and deliver to Landlord a statement in writing certifying certain facts including, without limitation, that this Sublease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Sublease, as so modified, is in full force and effect) and the dates to which the rental, the security deposit, and other charges, if any, are paid in advance, and acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, and no events or conditions then in existence which, with the passage of time or notice or both, would constitute a default on the part of Landlord hereunder, or specifying such defaults, events, or conditions, if any are claimed. It is expressly understood and agreed that any prospective purchaser or encumbrancer of all or any portion of the Premises or the Building or of the real property of which they are a part shall be entitled to rely upon any such statement. Tenant's failure to deliver such statement within such time shall, at the option of Landlord, constitute a breach or default under this Sublease. If such option is not so exercised by Landlord, Tenant's failure shall be conclusive upon Tenant that (i) this Sublease is in full force and effect without modification except as may be represented by Landlord; (ii) that there are no uncured defaults in Landlord's performance; and (iii) that not more than one (1) months' rental has been paid in advance. If Tenant fails to deliver the certificate within ten (10) days, Tenant irrevocably constitutes and appoints Landlord as its special attorney-in-fact to execute and deliver the certificate to a third party.

18. **Subordination.** Tenant agrees upon request of Landlord to subordinate this Sublease and its rights hereunder to the lien of any mortgage, deed of trust or other encumbrance, together with any conditions, renewals, extensions, or replacements thereof, now or hereafter placed, charged or enforced against the Landlord's interest in this Sublease and the leasehold estate thereby created, the Premises, the Building or improvements included therein or the real property of which the Premises are a part, and deliver at any time and from time to time upon demand by Landlord any documents required to effectuate such subordination. In the event that Tenant fails, neglects or refuses to execute and deliver any such document within ten (10) days after receipt of written notice to do so and the receipt by Tenant of the document to be executed by it, Tenant hereby appoints Landlord, its successors and assigns, the special attorney-in-fact of

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RON ROBERTS/LINDA VISTA BRANCH

Tenant irrevocably to execute and deliver any and all such documents for and on behalf of Tenant; provided, however, that Tenant shall not be required to effectuate such subordination, nor shall Landlord be authorized to effect such subordination on behalf of Tenant, unless the mortgagee or beneficiary named in such mortgage, deed of trust or other encumbrance shall first agree in writing, for the benefit of Tenant, that so long as Tenant is not in default under any of the provisions, covenants or conditions of this Sublease on the part of Tenant to be kept and performed, that Tenant's quiet enjoyment of the Premises will not be disturbed or interfered with by any trustee's sale or by any action or proceeding to foreclose said mortgage, deed of trust or other encumbrance.

In the event that the mortgagee or beneficiary of any such mortgage or deed of trust elects to have this Sublease a prior lien to its mortgage or deed of trust, then and in such event upon such mortgagee or beneficiary giving written notice to Tenant to that effect, this Sublease shall be deemed a prior lien to such mortgage or deed of trust whether this Sublease is dated or recorded prior to or subsequent to the date of recordation of such mortgage or deed of trust.

19. Landlord's Liability. The term Landlord as used herein shall mean only the owner or owners, at the time in question, of the fee interest in the Premises. In the event of any transfer of such fee interest, Landlord shall be relieved from and after the date of such transfer of all liability under this Sublease provided that any funds in the hands of Landlord at the time of such transfer, in which Tenant has an interest, shall be delivered to the grantee. The obligations in this Sublease to be performed by Landlord shall be binding on Landlord's successors and assigns only during their respective periods of ownership.

20. Interest on Past Due Obligations. Except as expressly herein provided, any amount due to a party and not paid when due shall bear interest at 10% from the date due until paid.

21. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other or any other person shall be in writing and either served personally or sent by prepaid certified mail, first class, and shall be addressed to the other party at the address set forth under its name on the signature page of this Sublease. Either party may change its address by notifying the other party of the change of address in accordance with this Section. Notice shall be deemed effective upon receipt if personally delivered or seventy-two (72) hours from the date of mailing if mailed as provided in this Section.

