

RESOLUTION NO. 2019-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING THE CITY MANAGER TO EXECUTE AN AMENDED AND RESTATED LEASE AGREEMENT WITH THE BOYS AND GIRLS CLUB OF SONOMA-MARIN FOR THE CITY-OWNED PROPERTY LOCATED AT 7450 SANTA BARBARA DRIVE

WHEREAS, the City of Rohnert Park owns property located at 7450 Santa Barbara Drive, known as the Benicia Recreation Center; and

WHEREAS, Boys and Girls Club of Sonoma – Marin, began leasing the property in February 2005, as approved by City Council Resolution 2005-37; and

WHEREAS, the current lease has expired and the Boys and Girls Club of Sonoma-Marin have requested to continue leasing the property, that is approximately 4,600 square feet from the City; and

WHEREAS, the Boys and Girls Club of Sonoma – Marin continues to provide important youth services to the Rohnert Park community; and

WHEREAS, the City desires to execute an amended and restated lease agreement with the Boys and Girls Club of Sonoma - Marin; and

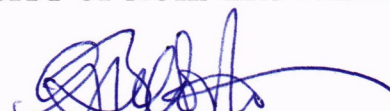
WHEREAS, the new lease agreement is for a term of three (3) years, from date of agreement with the possibility of two additional, two (2) year terms; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby authorize and approve an Amended and Restated Lease Agreement, substantially in the form of **Exhibit A**, with Boys and Girls Club of Sonoma-Marin for the City owned property located at 7450 Santa Barbara Drive, known as the Benicia Recreation Center.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the Amended and Restated Lease Agreement for and on behalf of the City of Rohnert Park, subject to such minor modifications as may be approved by the City Manager in consultation with the City Attorney. The City Manager is further authorized to take any actions and to execute any other documents necessary to effectuate the terms of the Amended and Restated Lease Agreement.


DULY AND REGULARLY ADOPTED this 3rd day of September, 2019.

CITY OF ROHNERT PARK



Gina Belforte, Mayor

ATTEST:



Sylvia Lopez Cuevas, Assistant City Clerk

Attachment: Exhibit A

ADAMS: Aye MACKENZIE: Aye STAFFORD: Aye CALLINAN: Aye BELFORTE: Aye
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)



AMENDED AND RESTATED LEASE AGREEMENT

This Amended and Restated Lease Agreement (this "Lease") is made and entered into as of this 3rd day of September, 2019 (the "Agreement Date"), by and between the City of Rohnert Park, a municipal corporation ("Landlord" or "City") and Boys and Girls Club of Sonoma-Marin, an organization ("Tenant" or "Boys and Girls Club"). Landlord and Tenant may hereafter be collectively referred to as the "Parties."

RECITALS

A. Landlord owns real property located at 7450 Santa Barbara Drive, Rohnert Park, California (the "Property"), as more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. The Property at Benicia Recreation Center, includes approximately 4600 sq. ft. of space and parking (the "Premises"), as depicted in Exhibit B attached hereto and incorporated herein by this reference.

C. Landlord and Tenant previously entered into a Lease Agreement dated of February 8, 2005, whereby Tenant agreed to lease the Premises ("Original Lease"). The Original Lease expired on February 8, 2018, and Tenant has continued to occupy the Premises as a holdover tenant pursuant to Section 20 of the Original Lease.

D. Landlord and Tenant now desire to enter into an amended and restated Lease Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Boys and Girls Club hereby agree as follows:

ARTICLE I. BASIC LEASE PROVISIONS

1.1. Landlord's contact information:

City of Rohnert Park
Darrin Jenkins, City Manager
130 Avram Avenue
Rohnert Park, CA 94928

1.2. Tenant's contact information:

Boys and Girls Club of Sonoma - Marin
Lotasha Thomas, Controller
1400 North Dutton Avenue, Suite 24
Santa Rosa, CA 95401

1.3. Rented Area - The Premises, commonly described as Benicia Recreation Center, depicted in Exhibit B.

- 1.4. Term – Three (3) years from Agreement Date, unless earlier terminated in accordance with this Lease.
- 1.5. Expiration Date - The last day of the month in which the term ends.
- 1.6. Termination of Lease Agreement - This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by either party upon sixty (60) days' written notice.
- 1.7. Use of Premises - The premises are to be used for conducting a boys and girls club and administrative office business, during the hours of 8 a.m. and 6 p.m. Monday through Friday.
- 1.8. Improvements - The cost of any improvements made as part of this Agreement shall remain the responsibility of the Tenant.
- 1.9. Covenants – It is mutually agreed that this Lease is subject to the covenants and conditions of this Agreement. Tenant covenants is a material part of the consideration for this Lease, to keep and perform each and all of said terms, covenants and conditions to be kept or performed by Tenant and that this Lease is contingent upon conditions of such performance.
- 1.10. Option(s) to Extend Term - The Parties may jointly agree to extend the lease for a maximum of two additional, two (2) year terms, pursuant to the terms herein. The party seeking to extend the term must give the other party written notice of its intent to extend the term not less than ninety (90) days prior to the Expiration Date.
- 1.8. Annual Rent - \$1/year. Tenant shall submit the annual rental payment to Landlord as outlined in Section 4.1.

ARTICLE II. DEFINITIONS

As used in this Lease, the following terms shall have the definitions set forth below. Additional terms are defined in the remainder of this Lease.

