

## **RESOLUTION NO. 2011-505**

Adopted by the Sacramento City Council

August 30, 2011

### **APPROVAL OF FIRST AMENDMENT TO LEASE OF BUILDING LOCATED AT 3830 8<sup>TH</sup> AVENUE WITH THE WOMEN'S CIVIC IMPROVEMENT CLUB OF SACRAMENTO FOR THE OAK PARK HEADSTART CHILD CARE CENTER**

#### **BACKGROUND**

- A. City leased its building located at 3830 8<sup>th</sup> Avenue next to the Oak Park Community Center to the Women's Civic Improvement Club of Sacramento ("Lessee"), which is a nonprofit tax-exempt organization that was established in 1945 by City residents. The Lessee rented the City's building to establish a Headstart Child Care Center to serve Oak Park residents. The lease was for a four year period, from May 2007 through April 2011.
- B. Lessee desires to extend the term of the lease for five years because it expects the federal Headstart funding, which subsidizes the cost of child care services for low income families, to continue for the foreseeable future.
- C. The total amount of revenue resulting from the leasing of the facility will be \$130,800 for the five-year extended term through August 31, 2016. Revenue received from the rental of the facility will be used to offset costs for recreational programming ( Fund 2504).

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The City Council finds that the lease of the building located next to the Oak Park Community Center to a nonprofit tax-exempt community civic organization, whose membership is predominately City residents, for a term less than 10 years without formal bidding is appropriate under Section 3.68.110 E. of the City Code.
- Section 2. The First Amendment to the Lease for the Oak Park Child Care Center located at 3830 8<sup>th</sup> Avenue (the "Premises") with the Women's Civic Improvement Club of Sacramento ("Lessee") to extend the term for five years, from September 1, 2011 through August 31, 2016, increase the rent by \$100 a month starting in year two, and allow for a rent reduction if the City elects to discontinue maintenance and repair of the Premises, is hereby approved.
- Section 3. The City Manager, or his designee, is authorized to enter into the First Amendment to the Lease for the Oak Park Child Care Center located at 3830 8<sup>th</sup> Avenue with the Women's Civic Improvement Club of Sacramento in the form attached as Exhibit A.

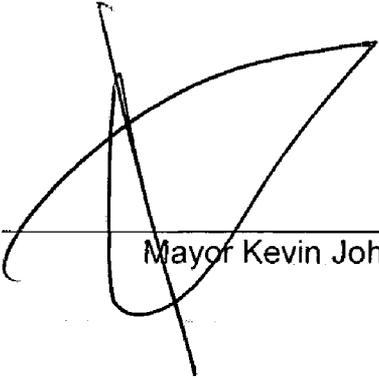
Section 4. The City Manager, or his designee, is authorized to further amend the Lease for the Oak Park Child Care Center with the Women's Civic Improvement Club of Sacramento to reduce the rent in consideration for Lessee's assumption of maintenance and repair of the Premises, based on the amount of the City's average annual cost for such services, if City elects to discontinue such services during the term of the Lease.

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Exhibit A: First Amendment to the Lease for the Oak Park Child Care Center located at 3830 8<sup>th</sup> Avenue with the Women's Civic Improvement Club of Sacramento

Adopted by the City of Sacramento City Council on August 30, 2011 by the following vote:

- Ayes: Councilmembers Ashby, Cohn, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.
- Noes: None.
- Abstain: None.
- Absent: Councilmember Darrell Fong.