22. Signs. Tenant shall not place any sign upon the Premises, the Building or any improvements or the real property of which the Premises are a part without the Club's and the City's, if required, prior written consent. The Club's written consent shall not be unreasonably withheld.

23. Recording/Quitclaim Deed. This Sublease shall not be recorded without Landlord's

prior written consent. Tenant shall execute and deliver to Landlord on the expiration or termination of this Sublease, immediately on Landlord's request, a quitclaim deed to the Premises, in recordable form, designating Landlord as transferee.

24. Intentionally left blank.

25. Landlord's Right of Entry. Landlord and Landlord's agents shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same, showing the Premises to prospective purchasers, lenders or tenants and making such alterations, repairs, improvements, or additions to the Premises or the Building as Landlord may deem necessary or desirable. Provided, however, as Empower is responsible for the safety of its students, Landlord and Landlord's agents will comply with any reasonable written rules of Empower regarding check-in requirements of Landlord and/or Landlord's visitors, which may include the requirement that every visitor during school hours sign in, wear a visitor badge and sign out.

Landlord or the City may at any time place on or about the Premises any ordinary "for sale" signs and Landlord may at any time during the last one hundred and eighty (180) days of the Term of the Sublease place on or about the Premises "For Lease" signs.

26. Attorney's Fees. If either party brings an action to enforce the terms of this Sublease or declare rights hereunder, the prevailing party in such action, on trial or appeal, shall be entitled to his reasonable attorney's fees to be paid by the losing party as fixed by the court.

27. Security Measures. Tenant hereby acknowledges that the rent payable to Landlord hereunder does not include the cost of guard service or other security measures and that Landlord shall have no obligation whatsoever to provide the same. If Landlord has a working alarm system in place, Tenant may use it. Tenant assumes all responsibility for the protection of Tenant, its agents and invitees from acts of third parties.

28. Landlord's Right to Effect Performance. If Tenant at any time fails to perform any covenant, term or condition of this Sublease, Landlord may after providing Empower the notice and period for cure specified in Section 11.1.3, perform the same for the account of Tenant, and any monies paid by Landlord on account thereof shall be deemed to be additional rent due under this Sublease, shall be immediately due and payable to Landlord and shall bear interest at the maximum rate allowable by law until paid by Tenant to Landlord.

29. Commencement of Action. Any claim, demand, right or defense of any kind by Tenant, which is based upon or arises in any connection with this Sublease or the negotiations prior to its execution, shall be barred unless Tenant commences an action thereon, or interposes in a legal proceeding a defense by reason thereof, within six (6) months after the date of the inaction or

omission or the date of the occurrence of the event or of the action to which the claim, demand, right or defense relates, whichever applies.

30. Miscellaneous.

30.1 Time of Essence. Time is of the essence to this Sublease.

30.2 Amendments. This Sublease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Sublease may be modified only in a writing signed by all parties hereto.

30.3 Severability. The invalidity of any provision of this Sublease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof and it shall remain in full force and effect.

30.4 Waiver. No delay or omission in the exercise of any right or remedy of Landlord on any default by Tenant shall impair such right or remedy or be construed as a waiver. No act or conduct of Landlord, including, without limitation, the acceptance of the keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Landlord to Tenant shall constitute an acceptance of the surrender of the Premises and accomplish a termination of the Sublease. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant. Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Sublease.

30.5 Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

30.6 Covenants and Conditions. Each provision of this Sublease to be performed by Tenant shall be deemed both a covenant and a condition.

30.7 Governing Law. This Sublease shall be governed by the laws of the State of California.

30.8 Heirs, Successors and Assigns. Subject to the provisions restricting assignment or subletting by Empower, or other provisions of this Sublease, this Sublease shall be binding on the parties, their respective heirs, personal representatives, successors and assigns.

30.9 Authority. Each individual executing this Sublease on behalf of such entity

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represents and warrants that he or she is duly authorized to execute and deliver this Sublease on behalf of that entity. Each party shall provide the other party with evidence of such authority satisfactory to Landlord.

30.10 Written Notice or Consent of Parties. Whenever a notice, consent or approval of either party is required, the notice, consent or approval shall be in writing.

