

**AMENDED AND RESTATED LEASE AGREEMENT
BETWEEN
THE CITY OF SANTA FE AND BOYS AND GIRLS CLUB, INC.**

This AMENDED AND RESTATED LEASE AGREEMENT (“Amended Lease Agreement”) amends and restates the Lease Agreement dated April 15, 2015, Item # 15-0250, and is made and entered into on this 26 day of February, 2022, by and between the CITY OF SANTA FE, a municipal corporation (“City” or “Lessor”) and the SANTA FE BOYS AND GIRLS CLUB, INC., a New Mexico not-for-profit corporation (“Lessee”), collectively the “Parties”.

WHEREAS, in 2002 the City of Santa Fe received via Warranty Deed, and recorded as Instrument # 1190564 in the records of the Santa Fe County Clerk, Tract 23 of the Tierra Contenta Subdivision, Phase 1B, Unit 1, comprised of a portion of Lot 8, a portion of Lot 9 of Section 12, all of Lot 7 of Section 13, Tract 8-A, Tract A-1, within the Pacheco Grant within Projected Section 11 and Section 14, Township 16 North, Range 8 East of the New Mexico Principle Meridian, subject to the Covenants and Restrictions recorded in Book 1547, Pages 360-362 in records of the Santa Fe County Clerk;

WHEREAS, on December 12, 2013, the Terra Contenta Master Plan for Phase 1B, and designated Tract 23 as a “Community” tract, with no specific “design standards,” but it must comply with the Master Plan’s purpose and intent, and any proposed use must be approved by the City of Santa Fe;

WHEREAS, in 2016 the Tierra Contenta Master Plan was modified for Phase 1B, but it continues to designate Tract 23 as a “Community” tract, with no specific “design standards,” and it must comply with the Master Plan’s purpose and intent, and any proposed use must be approved by the City of Santa Fe;

WHEREAS, the “Community” designation within the master plan allows for “educational, recreational, and family oriented” uses only;

WHEREAS, there have been two lease agreement for Tract 23, with the purposed of using the tract for youth and family social services;

WHEREAS, the first lease agreement was entered into in 2005 between the City of Santa Fe and the Santa Fe Youth and Family Center Consortium for the 5.4 acres of Tract 23 of Phase 1B, Unit 1 of Tierra Contenta Subdivision located in Santa Fe, New Mexico for a 49 year term with the purpose of delivering youth and family social services to the residents of the Southside of the City of Santa Fe. This lease was terminated in order to enter into the 2015 Boys and Girls Lease Agreement.

WHEREAS, the second lease agreement was entered into in 2015 between the City of Santa Fe and the Santa Fe Boys and Girls Club Inc. (“SFBG”), for the 5.4 acres of Tract 23 of

Phase 1B, Unit 1 of the Tierra Contenta Subdivision located in Santa Fe , NM along with the existing eight thousand ninety-two square foot building; and

WHEREAS, the 2015 SFBG lease agreement included the entire property and development responsibilities for the City of Santa Fe Teen Center; and

WHEREAS, the parties have now agreed to amend the lease agreement removing all development responsibilities, decreasing the premises and rental amounts.

WITNESSETH:

In consideration of the Lessee's promises herein, Lessor hereby gives the Lessee an Amended Lease Agreement, revocable and terminable as hereinafter provided, to enter on, make use of, the real property of Lessor as follows:

1. PREMISES

Lessor allows Lessee to use, occupy, subject to the terms and conditions of this Amended Lease Agreement, that certain existing City-owned building located in Tierra Contenta, at 6600 Valentine Way, Santa Fe, NM (the "Premises"), and more fully described as:

- A. An existing 8,092+/- square foot building.
- B. A certain tract of land containing 39,010+/- square feet and is identified as Lease Lot 3.
- C. A parcel of land west of Lease Lot 3 containing 27,800+/- square feet. The areas identified as "Gravel Road" and "Gravel Trail" are areas of non-exclusive use by Lessee.
- D. The Premises as described in paragraphs A-C above, is depicted in red on the Lease Boundary Survey prepared by Dawson Surveys, Inc., dated November 10, 2020, and bearing File No. 10310 LEASE, which is attached as **Exhibit A** to this Amended Lease Agreement.
- E. Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises.

2. EFFECTIVE DATE

This Amended Lease Agreement shall become effective February 26, 2022 (the "Effective Date").

3. LEASE TERM

A. Initial Term. The term of this Amended Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Amended Lease Agreement shall consist of an "Initial Term" of four (4) years with two (2) "Optional Terms" of four (4) years each.