- 2.1. Alterations – means any decorations, modifications, additions, or improvements made in, on, about, under or contiguous to the Premises by or for the benefit of Tenant including but not limited to, telecommunications and/or data cabling, lighting, HVAC, and electrical fixtures, pipes and conduits, partitions, cabinetwork, and carpeting.
- 2.2. Applicable Laws – is defined in Section 5.4
- 2.3. Building – the buildings, accessory structures and other improvements located at 7450 Santa Barbara Drive, Rohnert Park, Ca 94928.
- 2.4. Environmental Laws – defined in Section 6.5
- 2.5. Event of Default – defined in Section 14.1.
- 2.6. Hazardous Material is defined in Section 6.5.

- 2.7. Premises - the rented premises shown on Exhibit B.
- 2.8. Property - real property located at 7450 Santa Barbara Drive, Rohnert Park, Ca 94928.
- 2.9. Rent – the annual amount payable per Section 1.8.
- 2.10. "Rules and Regulations" - the Rules and Regulations set forth in Exhibit C attached hereto as such may be modified or amended from time to time by Landlord.
- 2.11. Term - the term of this Lease as set forth in Section 1.4 as such may be modified pursuant to the terms hereof.

ARTICLE III. PREMISES AND TERM

3.1. Leased Premises - Subject to and upon the terms and conditions set forth herein, Landlord hereby leases the Premises to Tenant and Tenant hereby leases the Premises from Landlord. Tenant acknowledges that Landlord has made no representation or warranty regarding the condition of the Premises, and that the Building or the Property and the Premises are being leased AS-IS with all faults. The Parties agree that, based upon their own inspection and estimates, the total estimated square footage of the Premises is 4,600 square feet, notwithstanding any minor variations in measurement or other minor variations that may have occurred in the calculation thereof.

3.2. Term - The Term shall be for the period set forth in Section 1.4 as the same may be extended in accordance with the terms herein.

3.3. No Representation - Tenant acknowledges that neither Landlord nor any of Landlord's agents has made any representation or warranty as to the suitability or fitness of the Premises for the conduct of Tenant's business, and that neither Landlord nor any agent of Landlord has agreed to undertake any alterations or additions or to construct any tenant improvements to the Premises except as expressly provided in this Lease.

ARTICLE IV. RENT AND DEPOSITS

4.1. Annual Rent - Tenant shall pay to Landlord for each year of the Term, the annual Rent set forth in Section 1.8. The annual Rent shall be due and payable to Landlord no later than the 1st day of each calendar year of the Term without abatement, deduction, claim or offset except as otherwise expressly provided herein, and without prior notice, invoice or demand, at Landlord's address or such other place as Landlord may designate from time to time.

4.2. Security Deposit – Existing deposit of five hundred dollars (\$500) from tenant's former lease will continue to serve as deposit for the lease.

ARTICLE V. USE OF PREMISES

5.1. Permitted Use - The Premises shall be used solely for the purpose as specifically zoned in the City's Zoning Ordinance and as described in Section 1.7 above, and for no other purpose without the written consent of Landlord, which may be granted or withheld in Landlord's sole discretion. Tenant shall not do or suffer or permit anything to be done in or about the Premises

or the Property, nor bring or keep anything therein that would in any way subject Landlord to any liability, increase the premium rate of or affect any fire, casualty, rent, or other insurance relating to the Property or any of the contents of the Building, or cause a cancellation of or give rise to any defense by the insurer to any claim under, or conflict with any policies for such insurance. If any act or omission of Tenant results in an increase in insurance premiums for Landlord, Tenant shall pay to Landlord upon demand the amount of such increase.

5.2. Signage - Tenant shall obtain the prior approval of the Landlord, which approval may be withheld in Landlord's reasonable discretion, before placing any sign or symbol on doors or windows or elsewhere in or about the Premises so as to be visible from the public areas or exterior of the Building, or upon any other part of the Building or Property, including building directories. Any signs or symbols which have been placed without Landlord's approval may be removed by Landlord. Upon expiration or termination of this Lease, all signs installed by Tenant shall be removed and any damage resulting there from shall be promptly repaired by Tenant, or such removal and repair at Landlord's sole discretion may be done by Landlord and the cost charged to Tenant.

5.3. Rules and Regulations - Tenant shall comply with the Rules and Regulations attached hereto as Exhibit C and any amendments or additions thereto promulgated by Landlord from time to time for the safety, care and cleanliness of the Premises, Building and Property. Tenant shall not use or permit any person to use the Property, the Building, or the Premises for any purpose that is contrary to the Rules and Regulations, that violates any Applicable Law, that constitutes waste or nuisance, or that would unreasonably annoy or interfere with other occupants or the Building or the Property. Landlord shall not be responsible to Tenant for the nonperformance or noncompliance by any other tenant or occupant of the Building of or with any of the Rules and Regulations. In the event of any conflict between the provisions of this Lease and the provisions of the Rules and Regulations, the provisions of this Lease shall control.

5.4. Compliance with Laws - Tenant shall procure and maintain all governmental approvals, licenses and permits required for the proper and lawful conduct or Tenant's permitted use of the Premises, including without limitation, compliance with all federal, State and local regulatory agencies requirements. Tenant shall comply with and shall not use the Premises, the Building or the Property, or suffer or permit anything to be done in or about the same which would in any way conflict with any of the following (collectively "Applicable Laws"): (i) the provisions of all recorded covenants, conditions and restrictions applicable to the Building or the Property, or (ii) any federal, state, county, local or other governmental agency rules, regulations, statutes, ordinances, orders, standards, requirements or laws now in force or hereafter enacted, promulgated or issued which are applicable to the Building, Property, Premises, the Building, or the use or occupancy thereof including without limitation, programming content and distribution, instructional standards, building, zoning, and public safety and fire code regulations.