\_\_\_\_\_  
Mayor Kevin Johnson

Attest:

  
\_\_\_\_\_  
Shirley Concolino, City Clerk

**FIRST AMENDMENT TO LEASE  
Oak Park Child Care Center  
3930 8<sup>th</sup> Avenue  
SACRAMENTO, CALIFORNIA**

THIS FIRST AMENDMENT (the "Amendment") is made as of September 1, 2011, by and between the **CITY OF SACRAMENTO**, a municipal corporation, ("Lessor") and **WOMEN'S CIVIC IMPROVEMENT CLUB OF SACRAMENTO**, a California nonprofit corporation ("Lessee")

**RECITALS**

- A. The above-named parties entered into a Lease Agreement, dated April 27, 2007, City Agreement No. 2007-0376 (the "Lease"), for the premises commonly known as 3930 8<sup>th</sup> Avenue, Sacramento, California (the "Premises") for operation of a child care center.
- B. Lessor and Lessee now desire to (i) amend the Lease to extend the term for five years (the "Extension Period"); (ii) establish the Use Fee for the Extension Period; and (iii) modify the obligations for maintenance and repair of the Premises in consideration for a rent reduction during the Extension Period.

NOW THEREFORE, it is mutually agreed between the Parties as follows:

1. **Extension of Lease Term.** Section 2, Term, of the Lease is amended to extend the term of the Lease for five years, commencing on September 1, 2011, and ending on August 31, 2016 (the "Extension Period"). The Parties acknowledge that the Lease did not expire but remained in effect on a month-to-month tenancy until this First Amendment could be executed. Lessor's right to terminate the Lease in the event of breach of any of the terms or conditions of the Lease remains unchanged. All other terms and provisions in Section 2 shall remain unchanged.

2. **Extension Period Use Fee.** Section 3, Use Fee, of the Lease is amended to establish the monthly Use Fee for the Extension Period as follows:

Year 1:	9/01/11-8/31/12	\$2,100.00
Year 2-5:	9/01/12-8/31/16	\$2,200.00

However, if during the Extension Period, Lessor elects to discontinue responsibility for maintenance and repair of the Premises as provided in paragraph 4, below, then the Use Fee shall be adjusted in consideration for Lessee's obligations under Section 4.B. herein based on the average annual cost of Lessor for maintenance and repair of the Premises over the prior Lease period. Lessor shall provide Lessee

with sixty (60) days prior written notice of the adjusted Use Fee. All other terms and provisions in Section 3 shall remain unchanged.

3. **Contact Person for Maintenance and Repair Orders.** Lessee shall contact Marcy Tierce, Administrative Analyst, at (916) 808-5129 or by email, [mtierce@cityofsacramento.org](mailto:mtierce@cityofsacramento.org) to request routine and regular maintenance with regard to Lessor's responsibilities for maintenance and repairs of the Premises pursuant to section 4.e. of the Lease. The reference to Section 7 in Section 4.e. is hereby corrected and changed to Section 5 of the Lease.

4. **Maintenance and Repair of Premises.** During the Extension Period, Lessor may elect to discontinue Lessor's responsibilities for maintenance and repairs of the Premises and the Use Fee shall then be adjusted as provided in paragraph 2, above. Lessor shall provide Lessee with sixty (60) days prior written notice if it makes such election and the amount of the adjusted Use Fee. Thereafter, from the effective date of the assumption by Lessee of such responsibilities, the Lease will be amended as follows:

A. Section 4, Lessor Provided Facilities and Services, of the Lease is amended to delete subsection e. However, Lessor will be obligated under subsections b and c of Section 4 for maintenance of the parking lot and landscaped areas outside of the Premises. All other terms and provisions in Section 4 of the Lease shall remain unchanged.

B. Section 5, Operation and Maintenance of Premises, of the Lease is amended to add subsections g and h as follows:

g. Lessee shall be responsible for arranging and paying for electricity, gas, trash and garbage disposal, and maintenance of the security alarm system.

h. Lessee will provide routine and regular maintenance of the Premises. Routine and regular maintenance is the maintenance necessitated by the normal use and wear of the Premises. Lessee shall also be responsible for repairs and replacements of the Premises that may be required for the following components: (i) all interior improvements including walls, ceiling tiles, flooring and window coverings; (ii) plumbing, electrical, telephone and other pipes, wires and systems inside the interior walls; (iii) roofing defects and weather proofing; (iii) painting and caulking the exterior, if signs of paint deterioration exist, and graffiti removal; (v) heating and air conditioning systems; (vi) all windows and doors; and (viii) other mechanical equipment, meters, pipes and conduit. However, Lessee shall not be responsible for repairs or replacements that involve replacement of the entire roof, replacement of entire heating and/or air conditioning systems, or if the repairs for any one component or system would exceed Five Thousand Dollars (\$5,000).