B. Option Term. Lessee's exercise of any Optional Term is contingent upon compliance with this Amended Lease Agreement and with proper written notice by Lessee to Lessor at least ninety (90) days prior to the expiration of the Initial Term or any Optional Additional Term and shall be at Lessor's sole discretion. All terms, covenants and conditions of this Amended Lease Agreement, excepting the amount of rent to be paid, shall remain in full force and effect during any extension of the term.

C. Hold Over. In the event Lessee remains in possession of the Premises after the expiration of the Term of this Amended Lease Agreement, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Amended Lease Agreement shall be otherwise applicable.

4. RENT

A. Base Rent. Lessee shall pay Six Thousand Dollars and No Cents (\$6,000.00) a month for Rent for the Premises, which is Seventy-Two Thousand Dollars and No Cents (\$72,000.00) per year. Rent is due on the Effective Date and thereafter due in full on the first day of each month during the Term without notice or demand and without deduction or offset for any cause whatsoever. Lessee shall make payments to the Lessor's cashier office, Room 114, 200 Lincoln Ave., Santa Fe, NM.

B. Optional Terms Rent. The Rent for any Optional Additional Term(s) of this Amended Lease Agreement shall be established by a real estate appraisal prepared by an MAI-certified appraiser licensed by the State of New Mexico to be provided by the Lessee for Lessor's approval at least forty-five (45) days prior to the commencement of any such Optional Additional Term(s). In no case shall the Rent for any Optional Additional Term(s) be less than the Rent during the last year of the previous term plus two and one-half percent (2.5%). Rent during any Optional Additional Term(s) shall be subject to increases in accordance with Section 6.C below.

C. Provision of Services to Offset Monetary Rent.

- i. During the Term of and in consideration of this Amended Lease Agreement, Lessee may offset the monetary Rent due by providing to the citizens of the City and County of Santa Fe, the services described in Section 5A below. The monetary value of the Services provided by Lessee during any lease year shall meet or exceed the Rent Due for that lease year.
- ii. Annual Service Value Statement. Beginning on May 15, 2016 and on May 15 of each subsequent lease year during the Term of this Amended Lease Agreement, Lessee shall submit to Lessor a statement (the Annual Service Value Statement) itemizing each type and corresponding monetary value of Services delivered during the prior lease year and containing a statement from a third-party auditor that the provision of Services for the prior lease year has met the requirements of this Section 4. The Lessor may adopt a required form for the Annual Service Value Statement and such adopted form may be modified from time to time by the Lessor
- iii. Exclusions. Lessee shall exclude from the value of any Services the amount of any governmental subsidy or payment for Services received by the Lessee for providing such Services or the amount paid by members of the public for such Services.
- iv. Review by Lessor. Lessor shall evaluate the Lessee's Annual Service Value Statement and provide a written acceptance or rejection of the Annual Service Value Statement to the Lessee. Lessor may, in its sole discretion, request any such additional information and documentation as it deems necessary to evaluate any Annual Service Value Statement. Lessee's failure to provide such requested information within forty-five (45) days of Lessor's request is cause for Lessor's termination of this Lease Agreement.

Lessor's determination regarding the monetary value of Services shall be final and binding and not subject to challenge by Lessee in any forum.

- v. Notwithstanding anything in this Section 4 to the contrary, Lessor's failure provide written acceptance or rejection of the Annual Service Value Statement or to request additional information and documentation from the Lessee within forty-five (45) days of the Lessor's receipt of any Annual Service Value Statement shall be deemed to be acceptance of such Annual Service Value Statement by the Lessor.
- vi. Rent Shortfalls. Should the monetary value of the Services in any year not equal or exceed the Rent due in that year (Rent Shortfall), then Lessee shall pay to Lessor the amount of the Rent Shortfall in monetary Rent. Notwithstanding anything to the contrary in the foregoing sentence, Lessor may agree to allow the Lessee to provide additional Services to offset any Rent Shortfall and in such event the Parties agree to negotiate in good faith to determine the nature, extent, and schedule for provision of such additional Services.
- vii. No Compensation by Lessor. In no event shall Lessor be required at any time, including the end of the Term of the Amended Lease Agreement, to compensate Lessee in any way for any excess Services. In the event of the termination of this Amended Lease Agreement prior to the end of the Term, for any cause, Lessee shall forfeit any excess Services not applied to Rent.
- viii. Sublessees, as provided for in Section 7 below, shall not be permitted to provide services in lieu of, or addition to, monetary Rent. Sublessees shall pay monetary Rent to Lessor at the same rate per square foot (of the subleased premises) as described in Section 4A above. The monetary value of Rent(s) received by Lessor from Sublessee(s) shall be credited to Lessee's Rent.