30.11 Captions. The captions of this Sublease shall have no effect on its interpretation.

30.12 Construction. As used in this Sublease, the masculine, feminine or neuter gender and the singular or plural numbers shall each be deemed to include the other whenever the context so indicates. This Sublease shall be construed in accordance with its fair meaning, the captions being for the convenience of the parties only and not intended to describe or define the provisions in the portions of the Sublease to which they pertain. The terms of this Sublease have been freely negotiated by the parties and this Sublease shall not be construed against the drafter.

30.13 Mediation, Arbitration and Attorney's Fees.

30.13.1 Mediation of Disputes. Except as otherwise provided herein, the parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences arbitration without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney's fees, even if they would otherwise be available to that party in any such arbitration.

30.13.2 Arbitration of Disputes. Except as otherwise provided herein, any action to enforce or interpret this instrument or to resolve disputes between the parties regarding this instrument, shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association. Any party may commence arbitration by sending a written demand for arbitration to the other parties. Such demand shall set forth the nature of the matter to be resolved by arbitration. Arbitration shall be conducted at San Diego, California. The substantive law of the State of California shall be applied by the arbitrator to the resolution of the dispute. The parties shall share equally all initial costs of arbitration. The prevailing party shall be entitled to reimbursement of attorney fees, costs, and expenses incurred in connection with the arbitration. All decisions of the arbitrator shall be final, binding, and conclusive on all parties. Judgment may be entered upon any such decision in accordance with applicable law in any court having jurisdiction thereof.

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RON ROBERTS/LINDA VISTA BRANCH

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

INITIALS: CSL DB

30.14.3 In the event of a dispute arising out of this Agreement, or the performance thereof it, the prevailing party shall recover all of its legal fees and expenses, whether or not the dispute is submitted to arbitration.

LANDLORD: BOYS AND GIRLS CLUB OF GREATER SAN DIEGO

By: [Signature]
Danny Sherlock
Address: P.O. Box 178569
San Diego, CA 92177
Tel. #: 858-866-0591
Facsimile: 858-866-0595
E-mail: dsherlock@sdyouth.org

TENANT: Empower Charter School

By: [Signature]
Demi Brown, Director
Address 1234 31st St.
San Diego, CA 92102
Tel. #: 619-857-1816
E-mail: dbrown@empowercharter.org

Q:\LBB\real estate\Boys' and Girls' Club\Empower Charter School-National City\Sublease-revised 8-13-14.wpd

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AND EMPOWER
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HOLD HARMLESS AGREEMENT

FOR USE OF BOYS & GIRLS CLUB FACILITIES

Name of organization Empower Charter School Phone 619-722-0414

Purpose of use Education

Building to be used Ron Roberts Family Branch

In consideration of being permitted to enter any branch of the Boys & Girls Clubs of Inland North County (the "Club") for observation, use of facilities and/or equipment or participation in any program by the above referenced organization, I hereby agree on behalf of the Organization as follows:

- The undersigned, on behalf of the Organization acknowledge that (i) I have read this document, (ii) I have inspected the facilities and equipment, (iii) I accept them as being safe and reasonably suited for the purposes intended, and (iv) I voluntarily sign this document.
- The undersigned hereby agrees to comply with the Clubs' policy and shall be responsible, on behalf of the above named organization, for any damage sustained by the building or property accruing through the use of said property by the organization.
- Release the Club, its directors, officers, employees, volunteers, governing board, agents, representatives (collectively "Releasees") from all liability to me for any loss or damage to property or injury or death to person, whether caused by Releasees or by any person associated directly or indirectly with the Club, its officers, directors, employees or volunteers or otherwise while the Organization is in or near any Club branch.
- Agree not to sue Releasees for any loss, damage, injury or death described above and indemnify and hold harmless Releasees and each of them from any injury to persons or property sustained by any person caused by any act, neglect, default, or omission of the undersigned or of any person associated directly or indirectly by him upon or in connection with this activity or whether caused by the negligence of the Releasees or otherwise, whether the said injury or damage occurs upon or adjacent to the property. The undersigned at his own cost, expense and risk shall defend any and all actions, suits or other legal proceedings that may be brought or instituted against the Club on any such claim or demand, and pay or satisfy any judgment that may be rendered against the Club in any such action, suit or legal proceedings or result thereof.