5.5. Repairs and Replacements - Tenant shall repair and maintain the Premises, in an order and condition in compliance with Applicable Laws and Tenant shall, at Tenant's sole expense, promptly make all repairs, replacements, alterations, or improvements necessary to comply with all Applicable Laws to the extent that such Applicable Laws are triggered by or relate to (i) Tenant's particular use of the Premises, and/or (ii) any improvements or alterations made by or on behalf of Tenant to the Premises or the Building. If Tenant fails to maintain or keep the Premises in good repair, Landlord may, at Landlord's option and after providing Tenant no less than thirty (30) days' prior written notice, perform any such required maintenance and repairs

and within ten days after receipt of Landlord's invoice thereof, Tenant shall pay Landlord's costs incurred in connection with such repairs, plus a percentage of such costs sufficient to reimburse Landlord for all overhead, general conditions, fees and other costs and expenses in connection therewith. Except to the extent Tenant is expressly obligated to do so pursuant to this Lease, Landlord shall, at Landlord's sole expense, make all repairs, replacements, alterations, or improvements necessary to comply with all Applicable Laws as in effect as of the Agreement Date to the extent that (i) such Applicable Laws relate to the exterior or structural portion of the Building, and (ii) the requirement to undertake such repairs, replacements, alterations, or improvements is not triggered as a result of Tenant's particular use of the Premises.

5.6. Parking - Landlord hereby grants to Tenant a nonexclusive license and right, in common with Landlord and all persons conducting business in the Building and their respective customers, guests, licensees, invitees, employees and agents, to use the parking area located on the Property for vehicular parking, on a "first-come, first-served" basis. The nonexclusive license and right granted pursuant to this Section shall be subject to the Rules and Regulations.

ARTICLE VI. ENVIRONMENTAL MATTERS

6.1. Use of Hazardous Materials - Tenant shall not cause or permit any Hazardous Material, as defined in Section 6.5, below to be generated, brought onto, used, stored, or disposed of in or about the Premises, the Building or the Property by Tenant or Tenant's agents, employees, contractors, subtenants or invitees (collectively "Tenant Parties"), except for limited quantities of standard office and janitorial supplies, which Tenant shall use, store and dispose of in strict compliance with all Environmental Laws, as defined in Section 6.5 below. Tenant shall comply with all Environmental Laws.

6.2. Notice of Release or Investigation – If, during the Term (including any extensions), Tenant becomes aware of (a) any actual or threatened release of any Hazardous Material on, under, or about the Premises, the Building or the Property, or (b) any inquiry, investigation, proceeding, or claim by any government agency or other person regarding the presence of Hazardous Material on, under, or about the Premises, the Building, or the Property, Tenant shall give Landlord written notice of the release or investigation within three (3) days after learning of it and shall simultaneously furnish to Landlord copies of any claims, notices of violation, reports, or other writings received by Tenant that concern the release or investigation.

6.3. Indemnification - Tenant shall defend (with counsel acceptable to Landlord), indemnify and hold harmless Landlord and Landlord's elected and appointed officers, officials, employees, agents, and representatives (collectively, "Indemnitees") from and against any and all liabilities, losses, damages, fines, penalties, claims, demands, suits, actions, causes of action, legal or administrative proceedings, judgments, costs and expenses (including without limitation reasonable attorneys' fees and expenses, court costs, expert witness fees and post judgment collection costs) (collectively, "Claims") resulting or arising from or in connection with any release of any Hazardous Material in or about the Premises, the Building, or the Property (unless such release is solely caused by Indemnitees) or any other violation of any Environmental Law by Tenant, or Tenant Parties. This indemnification includes: (i) losses attributable to diminution in value of Premises or the Building; (ii) loss or restriction of use of rentable space in the Building; (iii) adverse effect on the marketing of any space in the Building; and (iv) all other liabilities, obligations, penalties, fines, claims, actions (including remedial or enforcement actions, administrative or judicial proceedings, orders, or judgments), damages (including

consequential and punitive damages), and costs (including attorney, consultant, and expert fees and expenses) resulting from the release or violation. This indemnity shall not extend to Claims to the extent they are caused by the gross negligence or willful misconduct of Indemnitees. The provisions of this Section shall survive the expiration or termination of this Lease.

6.4. Remediation Obligations - If the presence of any Hazardous Material brought onto the Premises or the Building by Tenant or Tenant Parties results in contamination of the Building, Tenant shall promptly take all necessary actions to remove or remediate such Hazardous Materials, whether or not they are present at concentrations exceeding state or federal maximum concentration or action levels, or any governmental agency has issued a cleanup order, at Tenant's sole expense, to return the Premises and the Building to the condition that existed before the introduction of such Hazardous Material. Tenant shall first obtain Landlord's approval of the proposed removal or remedial action. This provision does not limit the indemnification obligation set forth in Section 6.3.

