

File No. 150373

Committee Item No. 2

Board Item No. 12

### COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date April 29, 2015

Board of Supervisors Meeting Date May 5, 2015

#### Cmte Board

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Completed by: Linda Wong Date April 24, 2015  
Completed by: Linda Wong Date 5/1/15

AMENDED IN COMMITTEE

4/29/15

FILE NO. 150373

RESOLUTION NO.

1 [Lease Agreement - Glenridge Nursery School - Silver Tree Building - Initial Annual Base Rent  
2 of \$26,380.91 and Rent Credits of Up to \$25,000]

3 **Resolution authorizing the General Manager of the Recreation and Park Department to**  
4 **execute a fifteen year lease with Glenridge Nursery School for the Silver Tree Building**  
5 **in Glen Canyon Park for an initial annual base rent of \$26,380.91 and rent credits of up**  
6 **to \$25,000 following completion of roof replacement for the term of June 6, 2015,**  
7 **through June 5, 2030.**

8 WHEREAS, The City and County of San Francisco (City) owns, and the Recreation  
9 and Park Department (Department) maintains, real property located in Glen Canyon Park,  
10 known as the Silver Tree Building; and

11 WHEREAS, The Silver Tree Building is accessed by an approximately one-third mile  
12 walk through Glen Canyon from the park entrance at the end of Bosworth Street; and

13 WHEREAS, The Glenridge Nursery School (the "Nursery School"), a parent-  
14 participation, cooperative nursery school, was founded in 1970 and has been located in the  
15 Silver Tree Building for 44 years; and

16 WHEREAS, The Nursery School is dedicated to providing children with a unique child-  
17 centered learning program in one of the few natural environments left in San Francisco; and

18 WHEREAS, The Department's Silver Tree Day Camp ( the "Day Camp") has operated  
19 in Glen Canyon Park for 75 years and in the Silver Tree Building since 1961; and

20 WHEREAS, The Nursery School and the Day Camp have shared the Silver Tree  
21 Building since 1970, with the Nursery School occupying the building during the school year  
22 and the Department's Day Camp occupying the building during the summer, requiring flexible  
23 scheduling by the Nursery School to accommodate the Department's schedule; and  
24  
25

1 WHEREAS, The Nursery School and the parent members have been careful  
2 caretakers of the building over the years of the school's occupancy, performing weekday  
3 clean up of the area surrounding the building, graffiti removal, reporting of problems to the  
4 Department, communication and coordination with the Silver Tree program director; and

5 WHEREAS, The Nursery School and parent members have also contributed multiple  
6 improvements and upgrades to the building, including but not limited to upgrading of the  
7 kitchen and restroom, interior and exterior painting of the building, repair of the second floor  
8 deck and staircase railings; and

9 WHEREAS, On average the Nursery School performs 200 volunteer hours annually on  
10 the care and upkeep of the Silver Tree building; and

11 WHEREAS, The existing Nursery School lease of the Silver Tree Building is scheduled  
12 to expire June 5, 2015; and

13 WHEREAS, The Nursery School desires to continue operations in the Silver Tree  
14 Building to continue to provide children with a learning program in the unique Glen Canyon  
15 natural environment; and

16 WHEREAS, The roof of the Silver Tree Building is in poor condition and requires  
17 replacement, with an estimated replacement cost of \$40,000; and

18 WHEREAS, The Nursery School has conducted a capital campaign and raised  
19 \$50,000 for the replacement of the Silver Tree Building roof; and

20 WHEREAS, Due to the unique relationship between the Nursery School and the Silver  
21 Tree Day Camp, the required flexibility in the Nursery School's schedule, the required capital  
22 investment for repair of the building's roof, the difficulty in accessing the building via a long  
23 walk through Glen Canyon, and neighborhood based activation, it would be very unlikely the  
24 Department would find a similarly suitable tenant for the building, and accordingly,  
25 competitively bidding a lease of the building is impractical or infeasible; and

1           WHEREAS, Department staff has negotiated a new lease with the Nursery School, a  
2 copy of which is on file with the Clerk of the Board of Supervisors under File No. 150373 (the  
3 "Lease"); and

4           WHEREAS, The Lease provides for an initial annual base rent of \$26,380.91 per year,  
5 payable in monthly installments and subject to CPI increases; and

6           WHEREAS, The Lease requires the Nursery School to continue to share the Silver  
7 Tree Building with the Day Camp; and

8           WHEREAS, The Lease requires the Nursery School to replace the roof within (6) six  
9 months of the approval of the Lease and provides that the Nursery School will receive rent  
10 credits equal to 50% of the cost of the replacement of the roof, up to a maximum credit of  
11 \$25,000, with credits taken at no greater than \$400 per month; and

12           WHEREAS, In recognition of the long standing relationship between the Nursery  
13 School and the Department and the Nursery School's significant investment in the building,  
14 term of the proposed Lease is fifteen (15) years; and

15           WHEREAS, On April 16, 2015, 2015, by Resolution No. 1504-007, which is on file with  
16 the Clerk of the Board of Supervisors in File No 150373, the Recreation and Park Commission  
17 recommended that the Board of Supervisors approve the Lease; and

18           WHEREAS, The Planning Department has determined that the actions contemplated in  
19 this Resolution comply with the California Environmental Quality Act (California Public  
20 Resources Code, Sections 21000, et seq.); said determination is on file with the Clerk of the  
21 Board of Supervisors in File No. 150373 and is incorporated herein by reference; the Board  
22 affirms this determination; now, therefore, be it

23           RESOLVED, That in accordance with the recommendation of the Recreation and Park  
24 Commission, the Board of Supervisors hereby approves the Lease and authorizes the  
25

1 General Manager to execute the Lease in substantially the form presented to this Board; and,  
2 be it

3 FURTHER RESOLVED, That for the reasons set forth in this resolution, the Board  
4 finds that competitively bidding a lease of the building is impractical or infeasible; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors authorizes the General  
6 Manager to enter into any additions, amendments or other modifications to the Lease  
7 (including, without limitation, the attached exhibits) that the General Manager determines is in  
8 the best interest of the City, do not materially decrease the revenue to the City or otherwise  
9 materially increase the obligations or liabilities of the City, and are necessary or advisable to  
10 complete the transaction contemplated in the Lease and to effectuate the purpose and intent  
11 of this resolution; and, be it

12 FURTHER RESOLVED, That within thirty (30) days of the Lease being fully executed  
13 by all parties, the Recreation and Park Department shall provide the final Lease to the Clerk of  
14 the Board for inclusion into the official file.

<b>Item 2</b> <b>File 15-0373</b>	<b>Department:</b> Recreation and Parks Department (RPD)
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<p>The proposed resolution would authorize the General Manager of the Recreation and Park Department to execute a new 15-year lease with Glenridge Nursery School from June 6, 2015 through June 5, 2030 for the Silver Tree Building in Glen Canyon Park.</p>	
<b>Key Points</b>	
<ul style="list-style-type: none"> <li>• The Glenridge Nursery School, a non-profit cooperative nursery school, has leased 3,093 square feet (sf) in the Silver Tree Building in Glen Canyon Park since 1970. The current lease commenced on August 14, 2010 and will expire June 5, 2015. The Glenridge Nursery School operates for approximately nine and half months (42 weeks) of the year, similar to an academic year. For approximately 10 weeks during the summer months of June and August, RPD hosts the Silver Tree Day Camp at the Silver Tree Building</li> <li>• The Recreation and Park Department proposes to enter into a new 15-year lease with Glenridge Nursery School without a competitive process because Glenridge Nursery School has occupied the space for 45 years, the building is not accessible by street, and the space is shared with the Silver Tree Day Camp.</li> <li>• The Silver Tree Building needs a new roof at an estimated cost of \$41,400. Under the proposed lease the Glenridge Nursery School will replace the roof and receive rent credits for 50 percent of the replacement costs.</li> </ul>	
<b>Fiscal Impact</b>	
<ul style="list-style-type: none"> <li>• Under the proposed lease, the initial rent payable by Glenridge Nursery School to RPD is \$2,721 per month, or approximately \$0.88 per square foot per month. The Recreation and Park Department determined that the rent of \$0.88 per square foot per month was fair market value, based on rents paid by other similar schools and the condition, access and other factors of the Glenridge Nursery School.</li> </ul>	
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>• Amend the proposed resolution to add a "resolve clause" stating that the Board of Supervisors finds competitively bidding the subject lease to be "impractical or infeasible" due to the reasons noted in the section, "Waiving Competitive Bid for the Property," below and stated on page 2, lines 20 through 25 of the proposed resolution.</li> <li>• Amend the proposed resolution to state the correct initial annual base rent paid by Glenridge Nursery School to the City is \$26,380.91 rather than \$32,652, as stated in the proposed resolution.</li> <li>• Approve the proposed resolution, as amended.</li> </ul>	

**MANDATE STATEMENT / BACKGROUND****Mandate Statement**

City Charter Section 9.118(b) states that contracts entered into by a department, board or commission that (1) have a term of more than ten years, (2) require expenditures of \$10 million or more, or (3) require a modification with a \$500,000 impact or more is subject to Board of Supervisors approval.

**Background**

The City owns property located in Glen Canyon Park which is maintained by the Recreation and Park Department (RPD), consisting of a 3,093 square feet (sf) Silver Tree Building. The building can only be accessed through a one-third mile walking path, with the exception of emergency vehicles.

The Glenridge Nursery School, a non-profit cooperative nursery school, has operated out of the Silver Tree Building for 45 years, since 1970. The current lease between the Recreation and Park Department and the Glenridge Nursery School commenced on August 14, 2010 and will expire June 5, 2015. The Glenridge Nursery School operates for approximately nine and half months (42 weeks) of the year, similar to an academic year. For approximately 10 weeks during the summer months of June and August, RPD hosts the Silver Tree Day Camp at the Silver Tree Building, which has operated for 75 years, and out of the Silver Tree Building location since 1961.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would authorize the General Manager of the Recreation and Park Department to execute a new 15-year lease with Glenridge Nursery School, from June 6, 2015 through June 5, 2030, enabling the Glenridge Nursery School to continue to operate the nursery school located in 3,093 square feet of space in the Silver Tree Building at Glen Canyon Park. The key lease provisions are shown in Table 1 below.

**Table 1: Key Lease Provisions for Silver Tree Building**

Lease Provision	Proposed Lease
Premises	3,093 sf Silver Tree Building in Glen Canyon Park
Permitted use	Preschool educational and recreational programming
Initial Term	15 Lease Years (approximately 42 weeks, or 9.5 months per year)
Commencement & End Date	June 6, 2015 through June 5, 2030
Options to Extend	None
Base Rent	\$2,721 per month during the first lease year In months of partial leasing, the rent will be prorated
Rent Adjustments	Annually based on the Consumer Price Index
Tenant improvements	\$41,400 roof replacement to be funded up front by Glenridge Nursery School.
Rent Credit	\$400 monthly rent credits not to exceed \$25,000 based on total cost of roof replacement. The estimated rent credit is \$20,700; see explanation below.
Utilities & Services	City pays water, gas, and electricity Tenant pays sewer, garbage, recycling, telephone, fax and internet
Repairs	Responsibility of the tenant

#### Waiving Competitive Bid for the Property

According to Mr. Jeff Suess, Recreation and Park Department Property Manager, the subject lease with Glenridge Nursery School was not competitively bid because:

- Required flexibility demanded of the tenant to accommodate the Silver Tree Day Camp during the summer months. The exact dates vary each year.
- Significant capital investment required of the tenant for repair of the building's roof.
- Difficulty in accessing the building which requires a one-third mile walk through Glen Canyon. Only service vehicles and RPD vehicles are permitted to use the service roads. Additionally, no parking is available.
- Unique historical relationship between Glenridge Nursery School and Silver Tree Day Camp, as well as Glenridge Nursery School's non-profit status which aligns with the Recreation and Park Department's mission.

The proposed resolution should be amended to add a "resolve clause" stating that the Board of Supervisors finds competitively bidding the subject lease to be "impractical or infeasible" due to the reasons noted in the section, "Waiving Competitive Bid for the Property," above and stated on page 2, lines 20 through 25 of the proposed resolution.

#### Silver Tree Building Roof Replacement

The roof of the Silver Tree Building is in poor condition, and requires replacement at an estimated cost of \$41,400. According to Mr. Suess, members of the Glenridge Nursery School



became aware of the need for a new roof and came to the Recreation and Park Department with a proposal to fund the improvements. According to Mr. Suess, Glenridge Nursery School members conducted a capital campaign, raising \$50,000, to fund the replacement of the Silver Tree Building roof.

According to Mr. Suess, the roofing work needs to be completed during a short time period between the last week of Silver Tree Day Camp and the start of the Glenridge Nursery School term for the fall. Glenridge Nursery School will contract with an outside contractor to replace the existing roof. Under the proposed lease, Glenridge Nursery School will receive monthly rent credits of \$400 per month (approximately \$4,000 per year for a 42-week year), up to 50 percent of the tenant's costs of the roof replacement (estimated to cost \$41,400), up to \$25,000, whichever is less.

#### California Environmental Quality Act (CEQA)

On February 13, 2015, the Planning Department determined that the proposed roof replacement at the Silver Tree Building is in compliance with CEQA.

#### Future Lease Modifications

The proposed resolution authorizes the Recreation and Park Department General Manager to enter into any additions, amendments or other modifications to the lease as determined to be in the best interest of the City, as long as they do not decrease the revenue to the City, or otherwise increase the obligations or liabilities of the City.

### **FISCAL IMPACT**

Under the proposed lease, the initial rent payable by Glenridge Nursery School to RPD is \$2,721 per month, or approximately \$0.88 per square foot per month for 3,093 square feet of space, which is 17.3 percent higher than their current rent of \$2,320 per month, or \$0.75 per square foot. According to Mr. Suess, the Recreation and Park Department determined the rental rate of \$0.88 per sf based on a market rental survey of three comparable properties for school lease agreements from CoStar, as RPD determined the use is more important than the location in determining fair market rent. Mr. Suess applied cost adjustments based on differences in building quality, location, number of months of use, size, utilities and caretaker contribution<sup>1</sup> between the selected comparable properties to come up with an average rent of \$0.88 per square foot. According to Mr. Suess, the City's Real Estate Division concurred with this determination.

Under the proposed lease, Glenridge Nursery School will pay estimated net rent to the Recreation and Park Department over the 15-year lease term of \$452,360, as shown in Table 2 below. In addition, Glenridge Nursery School will pay for an estimated \$41,400 in roof replacement costs, of which \$20,700 will be refunded by the Recreation and Park Department through rent credits.

<sup>1</sup> According to Mr. Suess, the caretaker contribution accounts for the time spent by Glenridge Nursery School parents to maintain the property. The prior lease also accounted for the caretaker contribution.

**Table 2: Estimated Rent Paid by Glenridge Nursery School to the Recreation and Park Department**

Year	Annual Rent*	Estimated CPI	Roof Replacement Rent Credit**	Remaining Roof Credit	Net Rent Paid to RPD
1	\$ 26,380.91		\$ 4,200.00	\$ 16,500.00	\$ 22,180.91
2	\$ 27,040.43	2.50%	\$ 4,200.00	\$ 12,300.00	\$ 22,840.43
3	\$ 27,716.44	2.50%	\$ 4,200.00	\$ 8,100.00	\$ 23,516.44
4	\$ 28,409.36	2.50%	\$ 4,200.00	\$ 3,900.00	\$ 24,209.36
5	\$ 29,119.59	2.50%	\$ 3,900.00		\$ 25,219.59
6	\$ 29,847.58	2.50%			\$ 29,847.58
7	\$ 30,593.77	2.50%			\$ 30,593.77
8	\$ 31,358.61	2.50%			\$ 31,358.61
9	\$ 32,142.58	2.50%			\$ 32,142.58
10	\$ 32,946.14	2.50%			\$ 32,946.14
11	\$ 33,769.80	2.50%			\$ 33,769.80
12	\$ 34,614.04	2.50%			\$ 34,614.04
13	\$ 35,479.39	2.50%			\$ 35,479.39
14	\$ 36,366.38	2.50%			\$ 36,366.38
15	\$ 37,275.54	2.50%			\$ 37,275.54
			<b>\$ 20,700.00</b>		<b>\$ 452,360.56</b>

\*Silver Tree Day Camp will operate for 10 weeks each year. Glenridge Nursery School will pay rent for 42 weeks per year.

\*\*Rent credits will be \$400 per month, or \$4,200 per year until 50% of the cost of the roof is recovered, not to exceed \$25,000. Partial month is calculated at \$200.

The proposed resolution should be amended to correctly state that the annual rent in the first year is \$26,381 for an approximate 42-week lease year, rather than \$32,652 for a 52-week lease year.

**RECOMMENDATIONS**

1. Amend the proposed resolution to add a “resolve clause” stating that the Board of Supervisors finds competitively bidding the subject lease to be “impractical or infeasible” due to the reasons noted in the section, “Waiving Competitive Bid for the Property,” above and stated on page 2, lines 20 through 25 of the proposed resolution.
2. Amend the proposed resolution to state the correct initial annual base rent paid by Glenridge Nursery School to the City is \$26,380.91 rather than \$32,652, as stated in the proposed resolution.
3. Approve the proposed resolution, as amended.



Edwin M. Lee, Mayor  
Philip A. Ginsburg, General Manager

**LEASE**

between

**CITY AND COUNTY OF SAN FRANCISCO, Landlord**

and

**GLENRIDGE NURSERY SCHOOL, Lessee**

**For the Lease and Management of the**

**Silver Tree Building**

in

**Glen Canyon Park,  
San Francisco, California**

\_\_\_\_\_, 2015

**CITY AND COUNTY OF SAN FRANCISCO  
Edwin M. Lee, Mayor**

**SAN FRANCISCO RECREATION and PARK COMMISSION  
Mark Buell, President  
Allan Low, Vice President  
Gloria Bonilla, Commissioner  
Tom Harrison, Commissioner  
Meagan Levitan, Commissioner  
Eric McDonnell, Commissioner**

**Philip A. Ginsburg, General Manager**



**RECREATION AND PARK DEPARTMENT  
LEASE  
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**EXHIBITS**

- EXHIBIT A – Demised Premises
- EXHIBIT B – Rules and Regulations
- EXHIBIT C – Description of Operations Plan
- EXHIBIT D - Proposed Improvements

## RECREATION AND PARK DEPARTMENT

### LEASE

THIS LEASE (this "Lease") dated for reference purposes only as of April 2, 2015, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Landlord"), acting by and through its Recreation and Park Commission (the "Commission"), and GLENRIDGE NURSERY SCHOOL, a California corporation ("Lessee").

City and Lessee hereby agree as follows:

#### 1. BASIC LEASE INFORMATION

The following is a summary of basic lease information (the "Basic Lease Information"). Each item below shall be deemed to incorporate all of the terms set forth in this Lease pertaining to such item. In the event of any conflict between the information in this Article and any more specific provision of this Lease, the more specific provision shall control.

Lease Reference Date: April 2, 2015

Landlord: CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

Lessee: GLENRIDGE NURSERY SCHOOL,  
a California corporation

Premises (Section 3.1): That certain land and improvements known as the Silver Tree Building in Glen Canyon Park, located in San Francisco, California, owned by City and under the jurisdiction of its Recreation and Park Department (the "Department"), as more fully described in **Section 3.1** and delineated on **Exhibit A**.

Term (Section 4): Fifteen (15) Lease Years, as described in **Section 4**.  
Commencement Date: June 6, 2015  
Expiration Date: June 5, 2030

Lease Year: "Lease Year" means each period during the Term commencing on the first day following the conclusion of the annual summer day camp programs conducted in the Premises by or on behalf of the Department, and ending no later than seven (7) days prior to the commencement of such annual summer day camp programs the following calendar year. The Lease Years will roughly correspond to the typical public school academic years. Lessee acknowledges that the Department shall have the right to use and occupy the Premises at all times other than during the Lease Years.

Silver Tree Occupancy Period: The Parties anticipate the Department will offer or cause to be offered a summer day camp program in the Premises during the Term of this Lease. Such summer day camp program has

been historically referred to as Silver Tree summer camp.

Monthly Rent (Section 5.1): Monthly Rent: \$2,721.00 per month payable in monthly installments during each Lease Year as provided in **Section 5.1**.

Monthly Rent Adjustment Dates (Section 5.2): Beginning on June 1, 2016 and continuing on each subsequent June 1 during the Term of this Lease (each, an "Adjustment Date"), the Monthly Rent payable hereunder shall increase according to **Section 5.2**.

Rent Credit (Section 5.8): Upon completion of the Proposed Improvements described in **Section 8.4** Lessee may receive a credit against Monthly Rent in accordance with the provisions of **Section 5.8** and **Section 8.4**.

Use (Section 7.1): Preschool educational and recreational programming, as more particularly described in **Article 7**.

Security Deposit (Section 23): \$2,721.00

Notice Address of City (Section 27.1): Recreation and Park Department  
Property Management  
McLaren Lodge Annex  
501 Stanyan Street  
San Francisco, CA 94117  
Re: Silver Tree Building, Glen Canyon Park

with a copy to Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4682  
Attn: Real Estate/Finance Team

Address for Delivery of Insurance Certificates (Section 19.3): 1. Hard (paper) copy to first Notice Address listed above.  
2. Electronic copy to Jeff.Suess@sfgov.org.  
Certificates must clearly indicate the Premises for which the certificate is issued

Key Contact for City: Jeff Suess

Telephone No.; Email: (415) 831-2727; Jeff.Suess@sfgov.org

Address for Lessee (Section 27.1): Glenridge Cooperative Nursery School  
P.O. Box 31202  
San Francisco, CA 94131  
Attn: Board President

Key Contact for Lessee: Board President

Brokers (Section 27.8): None

Other Noteworthy Provisions:

Roof System Replacement; Lessee has the obligation to perform the Proposed  
Rent Credit Improvements, subject to the terms and conditions of  
**Section 8.4**. Lessee has the right to receive a rent credit of up  
to \$25,000, as set forth in **Section 8.4**.

## 2. DEFINITIONS

For purposes of this Lease, initially capitalized terms shall have the meanings ascribed to them in this Section:

**"Additional Charges"** means any and all real and personal property taxes, possessory interest taxes, insurance premiums and other costs, impositions and expenses described in hereof or otherwise payable by Lessee under this Lease.

**"Adjustment Date"** means the annual date for adjusting the Monthly Rent as specified in Basic Lease Information and **Section 5.2** hereof.

**"Adjustment Index"** means the Index which is published most immediately preceding a particular Adjustment Date.

**"Affiliate of Lessee"** means any person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under the common control with, Lessee. As used above, the words "control," "controlled" and "controls" mean the right and power, directly or indirectly through one or more intermediaries, to direct or cause the direction of substantially all of the management and policies of a person or entity through ownership of voting securities or by contract, including, but not limited to, the right to fifty percent (50%) or more of the capital or earnings of a partnership or, alternatively, ownership of fifty percent (50%) or more of the voting stock of a corporation.

**"Agents"** means, when used with reference to either Party to this Lease, the officers, directors, employees, agents and contractors of such Party, and their respective heirs, legal representatives, successors and assigns.

**"Alterations"** means any alterations, installations or additions to any Improvements or to the Premises made by or on behalf of Lessee pursuant to this Lease, including but not limited to any interior alterations or renovations.