5. USE OF PREMISES

A. Intended Use. Lessee shall use the Premises, and/or cause the Premises to be used, solely for the specific purposes of delivering youth and family social, educational and recreational services to residents of the City and County of Santa Fe (the Services). Lessee agrees to actively use the Premises, and/or cause the Premises to be actively used, to deliver the above Services. The Services provided by Lessee may be modified from time-to-time by written agreement of the Parties to account for changes in community needs, changes in Lessee's and/or Lessee's approved Sublessee's capacities to provide new or different services, or other similar changes attributed to the passage of time.

B. Improvement of the Premises. Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make minor improvements to the Premises as it deems necessary in furtherance of the intended use of the Premises as provided in Section 5.A above. Lessee shall upon Lessor's request, remove all such improvements made to the Premises at the termination of this Amended Lease Agreement.

Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make major and/or permanent improvements to the Premises as it deems necessary in furtherance of the intended use of the Premises as provided in Section 5.A above. If major and/or permanents are placed upon the land, upon termination of this Amended Lease Agreement, Lessor, at Lessor's sole discretion, may assume title to any and all such improvements or require Lessee, at Lessee's

sole cost, to remove any and all such improvements and restore the Premises to the same condition as when accepted on the Effective Date of this Amended Lease Agreement. In the event that Lessee fails to remove said improvements after receipt of notice from Lessor to do so, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said improvements not removed by Lessee. Lessee further agrees that should Lessor remove said improvements pursuant to this paragraph, that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

C. Trade Fixtures. All trade fixtures installed by Lessee after the Effective Date of this Amended Lease Agreement shall remain the property of Lessee, who may remove the same upon termination of this Amended Lease Agreement, provided that removal shall be done in such a manner as not to injure or damage the Premises.

In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor to do so, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph, that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

D. Compliance with Laws. Lessee's use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§ 10-7 SFCC 1987) (the Pest Management Policy). For the purposes of this Amended Lease Agreement, Lessee's compliance with the Pest Management Policy shall consist of (i) refraining from the use of pesticides of any kind on the Premises that do not comply with the Pest Management Policy, and (ii) notifying the Lessor immediately if the need for pest management services arises.

6. REPAIRS AND MAINTENANCE

A. Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises.

B. Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs, replacements, and capital improvements that arise during the Term of this Lease Agreement.

C. Repairs and replacements required to be made by the Lessee shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises.

D. Lessee shall maintain the landscaping and plants between the building and the sidewalk along the entire perimeter of the building.

E. Lessee shall at all times and in a timely manner, provide a safe Premises by eliminating conditions caused by, including and not limited to, snow, ice, debris, mold and standing water.

F. Lessor reserves the right to inspect the Premises at any time during the Term of this Lease Agreement to verify Lessee's compliance with this Section 6. In the event Lessee fails to

maintain the Premises at a standard acceptable to the Lessor, as determined in Lessor's sole discretion, Lessor may terminate this Lease Agreement in accordance with Section 13 herein.

G. Repair and maintenance shall be to the sole satisfaction of Lessor, and if Lessee fails to fulfill any duty imposed under this Section 6 within a reasonable period of time, City may, and is not required to, perform those duties at Lessee's sole cost. Lessee shall promptly cooperate with Lessor if Lessor undertakes to perform such duties. No action by Lessor taken pursuant to the Section 6 shall constitute a waiver of Lessee's obligations. Lessee's obligations under this Section 6 shall survive the expiration or termination of this Lease Agreement.

7. SUBLEASE

Lessee's Right to Sublease. Upon prior written consent of Lessor, which Lessor may withhold for any or no reason, Lessee may sublease as long as the Sublessee's tenancy is in compliance with the terms and conditions of this Amended Lease Agreement. Lessee shall be the "Sublessor" to any Sublessee(s) of the Premises. Lessee shall provide copies of all Sublease agreements to Lessor upon request. In no event shall Lessee be permitted to sublease more than 50% of the Premises.

8. UTILITIES & SERVICES

Beginning on the Effective Date and until the termination of this Amended Lease Agreement, the responsibility and costs of any and all natural gas, electricity, telephone, cable or satellite television, internet or wireless, or security alarm services and any and all domestic or irrigation water, sanitary sewer, and solid waste collection fees shall be paid by the Lessee. If the Lessee holds Subleases, then Lessee may assess and collect from its Sublessees portions of the above costs on a pro rata basis as the Lessor deems necessary.

9. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, fixtures and improvements belonging to Lessee and located upon the demised Premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

10. ASSIGNMENT OR TRANSFER

Lessee shall not assign or otherwise transfer this Amended Lease Agreement, without the prior written consent of Lessor, which Lessor may withhold for any or no reason. Any such actions taken by Lessee shall result in the immediate termination of this Amended Lease Agreement.

11. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:

A. Casualty Insurance. Lessee shall carry and maintain in full force and effect during the term of this Amended Lease Agreement casualty insurance ("extended coverage" and "additional extended coverage") as may be available for all improvements to the Premises in an amount sufficient to restore and replace existing structures and improvements if lost or damaged

by any form of casualty. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

B. Liability Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Amended Lease Agreement, public liability insurance covering bodily injury and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than as stated in the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property, against all claims and lawsuits arising from Lessee's use of the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

C. Workman's Compensation Insurance. Lessee shall carry and maintain in full force and effect during the Term of this Amended Lease Agreement, workers' compensation insurance at statutory limits for its employees working at the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

D. Certificates of Insurance. Prior to the Effective Date of this Amended Lease Agreement, and thereafter at any time during the Term of this Amended Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

12. INDEMNIFICATION

Lessee shall indemnify, hold harmless and defend Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from damages occurring on the Premises and Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives, contractors, agents, guests, invitees or permitted assigns.

Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying Lessor as provided in this Section.

13. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

14. TERMINATION

A. Lessor may terminate this Amended Lease Agreement upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying:

- i. The breach;
- ii. The action required to cure the breach;

- iii. A date not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
 - iv. That failure to cure such breach on or before the date specified in the notice will result in termination of the Amended Lease Agreement.
- B. Lessee may terminate this Amended Lease Agreement with written notice to Lessor at least thirty (30) days prior to the termination date.
- C. Lessor may terminate this Amended Lease Agreement with written notice to Lessee at least one hundred twenty (120) days prior to the early termination date.

15. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

<p>To Lessor: City Manager City of Santa Fe P. O. Box 909 Santa Fe, NM 87504</p>	<p>To Lessee: Executive Director Santa Fe Boys and Girls Club, Inc. P. O. Box 29805 Santa Fe, NM 87592</p>
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16. NO WAIVER

No waiver of a breach of any of the provisions contained in this Amended Lease Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

17. SEVERABILITY

In the event that one or more of the provisions contained in this Amended Lease Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

18. ENTIRE AGREEMENT

The foregoing constitutes the entire Amended Lease Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title, and interests as well as all of their duties, responsibilities and obligations. Any and all prior lease agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Amended Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

19. BINDING EFFECT

This Amended Lease Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

20. LITIGATION EXPENSE

In the event of litigation between the Parties, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Amended Lease Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's contractors, agents, employees or permitted assigns.

21. HEADINGS

The section headings contained in this Amended Lease Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Amended Lease Agreement.

22. APPLICABLE LAW; VENUE

In any action, suit or legal dispute arising from this Amended Lease Agreement, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Amended Lease Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Amended Lease Agreement as of this 26 day of February, 2022.

LESSOR:
CITY OF SANTA FE



ALAN WEBBER, MAYOR

ATTEST:



Kristine Mihelcic (Feb 26, 2022 23:24 MST)

KRISTINE BUSTOS-MIHELICIC, CITY CLERK
GB MTG 02/23/2022



APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:



Andrea Salazar (Jan 18, 2022 07:56 MST)

ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED BY FINANCE:



MARY T. MCCOY, FINANCE DIRECTOR
2122800.460350

Business Unit/Line Item
AJH

LESSEE:
SANTA FE BOYS AND GIRLS CLUB, INC.



ROMAN ABEYTA, EXECUTIVE DIRECTOR

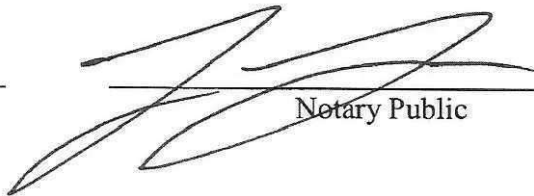
STATE OF NEW MEXICO)

) ss.

COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this 6th day of JANUARY 2022, by ROMAN ABEYTA.