6.5. Definition of Hazardous Material and Environmental Laws - As used in this Lease, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste at any concentration that is or becomes regulated by the United States, the State of California, or any government authority having jurisdiction over the Building Hazardous Material includes: (a) any "hazardous substance," as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S. Code §§ 9601-9675); (b) "hazardous waste," as defined in the Resource Conservation and Recovery Act of 1976 (42 U.S. Code §§ 6901-6992k); (c) any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect); (d) petroleum products; (e) radioactive material, including any source, special nuclear, or byproduct material as defined in 42 U.S. Code §§ 2011-2297g-4; (f) asbestos in any form or condition; and (g) polychlorinated biphenyls ("PCBs") and substances or compounds containing PCBs. As used in this Lease, the term "Environmental Laws" means all federal, state and local laws, ordinances, regulations, rules, orders and directives pertaining to Hazardous Materials, including without limitation, the laws, statutes, and regulations cited in this Section 6.5, as any of the foregoing may be amended from time to time.

ARTICLE VII.

OBLIGATIONS FOR UTILITIES AND SERVICES

7.1. Building Services - Landlord shall supply Utility Services and Maintenance Services described below in accordance with this Article VII. Utility Services and the Maintenance Services are collectively referred to as "Building Services." Except as otherwise provided herein, the cost of all Building Services shall be paid by Tenant directly to utility providers as set forth in Section 7.1.

7.1.1 Utility Services - Landlord shall furnish the utility services listed in this Section ("Utility Services") except to the extent that Tenant has separately contracted for the provision of such services. On a schedule to be selected by Tenant ("Scheduled Utility Hours") Landlord shall supply: (i) electricity for lighting and power suitable for use of the Premises for ordinary general office purposes; (ii) air conditioning and heating as required in Landlord's reasonable judgment for the comfortable use and occupancy of the Premises for ordinary general office purposes; (iii)

water for drinking and lavatory purposes; and (iv) regular sewer service at the expense of the Tenant. All Utility Services shall be placed in the Tenant's name.

7.1.2 Maintenance Services - Landlord shall provide maintenance of all exterior areas of the Building and the Property, (collectively, "Maintenance Services") including without limitation: (i) painting, maintenance and repair of the Building exterior, (ii) maintenance and repair of the Building infrastructure's mechanical, electrical, HVAC and plumbing equipment and systems, and the Building structural components including the roof, foundation, floors and walls, and (iii) maintenance of all public and common areas of the Building and the Property including parking lots, walkways, driveways, utility systems, fire sprinklers, and corridors. Tenant shall be responsible for janitorial service, window cleaning and routine maintenance to the Premises, including clean and inspect kitchen Ansul system as required.

7.2. Interruption of Services - Tenant agrees that Landlord shall not be liable for damages, by abatement of Rent or otherwise, for failure to furnish or delay in furnishing any Building Service or for diminution in the quality or quantity of any service when the failure, delay, or diminution is entirely or partially caused by: (a) breakage, repairs, replacements, or improvements; (b) strike, lockout, or other labor trouble; (c) inability to secure electricity, gas, water, or other fuel at the Building after reasonable effort to do so; (d) accident or casualty; (e) act or default of Tenant or other parties; or (f) any other cause beyond Landlord's reasonable control. Such failure, delay, or diminution shall not be considered to constitute an eviction or a disturbance of Tenant's use and possession of the Premises or relieve Tenant from paying Rent or performing any of its obligations under this Lease. Landlord may comply with mandatory or voluntary controls or guidelines promulgated by any government entity relating to the use or conservation of energy, water, gas, light, or electricity without creating any liability of Landlord to Tenant under this Lease as long as compliance with voluntary controls or guidelines does not materially and unreasonably interfere with Tenant's use of the Premises.

7.3. Compliance with Applicable Laws - Landlord and Tenant shall each comply with (and shall cause their respective employees, agents and contractors to comply with) all Applicable Laws, including without limitation all Environmental Laws, whenever either party undertakes any work of construction, alteration or improvement in the Premises or the Building.

7.4. Statutory Notice Possessory Interest Tax - Tenant is advised that under California Revenue and Taxation Code Section 107.6, execution of this Agreement may create a possessory interest in Tenant subject to property taxation. Tenant hereby agrees that if such possessory interest is created and is subject to property taxation, Tenant shall be solely responsible for the payment of said property taxes levied on any such interest.

ARTICLE VIII.

ALTERATIONS AND ADDITIONS

8.1. Alterations and Improvements – Tenant may not make any Alterations to the Premises or Building without the prior written approval of Landlord. Any Landlord-approved Alterations shall be done at Tenant's expense, in a good and workmanlike manner, in conformity with plans and specifications reviewed and approved by Landlord, and in compliance with all Applicable Laws. Tenant shall obtain all necessary governmental approvals and permits for such Alterations. Tenant shall give Landlord not less than ten (10) business days' notice prior to the commencement of construction so that Landlord may post a notice of non-responsibility on the Premises. In no event shall any Alteration:

- (i) affect the exterior of the Building,
- (ii) affect any structural portion of the Building, including without limitation, the roof,
- (iii) require any change to the basic floor plan of the Premises or any change to the structural or mechanical components of the Premises,
- (iv) diminish the value of the Premises,
- (v) result in an increase in demand for Building Services,
- (vi) cause an increase in the premiums for hazard or liability insurance carried by Landlord, or
- (vii) overload the floor load capacity or unduly burden the plumbing, heating, ventilation, air conditioning, electrical or other basic systems that serve the Building.

8.2. Liens - Tenant shall not permit any mechanics', suppliers' lien or other liens, to be filed against the Building or the Property or against Tenant's leasehold interest in the Premises. Landlord has the right at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens. If Tenant fails to cause the release of record of any lien(s) filed against the Premises or Tenant's leasehold estate therein, by payment or posting of a proper bond within ten (10) days from the date of the lien filing(s), then Landlord may, at Tenant's expense, cause such lien(s) to be released by any means Landlord deems proper, including but not limited to payment of or defense against the claim giving rise to the lien(s). All sums reasonably disbursed, deposited or incurred by Landlord in connection with the release of the lien(s), including but not limited to all costs, expenses and attorney's fees, shall be due and payable by Tenant to Landlord as Additional Rent on demand by Landlord.