**"Assignment"** has the meaning given in **Section 16.1** hereof.

**"Award"** means all compensation, sums or value paid, awarded or received for a Taking, whether pursuant to judgment, agreement, settlement or otherwise.

**"Base Index"** means the Index published most immediately preceding the Commencement Date.

**"Basic Lease Information"** means the information with respect to this Lease summarized in **Article 1** hereof.

"City" means the City and County of San Francisco, a municipal corporation.

"Commencement Date" means the date on which the Term of this Lease commences as described in Section 4.1 hereof.

"Commission" means the City and County of San Francisco Recreation and Park Commission or its successor.

"Date of Taking" means the earlier of (i) the date upon which title to the portion of the Premises taken passes to and vests in the condemnor or (ii) the date on which Lessee is dispossessed.

"Department" means City's Recreation and Park Department.

"Department Facilities" means any and all areas within or near the Premises that are reserved specifically for Department use.

"Effective Date" means the date on which this Lease becomes effective pursuant to Section 4.4 hereof.

"Encumber" means create any Encumbrance; "Encumbrance" means any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance.

"Encumbrancer" means a mortgagee, beneficiary of a deed of trust or other holder of an Encumbrance.

"Environmental Laws" means any present or future federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises (including any permitted Improvements) and any other property, including, without limitation, soil, air and groundwater conditions.

"Event of Default" means any one of the events of default described in Section 16.1 hereof.

"Expiration Date" means the date on which the Term of this Lease expires as described in Section 4.1 hereof.

"General Manager" means the General Manager of the Recreation and Park Department.

"Hazardous Material" means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 *et seq.*) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Premises, any Improvements to be constructed on the Premises by or on behalf of Lessee, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids.



**"Hazardous Material Claims"** means any and all enforcement, Investigation, Remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws, together with any and all Losses made or threatened by any third party against City, the Department, their Agents, or the Premises or any Improvements, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law. Hazardous Materials Claims include, without limitation, Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises or any Improvements, the loss or restriction of the use or any amenity of the Premises or any Improvements, and attorneys' fees and consultants' fees and experts' fees and costs.

**"Improvements"** means any and all buildings, structures, fixtures and other improvements constructed, installed or placed on the Premises by or on behalf of Lessee pursuant to this Lease, including, without limitation, any trailers, mobile homes, permanent tent facilities, signs, billboards or other advertising materials, roads, trails, driveways, parking areas, curbs, walks, fences, walls, stairs, poles, plantings and landscaping.

**"Indemnify"** means indemnify, protect, defend and hold harmless forever.

**"Indemnified Parties"** means City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, the Department, and all of its and their respective Agents, and their respective heirs, legal representatives, successors and assigns, and each of them.

**"Index"** means the Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San Jose area, published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

**"Investigation"** when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Premises, any Improvements or any portion thereof or which have been, are being, or threaten to be Released into the environment. Investigation shall include, without limitation, preparation of site history reports and sampling and analysis of environmental conditions in, on, under or about the Premises or any Improvements.

**"Invitees"** when used with respect to Lessee means the clients, customers, invitees, guests, members and licensees, assignees and sublessees of Lessee.

**"Landlord"** means the City and County of San Francisco.

**"Law"** means any law, statute, ordinance, resolution, regulation, proclamation, order or decree of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties.

**"Lease"** means this Lease as it may be amended in accordance with its terms.

"**Lease Year**" shall have the meaning set forth in the Basic Lease Information.

"**Lessee**" means the Party identified as Lessee in the Basic Lease Information and at the beginning of this Lease. Except when immediately followed by the word "itself," the term Lessee shall also refer to the successors and assigns of Lessee's interests under this Lease, provided that the rights and obligations of Lessee's successors and assigns shall be limited to only those rights and obligations that this Lease permits to be transferred and that have been transferred in accordance with this Lease.

"**Lessee's Personal Property**" means the personal property of Lessee described in **Section 8.3** hereof.

"**Losses**" means any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs.

"**Monthly Rent**" means the Monthly Rent specified in the Basic Lease Information and described in **Section 5.1** hereof, as adjusted from time to time pursuant to **Section 5.2** hereof.

"**Official Records**" means the official records of the county(ies) in which the Premises are located.

"**Party**" means City or Lessee; "**Parties**" means both City and Lessee.

"**Permitted Uses**" has the meaning given in **Section 7.1** hereof.

"**Pre-Existing Conditions**" shall have the meaning given in **Section 3.4(b)** hereof.

"**Premises**" has the meaning given in **Section 3.1** hereof. The Premises shall include any existing or permitted Improvements, together with any additions, modifications or other Alterations thereto permitted hereunder. Notwithstanding anything to the contrary in this Lease, the Premises do not include Department Facilities, nor any water, water rights, riparian rights, water stock, mineral rights or timber rights relating to the Premises.

"**Release**" when used with respect to Hazardous Material means any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any existing improvements or any Improvements constructed hereunder by or on behalf of Lessee, or in, on, under or about the Premises or Department Facilities or any portion thereof.

"**Remediation**" when used with reference to Hazardous Material means any activities undertaken to clean up, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material located in, on, under or about the Premises or Department Facilities or which have been, are being, or threaten to be Released into the environment. Remediate includes, without limitation, those actions included within the definition of "remedy" or "remedial action" in California Health and Safety Code Section 25322 and "remove" or "removal" in California Health and Safety Code Section 25323.

"**Rent**" means the Monthly Rent, as adjusted pursuant to the provisions of **Section 5.2**, together with any and all Additional Charges, whether or not any such amounts are specifically characterized as rent.

**"Silver Tree Occupancy Period"** means each period during the Term during which the Department conducts its summer camp programs.

**"Sublease"** has the meaning given in **Section 16.1** hereof.

**"Taking"** means a taking or damaging, including severance damage, by eminent domain, inverse condemnation or for any public or quasi-public use under Law. A Taking may occur pursuant to the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation or in settlement of a condemnation action.

**"Term"** means the term of this Lease as determined under **Section 4.1** hereof.

**"Transfer"** means any Assignment or Sublease.

**"Transferee"** means any recognized assignee of any part of Lessee's leasehold interest hereunder or any recognized sublessee of any portion of the Premises, pursuant to a Transfer that complies with **Article 16** hereof.

**"Unmatured Event of Default"** means any default by Lessee under this Lease that, with the giving of notice or the passage of time, or both, would constitute an Event of Default hereunder.

### **3. PREMISES**

**3.1. Leased Premises.** Subject to the terms, covenants and conditions of this Lease, City leases to Lessee and Lessee leases from City, the building located in Glen Canyon in San Francisco, California, commonly known as the Silver Tree Building, comprised of approximately 3,093 usable square feet of space and generally delineated on **Exhibit A**, attached hereto (the "Premises"); reserving during the Term unto City, its successors and assigns, the rights described in **Section 3.2** below.

**3.2. Rights Reserved to City.** Notwithstanding anything to the contrary in this Lease, City reserves and retains all of the following rights relating to the Premises at all times:

(a) Any and all water and water rights, including, but not limited to (i) any and all surface water and surface water rights, including, without limitation, riparian rights and appropriative water rights to surface streams and the underflow of streams, and (ii) any and all groundwater and subterranean water rights, including, without limitation, the right to export percolating groundwater for use by City or its water customers;

(b) Any and all timber and timber rights, including, without limitation, all standing trees and downed timber;

(c) Any and all minerals and mineral rights of every kind and character now known to exist or hereafter discovered in the Premises, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to City or its successors and assigns, but without entering upon or using the surface of the lands of the Premises and in such manner as not to damage the surface of the Premises or to interfere with the permitted use thereof by Lessee, without Lessee's prior written consent;

(d) All rights to use, operate, maintain, repair, enlarge, modify, expand, replace and reconstruct any Department Facilities;

(e) The right to grant future easements and rights of way over, across, under, in and upon the Premises for maintenance of the Premises or for the installation or maintenance of utilities serving the Premises or the park where the Premises is located, provided that any such easement or right-of-way shall be conditioned upon the grantee's assumption of liability to Lessee for damage to its property that Lessee may sustain hereunder as a result of the grantee's use of such easement or right of way;

(f) The right to use the Premises during each Silver Tree Occupancy Period;  
and

(g) All rights of access provided for in **Article 20** below.

**3.3. Subject to Public and Municipal Uses and Rules.** Lessee acknowledges that the property of which the Premises are a part constitutes a portion of City's public park system, which City holds for public and municipal use. Lessee's rights under this Lease shall be subject and subordinate to City's use of the Premises for such purposes. However, so long as there is no Event of Default or Unmatured Event of Default on the part of Lessee outstanding hereunder and subject to the terms and conditions of this Lease, City shall use its best efforts to avoid interfering with Lessee's quiet and exclusive use and enjoyment of the Premises on weekdays during the Lease Year. Lessee shall comply with the Department's rules and regulations relating to its park property, as the same may change from time to time (the "Rules and Regulations"). A copy of the current Rules and Regulations can be downloaded from the web address provided in the attached **Exhibit B**.

**3.4. As Is Condition of Premises.**

(a) **Inspection of Premises.** Lessee represents and warrants that Lessee has conducted a thorough and diligent inspection and investigation, either independently or through Agents of Lessee's own choosing, of the Premises and the suitability of the Premises for Lessee's intended use. Lessee is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises are suitable for its operations and intended uses.

(b) **Accessibility Inspection Disclosure.** California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Lessee is hereby advised that the Premises have not been inspected by a CASp.

(c) **As Is; Disclaimer of Representations.** Lessee acknowledges and agrees that the Premises are being leased and accepted in their "**AS IS, WITH ALL FAULTS**" condition, without representation or warranty of any kind, and subject to all applicable Laws governing the use, occupancy, management, operation and possession of the Premises. Without limiting the foregoing, this Lease is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Premises, or any portion thereof, whether or not of record. Lessee acknowledges and agrees that neither City, the Department, nor any of their Agents have made, and City hereby disclaims, any representations or warranties, express or implied, concerning: (i) title or survey matters affecting the Premises, (ii) the physical, geological, seismological or environmental condition of the Premises, (iii) the quality, nature or adequacy of any utilities serving the Premises, (iv) the present or future suitability of the Premises for Lessee's business and intended uses, (v) the feasibility, cost or legality of constructing any Improvements on the Premises if required for Lessee's use and permitted under this Lease, or (vi)

any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

(d) **Energy Consumption.** Lessee acknowledges and agrees that City has delivered a Disclosure Summary Sheet, Statement of Energy Performance, Data Checklist, and Facility Summary (all as defined in the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9, Section 1680) for the Premises no less than 24 hours prior to Lessee's execution of this Lease.

**3.5. Condition of Premises at Commencement of Each Lease Year.** Prior to or within a reasonable time following the commencement of each Lease Year, Lessee and a representative of the Department shall conduct a walk-through and shall prepare a list of any pre-existing damage or other conditions in the Premises not caused by Lessee and which existed as of the commencement of such Lease Year but not at the end of the prior Lease Year (collectively "Pre-Existing Conditions"). Notwithstanding anything to the contrary contained in this Lease, Lessee shall have no obligation to correct or repair any such Pre-Existing Conditions noted in such list during the Term of this Lease.

#### **4. TERM**

**4.1. Term of Lease; Commencement Date and Expiration Date.** The Premises are leased for a term (the "Term") commencing on the date specified in the Basic Lease Information as the commencement date (the "Commencement Date"), subject to this Lease becoming effective pursuant to **Section 4.4** below. The Term of this Lease shall end on the expiration date specified in the Basic Lease Information, unless sooner terminated pursuant to the provisions of this Lease. Without limiting any other right of City under this Lease, City shall have the right to terminate this Lease if (i) Lessee fails to maintain or acquire all required licenses to operate its business according to the terms of this Lease or (ii) Lessee ceases its operations. The dates on which the Term commences and terminates pursuant hereto are referred to respectively as the "Commencement Date" and the "Expiration Date."

**4.2. Periodic Delivery and Surrender of Possession.** The Parties acknowledge that this Lease contemplates that Lessee will vacate the Premises at the end of each Lease Year and surrender the Premises for use by City for the a summer day camp program, and that City will vacate the Premises and deliver possession of the Premises to Lessee vacant and broom clean on or prior to the commencement of each Lease Year. If City does not deliver possession of the Premises to Lessee by September 1st of any Lease Year and such delay was not caused by Lessee, then Lessee may terminate this Lease upon written notice to City given at any time prior to the date City actually delivers possession of the Premises to Lessee, in which event Lessor shall promptly return the Security Deposit or any remaining balance thereof to Lessee, together with any other amounts prepaid by Lessee hereunder. Lessee waives all provisions of any Laws to the contrary. In the event of any delay in delivery of possession of the Premises to Lessee (including, without limitation, a delay due to the failure of the Lease to become effective pursuant to **Section 4.5** below), the Term and regular payments of Monthly Rent shall not commence until City delivers possession of the Premises to Lessee. If the Term commences later than the Commencement Date set forth in the Basic Lease Information in accordance with the terms hereof, this Lease shall nevertheless expire on the Expiration Date, unless sooner terminated pursuant to the provisions of this Lease.

**4.3. Delays Caused by Lessee.** Notwithstanding anything to the contrary above, if City's inability to deliver possession of the Premises on the Commencement Date or by any September 1 of the Term results from the acts or omissions of Lessee or any of Lessee's Agents, then the Monthly Rent and Additional Charges payable by Lessee hereunder shall commence on

the date when City would have delivered possession of the Premises but for such acts or omissions:

**4.4. Effective Date.** This Lease shall become effective on the date (the "Effective Date") upon which (i) the San Francisco Board of Supervisors passes a resolution approving this Lease, and (ii) the Parties hereto have duly executed and delivered this Lease.

**4.5. Existing Lease; Termination of Existing Lease.** Tenant is now and will be at the commencement of the Term in possession of the Premises pursuant to that certain lease, for reference purposes only as of May 26, 2010, between City and Lessee (the "Existing Lease"). Notwithstanding the provisions of the Existing Lease to the contrary, the Existing Lease shall terminate effective as of 12:00 midnight on the date immediately preceding the date the term of this Lease commences; provided, however, that Lessee and City shall not be relieved of any of their obligations under the Existing Lease accruing prior to such termination of the Existing Lease and the indemnification obligations of Lessee under the Existing Lease shall survive the termination of the Existing Lease with regard to events occurring prior to such termination.

## **5. RENT**

**5.1. Monthly Rent.** Lessee shall pay to City during the Term of this Lease, beginning on the Commencement Date, the Monthly Rent specified in the Basic Lease Information, adjusted as provided in **Section 5.2** below. The Monthly Rent shall be payable in monthly installments on or before the first (1st) day of each month of each respective Lease Year in advance. In the case of any partial months during a Lease Year (e.g., May or June and August), Monthly Rent shall be prorated based on the number of days in such partial calendar month.

**5.2. Adjustments in Monthly Rent.** On the Adjustment Date each year, the Monthly Rent payable by Lessee shall be adjusted in the following manner. The Adjustment Index shall be compared with the Base Index. If the Adjustment Index has increased over the Base Index, then the Monthly Rent payable on and after such Adjustment Date shall be set by multiplying Monthly Rent by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Base Index. In no event shall the Monthly Rent on or after the Adjustment Date be less than the Monthly Rent in effect immediately prior to the Adjustment Date.

**5.3. Payment; Generally.** Rent shall be paid in lawful money of the United States, at Revenue Unit, Recreation and Park Department, McLaren Lodge Annex, 501 Stanyan Street, San Francisco, California 94117, or such other place as City may designate in writing. If Lessee pays by check and such check is not honored, then City may require Lessee to make all future payments in cash or by cashier's check. If the Commencement Date occurs on a day other than the first day of a calendar month, or if the Expiration Date occurs on a day other than the last day of a calendar month, then the monthly payment of the Monthly Rent for such fractional month shall be prorated based on a thirty (30) day month. City reserves the right to direct Lessee, upon 30 days written notice, to deposit all payments required under this Lease from Lessee's account into the City designated revenue account by bank or wire transfer. If delivered in person, Lessee may request a time-stamped receipt of payment. If mailed, the accepted payment date shall be the metered postmark.

**5.4. Late Charge.** If Lessee fails to pay any Rent within five (5) days of the date the same is due and payable, such unpaid amount will be subject to a late payment charge equal to five percent (5%) of the amount due, in each instance. The late payment charge has been agreed upon by City and Lessee, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that City will incur as a result of any such failure by Lessee, the actual costs thereof being extremely difficult if not impossible to determine. The late

payment charge constitutes liquidated damages to compensate City for its damages resulting from such failure to pay and Lessee shall promptly pay such charge to City together with such unpaid amount.

**5.5. Default Interest.** If any Rent is not paid within five (5) days of the due date, such unpaid amount shall bear interest from the due date until paid at the rate of ten percent (10%) per year or, if a higher rate is legally permissible, at the highest rate an individual is permitted to charge under Law. However, interest shall not be payable on late charges incurred by Lessee nor on any amounts on which late charges are paid by Lessee to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Lessee.

**5.6. Net Lease.** This Lease is a "net lease." Accordingly, Lessee shall pay to City all Rent (including the Monthly Rent, Additional Charges and any other payments hereunder) free of any charges, assessments or deductions of any kind, without prior demand and without abatement, counterclaim or setoff. Under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties, shall City be expected or required to make any payment of any kind whatsoever with respect to Lessee's use or occupancy of the Premises and any permitted Improvements or this Lease, except as may otherwise be expressly set forth herein. Without limiting the foregoing, Lessee shall be solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which City would otherwise be or become liable by reason of its estate or interests in the Premises and any Improvements, any rights or interests of City in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation, use or occupancy of the Premises, any permitted Improvements, or any portion thereof. Except as may be specifically and expressly provided otherwise in this Lease, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Lessee from its liability to pay all of the sums required by any of the provisions of this Lease, or shall otherwise relieve Lessee from any of its obligations under this Lease, or shall give Lessee any right to terminate this Lease in whole or in part. Lessee waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of such sums, on account of any such occurrence or situation.

**5.7. Rent Credit for Reimbursement of Emergency Expenditures.** Notwithstanding any other provisions in this Lease, Lessee may, with, but only with, the express advance written approval of the General Manager, submit a rent credit for reimbursement of emergency repairs to the Premises paid by Lessee for repairs that are otherwise the obligation of City hereunder. Such approval shall not be unreasonably withheld.

**5.8. Rent Credit for Partial Reimbursement of Cost of Proposed Improvements.** In consideration of Lessee's performance of its obligation to replace the roof in accordance with the provisions of **Section 8.4**, Lessee shall receive a credit against the Monthly Rent payable hereunder in the amount and on the conditions set forth in **Section 8.4**, provided that the credit applicable during any calendar month shall not exceed the Monthly Rent scheduled under this Lease for such calendar month.

## **6. TAXES, ASSESSMENTS AND OTHER EXPENSES**

### **6.1. Taxes and Assessments, Licenses, Permit Fees and Liens.**

**(a) Payment Responsibility.** Lessee shall pay any and all real and personal property taxes, general and special assessments, excises, licenses, permit fees and other charges

and impositions of every description levied on or assessed against the Premises, any Improvements, Lessee's Personal Property, the leasehold estate or any subleasehold estate, or Lessee's use of the Premises or any Improvements. Lessee shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency, subject to Lessee's right to contest the validity of such charge pursuant to **Section 6.1(c)**. However, with respect to real property taxes and assessments levied on or assessed against the Premises for which City receives the tax bill directly from the taxing authority, Lessee shall reimburse City for payment of such sums immediately upon demand.

(b) **Taxability of Possessory Interest.** Without limiting the foregoing, Lessee recognizes and agrees that this Lease may create a possessory interest subject to property taxation and that Lessee may be subject to the payment of property taxes levied on such interest.

(c) **No Liens.** Lessee shall not allow or suffer a lien for any taxes payable by Lessee hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without promptly discharging the same. Lessee may have a reasonable opportunity to contest the validity of any such taxes provided Lessee, before commencement of any proceeding or contest, furnishes to City a surety bond issued by a surety company qualified to do business in California and acceptable to City's Controller. The amount of such bond shall be equal to one hundred twenty five percent (125%) of the amount of taxes in dispute and shall be in such form as approved by the City Attorney of City. The bond shall insure payment of any judgment that may be rendered should Lessee be unsuccessful in any such contest. Lessee shall Indemnify City, the other Indemnified Parties, and the Premises from and against any Losses arising out of any proceeding or contest provided for hereunder. The foregoing Indemnity shall not be limited by the amount of the bond.

(d) **Reporting Requirement.** San Francisco Administrative Code Sections 23.38 and 23.39 require that the City and County of San Francisco report certain information relating to this Lease, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction, and that Lessee report certain information relating to any assignment of or sublease under this Lease to the County Assessor within sixty (60) days after such assignment or sublease transaction. Lessee agrees to provide such information as may be requested by City to enable City to comply with this requirement.

6.2. **Other Expenses.** Lessee shall be responsible for any and all other charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any Improvements permitted thereon, including, without limitation, the cost of services necessary for Lessee's use or any utilities other than gas, electricity and water.

6.3. **Evidence of Payment.** Lessee shall, upon City's request, furnish to City within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to City, evidencing payment thereof.

## 7. USE; COVENANTS TO PROTECT PREMISES AND DEPARTMENT FACILITIES

7.1. **Lessee's Permitted Use.** Lessee shall continuously use the Premises and Improvements for use specified in the Basic Lease Information (collectively the "Permitted Uses"), and for no other use or purpose:

7.2. **Appropriate Operations.** Lessee's operations and services are outlined in the handbook described in the attached **Exhibit C** (the "Operations Plan"), and the Department approves the Operations Plan for such purpose, except to the extent inconsistent with the



Permitted Uses or other provisions of this Lease. The Parties agree that Lessee may, from time to time, modify and/or update the Operations Plan consistent with appropriate park uses and that any major modifications and/or updates must be submitted to the Department in advance of implementation. Upon written notice from the Department that the operations, goods or services provided at the Premises are not in keeping with allowed park purposes, Lessee shall attempt in good faith to correct such deficiency within thirty (30) calendar days of such notice. If the deficiency cannot be corrected within the 30-day period, Lessee shall submit a written proposal for the correction along with a specific timeline for such cure no later than thirty (30) days after the date of the original notice from City. Lessee's proposal shall be subject to approval by the Department at Department's sole and absolute discretion. If the deficiency is not corrected by the end of the 30-day period, or if the Department has not accepted Lessee's plan for cure by such date, Lessee shall be in default of this Lease.

**7.3. Active Operation.** Lessee shall actively operate in the Premises during the Lease Year.

**7.4. [Intentionally Omitted.]**

**7.5. [Intentionally Omitted.]**

**7.6. Covenants Regarding Use.** As a material inducement to City to enter into this Lease, Lessee covenants with City as follows:

(i) **No Unlawful Uses or Nuisances.** Lessee shall not use or occupy any of the Premises or any Improvements, or permit the use or occupancy thereof, in any unlawful manner or for any illegal purpose, or permit to be carried on any offensive, immoral, noisy or hazardous use or any use in violation of the conditions of any certificate of occupancy. Lessee shall take all precautions to eliminate immediately any nuisances or hazards relating to its activities on or about the Premises or any Improvements permitted hereunder.