HOLD HARMLESS AGREEMENT (Continued)

- I assume full responsibility for, and risk of, bodily injury, death or property damage due to the negligence of Releasees or otherwise.
- The undersigned states that, to the best of his knowledge, the property for use of which application is hereby made will not be used for the commission of any act which is prohibited by law, or for the commission of any crime including, but not limited to, the crime specified in Sections 11400 to 11401 of the California Penal Code.

I intend this document to be as broad and inclusive as is permitted by the laws of the State of California; if any portion hereof is held invalid, I agree that the balance shall continue in full force and effect.

DMB
Signature

Director
Title in Organization

08/14/14
Date

1234 31st St
Address

San Diego CA
City

92102
Zip

For Office Use Only

Approval by Boys & Girls Club President

Date 8/14/14

[Signature]

ADDENDUM

1. Empower shall be charged no fee for use of the facilities.
2. All Empower students must be members of the Boys & Girls Club.
3. Empower shall maintain a liability insurance policy for not less than \$5,000,000 insuring the Club, the City and Empower.
4. Empower shall obtain all required regulatory certificates for operation of a charter school on the premises.
5. Empower shall be responsible for all improvements required by the City for E-group occupancy.
6. The Club's use of the premises shall take precedence over Empower, whenever local schools are not in session.
7. This agreement may be terminated by the Club, if Empower fails to adhere to these terms.

8/15

BOYS & GIRLS CLUBS OF GREATER SAN DIEGO

APPLICATION AGREEMENT FOR USE OF CERTAIN BOYS & GIRLS CLUB FACILITIES

The Board of Directors' policy requires that the following statement of information be filled out completely by the applicant before application may be considered by the President.

Date of application 08/14/2014
Name of organization Empower Charter School
Name of representative to be responsible Demi Brown
Address 1234 31st St San Diego CA 92102 Phone 619-857-1816
Purpose or nature of group Education, public
Kind of meeting (opened or closed to public) classes
Admission fees (if any) to be charged, not including tax none
Will a collection be made or contributions solicited none
Facilities desired Ron Roberts Family Branch Number in group 132 max
Indicate Branch & Room/Area
Equipment desired tables, chairs, computers
Dates desired All school days 9/2/14-6/30/15 Hours 8:00am-3:00pm
(Include set up & clean up time)

The applying organization understands that it must observe all rules and regulations of the Club: that it will use reasonable care and diligence in protecting the facilities being used; and that it will pay for any loss or damage beyond reasonable wear. If the nature of the use of the facility is such that there may possibly be loss and/or damage to same, a deposit shall be made to cover. Any portion of the deposit not used to replace the loss and/or damage will be promptly refunded to the applicant.

Demi B Director
Signature of Applicant Title of Position

For Office Use Only

See Addendum for terms.

☒ Approved ☐ Denied

8/14/14
Date

Doc/Facilities Use

[Signature]
Boys & Girls Club President

ADDENDUM

1. Empower shall be charged no fee for use of the facilities.
2. All Empower students must be members of the Boys & Girls Club.
3. Empower shall maintain a liability insurance policy for not less than \$5,000,000 insuring the Club, the City and Empower.
4. Empower shall obtain all required regulatory certificates for operation of a charter school on the premises.
5. Empower shall be responsible for all improvements required by the City for E-group occupancy.
6. The Club's use of the premises shall take precedence over Empower, whenever local schools are not in session.
7. This agreement may be terminated by the Club, if Empower fails to adhere to these terms.