ARTICLE IX.

INSURANCE AND INDEMNITY

9.1. Indemnity - To the fullest extent permitted by law, Tenant shall defend (with counsel reasonably acceptable to Landlord), indemnify and hold Indemnitees harmless from and against any and all Claims arising out of or relating directly or indirectly to this Lease or the Premises (including without limitation, Claims for or relating to loss of or damage to property, injury or death of any person, and economic losses and consequential or resulting damage of any kind), including any Claim arising from or in connection with or in any way attributable to: (i) the use or occupancy, or manner of use or occupancy of the Premises, the Building or the Property by Tenant or the Tenant Parties, (ii) any act, error, omission or negligence of Tenant or Tenant Parties or any invitee, guest or licensee of Tenant in, on or about the Property including without limitation Claims which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, any act or omission of Tenant or Tenant Parties, (iii) any activity, work, or thing done, omitted, permitted, allowed or suffered by Tenant or Tenant Parties in, at, or about the Premises, the Building or the Property, and/or (iv) any breach or default in performance of any obligation on Tenant's part in the performance of any covenant or agreement to be performed under this Lease, except to the extent caused by the sole gross negligence or willful misconduct of the Indemnitees. The provisions of this Section shall not be construed or interpreted as restricting, limiting or modifying Tenant's insurance obligations under this Lease and are independent of such obligations. Tenant's compliance with insurance requirements set forth in this Lease shall not restrict, limit or modify Tenant's indemnification obligations hereunder. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

9.2. Tenant's Insurance - Tenant shall, at its sole expense, procure and maintain throughout the Term (plus any later periods where Tenant may be in occupancy of the Premises) all of the insurance coverage, of the type and amounts as described in Exhibit D.

ARTICLE X.

ASSIGNMENT AND SUBLETTING

10.1. Landlord's Consent Required - Tenant shall not directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, assign, mortgage, pledge, encumber or otherwise transfer this Lease, or permit all or any part of the Premises to be subleased or used or occupied for any purpose by anyone other than Tenant without the prior written consent of Landlord, which consent may be granted in Landlord's sole and absolute discretion. Any assignment or sublease without Landlord's prior written consent shall, at Landlord's option, be void and shall constitute an Event of Default entitling Landlord to terminate this Lease and to exercise all other remedies available to Landlord under this Lease and at law.

10.2. No Release of Obligations - The consent by Landlord to an assignment or subletting hereunder shall not relieve Tenant or any assignee or subtenant from the requirement of obtaining Landlord's express prior written consent to any other or further assignment or subletting. No subtenant may assign its sublease, or further sublet its subleased premises, without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion. Neither an assignment or subletting nor the collection of rent by Landlord from any person other than Tenant shall be deemed a waiver of any of the provisions of this Article or release Tenant from its obligations to comply with this Lease, and Tenant shall remain fully and primarily liable for all of Tenant's obligations under this Lease.

ARTICLE XI.

DAMAGE AND DESTRUCTION

11.1. Repair and Restoration; Termination Rights - If all or part of the Premises is damaged by fire or other casualty, or if the Building is so damaged that access to or use and occupancy of the Premises is materially impaired, within forty-five (45) days of the date of the damage, Landlord shall notify Tenant of the estimated time, in Landlord's reasonable judgment, required for repair or restoration ("Repair Period"). If the estimated Repair Period is one hundred eighty (180) days or less, Landlord shall proceed promptly and diligently to repair or restore the Premises or the portion of the Building necessary for Tenant's occupancy, and this Lease shall remain in effect, except that for the time unusable, Tenant shall receive a Rent abatement for that part of the Premises rendered unusable in the conduct of Tenant's business. If the estimated Repair Period is in excess of one hundred eighty (180) days from the date of the casualty, Landlord, at its option, shall either (a) commence to repair the damage, in which case this Lease shall continue in full force and effect, or (b) terminate this Lease as of the date specified by Landlord in a notice of termination, and this Lease shall terminate on the date specified in the notice.

11.2. Damage Near End of Term - Notwithstanding anything to the contrary set forth in this Article, if the Premises or the Building are damaged during the last twelve (12) months of the Term, Landlord and Tenant shall each have the option to terminate this Lease by giving written notice to the other of the exercise of that option within thirty (30) days after the damage or destruction, and this Lease shall terminate as of the date specified in such notice which shall not be before the date of such notice nor more than 30 days after the date of such notice.

11.3. Rent Apportionment - If Landlord or Tenant elects to terminate this Lease under this Article XI, Tenant shall pay Rent, prorated on a per diem basis and paid up to the date of the casualty. If the Premises are wholly untenable and this Lease is not terminated, Rent shall abate on a per diem basis from the date of the casualty until Premises are ready for occupancy by Tenant or the default is cured. If part of the Premises are untenable, Rent shall be prorated on a per diem basis and abated in proportion to the portion of the Premises which is unusable until the damaged part is ready for Tenant's occupancy. Notwithstanding the foregoing, if any damage was caused by the gross negligence or willful misconduct of Tenant, its employees or agents, then, in such event, Tenant acknowledges that Rent shall not abate or be diminished.