(ii) **Covenant Against Waste.** Lessee shall not cause or permit any waste, damage or injury to the Premises.

(iii) **Covenant to Protect Premises and Department Facilities.** At all times during the Term of this Lease, Lessee shall take all reasonable precautions to protect the Premises and the Department Facilities, if any, from any damage, injury or disturbance. . If Lessee or any of its Agents or Invitees causes any damage, injury or disturbance of (i) the Premises, or any portion thereof, and which damage, injury or disturbance costs more than the current amount of the Security Deposit to repair or (ii) the Department Facilities, then Lessee shall immediately notify City of that occurrence. Without limiting any of its other rights hereunder, following notice and a reasonable opportunity to cure (except in the event of an emergency in which case no notice or cure period is required), City may take all actions it deems proper to repair the Premises at Lessee's sole expense. Lessee shall promptly, upon City's request, remove or alter to City's satisfaction and at Lessee's sole cost, any Improvements or Alterations placed on the Premises after the Commencement Date by or on behalf of Lessee without City's prior consent when such consent is required by this Lease. City may adopt from time to time such rules and regulations with regard to Lessee's facilities and operations hereunder as City may determine are necessary or appropriate to safeguard the Department Facilities and City's interests in the Premises. Lessee shall comply with all such rules and regulations upon receipt of a copy thereof.

(iv) **Covenant Against Dumping; Waste Disposal.** Lessee shall not cause or permit the dumping or other disposal on, under or about the Premises of landfill, refuse, Hazardous Material or other materials that are unsightly or could pose a hazard to the human

health or safety, native vegetation or wildlife, or the environment. Organic wastes from the Premises (other than those permitted to be deposited directly into the City's sewer system) shall be composted on-site to the extent reasonably possible. Lessee shall use its best efforts to reduce the amount of trash and waste generated from the Premises, to acquire products for use on the Premises which reuse or recycle packaging, and to recycle all materials used on the Premises to the extent reasonably possible.

(v) **Covenant to Protect Trees or Other Native Vegetation.** Lessee shall not engage in or permit the cutting, removal, or destruction of trees or any other native vegetation on the Premises, without the prior written approval of the General Manager.

(vi) **No Tree Planting.** Lessee shall not plant any trees on the Premises, nor shall Lessee plant any other vegetation on the Premises without the prior written approval of the General Manager.

(vii) **Covenant Against Hunting.** Lessee shall not engage in or permit any hunting or, trapping on or about the Premises, except for hunting or trapping for the purpose of controlling predators or problem animals by the appropriate use of selective control techniques approved in advance by the General Manager in writing, provided such hunting and trapping is done in strict accordance with all applicable Laws. Whenever possible, all measures used for such control shall be limited in their application to the specific problem animals. Lessee shall not use poison bait, cyanide guns, traps or other similar non-selective control techniques. In no event may Lessee use any prophylactic predator control measures. The restrictions of this Section applicable to the identification and control of predators and problem animals shall not apply to commensal rodents.

(viii) **Restrictions on the Use of Pesticides.** Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "IPM Ordinance") describes an integrated pest management ("IPM") policy to be implemented by all City departments. Lessee shall not use or apply or allow the use or application of any pesticides on the Premises or contract with any party to provide pest abatement or control services to the Premises without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Lessee may need to apply to the Premises during the term of this Lease, (ii) describes the steps Lessee will take to meet the City's IPM Policy described in Section 300 of the IPM Ordinance and (iii) identifies, by name, title, address and telephone number, an individual to act as the Lessee's primary IPM contact person with the City. Lessee shall comply, and shall require all of Lessee's contractors to comply, with the IPM plan approved by the City and shall comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Lessee were a City department. Among other matters, such provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b) prohibit the use or application of pesticides on property owned by the City, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (c) impose certain notice requirements, and (d) require Lessee to keep certain records and to report to City all pesticide use at the Premises by Lessee's staff or contractors. If Lessee or Lessee's contractor will apply pesticides to outdoor areas at the Premises, Lessee must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and any such pesticide application shall be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website.

(ix) **Weed Control.** Lessee shall not introduce any noxious weeds on or about the Premises. Lessee shall control noxious weeds, provided that Lessee may use chemical herbicides only if such use complies with the requirements of **Section 7.6(viii)** above.

(x) **Covenant Against Burning.** Lessee shall not burn any weeds, debris or other substances on or about the Premises.

(xi) **Sewerage System.** Lessee shall maintain at its sole cost and expense, and in accordance with the direction and to the satisfaction of the General Manager of the Recreation and Park Department and the SFPUC, the sewerage system now installed on the Premises and shall not permit any sewage or fouled waste water to be disposed of on the Premises, except as provided for and as customary per such sewerage system.

(xii) **Soil Erosion.** Lessee shall not cause any material erosion of soil on or around the Premises. Lessee shall not engage in any activity that causes a material change, disturbance, fill, alteration or impairment to the topography of the Premises by placing on it any soil, dredging, spoils, landfill, or other material, nor shall Lessee engage in any activity that would change, disturb, alter or impair the significant relatively natural ecological features and values of the Premises, without the prior written approval of the General Manager.

(xiii) **Operating Covenants.** Lessee shall use the Premises continuously for the permitted use specified in the Basic Lease Information in accordance with the school operating calendar and shall not allow the Premises to remain unoccupied or unused without City's prior written consent, which City may give or withhold in its sole discretion. Lessee shall use and operate its business on the Premises in a first class and professional manner.

(xiv) **Recycling and Resource Conservation.** The City of San Francisco has set ambitious recycling and composting goals for City Departments including 75% landfill diversion by 2010 and maximum participation in the City's municipal composting program at all City Department locations where there is food service. In addition, the City has recently passed the Food Service Waste Reduction Ordinance (see Section 26.43) which, in part, "Prohibits the use of polystyrene foam dispensable food service ware and requires the use of recyclable or compostable food service ware by restaurants, retail food vendors, City Departments and the City's contractors and lessee." City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease. City contractors and lessees using any Disposable Food Service Ware shall use suitable Biodegradable/Compostable or Recyclable Disposable Food Service Ware in City Facilities and while performing under a City contract or lease unless there is no suitable Affordable Biodegradable/Compostable or recyclable product available as determined by the City Administrator in accordance with Subsection 1604(a). Lessee shall develop a program to work toward a zero waste goal, including the implementation of a composting system for food waste, packaging and 100% biodegradable supplies whenever practical. Lessee shall submit a recycling and composting plan at Commencement of Lease, and provide an annual report on each anniversary date of this Lease outlining their progress toward meeting the recycling and composting goals described above and their success toward a zero waste goal.

(xv) **Americans with Disabilities Act.** Lessee acknowledges that the Americans with Disabilities Act (the "ADA") requires that programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Lessee further acknowledges its obligation to comply with the ADA and any other federal, state or local disability rights legislation. Without limiting the provisions of **Section 8.1** and **Article 11** below, Lessee warrants that it will fulfill that obligation, and that it will not discriminate against disabled persons in the provision of services, benefits or

activities pursuant to this Lease. City shall bear all responsibility and cost for mandated physical changes to the Property resulting from disability access laws.

(xvi) **Public Relations.** Lessee and City shall use good faith efforts to cooperate on matters of public relations and media responses related to this Lease. Any response to an inquiry by a news or community organization to Lessee regarding this Lease shall include a recommendation to contact the City's contact set forth below or other person designated by City from time to time. Neither Lessee nor City shall issue a press release in regard to this Lease without providing prior notice to the other Party. Nothing in this Agreement shall prohibit City or Lessee from discussing this Lease in response to inquiries from the public or the press. All media contacts to City will be directed to Sarah Ballard, Director of Policy and Public Affairs, 501 Sanyan Street, San Francisco, CA 94117. Lessee's subleases or other agreements with organizations providing services at the Premises shall include a provision similar to this Section.

## 8. ALTERATIONS AND IMPROVEMENTS

**8.1. Construction of Alterations and Improvements.** Lessee shall not construct, install or otherwise place any Improvements or make or permit any Alterations in, to or about the Premises, without the General Manager's prior written consent in each instance, which the General Manager may give or withhold in its sole and absolute discretion; provided, that the General Manager's consent shall not be required for interior cosmetic or other interior improvements not requiring any structural alterations to or expansion of existing Improvements and not costing more than \$5,000 in each instance. Subject to the General Manager's consent as provided above, any permitted Improvements or Alterations shall be done at Lessee's sole expense (i) in strict accordance with designs, plans and specifications approved in advance by the General Manager in writing, (ii) by duly licensed and bonded contractors or mechanics approved by the General Manager, (iii) in a good and professional manner, (iv) in strict compliance with all Laws (including, without limitation, all health, disabled access and building codes and ordinances), and (v) subject to all other conditions that the General Manager or the Commission may reasonably impose, including, without limitation, provision of such completion security as is acceptable to City. In no event shall the construction or installation of any such Improvements or the making of any Alterations impair the use or operation of Department Facilities (if any), or any portion thereof, or the Department's access thereto. Prior to the commencement of any work on the Premises to construct any permitted Improvements or make any permitted Alterations, Lessee, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to City. No material change from the plans and specifications approved by City may be made without City's prior written consent. City and its Agents shall have the right to inspect the course of such construction at all times. Upon completion of such Improvements or Alterations, Lessee shall furnish City with a complete set of final as-built plans and specifications. Lessee shall require from each contractor and subcontractor performing any work on or about the Premises a policy of commercial general liability insurance, with such limits as may reasonably be required by City from time to time, but in any event not less than One Million Dollars (\$1,000,000) combined single limit. Such insurance shall also be in compliance with the requirements set forth in **Section 19.2**. City shall use reasonable diligence to respond to any requests for approval under this **Section 8.1** in a timely manner

**8.2. Ownership of Improvements.** Any Improvements or Alterations constructed on or affixed to the Premises by or on behalf of Lessee above shall be and remain Lessee's property during the Term. Upon the Expiration Date or any earlier termination hereof, Lessee shall, upon City's request, remove all such Improvements and Alterations from the Premises in accordance with the provisions of **Section 22.1** hereof, unless City, at its sole option and without limiting any of the provisions of **Section 8.1** above, specifies at the time of City's approval of any such

Improvements or Alterations that such Alterations or Improvements may remain on the Premises following the expiration or termination of this Lease.

**8.3. Lessee's Personal Property.** All furniture, furnishings and articles of movable personal property and equipment installed in the Premises by or for the account of Lessee that can be removed without structural or other material damage to the Premises (all of which are herein called "Lessee's Personal Property") shall be and remain the property of Lessee and may be removed by it subject to the provisions of **Section 22.1** hereof. At least ten (10) days prior to delinquency, Lessee shall pay all taxes levied or assessed upon Lessee's Personal Property and shall deliver satisfactory evidence of such payment to City.

**8.4. Proposed Roof System Replacement; Failure to Make Proposed Improvements.** Upon the Effective Date of this Lease, Lessee shall promptly commence and diligently pursue to completion the roof system replacement detailed in **Exhibit D** (the "Proposed Improvements"), subject to the provisions of **Section 12.2** below and in accordance with the provisions of **Section 8.1** above. The Proposed Improvements, are the final result of negotiations between Lessee and City. City and Lessee understand, acknowledge and agree that prior to commencing the Proposed Improvements, Lessee shall be required to obtain the approval of any regulatory agency that may have jurisdiction. Lessee and City agree that any such work shall be performed during the off-peak season and that, subject to receipt of approval of all applicable regulatory agencies, such work shall be completed within six (6) months of the Commencement Date. If Lessee does not complete the Proposed Improvement within (12) twelve months following the Commencement Date and in the manner provided herein, such failure shall constitute a breach of the Lease. Not later than sixty (60) days after completion of the Proposed Improvements, Lessee shall deliver to City an itemized statement of the actual costs expended by Lessee on the Proposed Improvements, accompanied by documentation substantiating such expenditures. The Department shall have the right on written notice to Lessee to audit Lessee's books and records with respect to the Proposed Improvements. Upon completion of the Proposed Improvements to the satisfaction of the Department and the Department's approval of the documentation of the cost of the Proposed Improvements, City shall provide Lessee with a credit against the Monthly Rent next payable under this Lease in an amount equal to 50% of Lessee's cost of the Proposed Improvements, provided in no event shall such credit exceed a total of \$25,000. The credit shall applied at the rate of \$400 per month during each month of each Lease Year until exhausted.

**8.5. Prevailing Wages.** Lessee agrees that any person performing labor on any "public work" at the Premises, which includes the Required Improvements, Proposed Improvements, Alterations, demolition, installation, and repair work if paid for in whole or part out of public funds, shall be paid not less than the highest prevailing rate of wages consistent with the requirements of Section 6.22(E) of the San Francisco Administrative Code, and shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco County. The terms "public work" and "paid for in whole or part out of public funds" as used in this Section are defined in California Labor Code Section 1720 et seq., as amended. Lessee shall include in any contract for such labor a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Lessee shall require any contractor to provide, and shall deliver to City upon request, certified payroll reports with respect to all persons performing such labor at the Premises.

**8.6. Local Hire Requirements.** Unless exempt, Lessee agrees to comply with the Local Hiring Policy set forth in San Francisco Administrative Code Section 6.22(G) (the "Local Hiring Policy") in the performance of the Required Improvements, the Proposed Improvements,

or any Alterations. Before starting any such work, Lessee shall contact City's Office of Economic Workforce and Development ("OEWD") to verify the Local Hiring Policy requirements that apply to the work, and Lessee shall comply with all such requirements. Failure to comply shall be deemed a breach of this Lease, and Lessee may also be liable for penalties as set forth in Section 6.22(G). Without limiting the foregoing:

(1) For Covered Projects that exceed \$750,000, Lessee shall comply with the applicable mandatory participation levels for Project Work Hours performed by Local Residents, Disadvantaged Workers, and Apprentices as set forth in Section 6.22(G)(4).

(2) For Covered Projects that exceed \$1,000,000, Lessee shall prepare and submit to OEWD for approval a local hiring plan as set forth in Section 6.22(G)(6).

(3) Lessee shall comply with the applicable record keeping and reporting requirements and shall cooperate in City inspections and audits for compliance with the Local Hiring Policy.

Any capitalized term used in this Section that is not defined will have the meaning given to such term in the Local Hiring Policy.

**8.7. Notice to Proceed with Improvements.** Lessee agrees that the alterations, improvements and repairs to be made by Lessee pursuant to the terms and conditions of this Lease shall not commence until this Lease has been approved by the Board of Supervisors of the City and County of San Francisco and the Lessee obtains from City written approval to proceed.

**8.8. Arts Commission Approval.** With respect to any Alterations or Improvements which would be visible from the exterior of the building, Lessee shall obtain the prior written approval of City's Arts Commission to the extent the Arts Commission has jurisdiction over the design of such proposed alterations under City's Charter Section 5.103.

**8.9. Improvements or Alterations that Disturb or Remove Lead Based Paint.** Lessee, on behalf of itself and its Agents or Invitees, shall comply with all requirements of the San Francisco Building Code, Section 3407, and all other applicable present or future federal, state, local and administrative laws, rules, regulations, orders and other governmental requirements, the requirements of any board of fire underwriters or other similar body, any directive or occupancy certificate issued pursuant to any law by any public officer or officers acting in their regulatory capacity (collectively, "Laws"), including, without limitation, the California and United States Occupational Health and Safety Acts and their implementing regulations, when the work of improvement or alteration disturbs or removes exterior lead-based or "presumed" lead-based paint (as defined below). Lessee and its Agents or Invitees shall give to City three (3) business days prior written notice of any disturbance or removal of exterior lead-based or presumed lead-based paint. Further, Lessee and its Agents or Invitees, when disturbing or removing exterior lead-based or presumed lead-based paint, shall not use or cause to be used any of the following methods: (a) acetylene or propane burning and torching; (b) scraping, sanding or grinding without containment barriers or a High Efficiency Particulate Air filter ("HEPA") local vacuum exhaust tool; (c) hydroblasting or high-pressure wash without containment barriers; (d) abrasive blasting or sandblasting without containment barriers or a HEPA vacuum exhaust tool; and (e) heat guns operating above 1,100 degrees Fahrenheit. Paint on the exterior of buildings built before December 31, 1978, is presumed to be lead-based paint unless lead-based paint testing, as defined in Section 3407 of the San Francisco Building Code, demonstrates an absence of lead-based paint on the exterior surfaces of such buildings. Under this Section, lead-based paint is "disturbed or removed" if the work of improvement or alteration

involves any action that creates friction, pressure, heat or a chemical reaction upon any lead-based or presumed lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through or eliminate paint from that surface. Notice to City under this Lease shall not constitute notice to the City's Department of Building Inspection required under Section 3407 of the San Francisco Building Code.

## **9. REPAIRS AND MAINTENANCE**

### **9.1. Lessee Responsible for Maintenance and Repair.**

(a) Except as provided in **Section 9.2** below and for Pre-Existing Conditions identified in accordance with **Section 3.4** above, City shall not under any circumstances be responsible for the performance of any Alterations or Improvements to the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises), nor shall City be liable for any portion of the cost thereof.

(b) Except for the items for which City is responsible pursuant to **Section 9.2** below and for Pre-Existing Conditions, Lessee shall maintain the Premises and any existing and permitted Improvements at all times in clean, safe, attractive and sanitary condition and in good order and repair, to City's reasonable satisfaction. If any portion of the Premises or any of City's property located on or about the Premises is damaged by any of the activities conducted by Lessee or its Agents or Invitees hereunder, Lessee shall immediately, at its sole cost, repair any and all such damage and restore the Premises or City's property to its previous condition. Notwithstanding the foregoing, Lessee shall not be responsible for the structural integrity of the roof (except as provided in **Section 8.4** above), or shall Lessee be obligated to replace the roof and its structural members (except as provided in **Section 8.4** above), plumbing, wiring or any HVAC systems during the Term.

(c) Except for the items for which City is responsible pursuant to **Section 9.2** below and for Pre-Existing Conditions, Lessee shall keep all fixtures and equipment on the Premises clean, neat, safe, sanitary and in good order and repair at all times. Lessee shall remove all waste, trash, rubbish, papers, cartons and refuse generated from the Premises, pick up trash and debris in the immediate vicinity of the Premises and dispose of trash in containers provided by Lessee that are large enough to adequately serve the needs of the facility. Lessee shall provide a dumpster and shall keep it in clean and orderly condition.

(d) Notwithstanding anything to the contrary contained herein, Lessee shall not be responsible for any operation, maintenance or management of the Premises during any Silver Tree Occupancy Period, nor shall Lessee be responsible for any repairs, damage or restoration to the Premises made necessary by the acts of City or any other party in occupancy of the Premises during any Silver Tree Occupancy Period.

**9.2. City's Maintenance and Repair Obligations.** Notwithstanding **Section 9.1**, City shall maintain, repair and keep in good condition the Park area in which the Premises are located, including gardening and landscaping services, and any bathroom(s) used by the general public. City shall also maintain, repair and replace if necessary all structural elements of the Premises, including, without limitation, the structural integrity of the roof and its structural members. City shall further be responsible for all plumbing, electrical, life safety, sprinkler and HVAC systems serving the Premises.

**9.3. No Right to Repair and Deduct.** Lessee expressly waives the benefit of any existing or future Law or judicial or administrative decision that would otherwise permit Lessee to make repairs or replacements at City's expense, or to terminate this Lease because of City's

failure to keep the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises) or any part thereof in good order, condition or repair, or to abate or reduce any of Lessee's obligations hereunder on account of the Premises or any adjoining property (including, without limitation, access roads, utilities and other infrastructure serving the Premises) or any part thereof being in need of repair or replacement; provided that Lessee shall have the right to abate rent if Lessee is prevented from accessing the Premises for a period of thirty (30) days or longer as a result of such needed repairs or replacements, which abatement shall continue until Lessee's access is restored. Without limiting the foregoing, Lessee expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Lessee to terminate this Lease and with respect to any obligations of City for tenantability of the Premises and any right of Lessee to make repairs or replacements and deduct the cost thereof from Rent.

## **10. UTILITIES**

**10.1. Utilities and Services.** City shall pay for water, gas and electricity to the Premises. If Lessee desires any upgrades to water, gas or electricity services in connection with the operation of Lessee's business at the Premises, such upgrades shall be subject to City's prior written consent, and shall be made at Lessee's sole cost and expense. Lessee shall pay for sewer charges billed to Lessee by the Water Department, charges for garbage and recycling disposal and all telephone, fax and internet connection charges, including the cost of bringing any such service(s) to locations in the Premises.

**10.2. Interruption of Services.** City's obligation to provide utilities and services for the Premises are subject to applicable Laws (including the rules or actions of the public utility company furnishing the utility or service), and shutdowns for maintenance and repairs, for security purposes, or due to strikes, lockouts, labor disputes, fire or other casualty, acts of God, or other causes beyond the control of City. In the event of an interruption in, or failure or inability to provide any service or utility for the Premises for any reason, such interruption, failure or inability shall not constitute an eviction of Lessee, constructive or otherwise, or impose upon City any liability whatsoever, including, but not limited to, liability for consequential damages or loss of business by Lessee. Lessee hereby waives the provisions of California Civil Code Section 1932(1) or any other applicable existing or future Law permitting the termination of this Lease due to such interruption, failure or inability.

**10.3. Water and Energy Conservation; Mandatory or Voluntary Restrictions.** In the event any law, ordinance, code or governmental or regulatory guideline imposes mandatory or voluntary controls on City or the Property or any part thereof, relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions, or the provision of any other utility or service provided with respect to this Lease, or in the event City is required or elects to make alterations to any part of the Improvements on the Premises in order to comply with such mandatory or voluntary controls or guidelines, such compliance and the making of such alterations shall in no event entitle Lessee to any damages, relieve Lessee of the obligation to pay the full Monthly Rent and Additional Charges reserved hereunder or to perform each of its other covenants hereunder or constitute or be construed as a constructive or other eviction of Lessee. City shall have the right at any time to install a water meter in the Premises or otherwise to measure the amount of water consumed on the Premises, and the cost of such meter or other corrective measures and the installation and maintenance thereof shall be paid for by Lessee.

**10.4. Antennae.** No antennae or telecommunication dish may be installed on the Premises without the advance written approval of City. No such antennae or telecommunications dishes shall interfere with City's emergency and non-emergency communications facilities or the



transmission facilities of City. Lessee agrees, at the request of City, to permit City to install, at City's sole cost, transmission equipment for City's emergency or 800 MHz City wide radio system communications facilities (or its successor) at a location on top of the Improvements acceptable to Lessee.

## 11. LIENS

Lessee shall keep the Premises and all of City's property free from any liens arising out of any work performed, material furnished or obligations incurred by or for Lessee. In the event Lessee does not, within thirty (30) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, City shall have in addition to all other remedies provided herein and by Law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by City and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to City by Lessee upon demand. City shall have the right at all times to post and keep posted on the Premises any notices permitted or required by Law or that City deems proper for its protection and protection of the Premises and City's property, from mechanics' and materialmen's liens. Lessee shall give City at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises costing more than Five Thousand Dollars (\$5,000). Notwithstanding the foregoing, Lessee shall have the right, upon posting of an adequate bond or other security acceptable to City, to contest any such lien, and in such case City shall not seek to satisfy or discharge such lien unless Lessee has failed to do so within ten (10) days after final determination of the validity thereof. Lessee shall Indemnify City, the other Indemnified Parties and the Premises against any and all Losses arising out of any such contest.