HOLD HARMLESS AGREEMENT

FOR USE OF BOYS & GIRLS CLUB FACILITIES

Name of organization Empower Charter School Phone 619-722-0414

Purpose of use Education

Building to be used Bon Roberts Family Branch

In consideration of being permitted to enter any branch of the Boys & Girls Clubs of Inland North County (the "Club") for observation, use of facilities and/or equipment or participation in any program by the above referenced organization; I hereby agree on behalf of the Organization as follows:

- The undersigned, on behalf of the Organization acknowledge that (i) I have read this document, (ii) I have inspected the facilities and equipment, (iii) I accept them as being safe and reasonably suited for the purposes intended, and (iv) I voluntarily sign this document.
- The undersigned hereby agrees to comply with the Clubs' policy and shall be responsible, on behalf of the above named organization, for any damage sustained by the building or property accruing through the use of said property by the organization.
- Release the Club, its directors, officers, employees, volunteers, governing board, agents, representatives (collectively "Releasees") from all liability to me for any loss or damage to property or injury or death to person, whether caused by Releasees or by any person associated directly or indirectly with the Club, its officers, directors, employees or volunteers or otherwise while the Organization is in or near any Club branch.
- Agree not to sue Releasees for any loss, damage, injury or death described above and indemnify and hold harmless Releasees and each of them from any injury to persons or property sustained by any person caused by any act, neglect, default, or omission of the undersigned or of any person associated directly or indirectly by him upon or in connection with this activity or whether caused by the negligence of the Releasees or otherwise, whether the said injury or damage occurs upon or adjacent to the property. The undersigned at his own cost, expense and risk shall defend any and all actions, suits or other legal proceedings that may be brought or instituted against the Club on any such claim or demand, and pay or satisfy any judgment that may be rendered against the Club in any such action, suit or legal proceedings or result thereof.

HOLD HARMLESS AGREEMENT (Continued)

- I assume full responsibility for, and risk of, bodily injury, death or property damage due to the negligence of Releasees or otherwise.
- The undersigned states that, to the best of his knowledge, the property for use of which application is hereby made will not be used for the commission of any act which is prohibited by law, or for the commission of any crime including, but not limited to, the crime specified in Sections 11400 to 11401 of the California Penal Code.

I intend this document to be as broad and inclusive as is permitted by the laws of the State of California; if any portion hereof is held invalid, I agree that the balance shall continue in full force and effect.

<u></u>	<u>Director</u>	<u>08/14/14</u>
Signature	Title in Organization	Date
<u>1234 31st St</u>	<u>San Diego CA</u>	<u>92102</u>
Address	City	Zip

For Office Use Only

Approval by Boys & Girls Club President

Date 8/14/14

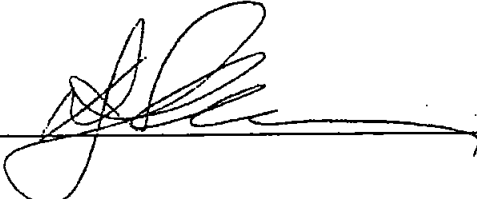


EXHIBIT A

Legal Description

Lots 7, 8 and 26 of Block 32, Linda Vista Unit No. 5 in the City of San Diego, County of San Diego, State of California according to the Map thereof, No. 3208, filed in the Office of the County Recorder of said County, April, 1955, excepting that portion of said Lot 26 described as follows:

Beginning at the Northwest corner of said Lot 26, a radial line bears South 82° 55' 04" West; Thence North 76° 34' 23" East 174.33 feet, along the Northerly line of Said Lot 26, to the Northeast corner thereof, said corner also being the Northwest corner of said Lot 2 of said Map No. 3208; Thence South 13° 28' 07" East 116.17 feet, along the Easterly line of said Lot 26, to the Southwest corner of said Lot 2; Thence North 76° 34' 23" East 70.00 feet, to the Northwest corner of Lot 3 of said Map No. 3208; Thence South 13° 28' 07" East 85.74 feet, along the East line of said Lot 26; Thence leaving said Easterly line South 74° 43' 51" West 252.87 feet to a point on the Westerly line of said Lot 26; said West line being a curve, concave Northeasterly, having a radius of 1,472.35 feet; a radial line bears South 74° 43' 51" West; Thence Northwesterly along said curve a distance of 210.39 feet, through a central angle of 8° 11' 13" to the Point of Beginning.