11.4. Waiver of Statutory Provisions - The provisions of this Lease, including those in this Article XI, constitute an express agreement between Landlord and Tenant that applies in the event of any damage to the Premises, Building, or Property. Tenant, therefore, fully waives the provisions of any statute or regulation, including California Civil Code sections 1932(2) and 1933(4), relating to any rights or obligations concerning any such casualty.

ARTICLE XII.

SURRENDER OF PREMISES; HOLDING OVER

12.1. Surrender of Premises - On expiration of this Lease, Tenant shall surrender the Premises in the same condition as when the Term commenced, ordinary wear and tear excepted. Except for furniture, equipment and trade fixtures (other than those which are affixed to the Premises so that they cannot be removed without material damage to the Premises) all alterations, additions or improvements, whether temporary or permanent in character, made in or upon the Premises, either by Landlord or Tenant, shall be Landlord's property and at the expiration or earlier termination of this Lease shall remain on the Premises without compensation to Tenant; provided that, upon reasonable written request of Landlord, Tenant shall, at its expense and without delay, remove any alterations, additions or improvements (including, without limitation, all telecommunications equipment and cabling, and all alterations and improvements made by Tenant) made to the Premises by Tenant and designated by Landlord to be removed, and shall repair any damage to the Premises or the Building caused by such removal. If Tenant fails to complete such removal or to repair the Premises, Landlord may complete such removal and repair, and Tenant shall reimburse Landlord therefore. If Tenant fails to remove such property as required under this Lease, Landlord may dispose of such property in its sole discretion without any liability to Tenant, and further may charge the cost of any such disposition to Tenant.

ARTICLE XIII.

LANDLORD'S RESERVED RIGHTS

13.1. Rights Reserved to Landlord - Without notice and without liability to Tenant, and without effecting an eviction or disturbance of Tenant's use or possession, Landlord shall have the right to: (i) make changes in the legal status of the Building or the Property as Landlord shall deem appropriate in its sole discretion, provided such changes do not substantially interfere with Tenant's use of the Premises for the Permitted Use; (ii) enter the Premises at reasonable times and with reasonable advance notice (and at any time in the event of an emergency), to inspect or repair the Premises or the Building and to perform any acts related to the safety, protection, reletting, or improvement of the Premises or the Building; (iii) install and maintain signs on and in the Building and the Property; and (iv) make such rules and regulations as, in the reasonable judgment of Landlord, may be needed from time to time for the safety of the tenants, the care and cleanliness of the Premises, the Building and the Property and the preservation of good order therein. Landlord shall at all times retain a key with which to unlock all of the doors in the

Premises, except Tenant's vaults and sales. Tenant shall pay Landlord the cost of re-keying the room upon occupancy of the room. If any emergency necessitates immediate access to the Premises, Landlord may use whatever force is necessary to enter the Premises and any such entry to the Premises shall not constitute a forcible or unlawful entry into the Premises, a detainer of the Premises or an eviction of Tenant from the Premises or any portion thereof.

ARTICLE XIV. DEFAULT AND REMEDIES

14.1. Tenant's Default - It shall be an "Event of Default" hereunder if Tenant:

- (a) fails to pay when due any annual installment of Rent, including without limitation, any Additional Rent, or fails to pay any other amount owed by Tenant to Landlord under this Lease as and when due and such failure continues for five (5) days following written notice thereof to Tenant by Landlord;
- (b) fails to provide any certificate, instrument or assurance as required by this Lease if the failure continues for ten (10) days after written notice of the failure to Tenant;
- (c) makes a general assignment for the benefit of its creditors or files a petition for bankruptcy or other reorganization, liquidation, dissolution or similar relief or have a proceeding filed against Tenant seeking any relief mentioned in this subsection (c) which is not discharged within sixty (60) days thereafter;
- (d) has a trustee, receiver or liquidator appointed for Tenant;
- (e) abandons or vacate the Premises for more than three (3) consecutive months;
- (f) assigns this Lease or subleases any portion of the Premises;
- (g) fails to operate and use the Premises for the purpose provided herein; or
- (h) fails to comply with any other provision of this Lease in the manner required hereunder and such failure continues for thirty (30) days after written notice thereof to Tenant by Landlord (or if the noncompliance cannot by its nature be cured within the 30-day period, if Tenant fails to commence to cure such noncompliance within the 30-day period and thereafter diligently prosecute such cure to completion).

14.2. Remedies on Default - Upon the occurrence of an Event of Default, Landlord shall have the right to pursue any one or more of the following remedies in addition to any other remedies now or later available to Landlord at law or in equity. These remedies are not exclusive but instead are cumulative.

- (a) Continue Lease - Landlord may continue this Lease in full force and effect. In such case, so long as Landlord does not terminate Tenant's right to possession, this Lease will continue in effect and Landlord shall have the right to collect Rent when due, and may undertake efforts to relet the Premises, or any part of them, to third parties for Tenant's account. Tenant shall be liable to Landlord for all reasonable costs Landlord incurs in reletting the Premises including without limitation, expenses of remodeling the Premises required by the reletting. Reletting can be for a period shorter or longer than the remaining term of this Lease. Tenant shall pay to

Landlord the Rent due under this Lease on the date the Rent is due, less the Rent Landlord receives from any reletting. No act by Landlord allowed by this Section shall terminate this Lease unless Landlord terminates Tenant's right to possession. After an Event of Default and for as long as Landlord does not terminate Tenant's right to possession of the Premises, if Tenant obtains Landlord's consent, Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability.