## 12. COMPLIANCE WITH LAWS

**12.1. Compliance with Laws.** Lessee shall promptly, at its sole expense, maintain the Premises, any Improvements permitted hereunder and Lessee's use and operations thereon in strict compliance at all times with all present and future Laws, whether foreseen or unforeseen, ordinary as well as extraordinary. Such Laws shall include, without limitation, all Laws relating to health and safety and disabled accessibility including, without limitation, the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and Title 24 of the California Code of Regulations, all present and future Environmental Laws (as defined in this Lease below), and all present and future life safety, fire sprinkler, seismic retrofit and other building code requirements. The Parties acknowledge and agree that Lessee's obligation to comply with all laws as provided herein is a material part of the bargained-for consideration under this Lease. Lessee's obligation under this Section shall include, without limitation, the responsibility of Lessee to make substantial or structural repairs and alterations to the Premises (including any Improvements), to the extent necessitated by Lessee's specific and unique use of the Premises or Alterations made by Lessee. Lessee's obligations under this **Section 11.1** shall be adjusted for, among other factors, the relationship of the cost of curative action to the Rent under this Lease, the length of the then remaining Term hereof, the relative benefit of the repairs to Lessee or City, the degree to which the curative action may interfere with Lessee's use or enjoyment of the Premises, the likelihood that the parties contemplated the particular Law involved, and whether the Law involved is related to Lessee's particular use of the Premises. Without limiting **Section 5.1** hereof, no occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall relieve Lessee from its obligations hereunder, or shall give Lessee any right to terminate this Lease in whole or in part or to otherwise seek redress against City. Lessee waives any rights now or hereafter conferred upon it by any existing or future Law to terminate this Lease, to receive any abatement, diminution, reduction or suspension

of payment of Rent, or to compel City to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

## **12.2. Regulatory Approvals**

(a) **Responsible Party.** Lessee understands and agrees that Lessee's use of the Premises may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Lessee shall be solely responsible for obtaining any and all such regulatory approvals. Lessee shall not seek any regulatory approval that may impact the Premises without first obtaining the written consent of the General Manager. Lessee shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Lessee's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Lessee, and City shall have no liability, monetary or otherwise, for any such fines or penalties. Lessee shall Indemnify City and the other Indemnified Parties against all Losses arising in connection with Lessee's failure to obtain or comply with the terms and conditions of any regulatory approval.

(b) **City Acting as Owner of Real Property.** Lessee further understands and agrees that City, acting by and through the Commission, is entering into this Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Lease shall limit in any way Lessee's obligation to obtain any required approvals from City departments, boards or commissions having jurisdiction over the Premises. By entering into this Lease, City is in no way modifying or limiting Lessee's obligation to cause the Premises or any permitted Improvements to be used and occupied in accordance with all applicable Laws, as provided further above.

**12.3. Compliance with City's Risk Management Requirements.** Lessee shall not do anything, or permit anything to be done, in or about the Premises or any Improvements permitted hereunder that would be prohibited by or increase rates under a standard form fire insurance policy or subject City to any potential premises liability. Lessee shall faithfully observe, at its expense, any and all reasonable requirements of City's Risk Manager with respect thereto and with the requirements of any policies of public liability, fire or other policies of insurance at any time in force with respect to the Premises and any Improvements as required hereunder.

**12.4. Reports.** Lessee shall submit a report and provide such documentation to City as City may from time to time request regarding Lessee's operations and evidencing compliance thereof with this Lease and all Laws. In the event that Lessee prepares or obtains any report or other informational document relating to the Premises or any Improvements thereon, Lessee shall promptly deliver a copy of such report or document to City.

## **13. FINANCING; ENCUMBRANCES; SUBORDINATION**

**13.1. Encumbrance of City's Fee Interest.** The following provisions shall apply notwithstanding anything to the contrary contained in this Lease.

(a) **Encumbrance by City.** To the extent permitted by applicable Law, City may at any time sell or otherwise transfer or encumber its fee estate in any portion of the Premises provided that (i) any such sale or Encumbrance shall be subject and subordinate to all of the terms of this Lease and the leasehold estate created hereby, (ii) the right of possession of Lessee to the Premises shall not be affected or disturbed by any such sale or Encumbrance, or by the exercise of any rights or remedies by any purchaser or Encumbrancer arising out of any

instrument reflecting such sale or Encumbrance so long as no Event of Default or Unmatured Event of Default is outstanding hereunder.

(b) **Encumbrance By Lessee.** Lessee shall not under any circumstances whatsoever Encumber in any manner City's estate in the Premises or any adjoining property, or City's interest under this Lease, or any portion thereof.

**13.2. Leasehold Encumbrances.** Without limiting Article 15 hereof, Lessee shall not Encumber this Lease or Lessee's interest in this Lease, or assign or pledge assignment of the same as security for any debt, without first obtaining the written consent of City, which City may give or withhold in its sole discretion.

#### **14. DAMAGE OR DESTRUCTION**

**14.1. Damage or Destruction to the Improvements.** . In the case of damage to or destruction of the Premises by fire or any other casualty, whether insured or uninsured, City may, at its sole cost and in its sole discretion, restore, repair, replace or rebuild (collectively "Restore") the Premises, including, without limitation, any Improvements (other than those Improvements made by Lessee during the Term hereof) as nearly as possible to the same condition, quality and class the Premises and such Improvements were in immediately before such damage or destruction, unless such damage or destruction was caused solely and directly by the gross negligence or willful misconduct of Lessee, in which case Lessee shall Restore the Premises, and shall receive any insurance proceeds payable in connection with such fire or other casualty. If City does not give Lessee written notice within 20 business days after the fire or other casualty, that City intends to Restore the Premises, City shall be deemed to have elected not to Restore the Premises. With respect to any damage to or destruction by fire or any other casualty to any Improvements permitted hereunder made by or on behalf of Lessee during the Term hereof, Lessee may, at its option and at its sole cost, restore, repair, replace or rebuild such Improvements to the condition such Improvements were in prior to such damage or destruction, subject to any changes made in strict accordance with the requirements of Section 8.1 above. However, if Lessee does not notify City in writing within thirty (30) days after the date of such damage or destruction of Lessee's election to restore, repair, replace or rebuild any such damaged or destroyed Improvements built by or on behalf of Lessee as provided above, Lessee shall promptly, at its sole cost, demolish such Improvements and remove them (including all debris) from the Premises in compliance with the provisions of Section 22.1 below. If City elects not to restore, repair, replace or rebuild the Premises after fire or other casualty not caused by Lessee, or if such restoration, repair, replacement or rebuilding would take longer than sixty (60) days, Lessee may terminate this Lease.

**14.2. Abatement in Rent.** In the event of any damage or destruction to the Premises or any permitted Improvements that prevents Lessee from using, and Lessee does not use, the Premises or any portion thereof, Rent and Additional Charges payable hereunder shall be abated or reduced for such time that Lessee continues to be so prevented from using, and does not use, the Premises or a portion thereof, in the proportion that the rentable area of the portion of the Premises that Lessee is prevented from using bears to the total rentable area of the Premises during the restoration (except to the extent that the damage or destruction was caused by the negligence or intentional misconduct of Lessee, its Agents or Invitees).

**14.3. Waiver.** The Parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Improvements, and City and Lessee each hereby waives and releases any right to terminate this Lease in whole or in part under Sections 1932.2 and

1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

## **15. EMINENT DOMAIN**

**15.1. General.** If during the Term or during the period between the execution of this Lease and the Commencement Date, any Taking of all or any part of the Premises or any interest in this Lease occurs, the rights and obligations of the Parties hereunder shall be determined pursuant to this Section. City and Lessee intend that the provisions hereof govern fully in the event of a Taking and accordingly, the Parties each hereby waives any right to terminate this Lease in whole or in part under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure or under any similar Law now or hereafter in effect.

**15.2. Total Taking; Automatic Termination.** If a total Taking of the Premises occurs, then this Lease shall terminate as of the Date of Taking.

### **15.3. Partial Taking; Election to Terminate.**

(a) If a Taking of any portion (but less than all) of the Premises occurs, then this Lease shall terminate in its entirety under either of the following circumstances: (i) if all of the following exist: (A) the partial Taking renders the remaining portion of the Premises untenable or unsuitable for continued use by Lessee, (B) the condition rendering the Premises untenable or unsuitable either is not curable or is curable but City is unwilling or unable to cure such condition, and (C) Lessee elects to terminate; or (ii) if City elects to terminate, except that this Lease shall not terminate if Lessee agrees to, and does, pay full Rent and Additional Charges, without abatement, and otherwise agrees to, and does, fully perform all of its obligations hereunder.

(b) City shall have the right to terminate this Lease in the event of a partial Taking of a substantial portion of any of City's adjoining real property, even if the Taking does not directly affect the Premises, and Lessee shall have the right to terminate this Lease in the event of a partial Taking of a substantial portion of any of City's adjoining real property, if the Taking substantially and materially limits or restricts Lessee's access to the Premises.

(c) Either Party electing to terminate under the provisions of this **Article 15** shall do so by giving written notice to the other Party before or within thirty (30) days after the Date of Taking, and thereafter this Lease shall terminate upon the later of the thirtieth day after such written notice is given or the Date of Taking.

**15.4. Rent; Award.** Upon termination of this Lease pursuant to an election under **Section 15.3** above, then: (i) Lessee's obligation to pay Rent shall continue up until the date of termination, and thereafter shall cease, except that Rent shall be reduced as provided in **Section 15.5** below for any period during which this Lease continues in effect after the Date of Taking, and (ii) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease), and Lessee shall have no claim against City for the value of any unexpired term of this Lease, provided that Lessee may make a separate claim for compensation, and Lessee shall receive any Award made specifically to Lessee, for Lessee's relocation expenses or the interruption of or damage to Lessee's business or damage to Lessee's Personal Property.

**15.5. Partial Taking; Continuation of Lease.** If a partial Taking of the Premises occurs and this Lease is not terminated in its entirety under **Section 15.3** above, then this Lease shall terminate as to the portion of the Premises so taken, but shall remain in full force and effect

as to the portion not taken, and the rights and obligations of the Parties shall be as follows:  
(i) Monthly Rent shall be reduced by an amount that is in the same ratio to the Monthly Rent as the area of the Premises taken bears to the area of the Premises prior to the Date of Taking, and  
(ii) City shall be entitled to the entire Award in connection therewith (including, but not limited to, any portion of the Award made for the value of the leasehold estate created by this Lease). Lessee shall have no claim against City for the value of any unexpired Term of this Lease, provided that Lessee may make a separate claim for compensation. Lessee shall retain any Award made specifically to Lessee for Lessee's relocation expenses or the interruption of or damage to Lessee's business or damage to Lessee's Personal Property.

**15.6. Temporary Takings.** Notwithstanding anything to contrary in this Section, if a Taking occurs with respect to all or any part of the Premises for a limited period of time not in excess of sixty (60) consecutive days, this Lease shall remain unaffected thereby, and Lessee shall continue to pay Rent and to perform all of the terms, conditions and covenants of this Lease. In the event of such temporary Taking, Lessee shall be entitled to receive that portion of any Award representing compensation for the use or occupancy of the Premises during the Term up to the total Rent owing by Lessee for the period of the Taking, and City shall be entitled to receive the balance of any Award.

## **16. ASSIGNMENT AND SUBLETTING**

**16.1. Restriction on Assignment and Subletting.** Lessee shall not directly or indirectly (including, without limitation, by merger, acquisition, sale or other transfer of any controlling interest in Lessee), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, any Improvements or its leasehold estate hereunder (collectively, "Assignment"), or permit any portion of the Premises or any Improvements to be occupied by anyone other than itself and its members, employees, students and their permitted guest, or sublet any portion of the Premises or any permitted Improvements thereon. (collectively, "Sublease"). Any Assignment or Sublease shall be voidable at the option of the City in its sole and absolute discretion; and the City shall have the right to terminate immediately this Lease by sending written notice to Lessee.

**16.2. Effect of Transfer.** No Sublease or Assignment by Lessee shall relieve Lessee, or any guarantor, of any obligation to be performed by Lessee under this Lease. Any Sublease or Assignment shall constitute a material Event of Default by Lessee under this Lease. The acceptance of any Rent or other payments by City from a proposed Transferee shall not constitute consent to such Sublease or Assignment by City or a recognition of any Transferee, or a waiver by City of any failure of Lessee or other transferor to comply with this Section.

**16.3. Indemnity for Relocation Benefits.** Without limiting Section 16.2, Lessee shall cause any Transferee to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease. Lessee shall Indemnify City and the other Indemnified Parties for any and all Losses arising out of any relocation assistance or benefits payable to any Transferee.

## **17. DEFAULT; REMEDIES**

**17.1. Events of Default.** Any of the following shall constitute an event of default ("Event of Default") by Lessee hereunder:

(a) **Rent.** Any failure to pay any Rent or other sums as and when due, provided Lessee shall have a period of five (5) days from the date of written notice of such failure from City within which to cure any default in the payment of Rent or other sums; provided,

however, that City shall not be required to provide such notice regarding Lessee's failure to make such payments when due more than twice during any calendar year, and any such failure by Lessee after Lessee has received two such notices in any calendar year from City shall constitute a default by Lessee hereunder without any requirement on the part of City to give Lessee notice of such failure or an opportunity to cure except as may be required by Section 1161 of the California Code of Civil Procedure;

(b) **Covenants, Conditions and Representations.** Any failure to perform or comply with any other covenant, condition or representation made under this Lease, provided Lessee shall have a period of fifteen (15) days from the date of written notice from City of such failure within which to cure such default under this Lease, or, if such default is not capable of cure within such 15-day period, Lessee shall have a reasonable period to complete such cure if Lessee promptly undertakes action to cure such default within such 15-day period and thereafter diligently prosecutes the same to completion and Lessee uses its best efforts to complete such cure within sixty (60) days after the receipt of notice of default from City; provided, however, that upon the occurrence during the Term of two (2) defaults of the same obligation City shall not be required to provide any notice regarding Lessee's failure to perform such obligation, and any subsequent failure by Lessee after Lessee has received two such notices shall constitute a default by Lessee hereunder without any requirement on the part of City to give Lessee notice of such failure or an opportunity to cure;

(c) **Vacation or Abandonment.** Any vacation or abandonment of the Premises for more than fourteen (14) consecutive days unless consistent with the school calendar utilized by Lessee; and

(d) **Bankruptcy.** The appointment of a receiver to take possession of all or substantially all of the assets of Lessee, or an assignment by Lessee for the benefit of creditors, or any action taken or suffered by Lessee under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

**17.2. Remedies.** Upon the occurrence of an Event of Default by Lessee, City shall have the following rights and remedies in addition to all other rights and remedies available to City at Law or in equity:

(a) **Terminate Lease and Recover Damages.** The rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate Lessee's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Monthly Rent and Additional Charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Lessee proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. City's efforts to mitigate the damages caused by Lessee's breach of this Lease shall not waive City's rights to recover damages upon termination.

(b) **Continue Lease and Enforce Rights.** The rights and remedies provided by California Civil Code Section 1951.4 (continuation of lease after breach and abandonment), which allows City to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as City does not terminate Lessee's right to possession, if Lessee has the right to sublet or assign, subject only to reasonable limitations. For purposes hereof, none of the following shall constitute a termination of Lessee's right of possession: acts of maintenance or preservation; efforts to relet

the Premises or the appointment of a receiver upon City's initiative to protect its interest under this Lease; or withholding consent to an Assignment or Sublease, or terminating an Assignment or Sublease, if the withholding or termination does not violate the rights of Lessee specified in subdivision (b) of California Civil Code Section 1951.4. If City exercises its remedy under California Civil Code Section 1951.4, City may from time to time sublet the Premises or any part thereof for such term or terms (which may extend beyond the Term) and at such rent and upon such other terms as City in its sole discretion may deem advisable, with the right to make alterations and repairs to the Premises. Upon each such subletting, Lessee shall be immediately liable for payment to City of, in addition to Monthly Rent and Additional Charges due hereunder, the cost of such subletting and such alterations and repairs incurred by City and the amount, if any, by which the Monthly Rent and Additional Charges owing hereunder for the period of such subletting (to the extent such period does not exceed the Term) exceeds the amount to be paid as Monthly Rent and Additional Charges for the Premises for such period pursuant to such subletting. No action taken by City pursuant to this **Section 17.2(b)** shall be deemed a waiver of any default by Lessee and, notwithstanding any such subletting without termination, City may at any time thereafter elect to terminate this Lease for such previous default.

(c) **Appointment of Receiver.** The right to have a receiver appointed for Lessee upon application by City to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to City pursuant to this Lease.

**17.3. City's Right to Cure Lessee's Defaults.** If an Event of Default is outstanding, then City may at any time thereafter with three (3) days prior oral or written notice (except in the event of an emergency as determined by City), remedy such Event of Default for Lessee's account and at Lessee's expense. Lessee shall pay to City, as Additional Rent, promptly upon demand, all sums expended by City, or other costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such Event of Default. Lessee's obligations under this Section shall survive the termination of this Lease. Nothing herein shall imply any duty of City to do any act that Lessee is obligated to perform under any provision of this Lease, and City's cure or attempted cure of Lessee's Event of Default shall not constitute a waiver of Lessee's Event of Default or any rights or remedies of City on account of such Event of Default.

## **18. WAIVER OF CLAIMS; INDEMNIFICATION**

**18.1. Waiver of Claims.** Lessee covenants and agrees that City shall not be responsible for or liable to Lessee for, and, to the fullest extent allowed by Law, Lessee hereby waives all rights against City and its Agents and releases City and its Agents from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises or any other City property, from any cause whatsoever. Nothing herein shall relieve City from liability caused solely and directly by the gross negligence or willful misconduct of City or its Agents, but City shall not be liable under any circumstances for any consequential, incidental or punitive damages. Without limiting the foregoing:

(a) Lessee expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of City for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to the Improvements or Lessee's uses hereunder. City would not be willing to enter into this Lease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of City or its Agents, and Lessee expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Lessee or other waivers

contained in this Lease and as a material part of the consideration for this Lease, Lessee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against City for consequential and incidental damages (including without limitation, lost profits), and covenants not to sue for such damages, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, arising out of this Lease or the uses authorized hereunder, including, without limitation, any interference with uses conducted by Lessee pursuant to this Lease regardless of the cause, and whether or not due to the negligence or gross negligence of City or its Agents.

(b) In connection with the foregoing releases, Lessee acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Lessee acknowledges that the releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Lessee realizes and acknowledges that it has agreed upon this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The releases contained herein shall survive any termination of this Lease.

**18.2. Lessee's Indemnity.** Lessee, on behalf of itself and its successors and assigns, shall Indemnify City and the other Indemnified Parties from and against any and all Losses incurred in connection with or arising directly or indirectly, in whole or in part, out of: (a) any accident, injury to or death of a person, including, without limitation, Agents and Invitees of Lessee, or loss of or damage to property (including, without limitation, the Department Facilities) howsoever or by whomsoever caused, occurring in, on or about the Premises or any other City property and arising out of or in connection with Lessee's use of the Premises; (b) any default by Lessee in the observation or performance of any of the terms, covenants or conditions of this Lease to be observed or performed on Lessee's part; (c) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Lessee, its Agents or Invitees or any person or entity claiming through or under any of them, of the Premises or any Improvements; (d) the condition of the Premises (except any conditions caused in connection with its occupancy of the Premises during any Silver Tree Occupancy Period) or any Improvements constructed by or on behalf of Lessee, or Lessee's failure to properly repair or maintain any Improvements on the Premises as set forth herein; (e) any construction or other work undertaken by Lessee on or about the Premises or any Improvements whether before or during the Term of this Lease; or (f) any acts, omissions or negligence of Lessee, its Agents or Invitees, in, on or about the Premises or any Improvements; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that such Indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Lease and further except only such Losses as are caused exclusively by the gross negligence and intentional wrongful acts and omissions of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any Loss. Lessee specifically acknowledges and agrees that it has an immediate and independent obligation to defend City and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time



such claim is tendered to Lessee by City and continues at all times thereafter. Lessee's obligations under this Section shall survive the expiration or sooner termination of the Lease.

## 19. INSURANCE

**19.1. Lessee's Insurance.** Lessee, at no cost to the City, shall procure and keep in effect at all times during the Term insurance as follows:

(i) Commercial general liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, independent contractors, broad-form property damage, fire damage legal liability (of not less than Two Hundred Fifty Thousand Dollars (\$250,000)), personal injury, products and completed operations, and explosion, collapse and underground (XCU). If the operation of Lessee's business includes food sales, such coverage shall include Food Products Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence. If the operation of Lessee's business includes the sale of alcoholic beverages, such coverage shall include legal liquor liability coverage with limits not less than One Million Dollars (\$1,000,000) each occurrence.

(ii) Worker's Compensation Insurance with Employer's Liability Limits not less than One Million Dollars (\$1,000,000) each accident.

(iii) Sexual molestation and abuse coverage with minimum limits of \$2,000,000 per occurrence and \$4,000,000 in the aggregate. Coverage may be held as a separate policy or included by endorsement in the Commercial General Liability or Errors and Omissions policy.

(iv) Business automobile liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, as applicable, if Lessee uses automobiles in connection with its use of the Premises.

(v) Business Interruption Insurance insuring that the Rent will be paid to City for a period of at least one (1) year if Lessee is unable to operate its business at the Premises. Such insurance shall also cover business interruptions due to failures or interruptions in telecommunications services, strikes, employee lockouts, riots, or other civil commotion. To calculate Rent during any such interruption of business, the Rent for the 12-month period immediately preceding the incident causing the business interruption shall be used.

(vi) Such other risks in such amounts as City's Risk Manager may from time to time reasonably require.

(vii) Licensed professionals (i.e., architects, engineers, certified public accountants, etc.) shall provide professional liability insurance with limits not less than One Million Dollars (\$1,000,000) each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Lease or to the Premises.

**19.2. General Requirements.** All insurance provided for under this Lease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by City.

(a) Should any of the required insurance be provided under a claims-made form, Lessee shall maintain such coverage continuously throughout the term hereof and, without lapse, for a period of three (3) years beyond the expiration or termination of this Lease, to the

effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Lease, such claims shall be covered by such claims-made policies.

(b) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(c) All liability insurance policies shall be endorsed to provide the following:

Name Lessee as the insured and the City and County of San Francisco, its officers, agents and employees, as additional insureds, as their respective interests may appear hereunder.

That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Lease, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

All policies shall be endorsed to provide thirty (30) days' advance written notice to City of cancellation, non-renewal or reduction in coverage, mailed to the address(es) for City set forth in the Basic Lease Information.

(d) Each insurance policy required hereunder shall be issued by an insurance company licensed in the State of California and with a general policyholders' rating of "A-" or better and a financial size ranking of "Class VIII" or higher in the most recent edition of Best's Insurance Guide.