Lessor shall remain liable for repairs and replacement of structural parts of the Premises, including exterior walls, structural flooring and roof replacement. Lessor shall maintain the fire sprinkler system serving the Premises.

If Lessee fails or refuses to repair, replace or maintain any part of the Premises as required under this Lease in a manner reasonably satisfactory to Lessor, Lessor shall have the right, after providing reasonable notice to Lessee, to elect to make such repairs or replacements or perform such maintenance on Lessee's behalf. In such event, Lessee shall pay the cost of such work as "Additional Rent" within ten (10) days after receipt from Lessor of an invoice specifying said work and its cost. If Lessor elects not to undertake such repairs or replacements or perform such maintenance on Lessee's behalf, then Lessee's failure to repair, replace or maintain any part of the Premises as required under this Lease shall be an event of breach and Lessor may pursue all remedies under this Lease and applicable law.

Notwithstanding the foregoing or anything to the contrary in this Lease or under the law, Landlord reserves the right to not undertake any repair, replacement or maintenance of the Premises, including the repair and replacement costs for any one component or system, if the cost would exceed Five Thousand Dollars (\$5,000). In that event, (i) Lessor shall notify Lessee in writing and Lessor may terminate this Lease for its convenience if the condition of the Premises without such repair, replacement or maintenance would render it unusable for Lessee's operations; and (ii) Lessor shall not be liable to Lessee for failure to undertake any repairs, replacements or improvements of the Premises. Lessee's sole recourse if in Lessee's sole determination it believes that the Premises become unsuitable for its operations is to terminate the Lease in accordance with the provisions of Section 20. The Lease shall be immediately terminated if the condition of the Premises in its unrepaired condition could present a safety or health hazard."

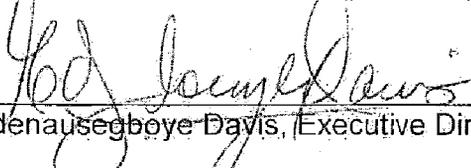
All other terms and provisions in Section 5 of the Lease shall remain unchanged.

5. **Entire Agreement**. This Amendment constitutes the entire agreement, and supercedes any prior written or oral agreements, between the parties with respect to the matters contained herein. All other terms and conditions of the Lease not modified by this Amendment shall remain in full force and effect.

6. **Authorization**. Each individual executing this Amendment on behalf of any entity represents and warrants that he or she has been duly authorized to do so by the entity on whose behalf he or she executes this Amendment and said entity will thereby be obligated to perform the terms of this Amendment.

IN WITNESS WHEREOF, this First Amendment has been executed by the Lessor and Lessee as of the day and year first stated above.

LESSEE: Women's Civic Improvement Club  
of Sacramento, a California nonprofit corporation

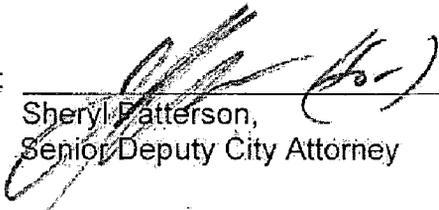
By:   
Edenausedboye Davis, Executive Director

Dated: 8/9/11

LESSOR: City of Sacramento,  
a municipal corporation

By: \_\_\_\_\_  
Cassandra H. B. Jennings,  
Assistant City Manager

Approved as to form:

By:   
Sheryl Patterson,  
Senior Deputy City Attorney

Attest:

By: \_\_\_\_\_  
City Clerk