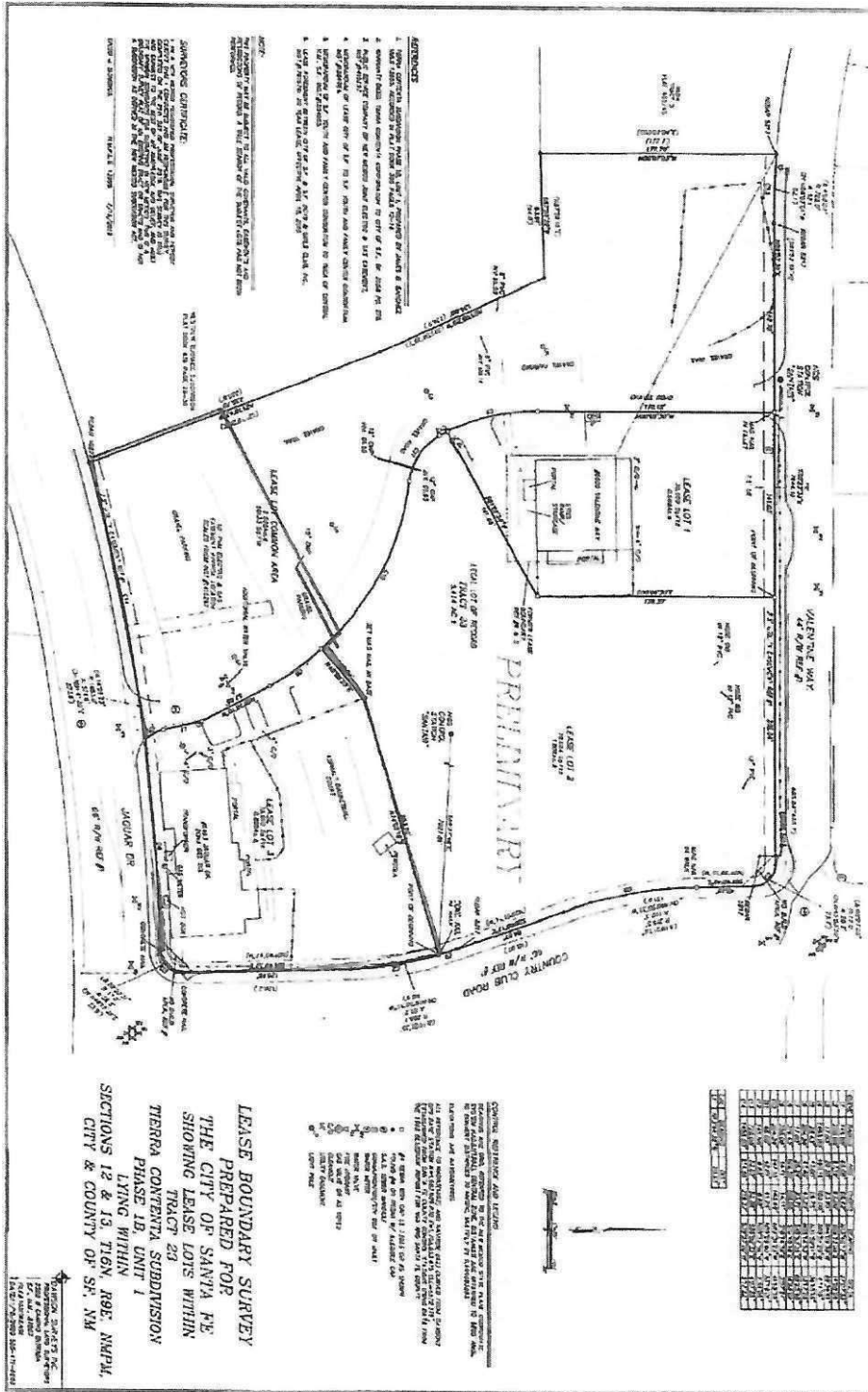
My commission expires: 11/1/2024



Notary Public



EXHIBIT "A"



**LEASE AGREEMENT
BETWEEN
THE CITY OF SANTA FE AND SANTA FE BOYS AND GIRLS CLUB, INC.**

This LEASE AGREEMENT (Lease Agreement) is made and entered into this 15TH day of April, 2015 by and between the City of Santa Fe, a Municipal Corporation (Lessor) and Santa Fe Boys and Girls Club, Inc., a New Mexico not-for-profit Corporation (Lessee), the "Parties".

WITNESSETH:

In consideration of the Lessee's promises herein, Lessor hereby gives the Lessee a Lease Agreement, revocable and terminable as hereinafter provided, to enter on, make use of, and develop the real property of the Lessor as follows:

1. PREMISES

The Lessor allows the Lessee to use, occupy, and develop, subject to the terms and conditions of this Lease Agreement, Tract 23 of Phase 1B, Unit 1 of the Tierra Contenta Subdivision located within the City and County of Santa Fe consisting of 5.403 acres of land (the Land) and an existing eight thousand ninety-two square-foot (8,092 SF) building upon the Land (the Building) (together the Land and the Building comprise the Premises), as more fully described and shown on a survey plat prepared by Southwest Mountain Surveys, Inc., to be provided by the Lessor within forty-five (45) days of the Effective Date of this Lease Agreement. Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises.

2. EFFECTIVE DATE

This Lease Agreement shall become effective April 15, 2015 (the Effective Date).

3. LEASE TERM

The term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall consist of an "Initial Term" of twenty years (20) years with three (3) "Optional Additional Terms" of ten (10) years each. The Initial Term and any Optional Additional Terms are hereinafter referred to collectively as the "Term".