**19.3. Proof of Insurance.** Lessee shall deliver to City certificates of insurance in form and with insurers satisfactory to City, evidencing the coverages required hereunder and specifically and clearly referencing the Premises, on or before the Commencement Date, together with complete copies of the policies promptly upon City's request, and Lessee shall provide City with certificates or policies thereafter at least thirty (30) days before the expiration dates of expiring policies. In the event Lessee shall fail to procure such insurance, or to deliver such policies or certificates, City may, at its option, procure the same for the account of Lessee, and the cost thereof shall be paid to City within five (5) days after delivery to Lessee of bills therefor. Lessee shall cause a copy of each certificate and renewal certificate required hereunder to be delivered to both the physical address and the email address for delivery of insurance certificates specified in the Basic Lease Information

**19.4. Review of Insurance Requirements.** Lessee and City shall periodically review the limits and types of insurance carried pursuant to this Section. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Lessee with respect to risks comparable to those associated with the Premises, then, at City's option, Lessee shall increase at its sole cost the amounts or coverages carried by Lessee to conform to such general commercial practice.

**19.5. No Limitation on Indemnities.** Lessee's compliance with the provisions of this Section shall in no way relieve or decrease Lessee's indemnification obligations under Sections 18.2 and 23.2 hereof, or any of Lessee's other obligations or liabilities under this Lease.

**19.6. Lapse of Insurance.** Notwithstanding anything to the contrary in this Lease, City may elect, in City's sole and absolute discretion, to terminate this Lease upon the lapse of any required insurance coverage by written notice to Lessee.

**19.7. Lessee's Personal Property and Alterations and Improvements.** Lessee shall be responsible, at its expense, for separately insuring Lessee's Personal Property, Alterations, and Improvements made by or on behalf of Lessee.

**19.8. City's Self Insurance.** Lessee acknowledges that City self-insures against casualty, property damage and public liability risks and agrees City shall not be required to carry any third party insurance with respect to the Premises or otherwise.

**19.9. Waiver of Subrogation.** Notwithstanding anything to the contrary contained herein, to the extent permitted by their respective policies of insurance, City and Lessee each hereby waive any right of recovery against the other party and against any other party maintaining a policy of insurance covering the Premises or other City property and their contents, or any portion thereof, for any loss or damage maintained by such other party with respect to the Premises, other City Property or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party. If any policy of insurance relating to the Premises or other City property carried by Lessee does not permit the foregoing waiver or if the coverage under any such policy would be invalidated due to such waiver, Lessee shall obtain, if possible, from the insurer under such policy a waiver of all rights of subrogation the insurer might have against City or any other party maintaining a policy of insurance covering the same loss, in connection with any claim, loss or damage covered by such policy.

## **20. ACCESS BY CITY**

### **20.1. Access to Premises by City.**

(a) **General Access.** City reserves for itself and its designated Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than forty-eight (48) hours oral or written notice to Lessee (except in the event of an emergency) for any of the following purposes:

To determine whether the Premises are in good condition and to inspect the Premises (including, without limitation, soil borings or other Hazardous Material Investigations);

To determine whether Lessee is in compliance with its obligations hereunder and to cure or attempt to cure any such default in accordance with the provisions of Section 17.3 hereof;

To serve, post or keep posted any notices required or allowed under any of the provisions of this Lease;

To do any maintenance or repairs to the Premises that City has the right or the obligation, if any, to perform hereunder; and

To show it to any prospective purchasers, brokers, Encumbrancers or public officials, or, during the last year of the Term of this Lease, exhibiting the Premises to prospective tenants or other occupants, and to post any "for sale" or "for lease" or "coming soon" signs in connection therewith.

(b) **Emergency Access.** In the event of any emergency, as determined by City, City may, at its sole option and without notice, enter the Premises and alter or remove Lessee's Personal Property on or about the Premises. City shall have the right to use any and all means City considers appropriate to gain access to any portion of the Premises in an emergency. In such case, City shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Lessee from the Premises or any portion thereof.

(c) **No Liability.** City shall not be liable in any manner, and Lessee hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of City's entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of City or its Agents and not contributed to by the acts, omissions or negligence of Lessee, its Agents or Invitees.

(d) **No Abatement.** Lessee shall not be entitled to any abatement in Rent if City exercises any rights reserved in this Section.

(e) **Minimize Disruption.** City shall use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section in a manner that, to the extent practicable, will minimize any disruption to Lessee's use hereunder.

**20.2. Department Facilities and Utility Installations.** Without limiting Section 20.1 above, City shall have the right at all times, to enter upon the Premises upon forty eight (48) hours advance written or oral notice (except in cases of emergency as determined by City), to use, install, construct, repair, maintain, operate, replace, inspect, and remove the Department Facilities, if any, or any public park or utility facilities. City shall bear the expense of any such activities, unless the need is occasioned by the acts, omissions or negligence of Lessee, its Agents or Invitees. City shall not be responsible for any temporary loss or disruption of Lessee's use of the Premises occasioned by any such facility installations or other activities.

**20.3. Roadways.** City and its Agents shall have the right to enter upon and pass through and across the Premises on any existing or future roadways and as City desires.

## **21. ESTOPPEL CERTIFICATES**

Either Party hereto shall, from time to time during the Term upon not less than twenty (20) days' prior written notice from the other Party, execute, acknowledge and deliver to the other Party, or such persons or entities designated by such other Party, a statement in writing certifying: (a) the Commencement Date and Expiration Date of this Lease, (b) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (c) that there are no defaults under this Lease (or if so, specifying the same), (d) the dates, if any, to which the Rent has been paid, and (e) any other information that may be reasonably required by any such persons or entities. Any such certificate delivered pursuant to the provisions hereof may be relied upon by the other Party or any prospective purchaser or Encumbrancer of its estate. The General Manager shall be authorized to execute, acknowledge and deliver any such certificates of the City.

## 22. SURRENDER

**22.1. Surrender of the Premises.** Upon the Expiration Date or any earlier termination of this Lease pursuant hereto, Lessee shall surrender to City the Premises, in good condition, order and repair, reasonable wear and tear, casualty, condemnation, items for which Lessor is responsible pursuant to **Section 9.2** above, damage caused by others during any Silver Tree Occupancy Period and Pre-Existing Conditions excepted, and otherwise free from debris and hazards, and free and clear of all liens, easements and other Encumbrances created or suffered by, through or under Lessee. On or before the Expiration Date or any earlier termination hereof, or later upon City's request, Lessee shall, at its sole cost, remove any and all of Lessee's Personal Property from the Premises and demolish and remove any and all Improvements and Alterations from the Premises requested by City to be removed (except for any Improvements or Alterations that City agrees are to remain part of the Premises pursuant to the provisions of **Section 8.2** above). In addition, Lessee shall, at its sole expense, repair any damage to the Premises resulting from the removal of any such items and restore the Premises to their condition immediately prior to the presence of any Improvements or Alterations. In connection therewith, Lessee shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. Lessee's obligations under this Section shall survive the Expiration Date or other termination of this Lease. Any items of Lessee's Personal Property remaining on or about the Premises after the Expiration Date of this Lease may, at City's option, be deemed abandoned and in such case City may dispose of such property in accordance with Section 1980 *et seq.* of the California Civil Code or in any other manner allowed by Law. If Lessee fails to surrender the Premises to City on the Expiration Date or earlier termination of the Term as required by this Section, Lessee shall Indemnify City against all Losses resulting therefrom, including, without limitation, Losses made by a succeeding Lessee resulting from Lessee's failure to surrender the Premises.

**22.2. Automatic Reversion.** Upon the Expiration Date or earlier termination of this Lease, the Premises shall automatically, and without further act or conveyance on the part of Lessee or City, become the property of City, free and clear of all liens and Encumbrances and without payment therefor by City and shall be surrendered to City upon such date. Upon or at any time after the date of termination of this Lease, if requested by City, Lessee shall promptly deliver to City, without charge, a quitclaim deed to the Premises suitable for recordation and any other instrument reasonably requested by City to evidence or otherwise effect the termination of Lessee's leasehold estate hereunder and to effect such transfer or vesting of title to the Premises or any permitted Improvements or Alterations that City agrees are to remain part of the Premises pursuant to the provisions of **Section 8.2** above.

## 23. HAZARDOUS MATERIALS

**23.1. No Hazardous Materials.** Lessee covenants and agrees that neither Lessee nor any of its Agents or Invitees shall cause or permit any Hazardous Material to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or any Improvements or transported to or from the Premises or any Improvements (other than reasonable quantities of ordinary office and cleaning materials). Lessee shall immediately notify City if and when Lessee learns or has reason to believe there has been any Release of Hazardous Material in, on or about the Premises or any Improvements. City may from time to time request Lessee to provide adequate information for City to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable Environmental Laws, and Lessee shall promptly provide all such information. Without limiting **Article 20** hereof, City and its Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions

hereof at all reasonable times upon reasonable advance oral or written notice to Lessee (except in the event of an emergency).

**23.2. Lessee's Environmental Indemnity.** If Lessee breaches any of its obligations contained in **Section 23.1** above, or, if any act or omission or negligence of Lessee or any of its Agents or Invitees results in any Release of Hazardous Material in, on, under or about the Premises (including any Improvements thereon) or any other City property, without limiting Lessee's general Indemnity contained in **Section 18.2** above, Lessee, on behalf of itself and its successors and assigns, shall Indemnify City and the Indemnified Parties, and each of them, from and against all Hazardous Materials Claims arising during or after the Term of this Lease and relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the Investigation and Remediation of Hazardous Material and with the restoration of the Premises or any other City property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other City property. Without limiting the foregoing, if Lessee or any of Lessee's Agents or Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or any other City property, Lessee shall, immediately, at no expense to City, take any and all appropriate actions to return the Premises or other City property affected thereby to the condition existing prior to such Release and otherwise Investigate and Remediate the Release in accordance with all Environmental Laws. Lessee shall provide City with written notice of and afford City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

#### **24. SECURITY DEPOSIT**

Lessee shall pay to City upon execution of this Lease the sum specified for the security deposit in the Basic Lease Information as security for the faithful performance of all terms, covenants and conditions of this Lease. Lessee agrees that City may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Premises, the Improvements, or the Department Facilities (if any) caused by Lessee, its Agents or Invitees, or any failure of Lessee to perform any other terms, covenants or conditions contained in this Lease, without waiving any of City's other rights and remedies hereunder or at Law or in equity. Should City use any portion of the security deposit to cure any Event of Default by Lessee hereunder, Lessee shall immediately replenish the security deposit to the original amount, and Lessee's failure to do so within five (5) days of City's notice shall constitute a material Event of Default under this Lease. If the Monthly Rent is increased pursuant to any of the provisions of this Lease, Lessee shall increase the amount of the security deposit accordingly. City's obligations with respect to the security deposit are solely that of debtor and not trustee. City shall not be required to keep the security deposit separate from its general funds, and Lessee shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Lessee's liability for the performance of any of its obligations under this Lease.

#### **25. HOLDING OVER**

Any holding over after the expiration of the Term with the express consent of City shall be construed to automatically extend the Term of this Lease on a month-to-month basis at a Monthly Rent equal to one hundred ten percent (110%) of the amount set forth in **Sections 5.1 and 5.2** hereof, and shall otherwise be on the terms and conditions herein specified so far as applicable (except for those pertaining to the Term). Any holding over without City's consent shall constitute a default by Lessee and entitle City to exercise any or all of its remedies as provided herein, notwithstanding that City may elect to accept one or more payments of Rent, and

whether or not such amounts are at the holdover rate specified above or the rate in effect at the end of the Term of this Lease. Any holding over after the expiration of the Term without the City's consent shall be at a monthly rental rate equal to one hundred fifty percent (150%) of the rate in effect at the end of the Term of this Lease.

## **26. GENERAL PROVISIONS**

**26.1. Notices.** Except as otherwise expressly provided in this Lease, any notice given hereunder shall be effective only if in writing and given by delivering the notice in person, or by sending it first-class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid, to: (a) Lessee (i) at Lessee's address set forth in the Basic Lease Information, if sent prior to Lessee's taking possession of the Premises, or (ii) at the Premises if sent on or subsequent to Lessee's taking possession of the Premises, or (iii) at any place where Lessee or any Agent of Lessee may be found if sent subsequent to Lessee's vacating, abandoning or surrendering the Premises; or (b) City at City's address set forth in the Basic Lease Information; or (c) to such other address as either City or Lessee may designate as its new address for such purpose by notice given to the other in accordance with the provisions of this Section at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first-class or certified mail, one day after the date it is made if sent by commercial overnight courier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this **Section 26.1** and applicable Laws, shall be deemed receipt of such notice. For convenience of the Parties, copies of notices may also be given by telefacsimile to the telefacsimile number set forth in the Basic Lease Information or such other number as may be provided from time to time; however, neither party may give official or binding notice by telefacsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

**26.2. No Implied Waiver.** No failure by City to insist upon the strict performance of any obligation of Lessee under this Lease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial Monthly Rent or Additional Charges during the continuance of any such breach, or possession of the Premises prior to the expiration of the Term by any Agent of City, shall constitute a waiver of such breach or of City's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Lease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of City given in any instance under the terms of this Lease shall not relieve Lessee of any obligation to secure the consent of City in any other or future instance under the terms of this Lease.

**26.3. Amendments.** Neither this Lease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto. Whenever this Lease requires or permits the giving by City of its consent or approval, the General Manager of the Department shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to the mutual written agreement of City and Lessee, and City's agreement may be made upon the sole approval of the General Manager of the Department provided such amendment or modification does not (i) decrease the amount of rental income payable by Lessee

to City, (ii) materially increase City's liabilities or financial obligations under this Lease, (iii) materially increase the size of the Premises, (iv) change the Term of this Lease, or (v) materially change the permitted uses of the Premises. Any proposed amendment which falls into the above specified categories shall require the approval of the Commission, and, if required under the City's Charter or Administrative Code, the Mayor, and the Board of Supervisors.

**26.4. Authority.** If Lessee signs as a corporation, a partnership or a limited liability company, each of the persons executing this Lease on behalf of Lessee does hereby covenant and warrant that Lessee is a duly authorized and existing entity, that Lessee has and is qualified to do business in California, that Lessee has full right and authority to enter into this Lease, and that each and all of the persons signing on behalf of Lessee are authorized to do so. Upon City's request, Lessee shall provide City with evidence reasonably satisfactory to City confirming the foregoing representations and warranties.

**26.5. Joint and Several Obligations.** The word "Lessee" as used herein shall include the plural as well as the singular. If there is more than one Lessee, the obligations and liabilities under this Lease imposed on Lessee shall be joint and several.

**26.6. Interpretation of Lease.** The captions preceding the articles and sections of this Lease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Lease. This Lease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Lease. Provisions in this Lease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Lease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of City is required to be obtained by Lessee hereunder, City may give or withhold such consent in its sole and absolute discretion. All such consents may be made by the General Manager acting alone, unless stated to the contrary herein.

**26.7. Successors and Assigns.** Subject to the provisions of **Article 16** hereof relating to Assignment and Subletting, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of City and Lessee and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any sale, assignment or transfer by City named herein (or by any subsequent landlord) of its interest in the Premises as owner or lessee, including any transfer by operation of Law, City (or any subsequent landlord) shall be relieved from all subsequent obligations and liabilities arising under this Lease subsequent to such sale, assignment or transfer.

**26.8. Brokers.** Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein except as identified in the Basic Lease Information, whose commission, if any is due, shall be paid pursuant to a separate written agreement between such broker and the party through which such broker contracted. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall indemnify the other party from any and all Losses incurred



by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Lease.

**26.9. Severability.** If any provision of this Lease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and be enforceable to the fullest extent permitted by Law.

**26.10. Governing Law.** This Lease shall be subject to, and construed and enforced in accordance with, the Laws of the State of California and the City's Charter and Administrative Code.

**26.11. Entire Agreement.** This instrument (including the exhibits hereto, which are made a part of this Lease) contains the entire agreement between the Parties and supersedes all prior written or oral negotiations, discussions, understandings and agreements. The Parties further intend that this Lease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Lease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Lease. Lessee hereby acknowledges that neither City nor City's Agents have made any representations or warranties with respect to the Premises or this Lease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Lessee by implication or otherwise unless expressly set forth herein.

**26.12. Attorneys' Fees.** In the event that either City or Lessee fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Lease, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

**26.13. Time of Essence.** Time is of the essence with respect to all provisions of this Lease in which a definite time for performance is specified.

**26.14. Cumulative Remedies.** All rights and remedies of either party hereto set forth in this Lease shall be cumulative, except as may otherwise be provided herein.

**26.15. Survival of Indemnities.** Termination of this Lease shall not affect the right of either party to enforce any and all indemnities, waivers and representations and warranties given or made to the other party under this Lease, nor shall it affect any provision of this Lease that expressly states it shall survive termination hereof.

**26.16. Relationship of Parties.** City is not, and none of the provisions in this Lease shall be deemed to render City, a partner in Lessee's business, or joint venturer or member in any joint enterprise with Lessee. Neither party shall act as the agent of the other party in any respect hereunder, and neither party shall have any authority to commit or bind the other party without such party's consent as provided herein. This Lease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

The granting of this Lease by City does not constitute authorization or approval by City of any activity conducted by Lessee on, in or relating to the Premises.

**26.17. Transfer by City.** If City sells or otherwise transfers the Premises, City shall be released from its obligations hereunder arising on or after the date of such sale or transfer and Lessee shall look solely to the successor-in-interest to City. Upon a sale of the Premises by City, Lessee shall attorn to the purchaser or transferee, such attornment to be effective and self-operative without the execution of any further instruments on the part of the parties to this Lease. This Lease shall not be deemed to constitute any commitment by City, or create any priority or right in favor of Lessee, with regard to any future sale or other disposition of the Premises, or any portion thereof.

**26.18. Recording.** Lessee agrees that it shall not record this Lease in the Official Records. Upon request by Lessee, Lessor shall prepare for recordation a memorandum of this Lease which Lessee may record at its own cost.

**26.19. Non-Liability of City Officials, Employees and Agents.** No elective or appointive board, commission, member, officer, employee or other Agent of City shall be personally liable to Lessee, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Lessee, its successors and assigns, or for any obligation of City under this Lease or otherwise.

**26.20. Wages and Working Conditions.** With respect to the construction of any Improvements or Alterations, any employee performing services for Lessee shall be paid not less than the highest prevailing rate of wages, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in the City and County of San Francisco. Lessee shall require any contractor to provide, and shall deliver to City every calendar month during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any Improvements or Alterations on the Premises.

**26.21. Prevailing Wages for Theatrical Workers.** Pursuant to San Francisco Administrative Code Sections 21.C-4 and 21.C-7, unless excepted, Contracts, Leases, Franchises, Permits, and Agreements awarded, let, issued or granted by the City and County of San Francisco for the use of property owned by the City and County of San Francisco shall require any Individual engaged in theatrical or technical services related to the presentation of a Show to be paid not less than the Prevailing Rate of Wages. Individuals engaged in theatrical and technical services include, without limitation, those engaged in rigging, sound, projection, theatrical lighting, videos, computers, draping, carpentry, special effects, and motion picture services. Capitalized terms in this Section that are not defined in this Lease shall have the meanings provided in Administrative Code Sections 21.C-4 and 21.C-7.

Lessee agrees to comply with and be fully bound by, and to require its Subcontractors to comply with and be fully bound by, the provisions of Administrative Code Sections 21.C-4 and 21.C-7, including, without limitation, the payment of any penalties for noncompliance and other remedies available to the City. The provisions of Administrative Code Sections 21.C-4 and 21.C-7 are hereby incorporated by reference and made a part of this Lease. Lessee shall cooperate fully with the Labor Standards Enforcement Officer and any other City official or employee, or any of their respective agents, in the administration and enforcement of the requirements of Administrative Code Sections 21.C-4 and 21.C-7, including, without limitation, any investigation of noncompliance by Lessee or its Subcontractors. Lessee agrees that the City may inspect and/or audit any workplace or job site involved in or related to the performance of this Lease, including,

without limitation, interviewing Lessee's and any Subcontractor's employees and having immediate access to employee time sheets, payroll records, and paychecks for inspection.

Lessee may obtain a copy of the current Prevailing Rate of Wages from City by contacting its Office of Labor Standards Enforcement. Lessee acknowledges that the City's Board of Supervisors may amend such Prevailing Rate of Wages and agrees that Lessee and any Subcontractors shall be bound by and shall fully comply with any such amendments by the Board of Supervisors.

**26.22. Prevailing Wages for Trade Show and Special Event Work.** Lessee acknowledges that City law entitles individuals engaged in work involving the on-site installation, set-up, assembly, and dismantling of temporary exhibits, displays, booths, modular systems, signage, drapery, specialty furniture, floor coverings, and decorative materials in connection with trade shows, conventions, expositions, and other special events on City property to receive the Prevailing Rate of Wages (which includes fringe benefits or matching equivalents) fixed by the Board of Supervisors, unless the event is free and open to the public or meets any of the other exemptions in San Francisco Administrative Code Section 21C.8(b). Capitalized terms in this subsection shall have the meanings provided in Sections 21C.8. Accordingly, Lessee, as a condition of this Lease, agrees that:

(1) Lessee shall comply with the obligations in San Francisco Administrative Code Section 21C.8, and shall require Lessee's subtenants, contractors, and any subcontractors, to comply with the obligations in Section 21C.8, including the payment of Prevailing Wage Rates to workers engaged in On-site work on Trade Shows or Special Events. In addition, if Lessee or its subtenant, contractor (or any subcontractor) fails to comply with these obligations, City shall have all available remedies against Lessee to secure compliance and seek redress for workers who provided the services as described in Section 21C.7, together with the remedies set forth in this Lease.

(2) City may inspect and/or audit any workplace, job site, books and records pertaining to On-site work on Trade Shows or Special Events at the Premises, and may interview any individual who provides, or has provided, On-site work on Trade Shows or Special Events at the Premises.

(3) Lessee shall provide to City (and to require any subtenant, contractor or subcontractor who maintains such records to provide to City), upon request, immediate access to all workers' time sheets, payroll records, and paychecks for inspection in so far as they relate a Trade Show or Special Event at the Premises.

For current Prevailing Wage rates, see [www.sfgov.org/olse/prevailingwages](http://www.sfgov.org/olse/prevailingwages) or call the City's Office of Labor Standard Enforcement at 415-554-6235.

**26.23. Intellectual Property; Music Broadcasting Rights.** Lessee shall be solely responsible for obtaining any necessary clearances or permissions for the use of intellectual property on the Premises, including, but not limited to musical or other performance rights. (Note to Lessee: To obtain the appropriate music performance license, you may contact the BMI Licensing Executive toll free at 1-877-264-2137 Monday – Friday, 9-5 p.m. (Central Time) and the American Society of Composers, Authors and Publishers (“ASCAP”) at 1-800-505-4052 Monday – Friday, 9-5 p.m. (Eastern Time).)

#### 26.24. Supervision of Minors.

(a) **Records Request.** If any person applies for employment or for a volunteer position with Lessee, or any sublessee or subcontractor, in which such applicant would have supervisory or disciplinary power over a minor or any person under such applicant's care, then Lessee, and any sublessee or subcontractors providing services at the Premises, shall request from the California Department of Justice records of all convictions or any arrest pending adjudication of such applicant involving the offenses listed in Welfare and Institution Code Section 15660(a), in accordance with the procedures established in California Penal Code Section 11105.3.