(b) Terminate Lease - Landlord may terminate this Lease and Tenant's right to possession of the Premises at any time following an Event of Default. No act by Landlord other than giving written notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises or the appointment of a receiver to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession. On termination, Landlord shall have the right to recover from Tenant all of the following:

(i) The worth, at the time of the award, of any unpaid Rent that had been earned at the time of termination of this Lease;

(ii) The worth, at the time of the award, of the amount of unpaid Rent that would have been earned after the date of termination of this Lease until the time of the award exceeds the amount of the unpaid Rent that Tenant proves could have been reasonably avoided;

(iii) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform obligations under this Lease, including, without limitation, brokerage commissions, advertising expenses, expenses of remodeling the Premises for a new tenant, and any special concessions made to obtain a new tenant; and

(iv) Any other amounts, in addition to or in lieu of those listed above that may be permitted by law.

(c) Receiver - Landlord shall have the right to have a receiver appointed to collect Rent. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by Landlord to terminate this Lease.

14.3. Landlord's Default - Landlord's failure to perform any of its obligations under this Lease shall constitute a Landlord Event of Default hereunder if the failure continues for thirty (30) days after written notice of the failure from Tenant to Landlord. If the required performance cannot be completed within thirty (30) days, Landlord's failure to perform shall not constitute a Landlord Event of Default if Landlord undertakes to cure the failure within such thirty-(30) day period and diligently and continuously attempts to complete the cure as soon as reasonably possible. Tenant waives any right to terminate this Lease and to vacate the Premises upon Landlord's default under this Lease. Tenant's sole remedy on Landlord's default is an action for injunctive or declaratory relief. In no event shall Landlord be liable for any special, punitive or consequential damages.

ARTICLE XV. MISCELLANEOUS

15.1. No Waiver - No receipt and retention by Landlord of any payment tendered by Tenant in connection with this Lease shall constitute an accord and satisfaction, or a compromise or other settlement, notwithstanding any accompanying statement, instruction or other assertion to the

contrary unless Landlord expressly agrees to an accord and satisfaction, or a compromise or other settlement, in a separate writing duly executed by Landlord. Landlord will be entitled to treat any such payments as being received on account of any item or items of Rent, interest, expense or damage due in connection herewith, in such amounts and in such order as Landlord may determine at its sole option. Failure of any party to exercise any right in one or more instance shall not be construed as a waiver of the right to strict performance or as an amendment to or modification of this Lease. Any waiver of any condition or provision set forth in this Lease shall not be deemed a waiver of any subsequent breach of such condition or provision or of any other condition or provision, nor shall any such waiver be deemed a continuing waiver.

15.2. Severability - The Parties intend this Lease to be legally valid and enforceable in accordance with all of its terms to the fullest extent permitted by law. If an arbitrator or a court of competent jurisdiction holds any provision hereof to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless an essential purpose of this Lease would be defeated by loss of the invalid or unenforceable provision.

15.3. Governing Law; Venue; Construction - This Lease shall be construed according to the laws of the State of California without regard to principles of conflict of laws. Any action or proceeding that relates to, or arises from, this Lease shall be brought in a state court of competent jurisdiction located in Sonoma County. The captions used for the Sections and Articles of this Lease have been inserted for convenience only and shall not be used to alter or interpret the content of this Lease.

15.4. Binding Effect: Survival - The covenants, conditions, warranties and agreements contained in this Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. The representations and warranties of Landlord and Tenant and the indemnification obligations of Landlord and Tenant set forth herein shall survive the expiration or termination of this Lease as shall all other provisions hereof which are intended to survive such expiration or termination.

15.5. Time - Time is of the essence of each provision of this Lease.

15.6. Entire Agreement; Amendments - This Lease and Exhibits A, B, C, and D attached hereto and incorporated herein by this reference, constitutes the final, complete, and exclusive statement of the terms of the agreement between Landlord and Tenant pertaining to the lease of the Premises and supersedes all prior and contemporaneous understandings or agreements of the parties. This Lease may not be amended or modified except in a writing signed by both Parties.

15.7. Notices - All notices delivered pursuant to this Lease shall be in writing and delivered to Landlord or Tenant at the applicable address designated in Section 1.1 or to such other address as may hereafter be designated by either party by written notice delivered to the other party in accordance with this Section. Such notices shall be effective on the earlier to occur of actual receipt or: (i) if mailed, three (3) days after posting at a United States post office, (ii) upon receipt if mailed by certified mail with return receipt requested, and (iii) upon delivery if delivered by overnight delivery service and delivery is confirmed by the delivery service.

15.8. Force Majeure - Except as otherwise provided in this Lease, the time for performance of an obligation other than payment of money under this Lease shall be extended for the period

during which a party is prevented from performing due to Unavoidable Delay. "Unavoidable Delay" shall mean any and all delay beyond the applicable party's reasonable control, including without limitation, delays caused by the other party; governmental restrictions, regulations, controls, preemptions or delays; orders of civil, military or naval authorities; strikes, labor disputes, lock-outs, shortages of labor or materials or reasonable substitutes therefore; Acts of God; fire, earthquake, floods, explosions or other casualties; extreme weather conditions or other actions of the elements; enemy action, civil commotion, riot or insurrection.

15.9. Authority - Each party warrants and represents that it has full authority to enter into this Lease, that this Lease constitutes a binding obligation of such party, and that the individual(s) signing on behalf of such party are duly authorized to bind such party hereto.

15.10. Landlord Approval - Whenever the consent or approval of Landlord is required hereunder, such consent or approval may be granted or withheld by the City Manager or his or her designee, unless the City Manager determines in his or her discretion that such matter shall be referred to Landlord's governing body for consideration.

15.12 Counterparts - This Lease may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same instrument. The signature page of any counterpart may be detached there from without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by any other party. This Lease shall take effect when signed by all Parties.

15.13 Amendment and Restatement. This Lease amends and restates the Original Lease in its entirety. The Original Lease is of no further force and effect.

NOW THEREFORE, Landlord and Tenant executed this Lease as of the date first written above.

LANDLORD:
CITY OF ROHNERT PARK

TENANT:
BOYS AND GIRLS CLUB
OF SONOMA - MARIN

By: _____ / _____
Name: _____ (Date)
Title: _____

By: _____ / _____
Name: _____ (Date)
Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

List of Exhibits:

Exhibit A:	Property Description
Exhibit B:	Map of Premises Being Leased
Exhibit C:	Rules and Regulations for Property
Exhibit D:	Insurance Requirements

EXHIBIT A

PROPERTY DESCRIPTION

Benicia Recreation Center, 7450 Santa Barbara Drive, Rohnert Park, California. The building is zoned *Public Institutional*.

MAP OF PREMISES

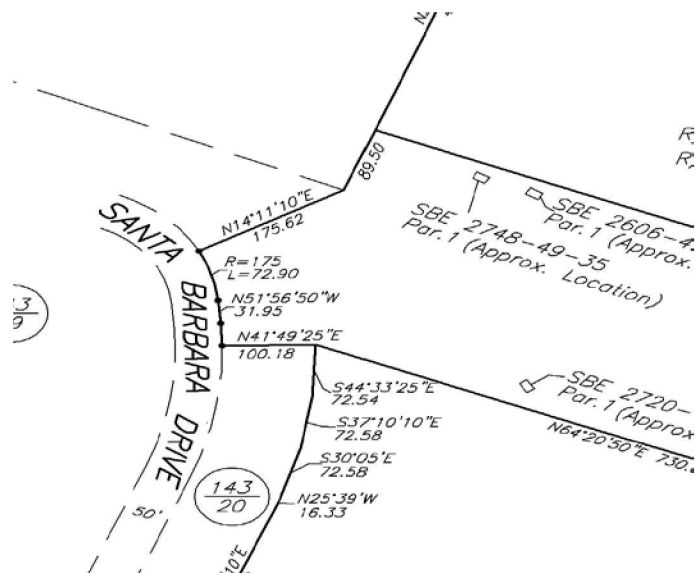


EXHIBIT C

RULES AND REGULATIONS FOR PROPERTY

Alcohol

No alcohol is permitted on the premises.

No-Smoking

Smoking is prohibited in and around all City facilities pursuant to Ordinance No. 813 adopted April 28, 2009.

Music and Noise Levels

User groups are requested to keep loud noise at a courteous level in the building and parking lot areas.

Minors

Activities for minors (18 and under) must be supervised by responsible adult for the entire period of the activity.

Securing the facility

The Tenant shall be responsible for securing the Building upon exit.

Zoning Ordinance

Tenant shall comply with all applicable zoning ordinance/restrictions for the Property

EXHIBIT D

INSURANCE REQUIREMENTS

(1) **Commercial** general liability **insurance** including contractual liability coverage, written on an "occurrence" policy form, covering bodily injury, property damage and personal injury arising out of or relating (directly or indirectly) to Tenant's operations, assumed liabilities, or use or occupancy of the Premises, the Building or the Property naming the Landlord as an additional insured, with minimum coverage in the amount of Two Million Dollars (\$2,000,000) per occurrence combined single limit for bodily injury and property damage and Two Million Dollars (\$2,000,000) in the aggregate;

(2) **Property insurance** protecting Tenant against loss or damage by fire and such other risks as are insurable under then available standard forms of "special risk" insurance policies, covering Tenant's personal property and trade fixtures in or about the Premises or the Property, and any improvements or Alterations in the Premises, in an amount of one hundred percent (100%) of actual replacement cost or highest insurable value;

(c) **Workers'** compensation and employers liability insurance of not less than one million dollars (\$1,000,000); and

(d) If Tenant operates owned, leased or non-owned vehicles on the Property, **comprehensive automobile liability insurance** with a minimum coverage of one million dollars (\$1,000,000) per occurrence, combined single limit.

The foregoing policies shall protect Tenant as named insured, and Landlord and the other Indemnitees as additional insured's. Landlord reserves the right to increase the foregoing amount of required liability coverage from time to time (but not more than once each calendar year) and to require that Tenant cause any Tenant Parties conducting activities in or about or occupying the Premises to obtain and maintain similar types and amounts of insurance.

Each insurance policy must include an endorsement to provide that the policy and the coverage provided shall be primary, that Landlord, although an additional insured, shall nevertheless be entitled to recovery under such policy for any damage to Landlord by reason of acts or omission of Tenant, and that any coverage carried by Landlord shall be noncontributory with respect to policies carried by Tenant. Each such insurance policy or a certificate thereof, including appropriate endorsements, shall be delivered to Landlord by Tenant on or before the Agreement Date, and thereafter renewal policies, certificates, and appropriate endorsements at least thirty (30) days prior to the expiration dates of expiring policies.

Tenant shall cause its insurance companies issuing general liability, property (first party) insurance, and workers' compensation insurance to waive any subrogation rights that those companies may have against Landlord, as long as the insurance is not invalidated by the waiver.