Lessee's exercise of any Optional Additional Term is contingent upon compliance with this Lease Agreement and with proper written notice by Lessee to Lessor at least one hundred eighty (180) days prior to the expiration of the Initial Term or any Optional Additional Term. In the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease Agreement, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Lease Agreement shall be otherwise applicable.

4. USE OF PREMISES

A. Provision of Specific Services. Lessee shall use and develop the Premises, and/or cause the Premises to be used and developed, solely for the specific purpose of delivering youth and family social, educational, and recreational services to residents of the City and County of Santa Fe (the Services). The Lessee agrees to actively use and develop the Premises, and/or cause the Premises to be actively used and developed, to deliver the above Services. The Services provided by the Lessee may be modified from time to time by written agreement of the Parties to account for

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changes in community needs, changes in Lessee's and/or Lessee's Sublessee's capacities to provide new or different services, or other similar changes attributable to the passage of time.

B. Development Plan. The Lessor reserves the right to formulate and adopt a "Development Plan" for the Land in accordance with and in furtherance of the intended use of the Premises as provided in Section 4.A above. Lessor agrees to consult, plan, and work together in good faith with the Lessee to formulate any such Development Plan. Any such adopted Development Plan may be amended from time to time by the Lessor in consultation with the Lessee to account for changes in community needs, changes in Lessee's and/or Lessee's Sublessee's capacities to provide new or different services, or other similar changes attributable to the passage of time.

Upon adoption of any such Development Plan, the Parties agree to amend this Lease Agreement to include such Development Plan as an exhibit. Should any such adopted Development Plan be amended, the Parties agree that such amended Development Plan shall replace and supersede any previously adopted or amended Development Plan and to amend this Lease Agreement to include such amended Development Plan.

C. Development of the Premises. Lessee may, with the written consent of the Lessor and at no cost to the Lessor, develop the Premises as it deems necessary in furtherance of the intended use of the Premises as provided in Section 4.A above and in accordance with the adopted Development Plan, if any. For the purposes of this Lease Agreement, development shall include: (i) construction of new buildings, structures or site improvements; and/or (ii) improvements or alterations to the Building or to other existing structures or site improvements upon the Land.

D. Ownership of Improvements. Lessee or its Sublessee(s) shall own any improvements that the Lessee or its Sublessee(s) place, or cause to be placed, upon the Land during the Term of this Lease Agreement, unless the Parties agree otherwise in writing. Upon termination of this Lease Agreement title to any and all such improvements shall pass to the Lessor.

E. Trade Fixtures. All trade fixtures installed by Lessee after the Effective Date of this Lease Agreement shall remain the property of Lessee, who may remove the same upon termination of this Lease Agreement, provided that removal shall be done in such a manner as not to injure or damage the Premises.

In the event that Lessee fails to remove the trade fixtures, Lessor may require Lessee to remove the same. In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by the Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph, that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

F. Repairs and Maintenance. Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises. Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs and replacements that arise during the Term of this Lease Agreement.

G. Compliance with Laws. Use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§10-7

SFC CLERK RECORDED 04/15/2015

SFCC 1987) (the "Pest Management Policy"). For the purposes of this Lease Agreement, Lessee's compliance with the Pest Management Policy shall consist of (i) refraining from the use of pesticides of any kind on the Premises that do not comply with the Pest Management Policy, and (ii) notifying the Lessor immediately if the need for pest management services arises.

5. SUBLEASE

A. Lessee's Right to Sublease. In furtherance of the Lessee's use and development of the Premises pursuant to Section 4 of this Lease Agreement, with the written consent of the Lessor, Lessee shall sublease portions of the Premises to other not-for-profit organizations or community groups (each hereinafter a Sublessee) that provide Services. Lessee shall be the "Sublessor" to any Sublessee(s) of the Premises. Lessee shall provide copies of all Sublease agreements to Lessor upon request.

B. Construction by Sublessees. Approved Sublessees may construct their own improvements with the written consent of the Lessor after review and approval by the Lessor of any and all construction documents related to the proposed improvements.

Sublessees who own their improvements may sell or lease their improvements to another organization or business entity with the written approval of the Lessor, which approval shall not be unreasonably withheld provided that, in the sole discretion of the Lessor, the purchasing or leasing entity provides Services in accordance with Section 4 of this Lease Agreement.

C. Existing Sublessees. With the exception of the existing Sublessees listed in this Section 5.C, this Lease Agreement does not constitute Lessor's consent for Lessee to sublease the Premises to any existing Sublessee or tenant in occupation of any portion of the Premises as of the Effective Date of this Lease Agreement.

Notwithstanding the above paragraph, the Lessor hereby consents, subject to the provisions of this Lease Agreement, to the Sublease and continued use of the Land and provision of Services by the YMCA of Central NM (YMCA) and the continued presence of the YMCA's facilities upon the Land in accordance with any existing agreements in place prior to the Effective Date of this Lease Agreement. Lessee hereby agrees that it shall become the Sublessor to the YMCA and that the YMCA shall become a Sublessee pursuant to this Lease Agreement.

6. RENT

Rent shall be paid as follows:

A. Rent during Initial Term. Lessee, for and in consideration of this Lease Agreement and the demise of the Premises by Lessor to Lessee, hereby agrees and covenants with the Lessor to pay for said Premises the annual fair market value rent (the Rent) as established by a real estate appraisal prepared by Hippauf & Associates, an MAI-certified appraiser licensed by the State of New Mexico (the 2015 Appraisal), to be provided by the Lessor. Rent during the Initial Term shall be subject to increases in accordance with Section 6.C below.

The Parties agree that, in the event that the 2015 Appraisal is not completed on or before the Effective Date, the Lessee may use and occupy the Premises provided that at the time Rent is established by the completed 2015 Appraisal, the Rent will be applied retroactively to the Effective Date.

B. Rent during any Optional Additional Term(s). The Rent for any Optional Additional Term(s) of this Lease Agreement shall be established by a real estate appraisal prepared by an MAI-certified appraiser licensed by the State of New Mexico to be provided by the Lessee for Lessor's

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approval at least forty-five (45) days prior to the commencement of any such Optional Additional Term(s). In no case shall the Rent for any Optional Additional Term(s) be less than the Rent during the last year of the previous term plus two and one-half percent (2.5%). Rent during any Optional Additional Term(s) shall be subject to increases in accordance with Section 6.C below.

C. Increases in Rent. Rent shall be adjusted every five (5) years during the Term of this Lease Agreement, beginning on April 15, 2020. At each time of adjustment the Rent shall be increased by an amount calculated by multiplying the previous year's Rent by twelve and one-half percent (12.5%).

D. Provision of Services to Offset Monetary Rent. During the Term of and in consideration of this Lease Agreement, the Lessee shall offset the monetary Rent due by providing to the citizens of the City and County of Santa Fe the Services described in Section 4 of this Lease Agreement. In addition, the Lessee shall permit its Sublessee(s) to provide such Services in lieu of or in addition to monetary Rent and to the extent that it does so, the Lessee may apply the value of such Services to the Rent due hereunder. The monetary value of the Services provided by the Lessee during any lease year shall meet or exceed the Rent due for that lease year.

E. Annual Service Value Statement. Beginning on May 15, 2016 and on May 15 of each subsequent lease year during the Term of this Lease Agreement, Lessee shall submit to Lessor a statement (the Annual Service Value Statement) itemizing each type and corresponding monetary value of Services delivered during the prior lease year and containing a statement from a third-party auditor that the provision of Services for the prior lease year has met the requirements of this Section 6. The Lessor may adopt a required form for the Annual Service Value Statement and such adopted form may be modified from time to time by the Lessor.

F. Exclusions. Lessee shall exclude from the value of any Services the amount of any governmental subsidy or payment for Services received by the Lessee for providing such Services or the amount paid by members of the public for such Services.

G. Review by Lessor. Lessor shall evaluate the Lessee's Annual Service Value Statement and provide a written acceptance or rejection of the Annual Service Value Statement to the Lessee. Lessor may, in its sole discretion, request any such additional information and documentation as it deems necessary to evaluate any Annual Service Value Statement. Lessee's failure to provide such requested information within forty-five (45) days of Lessor's request is cause for Lessor's termination of this Lease Agreement. Lessor's determination regarding the monetary value of Services shall be final and binding and not subject to challenge by Lessee in any forum.

Notwithstanding anything in this Section 6 to the contrary, Lessor's failure provide written acceptance or rejection of the Annual Service Value Statement or to request additional information and documentation from the Lessee within forty-five (45) days of the Lessor's receipt of any Annual Service Value Statement shall be deemed to be acceptance of such Annual Service Value Statement by the Lessor.

H. Rent Shortfalls. Should the monetary value of the Services in any year not equal or exceed the Rent due in that year (Rent Shortfall), then Lessee shall pay to Lessor the amount of the Rent Shortfall in monetary Rent. Notwithstanding anything to the contrary in the foregoing sentence, the Lessor may agree to allow the Lessee to provide additional Services to offset any Rent Shortfall and in such event the Parties agree to negotiate in good faith to determine the nature, extent, and schedule for provision of such additional Services.

I. No Compensation by Lessor. In no event shall the Lessor be required at any time,

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including at the end of the Term of this Lease Agreement, to compensate the Lessee in any way for any excess Services. In the event of the termination of this Lease Agreement prior to the end of the Term, for any cause, the Lessee shall forfeit any excess Services not applied to Rent.

7. UTILITIES

Beginning on the Effective Date and until the termination of this Lease Agreement, the costs of any and all natural gas, electricity, telephone, cable or satellite television, internet or wireless, or security alarm services and any and all domestic or irrigation water, sanitary sewer, and solid waste collection fees shall be paid by the Lessee. The Lessee may assess and collect from its tenants and Sublessees portions of the above costs on a pro rata basis as the Lessor deems necessary.

8. TAXES

Lessee shall pay all taxes levied and assessed upon any personal property, buildings, fixtures and improvements belonging to Lessee and located upon the demised premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

9. ASSIGNMENT OR TRANSFER

Lessee shall not assign or otherwise transfer this Lease Agreement, without the written consent of the Lessor. Any such actions taken by Lessee shall result in the immediate termination of this Lease Agreement.

10. LIABILITY INSURANCE

Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement, public liability insurance covering bodily injury and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than as stated in the New Mexico Torts Claims Act for each person injured and for each accident resulting in damage to property, against all claims and lawsuits arising from the Lessee's use of the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

Within ten (10) days of the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

Lessee shall cause any and all Sublease agreements, or other agreements related to use, occupation, or development of the Premises, that Lessee enters into to contain language that requires the City of Santa Fe to be named as an additional insured on such policy of insurance as provided in this Section

11. INDEMNIFICATION

The Lessee shall indemnify, hold harmless and defend the Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives,

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Sublessees, tenants, contractors, agents, guests, invitees or permitted assigns. Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying the Lessor as provided in this Section.

12. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises.

13. TERMINATION BY LESSOR

Lessor may terminate this Lease Agreement upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying:

- A. the breach;
- B. the action required to cure the breach;
- C. a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
- D. that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease Agreement.

14. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

To Lessor:

City Manager
City of Santa Fe
P. O. Box 909
Santa Fe, NM 87504-0909

To Lessee:

Executive Director
Santa Fe Boys and Girls Club, Inc.
P. O. Box 2403
Santa Fe, NM 87504

15. NO WAIVER

No waiver of a breach of any of the provisions contained in this Lease Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

16. SEVERABILITY

In the event that one or more of the provisions contained in this Lease Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

17. ENTIRE AGREEMENT

The foregoing constitutes the entire Lease Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title and interests as well as all of their duties, responsibilities and obligations. Any and all prior Lease Agreements and

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understandings between the Parties related to the Premises, if any, are merged herein. This Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

18. BINDING EFFECT

This Lease Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

19. LITIGATION EXPENSE

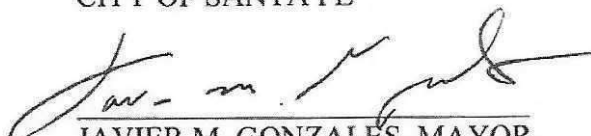
In the event of litigation between the Parties or litigation between the Lessee and its Sublessees or tenants in which the Lessor is named, the Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which the Lessor shall incur in enforcing this Lease Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's Sublessees, tenants, contractors, agents, employees or permitted assigns.

20. RECORDING

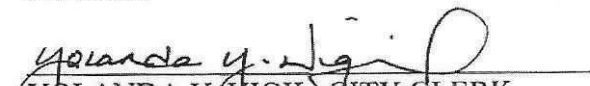
This Lease Agreement shall be recorded in its entirety. Lessee shall bear all costs for recording of the Lease Agreement and any other associated costs.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of this 15th day of April, 2015.


LESSOR:
CITY OF SANTA FE


JAVIER M. GONZALES, MAYOR

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK
ec mtg. 018/15

APPROVED AS TO FORM:


KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:


OSCAR A. RODRIGUEZ, FINANCE DIRECTOR

21117.460150
BUSINESS UNIT/LINE ITEM

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LESSEE:

SANTA FE BOYS AND GIRLS CLUB, INC.

[Handwritten Signature]

ROMAN ABEYTA, EXECUTIVE DIRECTOR

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this 15th day of April 2015, by Roman Abeyta, Executive Director of Santa Fe Boys and Girls Club, Inc., a New Mexico not-for-profit corporation.

[Handwritten Signature]

NOTARY PUBLIC

My Commission Expires: 4/23/18



COUNTY OF SANTA FE) LEASE AGREEMENT
STATE OF NEW MEXICO) ss PAGES: 8

I Hereby Certify That This Instrument Was Filed for Record On The 15TH Day Of April, 2015 at 01:38:15 PM And Was Duly Recorded as Instrument # 1761976 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy *[Handwritten Signature]* County Clerk, Santa Fe, NM

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