(b) **Restriction on Hires for Recreational Sites.** If Lessee, or any sublessee or subcontractor, is providing services under this Lease at a City park, playground, recreational center or beach (separately and collectively, "Recreational Site"), Lessee shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position to provide supervisory or disciplinary power over a minor or any person under his or her care if that person has been convicted of any offense listed in Welfare and Institution Code Section 15660(a).

(c) **Notice Required for Sites Other Than Recreational Sites.** If Lessee, or any of its sublessees or subcontractors, hires an employee or volunteer to provide services to minors at any location other than a Recreational Site, and that employee or volunteer has been convicted of an offense specified in Penal Code Section 11105.3(c), then Lessee shall comply, and cause its sublessees and subcontractors to comply, with Penal Code Section 11105.3(c) and provide written notice to the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer not less than ten (10) days prior to the day the employee or volunteer begins his or her duties or tasks. Lessee shall provide, or cause its sublessees or subcontractors to provide, City with a copy of any such notice at the same time that it provides notice to any parent or guardian, to the extent permitted by law.

(d) **General Requirements.** Lessee shall expressly require any of its subcontractors with supervisory or disciplinary power over a minor to comply with this Section of the Lease as a condition of its contract with the subcontractor. Lessee acknowledges and agrees that failure by Lessee or any of its subcontractors to comply with any provision of this Section of this Lease shall constitute an Event of Default. Lessee further acknowledges and agrees that such Event of Default shall be grounds for the City to terminate the Lease, partially or in its entirety, to recover from Lessee any amounts paid under this Lease, and to withhold any future payments to Lessee. The remedies provided in this Section shall not limited any other remedy available to the City hereunder, or in equity or law for an Event of Default, and each remedy may be exercised individually or in combination with any other available remedy. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

**26.25. Employee Signature Authorization Ordinance.** City has enacted an ordinance at Chapter 23, Article VI of its Administrative Code, commencing at Section 23.50 (the "Ordinance"), which may apply to employers of employees in hotel or restaurant projects on City property with more than fifty (50) employees. The terms of the Ordinance are expressly incorporated herein by reference. To the extent Lessee or its successors or assigns employs employees in a hotel or restaurant in the Premises within the scope of the Ordinance, Lessee hereby agrees as a material condition of this Lease to enter into and abide by a Card Check Agreement with a Labor Organization or Organizations seeking to represent Lessee's employees; if and as required by the Ordinance, and to otherwise fully comply with the requirements of the Ordinance. Lessee recognizes that, if the Ordinance applies to Lessee's operations on the Premises, Lessee must enter into a Card Check Agreement with a Labor Organization(s) as

specified by the Ordinance before executing this Lease, and that being party to such a Card Check Agreement(s) is a condition precedent of rights or obligations under this Lease.

**26.26. Non-Discrimination in City Contracts and Benefits Ordinance.**

(a) **Covenant Not to Discriminate.** In the performance of this Lease, Lessee covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, height, weight, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Lessee, in any of Lessee's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Lessee.

(b) **Subleases and Other Subcontracts.** Lessee shall include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such Sublessee or other subcontractor in substantially the form of subsection (a) above. In addition, Lessee shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all sublessees and other subcontractors to comply with such provisions. Lessee's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) **Non-Discrimination in Benefits.** Lessee does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) **Condition to Lease.** As a condition to this Lease, Lessee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Lessee shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Lessee understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Lessee and/or deducted from any payments due Lessee.

**26.27. No Relocation Assistance; Waiver of Claims.** Lessee acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and

Lessee fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action (including, without limitation, consequential and incidental damages) against, and covenants not to sue, City, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any Laws, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 *et seq.*), except as otherwise specifically provided in this Lease with respect to a Taking.

**26.28. MacBride Principles - Northern Ireland.** The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Lessee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

**26.29. Conflicts of Interest.** Through its execution of this Lease, Lessee acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of such provisions, and agrees that if Lessee becomes aware of any such fact during the term of this Lease Lessee shall immediately notify City.

**26.30. Tropical Hardwood and Virgin Redwood Ban.** Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Lessee shall not provide or permit the use of any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in the performance of any alterations or improvements in or on the Premises or otherwise in the performance of this Lease. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. In the event Lessee fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Lessee shall be liable for liquidated damages for each violation in any amount equal to Lessee's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater.

**26.31. Tobacco Product Advertising and Sale Prohibition.** Lessee acknowledges and agrees that no advertising or sale of cigarettes (including electronic cigarettes, as defined in the San Francisco Health Code) or tobacco products is allowed under this Lease. This advertising prohibition includes the placement of the name of a company producing, selling, or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

**26.32. Prohibition of Alcoholic Beverage Advertising; Other Advertising Restrictions.** Lessee acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises, except for those portions of the Premises used for the operation of a restaurant or other facility where the sale, production or consumption of alcohol is permitted. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition

includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (a) communicate the health hazards of alcoholic beverages, (b) encourage people not to drink alcohol or to stop drinking alcohol, or (c) provide or publicize drug or alcohol treatment or rehabilitation services. Lessee shall comply with any other restrictions or regulations on advertising on City property enacted prior to the Commencement Date of this Lease.

**26.33. First Source Hiring Ordinance.** The provisions of San Francisco Administrative Code Chapter 83, the First Source Hiring Program, are incorporated in this Section by reference, and are made a material part of this Lease as though fully set forth herein. As an essential term of, and consideration for, this Lease, unless exempted by the City's Office of Economic and Workforce Development, Lessee shall enter into a First Source Hiring Agreement with the City, on or before the effective date of the Lease. Lessee shall keep, and provide to the City, accurate records demonstrating its compliance with the First Source Hiring Program. Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the Office of Economic and Workforce Development.

**26.34. Sunshine Ordinance.** Lessee acknowledges that in accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection by City immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. City will make information provided by Lessee or other which is covered by this Section available to the public upon request.

**26.35. Counterparts.** This Lease may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**26.36. No Light, Air or View Easement.** Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to the Premises shall in no way affect this Lease or impose any liability on City as landlord under this Lease.

**26.37. Inability to Perform.** If City is unable to perform or is delayed in performing any of City's obligations under this Lease, by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, protests, riots, demonstrations, inability to obtain utilities or materials or by any other reason beyond City's reasonable control and not caused by City, then City's time period for performance shall be extended for the period of such delay and no such inability or delay shall constitute an eviction under this Lease, or impose any liability upon City or its Agents by reason of inconvenience, annoyance, interruption, injury or loss to or interference with Lessee's business or use and occupancy or quiet enjoyment of the Premises or any loss or damage occasioned thereby. . If Lessee is unable to perform or is delayed in performing any of Lessee's obligations under this Lease, by reason of acts of God, accidents, breakage, repairs, strikes, lockouts, other labor disputes, protests, riots, demonstrations, inability to obtain utilities or materials or by any other reason beyond Lessee's reasonable control and not caused by Lessee, then Lessee's time period for performance shall be extended for the period of delay. In the event of any such delay, the party unable to perform shall notify the other party in writing of such event

or occurrence within thirty (30) days after the beginning of the delay, Notwithstanding anything to the contrary in this section, (i) the lack of credit or financing shall not be considered to be a matter beyond the reasonable control of a party, and (ii) no delay shall last for more than twelve (12) months

**26.38. Notification of Limitations on Contributions.** Through its execution of this Lease, Lessee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Lessee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Lessee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Lessee's board of directors, and Lessee's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Lessee; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Lessee. Additionally, Lessee acknowledges that Lessee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Lessee further agrees to provide to City the name of the each person, entity or committee described above.

**26.39. Public Transit Information.** Lessee shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Lessee employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Premises and encouraging use of such facilities, all at Lessee's sole expense.

**26.40. Drug-Free Workplace.** Lessee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on City premises. Lessee agrees that any violation of this prohibition by Lessee, its Agents or assigns shall be deemed a material breach of this Lease.

**26.41. Preservative-Treated Wood Containing Arsenic.** Lessee may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Lessee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Lessee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.



**26.42. Resource Efficiency.** Lessee acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of buildings owned or leased by City. Lessee hereby agrees that it shall comply with all applicable provisions of such code sections.

**26.43. Food Service Waste Reduction Requirements.** Lessee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Lease as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Lessee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, without limiting City's other rights and remedies, Lessee agrees that the sum of \$100 liquidated damages for the first breach, \$200 liquidated damages for the second breach in the same year, and \$500 liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Lessee's failure to comply with this provision.

**26.44. No Smoking in City Parks.** Lessee agrees to comply with Section 1009.81 of the San Francisco Health Code, which provides: "Smoking is prohibited on any unenclosed area of property in the City and County of San Francisco that is open to the public and under the jurisdiction of the Recreation and Park Commission or any other City department if the property is a park, square, garden, sport or playing field, pier, or other property used for recreational purposes, or a farmers' market."

**26.45. Prohibition of the Sale of Lottery Tickets.** The selling of any lottery tickets on the Premises is expressly prohibited.

**26.46. San Francisco Bottled Water Ordinance.** Lessee agrees to comply with all applicable provisions of San Francisco Environment Code Chapter 24 prohibiting the sale or distribution of drinking water in a sealed rigid plastic bottle having a capacity of twenty-one (21) fluid ounces or less at events held on City property with attendance of more than 100 people. A violation of this provision is a material default under this Lease and is subject to administrative fines as prescribed by San Francisco Environment Code Chapter 24. All terms in this Section are defined in San Francisco Environment Code Chapter 24.

**26.47. Criminal History in Hiring and Employment Decisions**

(a) Unless exempt, and subject to the provisions of Section 26.23 above, Lessee agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "Chapter 12 T"), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Lessee who would be or are performing work at the Premises.

(b) Lessee shall incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and shall require all subtenants to comply with such provisions, subject to the provisions of Section 26.23 of this Lease. Lessee's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c) Lessee and subtenants shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Lessee and subtenants shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Lessee and subtenants shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Lessee and subtenants shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Lessee or subtenant at the Premises, that the Lessee or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Lessee and subtenants shall post the notice prepared by the Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Lessee and subtenants understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Lease.

(h) If Lessee has any questions about the applicability of Chapter 12T, it may contact the City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

**26.48. Graffiti Removal.** Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Lessee shall remove all graffiti from the Property within forty eight (48) hours of the earlier of Lessee's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked,

etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. Sections 101 et seq.). Any failure of Lessee to comply with this Section of this Lease shall constitute an Event of Default of this Lease.

**26.49. Cooperative Drafting.** This Lease has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Lease reviewed and revised by legal counsel. No party shall be considered the drafter of this Lease, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Lease.

## **27. SIGNS AND ADVERTISING.**

Lessee hereby agrees not to erect or maintain, nor permit to be erected or maintained, upon any part of the Premises, any signs that are visible from the exterior of the Premises that do not directly relate to Lessee's operations without obtaining City's written consent in advance.

[No further text this page.]

**NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LESSEE ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS AND UNTIL A RESOLUTION OF THE COMMISSION SHALL HAVE BEEN DULY PASSED AND CITY'S BOARD OF SUPERVISORS SHALL HAVE DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE SHALL BE NULL AND VOID IF CITY'S MAYOR AND THE BOARD OF SUPERVISORS DO NOT APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED, NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.**

City and Lessee have executed this Lease as of the date first written above.

**LESSEE:**

GLENRIDGE NURSERY SCHOOL,  
a California Corporation

By: Matt Nault  
Its: President

**CITY:**

**CITY AND COUNTY OF SAN FRANCISCO,**  
a municipal corporation

By: \_\_\_\_\_  
Philip A. Ginsburg, General Manager  
Recreation and Park Department

**RECOMMENDED BY:**  
**RECREATION AND PARK COMMISSION**  
**PURSUANT TO RESOLUTION NO. \_\_\_\_\_ DATED: \_\_\_\_\_**

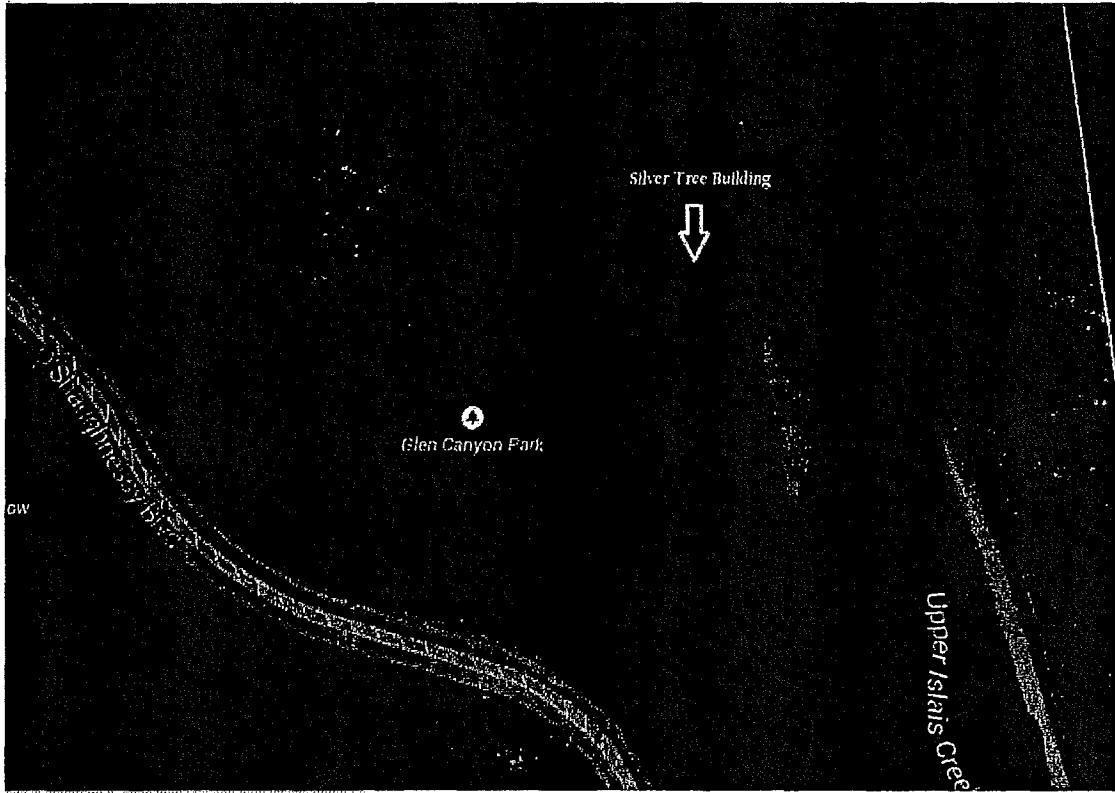
\_\_\_\_\_  
Margaret McArthur, Commission Liaison

**APPROVED AS TO FORM:**

**DENNIS J. HERRERA, City Attorney**

By: \_\_\_\_\_  
Anita L. Wood, Deputy City Attorney

**Exhibit A**  
**"Demised Premises"**



**EXHIBIT B- DEPARTMENT RULES AND REGULATIONS**

Please see following link for San Francisco Recreation and Park Department Park Code

<http://library.municode.com/index.aspx?clientId=14138&stateId=5&stateName=California>

**Exhibit C**  
**"Description of Operations Plan"**

**GLENRIDGE COOPERATIVE NURSERY SCHOOL**  
**HANDBOOK**

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## **Glenridge Overview—A Natural Place to Learn**

Although it is located in the middle of a large city, Glenridge Cooperative Nursery School does not have a street address. Glenridge, a private preschool founded in 1970, is located within Glen Canyon, an 85-acre native valley. For more than 40 years, the school has provided child-centered, naturalistic, enriching and developmentally appropriate programs for young children, and a special community for families.

The school is housed in a San Francisco Recreation and Parks Department building, about a third of a mile down a dirt road from the edge of the park. Islais Creek, San Francisco's only above-ground creek accessible to the public, runs along the floor of the canyon year round. Outcrops of radiolarian chert lie exposed along the slopes. In winter, redtail hawks circle above and, come spring, buttercups, lupine, and poppies grow in abundance.

In the rustic setting of Glen Canyon, Glenridge children, parents, and staff grow and learn together.

### **Our Mission Statement**

Glenridge Cooperative Nursery School is dedicated to providing children with a unique, child-centered learning program in one of the most precious natural environments left in San Francisco.

For children, the benefits of the co-op are nurturing love of our environment, laying a foundation for learning, and providing socialization skills.

For parents, the benefits of the co-op are allowing parents to actively participate in their child's education and providing a parental support system and a community for family development.

### **Our Commitment to Diversity**

Glenridge Cooperative Nursery School is committed to maintaining a diverse and vibrant membership that reflects the healthy and enriching diversity found in San Francisco as a whole. This commitment is demonstrated through our actions in seeking new membership, in hiring new staff, in planning and executing our curriculum, and in budgeting scholarships and special programs, and it is embodied in our ongoing strategic planning process.

Glenridge believes that the uniqueness of family structure, cultural affiliation, religious belief, financial situation, and life experience brings richness to the co-op as a whole when shared among the membership through in-class and extracurricular activities.

### **Our Philosophy of Childhood Development**

While the morning and afternoon programs are separate, they adhere to the same philosophies of early childhood development. A play-based curriculum is carefully planned in order to recognize each child's unique learning style, temperament, abilities, and development. Curriculum structure can emerge from the children's interests, needs, and desires, so that learning is concrete and meaningful to each child.

Central to our teaching is the belief that children need to learn how to express, identify, and validate emotions and to develop social skills. Also, children need adult nurturing in developing problem-solving and intellectual abilities as well as the shared experiences of communication and language. With our diverse curriculum and environment, we focus on the children's needs, abilities, and interests in order to promote each child's growing self-esteem and self-concept.

## Our Nature Curriculum

Exploring and discovering nature with young children encourages a child's innate sense of curiosity and wonder.

Children learn through play, and when they play in Glen Canyon they learn about themselves and the world around them. Encouraging a child to avoid walking on an insect builds attitudes of reverence for all living things. Picking up litter in the canyon helps build feelings of responsibility.

Our children learn to love and care about Glen Canyon by observing the plants and teachers at Glenridge. When adults handle the plants and insects of the canyon with respect, children begin to comprehend the value of nature. A child who has finished investigating a creature is expected to return it to a safe and suitable home. When parents and children explore nature together, children are encouraged to be sensitive to the needs of other living things.

To help children become enthusiastic and inquisitive naturalists, we need to provide them with opportunities to observe and discover things for themselves. The sights, sounds, and textures of the canyon stimulate all of their senses.

A rich and integrated curriculum that allows children to explore at their own pace, and includes opportunities for hands-on experiences with nature, serves children well:

- While digging in the mud, the children are building vocabulary, developing gross motor skills and engaging in co-operative play.
- While hiking the trails of the canyon, the children are challenged to extend their physical and cognitive skills and build a sense of accomplishment.
- While exploring the world of nature, the children are communicating and thinking about what they have observed.

The canyon is the perfect classroom to learn about the relationship of systems. The children observe a yellow-crab spider hiding in a California poppy and are able to see the relationship of the flower and the spider.

We have . . .

- played raccoon on the rocks,
  - counted leaves on the ground, *and*
    - examined bugs under magnifiers.

We have . . .

- watched the seasons change,
  - hunted for animal prints in the mud, *and*
    - rolled down a grassy slope on a warm, sunny day.

These experiences stimulate a child's social, physical, and cognitive development and allow a child to feel connected with the natural world.

Children who have the opportunity to go to preschool in the canyon learn that nature is a source of endless interest and excitement. Our goal for the children is to encourage the development of positive feelings and attitudes towards nature. We hope to lay the groundwork for a lifelong respect for nature.

## **The History of Glenridge**

The school's *Articles of Incorporation* were filed with the California Secretary of State in September 1970, with the plan of opening the school in September 1971.

There were 33 families involved in the first membership and the monthly tuition was \$26 for a five-morning program. The Director, who was the only professional staff member, was paid \$275 a month—apparently with no benefits. The hours were 9:00 a.m. to 11:30 a.m.

The morning program now runs from 9:30 a.m. until 12:30 p.m., Monday through Friday. The afternoon program, added in October 1982, operates from 12:30 p.m. to 3:30 p.m., Monday through Friday.

Through parent involvement in the classroom and business of the school, Glenridge attempts to keep tuition fees affordable. The two sources of funds are tuition and fundraising.

Major fundraising was accomplished through an Annual Spring Fair until 1979, when a profitable association with the Pickle Family Circus began. Both the Circus and the Spring Fair were held at Glen Park and consisted of face painting, games, and food.

As the annual budget grew, Glenridge began seeking alternative ways to fundraise. In November 1986, the first annual Glenridge auction was held; it has since become the school's main fundraiser. In 1991, a Scrip program was added, but the auction remains our main fundraising activity.

In 2011, Glenridge Cooperative Nursery School marked its 40th anniversary. The school celebrated this important milestone with a picnic and party. Current members, alumni, and teachers gathered at the site to share memories and to celebrate the school's forty-year history of serving preschoolers and families in the canyon.

Glenridge Cooperative Nursery School is dedicated to providing children a unique child-centered learning program in one of the few natural environments left in San Francisco. The school nurtures a child's love of nature and concern for the environment while establishing a foundation for learning and developing the social skills necessary for success.

# The Daily Routine—Getting To and From Glenridge

## What to Bring and Not to Bring

### Clothing

Children's clothing should be appropriate for the type of activities and play at Glenridge.

- *Do not send your child to school in clothing that should not be stained.*
- *It is important to provide waterproof boots for your child.*
- *Please mark outerwear with child's name.*

It can be cool at Glenridge when it might be quite warm at your home. We recommend dressing your child in layers to be taken off or put back on as the weather warrants.

Please be sure that your child has at least one complete change of clothing in her/his cubby. If your child attends both programs, an extra set of clothing must be in both the upstairs and the downstairs cubbies. Please mark extra clothing with your child's name.

No masks or other clothing that restricts vision and safe play may be worn.

### Food (Snack (AM) / Lunch (PM))

#### When You Will Prepare Food

*In the AM program*, the children share a snack each morning. Roughly once each month, each parent in the AM program is scheduled to provide the snack for the school. (For how to set up and serve snack, see page 18 of this Handbook.)

Communal snacks have many benefits. Children learn to ask for and pass food, to use small muscles to pour drinks, and to take turns and select reasonable helpings; are exposed to new foods, enlarging their vocabularies and taste experiences; learn about good nutrition; and acquire mathematical skills through helping set the table and counting out portions.

*In the PM program*, all children bring a lunch. Lunch boxes should be simple to open and packages easy to unwrap. They should also include water or a beverage.

The adult sitting at the lunch table will offer help if your child needs it. Food will not be heated for children.

#### Foods to Avoid

Glenridge has a strict, permanent ban on peanuts and nuts. In addition, on a year-by-year basis, we ban any other foods that will cause a potentially life-threatening reaction in any current student. Whether you are preparing snack for the whole school (AM) or lunch for your child only (PM), do not ever include foods that contain peanuts, nuts, nut oils, or nut flavorings, and also consult the Food Policy section of this binder for any other foods banned in a given year.

We also ask that you please keep all snacks or lunches free from:

- *Sugary or salty foods*,<sup>1</sup> such as cookies, fruit rollups, chips, or candy,
- *Foods that kids can't handle without help*, like unpeeled oranges or hard-boiled eggs, and
- *Boxed drinks* (most of the drink is wasted).

<sup>1</sup>Glenridge has a No Sugar policy, and we need your cooperation. Not only are such foods not nutritious, but they are also a source of conflict for the children.

### **Information to Provide**

For any snack, please bring in the original packaging and/or a list of ingredients used.

### **Suggestions**

*Snack.* We urge parents preparing snacks to offer to all children to consider, in the spirit of community, the food restrictions of all children attending school on a given day, and to bring foods that every child present can safely share.

While each family has its own food practices and philosophy, please try, when providing snack, to follow the guidelines in the separate *In-Depth Classroom Policies, Guidelines, and Tips* section of this binder, which describe our community's approach to snack.

*Lunch.* Things that work include

- small helpings of pasta
- small yogurts
- sandwiches
- rice cakes
- fruits
- vegetables

### **Toys**

Please discourage children from bringing toys to Glenridge.

A parent who lets a child bring a toy will be asked to help the child put the toy in the parent's mailbox so it is not lost or broken. (An exception is Sharing Day in the PM program. Toys brought for Sharing Day should go in the sharing box downstairs).

No weapons (guns, swords, lasers, etc.) may be brought into school.

### **Unenrolled Siblings**

During a parent's workday, as noted below, unenrolled siblings are not allowed at school.

On non-workdays, unenrolled siblings are welcome for up to the first 30 minutes of each program. They are then expected to leave no later than 10:00 a.m. for the AM program or 1:00 p.m. for the PM program. If you are working or need to be at school for longer than 30 minutes, please make childcare arrangements for your unenrolled children.

### **Walking in the Canyon**

The canyon is home to many species of wildlife, and is a treasure for all of us living in this urban setting.

Please walk into school with your child and enjoy the experience. Use this time to involve your child in Glenridge's unique setting, its seasonal changes and wildlife. Cars interfere with the wildlife and the peace and quiet of the canyon (and antagonize other canyon users).

The walk in is a great way to develop relationships with other children and families. Once your child is fully adjusted to school, consider handing off your child to a "walkpool" at the canyon gates. You'll find that the children motivate one another along the trail, and that they travel faster than when alone.

If you have problems walking your child into school, talk to the Director. She will encourage and support your child's efforts to walk in.

**None of the following circumstances constitutes a good reason to drive:**

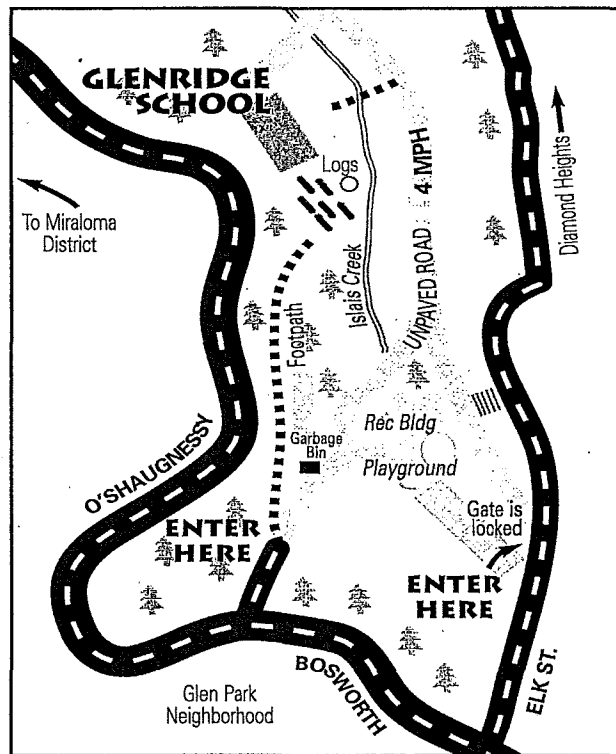
***I'm Running Late:*** If you are driving at the canyon speed limit of 4 MPH and stopping to unlock the gate and then to lock it behind you, it takes the same amount of time to walk up the canyon as it takes to drive. Plan your day appropriately to allow time to walk.

***It's wet and muddy:*** This is why rubber boots are required equipment for children at Glenridge! Please remind yourself that children love water-play, and that it's important for their development.

***I'm Bringing Snack:*** Carry the food in a backpack, and/or ask another parent on the trail to lend a hand.

***I also have my child's younger siblings with me:*** Backpacks and strollers are a wonderful way to travel.

When absolutely necessary, cars may be driven into school. (For guidelines, see page 10 below.)



## Dropoff and Pickup

### Sign-in/Sign-out Procedure

The State Community Care Licensing Division requires all preschools to maintain a daily sign-in/sign-out sheet. This procedure is required in order to ensure your child's safety and to protect the school.

- **The adult who brings a child to school must sign the child in.**
- **The adult who picks up a child must sign the child out at the end of the morning or afternoon.**
- **Each parent must sign for all the children in his/her walkpool.**

Please notify the Director of any early pickup plans or of any pickup that is not routine. Any person who picks up your child must be listed in your emergency file. Inform this person of the sign-in/sign-out procedure (and, in the unlikely event it will be relevant, the canyon speed limit of 4 MPH).

Parents and babysitters must come to the dismissal area (the logs in AM, the building in PM). Once children are signed out, they must stay with the parent or guardian.

## Pickup Time

On your workday, or when picking up children from the AM or PM program, please join in logs or circle activity. Remind your child to stay with the group. Help keep all children focused.

Children can get stressed at this time, so please help make it smooth by being attentive to your child's needs. Often a quick goodbye is necessary, as a waiting child may cry, or act out to get your attention.

After you have signed out from the AM or PM program, your child and any other children in your walkpool must stay with you. No child should be left unattended.

*Please get your mail and cubby items before signing your child out and before pickup. This means arriving a few minutes early.*

# The Daily Routine—In the Classroom

## Daily Schedules

### AM Program

- 9:10–9:15 **Working Parents' Arrival** Parents sign in on Parents' Sign-in Sheet: note time of arrival and choose an activity area (i.e., deck supervision, hike, journals, art, etc.).
- *Snack person* should put snack supplies in the kitchen.
  - *Parents who have brought projects* should set up in the designated area.
  - *Other working parents* go to their areas and supervise children as they arrive.
- 9:20–9:30 **Arrival Time** All other children arrive. Parents sign children in on daily sheet. Walk-pool parents help children with jackets and help them get settled in a play area.
- 9:30–10:30 **Activity Time** Children choose activities in the following areas: art, dramatic play, blocks, puzzles, play dough, gross-motor, table games, science corner, or deck.  
**Hike** The Assistant Director and one parent will go on a hike with a small group of children. The Assistant Director will decide when the hike will start. Before the hike, the hike person puts books away in the journal area and sorts artwork into children's cubbies.
- 10:30–10:45 **Cleanup** Children are encouraged to put back blocks, dress-up clothes, play dough, etc. All parents help with cleanup before going off to do their job, such as bathroom or snack.
- 10:45–11:00 **Bathroom Time** The bathroom person takes five or six children downstairs at 10:45, or when the teacher says it is time. Children will filter downstairs in groups accompanied by adults for the next five or ten minutes after they finish clean-up. The Snack person and the Cleanup 1 person begin to set up tables and put out snack.
- 10:50–11:15 **Group Time** Children go to circle area for various guided activities, such as: reading books, music, finger plays, reading journals, stories, circle games, sharing.
- 11:15–11:30 **Snack Time** for children and adults.
- 11:30–12:20 **Outdoor Play** Each child cleans up his/her place at the table and goes outside to play. Cleanup people remain behind to clean up kitchen and indoor area.
- 12:20 **Outdoor Cleanup** Outdoor equipment is put away. Working parents help clean up. Non-working parents should begin arriving at school to collect items from child's cubby, check mailbox, etc.
- 12:25 **Logs and Dismissal/Transition to PM Program** Children gather at logs for good-bye songs and dismissal. Parents pick children up at the logs and sign out on the clipboard at 12:30. Children enrolled in the PM program will transfer to the program with adults.
- 12:30 **AM Workday Ends** All working parents must stay until 12:30. If you are an outside supervision person, please wait until 12:30 to go upstairs and get your belongings.



## PM Program

- 12:15 **Working Parents Arrive at School**, help with set-up, and prepare to lead an activity with the children and to greet children arriving for lunch.
- 12:30 **Arrival Time** One staff member and possibly a PM parent goes to logs to receive those children from the AM session who will attend the PM session. The children go to the bathroom, wash their hands, and get their lunches. This is a great time to encourage children to use the toilet.
- 12:30–1:00 **Lunch Time** Children sit at tables with staff and working parents. The adults need to sit down with the children. The working parents' presence adds to conversational possibilities, enables a child to clean up a spill, and helps keep a calm atmosphere.  
As children finish eating, they may put away their lunches and choose an activity inside to work on. When 8–10 children have finished lunch, activities outside may begin, with one parent and a staff member supervising.
- 1:00–2:45 **Activities** Working parents can choose an area in which to work.
- 1:30–2:30 **Hikes** are a daily possibility that are led by the teacher and a parent.
- 2:45–3:00 **Cleanup Time** Children are encouraged to put away toys and materials inside and outside. Adults also participate in cleanup and help children to focus on individual cleanup tasks.
- 3:00–3:15 **Circle Time** Children meet as a group in the circle area to play games, sing, dance, share, and discuss activities of the day. Parents attend the beginning of circle for the Hello Song, and then leave circle to complete cleanup tasks as listed on the individual job cards. Jobs include
- washing art dishes
  - putting away outside equipment
  - sweeping
  - mopping
  - cleaning the bathroom
  - taking out the garbage
- Parents should check job cards for specific directions.
- 3:15–3:20 **Bathroom Time** Children are transitioned to the bathroom to wash hands and to use the toilet if necessary. One parent and a staff member assist in the bathroom.
- 3:20–3:30 **Snack and Story** Children eat a light snack (brought from home) while a staff member reads a book. The day ends with the Goodbye Song.
- 3:30 **Dismissal** Parents pick children up at the building and sign out on the clipboard.

## Attendance

We expect regular, consistent attendance from children and a commitment to the program from parents. A child enrolled in only one program (i.e., either AM or PM) must attend Glenridge a minimum of 3 days per week. A child enrolled in both programs must attend a minimum of 2 days per week in each program.

Consistency and routine are crucial for children to make a good adjustment to the program. Children must attend regularly with the exception of illness and occasional vacation. If your child is ill, please call the school in the morning and let the staff know. (See page **Error! Bookmark**

**not defined.** below.) If you want to sell your child's slot through the drop-in calendar (see page 11 below), let the staff know.

## **Beyond the Daily Routine— Policies for Unusual and Special Events**

### **Birthdays**

In the AM program, a simple celebration for each child is held during circle on the parent's workday. Let the Director know on what workday you would like to have the celebration. Birthday celebrations in the PM program are after snack and story (3:25 p.m.). Let the Director know what date you would like and if you will be able to attend.

If your child's birthday is during the summer, you have a choice of a spring date or a half-birthday celebration. Please no summer birthdays during the last month of school — we need the time to prepare children for graduation.

*Please do not bring treats to Glenridge on your child's birthday.* Your family may elect to donate a book, toy, game, homemade gift, etc., to the school.

### **Lost And Found**

There is a lost and found basket on the kitchen counter. There is another basket in the downstairs hallway, on top of the cubbies.

### **Sharing Days (PM)**

There are regular sharing days in the PM program that are scheduled the third week of each month, October through May.

### **Driving in the Canyon**

When absolutely necessary, cars may be driven into school. Do not abuse this privilege, because it could be revoked, causing serious hardship to Glenridge. Members must sign a statement acknowledging that they agree to abide by the car speed limit in the canyon set by Recreation and Parks, currently 4 MPH. Be sure to lock the gate securely behind you every time. *If you must drive, go very slowly.* If you are passing walkers, you are going too fast! If you must drive, park across the hillside retaining wall across the creek.

# Changing the Daily Routine— Altering Your Child's or Your Family's Schedule

## Drop-In Slots

### What is “drop-in”?

“Drop-in” is a program that lets Glenridge parents buy and sell open slots in the AM or PM program. These “tradable” slots occur when parents know that their child won't attend on a given day, or when the number of children regularly scheduled to attend on a given day is less than the maximum allowed. For parents, the program offers a way to recoup the cost of slots they won't use; for children, it provides a chance to attend Glenridge at times in addition to their usual schedules.

### Who is eligible?

Any child currently enrolled at Glenridge, and alumni in kindergarten, may drop in to either the AM or PM program if a slot is available and that slot has been reserved for that particular child.

*Parents of children new to Glenridge must get approval from the Director before reserving a drop-in slot in the program other than the one their child usually attends (i.e., to drop in to the PM program if their child is in the AM program, or vice versa).*

Please note that drop-in is not the same as an alumni visit. Alumni who are beyond kindergarten and/or siblings may visit either program for 30 minutes at the beginning or end of a program. In this case, an adult must accompany the child and the Director should be notified in advance. Glenridge's license does not permit older children to be at school as drop-ins.

### How does it work?

By the 15th of every month, two sets of drop-in calendars for the coming month will be posted on the stairway bulletin board at school. One sheet is for the AM program, the other for the PM program. Each sheet has two columns for every day, one for “selling” and one for “buying.” To avoid confusion, the AM and PM drop-in sheets are printed on different color paper.

### How do I sell a slot for an absence planned in advance?

If you know that your child will be absent on a certain date and you would like to sell that slot, write your name in the first available line in the column that says “sell” for that date.

### How do I buy a slot?

If you would like to buy a slot on a certain date, put your name in the first available line on the column that says “buy” for that date.

### What if I want to buy or sell a slot with less than 48 hours' notice?

If you wish to buy or sell a slot less than 48 hours before that slot begins, then you should call parents signed up for that slot until a buy or sell can be confirmed. The buying family is responsible for informing the Director which child will be in attendance.

If there were no sellers when you requested a “buy,” but one later becomes available, then the selling parents should call the listed buyers to inform them that a slot has become available in the order their names appear on the list. If this occurs less than 48 hours before the specified date, listed “buyers” may decline to buy the slot.

### What if I want to buy or sell a slot for today's date?

To sell a slot on the same day, call Glenridge after 8:30 a.m. and have someone check the calendar for you. That person will write your name on the calendar to sell the next available slot and give you a list of families waiting to buy a slot. Please call those families in the order listed.

Parents who want to buy may also call to see if any last-minute slot has been posted for sale. Please be aware that adults at school may be busy when you call.

**What if I change my mind about buying or selling after I've put my name down?**

*Once you put your name down, do not mark it out!* If you need to make a change after signing up for a drop-in slot, then list your name on the next available line on the opposite side.

For example, if you bought a slot that you later realize you do not need you can then sell that slot by putting your name on the sell side. Ideally, someone will now buy that slot from you and all will be well. If, however, you bought a slot that later you realize you cannot use and there are no other buyers, you are still responsible for buying that slot.

**How many slots can I buy?**

Each family may purchase up to two slots on the AM calendar and two slots on the PM calendar for each child enrolled during the week after the calendar goes up. *This means you may not purchase more than a total of four slots per child during the first week the calendar is posted in both the AM and PM programs combined.* After the calendar has been up for a week, a family may sign up for as many slots as they wish. The calendar will indicate the date on which unlimited sign-ups may begin. Typically, this will be on the 22nd of the month.

**What does it cost?**

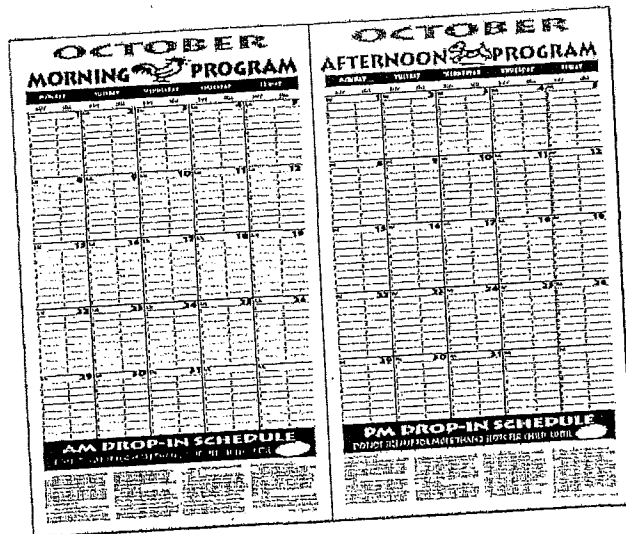
The drop-in rate for 2012–2013 is \$23.00.

**How do I pay for the slots I buy?**

*For slots bought from Glenridge* (because fewer children are scheduled on a given day than the capacity for that day), pay the Drop-In Coordinator within one week of using the slot. Make your check out to Glenridge and note the date and program (AM or PM) for which you're paying for in the check's "memo" section.

The Drop-in Coordinator will report to the Treasurer any member who does not pay for a Glenridge slot after two weeks and two notices.

*For slots bought from another Glenridge family*, pay the selling family directly by placing your payment in their mailbox—ideally on the day of the drop-in, and in any event within one week of the drop-in. Please be respectful and responsible by paying the selling family quickly: It is very awkward for a parent to have to ask you for payment.



**Can parents trade slots without using the drop-in calendar?**

To make sure that all families have an equal chance to buy and sell drop-in slots, all trades should be done through the calendar. The only exception is when a slot is given away with no expectation of compensation. In this case, the parent receiving the slot is responsible for informing the Director which child will attend.

## Coverage for Short & Long-Term Absences

### Emergency Person Procedures

If you are unable to find a substitute:  
Call the AM emergency person BEFORE 8:30 AM  
Call the PM emergency person BEFORE 10:00 AM

- Only use the Emergency Person after exhausting all other ways to find a substitute.
- You must talk directly to the Emergency Person.
- Leaving a message on an answering machine or voicemail is not good enough!

We are required by the licensing bureau to have no less than the scheduled number of adults at the school on any given day. Therefore, an "emergency person" has been assigned for each school session (one for every morning and one for every afternoon). The "emergency person" should be called only *in the event of a sudden illness, accident, or other unforeseen situation*. Since there is only one emergency substitute assigned to cover for five working parents in the AM program and the three in the PM program, *the call should be made only after all other attempts to find a substitute have failed*.

If your child is feverish the day or evening before your workday, don't wait until the last minute to find a substitute. Let the emergency person know that you might be calling on him or her. Meanwhile, call everyone on the substitute list (see next section). If you have no success, call other Glenridge members not on the substitute list and ask if they might be available. *Calling on the emergency person is always a last resort after you have exhausted all other options.* (On rare occasions when there are multiple parents unable to work and not enough substitutes can be found, the school would not meet licensing requirements.)

If you use the Emergency Person, you will owe that person a workday (if you have traded) or the \$40.00 substitute fee. If you fail to find someone to cover your workday, you will owe the school another scheduled workday as a make-up and will be fined for missing your scheduled day.

### Classroom Substitutes

Occasionally, you may not be able to come to Glenridge on the day you are scheduled to work in the classroom. It is your responsibility to provide a qualified substitute (i.e. another Glenridge parent with a child **who is enrolled in that program**). A substitute list is distributed at the start of the school year and is posted on the Glenridge Members Yahoo Group, in the Files Section.

Your child must be present at school when you work in the classroom (either as a scheduled working parent or as a substitute). While we appreciate that parents want to honor their work shift obligations and, hence, may wish to work even if their child is home sick on a given day (or help out by substituting even if their child is not enrolled that day), we cannot let parents work in the classroom if their child is not present. This is a licensing requirement. If your child will not be in school on a given day, you cannot work in the classroom that day.

The substitute fee is \$40.00 per slot. This fee should be paid directly to the person substituting for you. If you prefer not to pay a substitute fee, then consider trading workdays. The person listed on the schedule must inform the Director that a substitution has been made.

## Extended Absences

Since we depend on the presence of working parents, and our expenses are fixed, families temporarily away from school are required to:

- *Pay tuition.* To offset this, you may sell the days your child will miss to other members by using the drop-in calendar.
- *Secure substitutes* for all classroom work shifts (including Emergency Person (EM) shifts) as well as other school responsibilities (e.g. maintenance days, auction hours, packing/unpacking shift, move-in/move-out shift, etc.).
- *Pay applicable fines* for any missed general meetings, orientation meetings, etc.
- *Fulfill all school job responsibilities.*
- *Meet fundraising requirements.*

## Family Leave After Birth Or Adoption

A member family can take 8 consecutive weeks' family leave (including holidays and winter, spring, and summer breaks) starting on the date a child is born or adopted. A family must discuss an anticipated family leave with the President at least one month before starting the leave.

Family leave excuses the member family from the following obligations: classroom work days, general meetings, maintenance days, curriculum night, packing or unpacking days, and auction work hours which fall during the leave.

Members must still fulfill their family job and fundraising responsibilities, including auction solicitation and flexible fundraising goals, as well as attend all mandatory new family orientations and work either Move In or Move Out.

Note that leaves always begin on the date of birth or adoption, even if that date occurs during the summer or with less than eight weeks before summer break. In these cases it is possible that a family will not be excused from their responsibilities for a full eight weeks.

## Dropping Days or a Program

Families must give a 4-week notice, not including holiday periods, to drop days or a program (AM or PM) from their schedule and must fulfill all workday and tuition-payment responsibilities during the notice period. The notice gives the school time to fill the vacancies and facilitate a smooth transition in work scheduling. These changes will result in forfeiting the security deposit.

## Adding Slots in an Opposite Program

In their second year, many parents/guardians choose to place their child(ren) in both the AM and PM programs. All families seeking to add a new program to their child's schedule must get approval from the Program Director. Please make sure to check in with your program director before filling out your Request for Slots Form for the following year.

## Parents Substituting for the Assistant Director

On days when the Director is absent or working outside the classroom, the Assistant Director for the relevant program will assume the Director's duties, and a parent in that program will be called on to substitute as the Assistant Director. As the substitute Assistant Director, your responsibilities will be no greater than if you were substituting for another parent. The Director or the designated Director has the authority to choose his/her Assistant Director for the day.

## Our Responsibilities as Glenridge Parents

As a Glenridge parent, you are required to actively participate in the running of the school. Your primary responsibilities include:

- *A classroom job*, such as being the bathroom, cleanup, project, snack, or emergency parent on dates when you are scheduled to work. This typically occurs not more than once a week, depending on how often your child attends Glenridge. (For more on classroom jobs, see pages 16–20 of this Handbook and the additional documents in the Handbook folder online.)
- *Attending meetings and workdays*, which include general membership meetings, maintenance day, packing and unpacking, and move-in/move-out days. (See page 21 of this Handbook.)
- *A school job*, such as handling scheduling, producing the school newsletter, managing “move-in” and “move-out” days, or being a member of the Board. (See page 22 of this Handbook and the separate *School Jobs* link online.)
- *An auction job*. Glenridge’s annual auction is our primary fundraising activity, and every member family must fulfill a minimum of 16 task hours in addition to soliciting donations of goods and services for the auction. (See page 22 of this Handbook and the separate *Fundraising* document updated yearly.)
- *Fundraising*. This entails soliciting contributions for the auction, selling a minimum number of raffle and auction admission tickets, and participating in “scrip” programs that generate revenue for Glenridge. (See page 22 of this Handbook and the separate *Fundraising* document updated yearly.)
- *Paying tuition, fees, and fines* in a timely manner. (Tuition is due the first of each month and equals \$87 for each slot your child attends. For more on tuition and fees & fines, see the *Financial and Admissions Policies* link online.)

These responsibilities may seem daunting but will quickly become part of your routine as a Glenridge family. Auction work, for example, is heavily loaded toward the beginning of the school year.

### Key Tips for Glenridge Parents

**Food Policy** – consult the Food Policy before bringing food to Glenridge (snack, lunch, or food to share at a Glenridge event) to make sure that all kids stay safe.

**Punctuality for Classroom Workshifts** – arrive no later than 9:15 for the AM program or 12:15 for the PM program on your scheduled workday.

**Substitutes**—find one if you are unable to make your workshift.

**Drop-in Calendar**—before trying to buy or sell a spot via the drop-in calendar, please be sure that you understand the Drop-in procedures at pages 11–12 of this Handbook.

# Working In The Classroom

## Parents' Responsibilities

### Health Clearance

Parents who work in the school are required to have a negative tuberculin test or chest X-Ray and physical exam before their first workday. At orientation, new parents will receive copies of all forms to be completed.

### Timeliness

Consistency is important in a child's development and adjustment to new environments. Glenridge's daily schedule allows sufficient time for children to explore and play within a well-established routine. It's particularly important for parents who are working at school to arrive on schedule so that this routine can be maintained without disruption. The workday for parents begins at 9:15 a.m. for the morning program and 12:15 p.m. for the afternoon program.

### Clothing

On workdays, parents should follow the children's clothing guidelines: old clothes that you don't mind getting dirty, waterproof footwear, and layers of clothing for unpredictable weather.

### Personal Belongings

Please store purses and backpacks away from the reach of children:

In the AM, use the closet inside the kitchen or the upstairs storage area, Mame's office.

In the PM, use the cabinet near the art table or the downstairs storage room/boys bathroom.

### No Siblings

Unenrolled siblings are not allowed at school with a parent during the parent's workdays for any length of time. This is because of licensing and insurance regulations.

### Classroom Jobs

Parents of Glenridge children are responsible for a variety of classroom jobs. These jobs vary slightly between the AM and PM programs. AM working parents should sign in when they arrive and check in with Mame; PM working parents should check in with Jessie. Parents work under the direction and supervision of the staff and are expected to work co-operatively with the staff and each other to create a safe, consistent, and nurturing atmosphere.

***How often you will work.*** During every five-week period, you must work as many times as the number of slots your child attends per week. For example, if your child attends three slots a week, you must work three slots in a five-week period. If your child attends five slots a week, then you must work five slots in a five-week period. In addition, in each five-week period, you will be scheduled for one or more shifts as the Emergency Person. Families with two children in the school work 75% of their total work obligation.

The school has five parent-workers each morning and three parent-workers each afternoon. Because of maternity leaves and the classroom job policy for parents of siblings, you may be required to work additional workdays to meet this standard of parent workers.



**Work schedule.** Your specific workday assignments will be posted on a five-week schedule distributed to all families approximately two weeks before the coming month. If you anticipate conflicts, please email the parent responsible for scheduling as far in advance as possible.

**Working only if your child is present.** Your child must be present at school when you work in the classroom. While we appreciate that parents want to honor their work-shift obligations and, hence, may wish to work even if their child is home sick on a given day, we cannot let parents work in the classroom if their child is not present. This is a licensing requirement. If your child will not be in school on a day that you are scheduled to work, you must find a substitute.

**Balancing your classroom job and your child's needs.** Your child may want some extra attention on your work day. By all means give it to her/him, but also be alert to the needs of the group. Let your child know that it is your workday, and that this means you have a certain area in which to stay and certain jobs to do. Let a staff member know if you are having difficulty.

In the AM Program, the Bathroom parent's child comes to group circle while her/his parent is cleaning the bathroom. The Cleanup parents' children go outside at play time while their parents clean upstairs. Bring your child to a staff member if he/she needs a little help with this.

## **Specific Classroom Jobs**

### **AM**

In the AM program, five parents work in the classroom each morning, and there are five jobs and five activity areas. (In addition, a sixth parent is scheduled as the Emergency Person.) Each working parent is responsible for one job and one activity area. For each day you work, your job is pre-assigned to you on the calendar of workshifts circulated every five weeks, but you select your activity area when you arrive at Glenridge on the morning of your workday.

#### **Specific AM Jobs**

1. **Bathroom:** This person wears a beaded necklace (hanging near the thermostat above the drinking fountain) and is available to escort children downstairs to the bathroom. If you are the Bathroom person and have chosen the Deck station, ask another adult to supervise the deck before leaving to accompany a child to the bathroom. If you have chosen to go on the Hike, ask another parent to wear the beaded necklace while you are away on the hike and let the Director know before you leave.

Bathroom time is approximately 10:45. Start by taking a small group down to the bathroom. Remain in the bathroom, and the rest of the children will come down. Encourage the children to use the toilet. Help children, when necessary, with clothing. All children must wash their hands.

After the children are finished, you will remain in the bathroom and clean the bathroom. This will vary from workday to workday, but at the very least, spray down the toilets, inside and out, the sinks, and soap containers with the bleach spray and wipe them down with paper towels. Scrub the insides of the toilets with the toilet brush. Spray the floors with the bleach spray, mop the floors, and rinse the mop. Give a little extra attention to the area in front/next to the toilets. Refill the soap and paper towel dispensers. Bring the bathroom trash and compost to the kitchen trash and compost containers and line the trash and compost containers in the bathroom with the appropriate bag.

Bathroom cleanup takes about 15 minutes. When you are done, go upstairs and join in circle or supervise your child's snack table. After snack, help supervise the children playing outside.

**2. Snack:** The Snack person is responsible for providing and preparing snack. (For guidelines on foods, see the Food Policy link in the Handbook file on Yahoo Groups)

Do as much snack preparation as possible at home. Alternatively, snack preparation can be considered a cooking activity and done during work time with a small group of children. *(If you choose to do this, you must let the Director know the day before so that she knows that there will be a parent project and she will save a project area.)*

When you arrive at school, write what you brought for a snack on the list posted above the coffee pot. When the weather is good (no wind), you may choose to have snack at the outside picnic tables. Check with a staff member.

After activity time and cleanup, the Snack person goes into the kitchen to prepare. Look for snack set-up procedure in the kitchen. The Snack person, helped by one working parent, will set the tables for snack. The Snack person's child and one or two friends help the adults wipe the tables and set out the supplies and food. An adult needs to supervise the children in this process.

Each table needs:

- a small pitcher with water
- plastic cups
- napkins and cups
- a serving dish(es) with snack and serving utensil(s)
- a sponge and a small bowl (for cleanup).

Set the large gold tray from the kitchen on top of the water table for empty cups and extra snacks, and place the compost pail from the kitchen next to the water table.

During snack time, the Snack person supervises a snack table. After snack time, the Snack person helps the teachers supervise the outside play area.

**3-4. Cleanup #1 and #2 (two parents):** At 10:30, help clean up the classroom. When the toys have been put away and the project tables cleared off, escort children to the bathroom and then either sanitize tables and help set up snack (Cleanup #1) or help in circle (Cleanup #2). When you are done, return to the circle area. You will supervise a snack table.

After snack, the Cleanup people stay inside and divide up the duties. Generally, one person cleans the kitchen, and the other person cleans the main classroom. They wipe off snack tables, sweep under tables, wash snack dishes, wash art materials, clean sinks, and empty classroom trash pails into the large kitchen trash can. Floors should be swept and mopped, and rugs vacuumed. If you finish all of the usual chores before 12:22, please sweep the stairs.

The two Cleanup parents take the bagged trash and compost to our trashcan and compost container down at the Glen Park Recreation building. If all the chores are finished, one Cleanup parent could come outside to help supervise. One Cleanup parent must stay inside to answer phone calls and provide security for the classroom (the door stays open for non-working parents to pick up mail and artwork).

If a child vomits or urinates on school pillows, dress up clothes, etc., the Cleanup #2 parent is responsible for laundering the soiled items at home.

**5. Project:** The Project person can bring a project or activity to do with the children, but is not required to do so. *If you intend to bring a project (art, science, cooking, dance, etc.) please notify the Director at least 24 hours in advance.* If you do not notify the Director about a project, it will be assumed that you are skipping project, and setup will be completed by the staff. The Project person can then sign into any available work area upon arrival at school. The Project person helps clean up toys at 10:30, takes a group of children to the bathroom, and then helps at circle time. The Project person supervises a snack table and then goes outside to supervise free play.

**6. Emergency Person:** This parent is "on-call" until 8:30 a.m. and must be ready to work if called. You must have already made arrangements for childcare, if needed. Make sure your cell phone ringer is on for the morning of your emergency day. Parents must be able to contact you.

If you are called and cannot work, it is now your responsibility to find a substitute. You are not obligated to work if you receive the call after 8:30 a.m. (for the AM program) or 10:00 a.m. (for the PM program). (For more detail, see *Emergency Person Procedure* on page 13.) If you trade your emergency shift, inform the staff and all parents scheduled to work that day.

### AM Activity Areas

**1. Deck:** The parent who chooses the Deck activity area is responsible for supervising children playing on the deck. When no children are playing outside, the Deck parent comes inside to supervise children and is available to return to the deck when a child is interested.

**2. Art:** The parent who chooses the Art activity area supervises children in that area, writes each child's name and date on that child's art, and keeps the art tables ready for children to do art.

**3. Journals:** The parent who chooses the Journals activity area will supervise the area near the Journals table (including the light table, puppet theater, and bookshelf/reading area). That parent will be available to help children who want to write in their journals.

**4. Motor:** The parent who chooses the Motor activity area supervises children playing in that area, which includes the ball pit, climbing structure, and motor blocks.

**5. Hike:** The parent who chooses to go on the hike accompanies and helps the Assistant Director when he leads a group of children on a morning hike. Before the hike, that parent puts books away in the circle area and sorts artwork into children's cubbies. (Note: If either the Director or the Assistant Director is not present on a given day, no hike will occur. In that case, the parent who signs up for "Hike" will supervise in the classroom as needed.)

**NOTE:** If an AM parent brings a project to school, then the Director may shift the activity areas as necessary.

### PM

**1. Cleanup #1:** Sweep entire floor, disinfect tables, straighten dress-up and circle area, put books on shelf, empty garbage, and mop if necessary.

**2. Cleanup #2:** Finish putting away all outdoor equipment (swings, workbench, mats, cones, etc.), mop floor, straighten toy shelves. Work with Cleanup #3 to clean bathroom. Disinfect sinks and toilets, replenish supplies, mop the floor, and empty the garbage. If a child vomits or urinates on school pillows, dress up clothes, etc., Cleanup #2 is responsible for laundering the soiled items at home.

**3. Cleanup #3:** Wash all art supplies and paint cups and brushes from both easels as needed. Time permitting, sort art supplies and containers. Work with Cleanup #2 to clean the bathroom. Disinfect sinks and toilets, replenish supplies, mop the floor, and empty the bathroom garbage. A working parent takes the day's trash and throws it in our trashcan next to the Recreation Center in Glen Park.

**4. Emergency Person:** This parent is "on call" until 10:00 a.m. and must be ready to work if called. You must have already made arrangements for childcare, if needed. Make sure your cell phone ringer is on for the morning of your emergency day. Parents must be able to contact you.

If you are called and cannot work, it is now your responsibility to find a substitute. You are not obligated to work if you receive the call after 10:00 a.m. (For more detail, see *Emergency Person Procedure* on page 13.)

**NOTE:** Any PM parent can bring a project to school. *If you plan to bring a project, please notify the Director 24 hours in advance.*

## **Classroom Topics Explored in Depth**

Please read all the documents in this online Handbook folder as these topics are very important and address several crucial areas for parents working in the classroom. Topics include:

### **Getting Started (Tips on Preparing Your Child for the First Day of Preschool)**

- Advice about
  - how to prepare your child for the transition to attending Glenridge *and*
  - how, after your child has made that adjustment, to ease the daily transition from home to school.
- Helpful articles about
  - the first days of preschool, and
  - how to handle the daily transitions of dropoff and pickup.

### **Safety Guidelines**

- Health & Safety (Health Policy, Prohibited Substances, Emergency Plans)
- Specific safety rules for supervising play at Glenridge, including
  - specific activities (such as balancing or climbing),
  - toys (such as blocks, bikes, or swings), and
  - areas (such as the kitchen, the climbing rock, and the creek).

### **Using The Outdoors At Glenridge**

- Information and suggestions to help you enjoy our outdoor bounty, and
- Ideas on ways in which to use it (such as hikes).

### **Important Techniques to Know When Working with Children**

- Techniques for communicating with, nurturing, and guiding children, including
  - Childhood Basics
  - Cleanup
  - Conflict
  - Creativity
  - Weapons Play
  - Positive Limit Setting, and
  - Supervision and Safety

### **Snack (AM Program)**

- Foods to choose and foods to avoid when you are the parent in the AM program responsible for bringing the morning snack for the children to share.

### **What Should Preschoolers Be Taught?**

- A helpful article written for parents by a professor of early childhood education, and recommended by Mame.

# Parent Responsibilities (Outside the Classroom)

## Meetings

### General Information

A member of each family is *required* to attend *all* general membership meetings. The meetings are usually scheduled for the first Monday of the month at 7:15 p.m. (Meeting dates and locations are noted on the school calendar. If there is a change in the date or time of a meeting, you will be notified by email.) The meetings last about three hours, and are held in a community room.

There is a \$25 fine for the first general meeting missed. The fine for a second general meeting missed is \$50. A member who misses three meetings during the year must get Board approval in order to remain a member-in-good-standing.

Any member who expects to be more than 30 minutes late to a general meeting should call a board member to let him or her know. If a member is late on a regular basis because of a job or school, they must submit a written explanation for Board consideration.

No children are allowed at general meetings, except for infants (6 months or younger).

Smoking is not allowed at Glenridge meetings.

Business may be transacted at a special meeting provided that the membership has been given one week's notice in advance of the meeting. Attendance is then mandatory as per rule #1.

Parent education generally takes place at the beginning of each general meeting and at other times as announced.

At least once during the year, you must provide a snack item for the general meeting.

Board meetings are held monthly at a board member's home or a community room. They begin at 7:15 PM and are open to all members, except for meetings or portions of meetings when the Board needs to discuss matters for which the confidentiality of a family needs to be preserved.

### Discussion and Voting Procedures

Meetings follow rules set forth in the Articles of Incorporation, By-laws, and Standing Rules.

The President presides over general membership meetings. The President conducts the meetings following Robert's Rules of Order, and in an impartial manner, being careful not to appear to take sides in a debate.

A quorum must be present for a vote to be taken. A quorum consists of a majority of voting members (meaning one more than 50% of the total membership), present in person or by proxy. The President does not usually vote, but may do so when voting is done by ballot, and in all other cases when his or her vote would change the result.

A two-thirds vote of the current membership is required to amend the By-laws. All other motions pass if a majority of the members present, in person or by proxy, are in favor.

### Voting By Proxy

We encourage every member to attend all meetings in person. A proxy vote is a last resort. Voting by proxy does not count as attendance for purposes of fines for non-attendance.

If a member is going to miss a meeting and wishes to vote on an issue at that meeting, s/he must submit a proxy vote. A proxy vote may be called in to a Board member prior to the commencement of the meeting if one of these persons is available by phone. If the member does not make contact with a Board member, s/he forfeits the right to vote.

## **School Jobs**

Each family has a school job, either elected, if on the Board of Directors, or assigned according to members' preferences and talents, and/or the school's needs. Most jobs run year-round from June or September through May.

The description and allocation of job responsibilities may be modified at the discretion of the Vice President based upon the needs of the school and the demands of each job. In any school year, if there are more families than jobs, jobs may be divided or shared at the discretion of the Vice President and the Director:

Occasionally "ad hoc" special projects are created that last a year or two due to special circumstances. An example of a special project might be strategic planning or implementation of strategic plans. Because some families leave school before the year ends, and others start after it begins, new families may be given a shorter-term special project rather than a regular school job.

Job-related expenditures incurred for over \$50.00 need prior Board approval. Submit itemized expense vouchers with receipts attached to the Treasurer for reimbursement. Please try to keep costs down whenever possible.

See a full list of job descriptions by clicking on the job description link in the handbook folder on our Glenridge Member Yahoo Group online (files -> handbook).

## **Move In Day & Move Out Day**

In late May or June each year, we must move the entire school—equipment, furniture and supplies—out of the Parks & Recreation building in the Canyon and into storage. Then in August, after the Parks & Rec Department has used the building to house its annual Silver Tree Day Camp each summer, we must move the entire school back in again. To do so, we have one Move-In Day in August, followed by a week of Unpacking Days, and then a week of Packing Days in May or June, culminating in one Move-Out Day.

Each school year, one parent from each family must work

- four hours on one of the unpacking days in August,
- four hours on one of the packing days in May, *and*
- *either* Move-In Day *or* Move-Out Day.

## **Maintenance Days**

Each year, Glenridge has two scheduled Maintenance days. One parent from each family must work a four-hour shift at one of the two days.

## **Community Events**

Each family is required to help set up or clean up for at least one Glenridge community event *in addition to* the auction, such as the Welcome Picnic, Stone Soup, Parent Party, Alumni Picnic, Graduation, etc.

## **Fundraising**

Fundraising is a crucial part of Glenridge and provides a significant portion of the school's budget. Each family is required to participate in fundraising activities throughout the year. The Board sets the per-family responsibilities for each year based on the needs anticipated at the Winter Budget Board meeting. Usually, fundraising work requires 20 to 30 hours per family per school year.

Detailed fundraising requirements will be distributed at the beginning of each school year and in the "fundraising" section of this binder. Typically, they involve a combination of efforts:

- working assigned shift(s) on the day of the auction,
- selling a required minimum number of tickets to the auction and raffle tickets, *and*
- participating in scrip programs.

Scrip is a program through which a percentage of purchases you make at participating merchants are donated to Glenridge. Earned Scrip is applied toward each family's \$300 Flexible Fundraising requirement.

Glenridge families are also encouraged to participate in our voluntary fundraising, particularly the Annual Fund drive. If we exceed our budgeted fundraising goal for a year, 50% of the excess is added to reserve funds.

## Other Policies

### Committee Formation

If a committee is formed, there will be a chair and minutes taken at committee meetings. The committee chair will report to the Board chair prior to each Board meeting. The committee must make a recommendation to the Board for any action to be taken. The Board will approve or deny the recommendation, or may take the recommendation to the membership for a vote, if necessary.

### Dispute Resolution

In any situation where people work closely and feel very strongly about the work they do, it is quite possible for disputes to develop. These can, if left unresolved, adversely affect the positive environment for children that Glenridge parents and staff work so hard to maintain. Each adult member has the opportunity to speak on issues but may speak only for her or himself. Therefore, in order to resolve disputes at Glenridge, individual members must utilize the following steps:

**Direct Contact.** Speak directly and privately to the individual or individuals with whom you have a concern or problem at a mutually agreeable time. Be specific about the nature of the problem and offer possible solutions that would remedy the dispute. Note that the individual may be unaware of the problem so come prepared to listen at least as much as you talk.

**Review by Director.** Should the individuals involved be unable to resolve the dispute themselves, the dispute is referred to the Director. The Director shall discuss the matter with the individuals involved, identify the issue or issues, and attempt to resolve the dispute in accordance with Glenridge Standing Rules or Policies. The Director shall categorize the dispute as between two parents or between a parent and staff.

**Review by Vice-President.** Should the Director be unable to resolve the dispute or should the dispute involve the Director, then the Vice President will be notified. The Director and the individual(s) involved shall make arrangements to discuss the matter with the Vice President within three (3) working days of its origin. The Vice President shall determine whether the dispute is one involving interpretation of school rules or school business and attempt to resolve the dispute in accordance with Glenridge Standing Rules or Policies. If the Vice President determines that the dispute is beyond the scope of school rules, then the individuals involved in the matter will be referred to counseling through the CCPPNS Consultant Service.

**Review by the Board.** Should the Vice President be unable to resolve the dispute or be involved directly in the dispute, then the matter shall be referred to the Board. The parties shall submit a statement in writing summarizing the matter to the Board within five (5) working days of the referral. The Board shall issue a decision within five (5) working days from the receipt of all relevant statements. Any Board member involved in the dispute shall be excluded from the Board review. The decision of the Board shall be binding.

### Dismissal of a Family

The Board reserves the right to ask a family to leave if their presence is detrimental to the smooth functioning of the school as a whole or if a child's needs cannot be met in the program as it exists. Professional evaluation may be required as a condition of continued enrollment.



**EXHIBIT D – DESCRIPTION OF PROPOSED IMPROVEMENTS**

**RECREATION AND PARK COMMISSION**  
**City and County of San Francisco**  
**Resolution No. 1504-007**

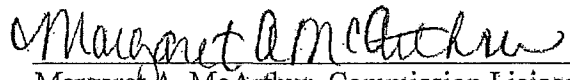
**GLEN CANYON PARK - GLENRIDGE NURSERY SCHOOL**  
**LEASE APPROVAL**

**RESOLVED**, That this Commission does recommend that the Board of Supervisors approves a new 15 year lease with the Glenridge Nursery School for the Silver Tree Building located in Glen Canyon Park.

Adopted by the following vote:

Ayes	5
Noes	0
Absent	1

I hereby certify that the foregoing resolution  
was adopted at the Recreation and Park  
Commission meeting held on April 16, 2015

  
Margaret A. McArthur, Commission Liaison

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

Wiener

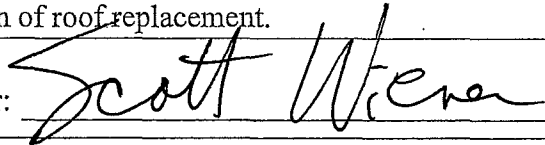
**Subject:**

Lease - Silver Tree Building - Glenridge Nursery School - \$32,652 annual base rent

**The text is listed below or attached:**

Resolution authorizing the General Manager of the Recreation and Park Department to execute a fifteen year lease with Glenridge Nursery School for the Silver Tree Building in Glen Canyon Park for an initial annual base rent of \$32,652 and rent credits of up to \$25,000 following completion of roof replacement.

Signature of Sponsoring Supervisor:



Clerk's Use Only:

**FORM SFEC-126:  
NOTIFICATION OF CONTRACT APPROVAL  
(S.F. Campaign and Governmental Conduct Code § 1.126)**

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: <b>Glenridge Cooperative Nursery School</b>	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
<b>President</b> – Matt Nault; <b>Vice President</b> – Erin Aulner; <b>Treasurer</b> – John Archibald; <b>Secretary</b> – Benjamin Ibarra; <b>Co-op Council Rep</b> – Debra Belale; <b>Development Chair</b> – Courtney Young-Law; <b>Personnel Coordinator</b> – Kate Maselli Zimman; <b>Membership Chair</b> – Shelley Curran and Bonnie Harrison; <b>Diversity Chair</b> – Joanna Hasse; <b>Director</b> – Mame Campbell-Salin	
Contractor address: P.O. Box 31202 San Francisco CA 94131	
Date that contract was approved: <i>(By the SF Board of Supervisors) 5/5/15</i>	Amount of contracts: \$26,380 per year
Describe the nature of the contract that was approved: Lease of the Silver Tree Building in Glen Canyon Park from the Recreation and Park Department for 15 years.	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors  
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed