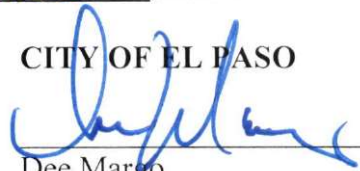


RESOLUTION

That the City Manager be authorized to sign a Lease Agreement between the City of El Paso and Paisano Housing Redevelopment Corporation, an affiliate of the Housing Authority for the City of El Paso, for the lease to the City of the 17th floor of the Blue Flame Building located at 304 Texas Ave. El Paso, Texas 79901. The initial term of the lease is 10 years with two renewal options to extend for additional 5 years each option. The Base Rent for the first year is \$70,317 with an approximate two percent increase in the following years during the term. Further, that the City Manager be authorized to sign any amendments to the Lease Agreement provided that such amendments do not increase the Term of the lease or increase the Base Rent amounts.

ADOPTED this 15th day of October, 2019.


CITY OF EL PASO


Dee Margo
Mayor

ATTEST:


Laura D. Prine
City Clerk

APPROVED AS TO FORM:


Omar De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:


Nicole Ferrini, Director
Community and Human Development

Lease Agreement

This Lease Agreement ("*Lease*") is entered as of this 15th day of October 2019 by and between Paisano Housing Redevelopment Corporation ("*Landlord*") and the City of El Paso, Texas ("*Tenant*").

Whereas, the Tenant is seeking appropriate space to house the Tenant's Center for Civic Empowerment; and

Whereas, the Tenant has approached the Landlord for the use of the 17th floor of the Blue Flame building located at 304 Texas Avenue; and

Whereas, the 17th floor is currently a mechanical space floor not fit for leasing; and

Whereas, the 17th floor will need improvements to get the floor to condition fit for occupation;

Whereas, the Tenant and Landlord are willing to work together to improve the 17th floor to house the Center for Civic Empowerment; and

Whereas, the Tenant and Landlord, by separate agreement between them, have obtained and approved the use of Community Development Block Grant ("*CDBG*") funds to contribute to the construction of the Center for Civic Empowerment:

Now therefore, the parties agree as follows:

Article 1: Premises, Term, and Use

1.01 Leased Premises.

A. Upon the terms, provisions and conditions hereof, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the meeting room space known as the "Center for Civic Empowerment" reflected on the floor plans set forth in Exhibit "A" hereto in the Building known as The Blue Flame Building, 304 Texas Ave., El Paso, Texas 79901 (the "*Building*," which term shall also include the related parking areas, landscaping, and other similar improvements), constructed or to be constructed on the land described in Exhibit "B" hereto. The Center for Civic Empowerment, together with any other space in the Building leased by Tenant pursuant hereto, are herein called the "*Leased Premises*." The Leased Premises does not include the outdoor patio area immediately outside of the Leased Premises.

B. The net rentable of the initial Leased Premises for office space is approximately 6,115 square feet on the 17th Floor of the Building, and the rentable area for the commercial office space of the Building is approximately 42,191 square feet. This amount does not include the residential portions of the Building.

C. Before or on the commencement date of the Term of this Lease, the Landlord will deliver the Leased Premises to the City in accordance to the final approved plans and specifications attached to this Agreement as Exhibit "C".

1.02 Term.

A. Initial Term. Subject to the terms, provisions and conditions hereof, this Lease shall continue in force for a term ("*Term*") of ten (10) years, beginning on the later to occur of receipt of Certificate of Occupancy from City of El Paso or 1st day of July 2020, and ending on the last day of the 120th month or 30th day of June, 2030 respectively. If the Leased Premises are not ready for occupancy by such commencement date for any reason, Landlord shall not be liable for any claims, damages, or liabilities in connection therewith or by reason thereof, and the Term shall commence on the date the Leased Premises are ready for occupancy by Tenant. Should the Term commence on a date other than that specified above, Landlord and Tenant will, at the request of either, execute a declaration specifying the actual commencement date. In such event, rental under this Lease shall not commence until the actual commencement date, and the stated Term shall thereupon commence and the expiration date shall be extended so as to give effect to the full Term stated above.

B. Renewal Option. Landlord hereby grants to Tenant, and Tenant shall have, the right and option to extend the Term of this Lease for two (2) periods of five (5) years (a "*Renewal Term*"). The Renewal Term, if exercised by Tenant, shall commence upon the next day following the last day of the initial Term. Tenant shall notify Landlord in writing of Tenant's election to extend the lease for the Renewal Term at least 60 days prior to the expiration of the Term, time being of the essence with respect to such notification. If Landlord does not receive written notice of the exercise of a renewal option by Tenant as required herein, the Lease shall expire as of the term then in effect as if the Renewal Term was not granted and did not apply. The Renewal Term shall be upon all of the terms and conditions of this Lease, except the Base Monthly Rent shall be increased as stated in Section 2.01 of this Agreement.

1.03 Tenant's Use. The Leased Premises shall be used and occupied by Tenant solely and exclusively for the purposes as a general assembly space, trainings, and special events.

1.04 Landlord's Mixed-Use of the Building. Landlord maintains and operates the Building as a combination of affordable housing apartments, retail, and commercial office space, referred to as a mixed-use building. This Lease does not permit or grant rights to Tenant to provide retail services or residential living, as the retail and residential components of the Building are subject to a separate form of lease. By executing this Lease, however, Tenant agrees to and accepts Landlord's current and future mixed usages of the Building as set forth herein.

1.05 Use of Shared Use Spaces. Tenant may use all publicly shared use spaces within the Building including the patio located outside the Leased Premises, excluding the private residential floors and secure areas of the underground facilities.

Article 2: Rent

2.01 Rental Rates.

A. Base Rental. During the Term, Tenant shall pay an annual base rental (“*Base Rental*”) in the sum per the schedule below; **Base Rental includes Initial Basic Operating Costs** (hereafter defined). Such annual Base Rental together with all increases thereof provided for herein shall be due and payable in advance in twelve (12) equal installments on the first day of each calendar month during the Term, at Landlord’s address as provided herein (or at such other place as Landlord may hereafter designate) without demand, deduction, abatement, or set off (except as otherwise expressly provided for in Sections 5.01 and 5.02. If the Term commences or ends on other than the first or last day of a calendar month, then the installment of Base Rental or such month shall be appropriately prorated.

Year	Net Rentable Square Foot Rate	Base Rental/Year	Rent Per Month
1	\$11.50	\$70,317	\$5,859.78
2	\$11.85	\$72,427	\$6,035.57
3	\$12.20	\$74,600	\$6,216.64
4	\$12.57	\$76,838	\$6,403.14
5	\$12.94	\$79,143	\$6,595.23
6	\$13.33	\$81,517	\$6,793.09
7	\$13.73	\$83,963	\$6,996.88
8	\$14.14	\$86,481	\$7,206.79
9	\$14.57	\$89,076	\$7,422.99
10	\$15.00	\$91,748	\$7,645.68

B. Base Rental for Renewal Term(s). Base Rental for the Renewal Terms shall increase by two percent (2.0%) each year.

2.02 Tenant’s Share of Basic Operating Costs.

A. Tenant shall also pay, as hereinafter provided, Tenant’s Share (hereafter defined) of any **increases in the Basic Operating Costs** (hereinafter defined) for the commercial office space of the Building (Floors 1 and 14 through 17, excluding the outdoor patio area on 17th floor) over the Initial Basic Operating Costs. The **“Initial Basic Operating Costs”** (on a per square foot of rentable area per year basis) **is hereby stipulated to be \$5.00.** The **Initial Basic Operating Cost is included in, and not in addition to, the Base Rental amount paid by Tenant.** Prior to the commencement of each calendar year during the Term, Landlord shall provide a then current estimate of Basic Operating Costs for the initial calendar year, and thereafter, Tenant shall pay, as additional rent, in twelve (12) equal monthly installments at the time and place provided in Section 2.01, Tenant’s Share of the estimated difference between Basic Operating Costs and Initial Basic Operating Costs for the calendar year in question.

B. Within one hundred fifty (150) days or as soon thereafter as possible of the conclusion of each calendar year of the Term, whichever is earlier, Landlord shall furnish to Tenant

a statement of actual **Basic Operating Costs** for such year, and within ten (10) business days thereafter an appropriate cash adjustment shall be made between Landlord and Tenant to reflect any difference between Landlord's estimate of, and the Actual, Basic Operating Costs. The Landlord will either refund or credit to Tenant any excess payments of Basic Operating Costs made by the Tenant as stated above.

C. Basic Operating Costs shall be paid by Tenant in the proportion (herein called "*Tenant's Share*") which the net rentable area of the Leased Premises bears to the total net rentable area of the commercial office space portion of the Building.

D. "*Basic Operating Costs*" shall mean the operating expenses solely of the commercial office space of the Building. All operating expenses shall be determined on an accrual basis in accordance with generally accepted accounting principles which shall be consistently applied. Such operating expenses shall include all expenses, costs and disbursements of every kind and nature which Landlord shall become obligated to pay because of or in connection with the ownership, operation, and maintenance of the commercial office space of the Building, including, but not limited to, the following:

(1) Wages and salaries of all employees engaged in direct operation and maintenance of the commercial office space portion of the Building, employer's social security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages and salaries, the cost of disability and hospitalization insurance and pension or retirement benefits for such employees;

(2) All supplies and materials used in the operation and maintenance of the commercial office space portion of the Building;

(3) Cost of all utilities for the commercial office space portion of the Building, including the cost of water, electricity, power, heating, lighting, air conditioning, and ventilating for the Leased Premises (excluding Tenant's own after-hours utility usage for the Leased Premises, which is addressed in Section 3.01A(5) below);

(4) Cost of all maintenance and service agreements for the commercial office space portion of the Building, the equipment therein and grounds, including janitorial service, security service, landscape maintenance, alarm service, window cleaning and elevator maintenance;

(5) Cost of the trash and waste removal services, including the Leased Premises and the commercial office space portion of the use of the compactor and waste removal services shared with Stanton Tower;

(6) All taxes and assessments and governmental charges, whether federal, state, county, or municipal and whether they be by taxing districts or authorities presently taxing the Leases Premises or by others, subsequently created or otherwise, and any other taxes and assessments attributable to the Building or its operation excluding, however, federal and state taxes on income and ad valorem taxes on Tenant's personal property and on the

value of leasehold improvements to the extent the same exceeds standard building allowances;

(7) Cost of repairs and general maintenance for the common areas and commercial office space portion of the Building (excluding such repairs and general maintenance paid by insurance proceeds or by Tenant or other third parties and alterations attributable solely to tenants of the Building other than Tenant);

(8) Legal expenses, accounting expenses, and management fees incurred with respect to the commercial office space portion of the Building;

(9) Costs incurred in compliance with new or revised federal or state laws or municipal ordinances or codes or regulations promulgated under any of the same; and

E. Basic Operating Costs shall not include (i) expenditures classified as capital expenditures for Federal income tax purposes (except as set forth in Section 2.02 D.(10), (ii) costs for which Landlord is entitled to specific reimbursement by Tenant, any other tenant of the Building, or any other third party, (iii) costs of initial construction of the Building, (iv) cost of renovating or modifying space in the Building for lease to other tenants, (v) leasing commissions, ground rentals, and all non-cash expenses (including depreciation), (vi) debt service on any indebtedness secured by the Building, (vii) the cost of maintaining the retail or residential portions of the Building, (viii) tenant improvements, (ix) any replacement reserves, (xi) capital expenditures, and (xii) state or local taxes, including property taxes on the value of property or improvements in the Leased Premises, provided that the Tenant continues to use the Leased Premises for tax exempt purposes. Tenant will provide documentation to Landlord showing that the Leased Premises are tax exempt.

F. If the commercial office space of the Building is not fully occupied during any year, an adjustment shall be made in computing the Basic Operating Costs for such year so that the Basic Operating Costs shall be computed as though ninety-five percent (95%) of the commercial office space portions of the Building has been occupied during such year. At no time will the computation of operating costs be based on a percentage lower than 95% as provided in the previous sentence.

G. Notwithstanding anything to the contrary and to provide budgeting certainty to Tenant, Landlord agrees that the Basic Operating Costs shall not increase above the following maximum amounts during the initial term of the Lease:

Year	Maximum Amount of Basic Operating Costs
1	5.00
2	7.50
3	7.73
4	7.96
5	8.20
6	8.44
7	8.69
8	8.96

9	9.22
10	9.50

Basic Operating Costs shall increase no more than 10 percent after year 10 of this Lease. Notwithstanding anything to the contrary, the Tenant will only pay the Tenant's actual share of the Basic Operating Costs provided that such costs do not exceed the Basic Operating Cost caps established above under Section 2.02(G).

2.03 Audit. Tenant, at its expense, shall have the right upon giving reasonable notice, to audit Landlord's books and records relating to any increased or additional rental payable hereunder for any periods within one (1) year prior to such audit; or at Landlord's sole discretion, Landlord will provide an audit or report prepared by a certified public accountant, which audit or report for purposes of this Lease shall be conclusive. The right to audit shall be limited to the Landlord's costs and expenses related to the commercial office portion of the Building. Notwithstanding anything to the contrary, if the U.S. Department of Housing and Urban Development ("HUD") requests from the Tenant documents exceeding the one year period in this Section, then Landlord will work with Tenant to provide such documents to HUD.

2.04 Commencement Date Triggers Base Rental Payments. All obligations to pay Base Rental, including Tenant's share of Basic Operating Costs, commence upon the delivery of the Leased Premises to the Tenant in accordance with the terms of this Agreement.

Article 3: Landlord's Services

3.01 Services to Be Furnished by Landlord.

A. At Landlord's expense and subject to the Building Rules and Regulations (hereinafter defined) and Tenant's performance of its obligations hereunder, the Landlord will furnish to Tenant the following services:

(1) Air conditioning and heating in season, during Normal Building Operating Hours (hereafter defined), at such temperatures and in such amounts as are considered by Landlord to be standard; HVAC will be provided by Landlord to maintain the temperature in the Leased Premises between 66 degrees and 78 degrees Fahrenheit, a range Landlord and Tenant agree provides a reasonably comfortable working environment and that is recommended by OSHA to assist in the prevention or alleviation of indoor air quality problems (see the OSHA Technical Manual).

(2) Hot and cold water at those points of supply provided for lavatory and drinking purposes only;

(3) Janitor service in and about the Building and the Leased Premises five (5) days per week, and periodic window washing; however, Tenant shall pay, as additional rent the additional costs attributable to the cleaning of improvements within the Leased Premises other than building standard improvements;

(4) Access to the Leased Premises 24 hours for all days during the term of this Lease. Elevators for access to and egress from the Leased Premises and the Building twenty-four (24) hours a day, seven (7) days a week;

(5) Electricity and proper facilities to furnish sufficient electrical power during Normal Building Operating Hours for normal office machines and other equipment including lighting of low electrical consumption, but not including electricity required for electronic data processing equipment, special lighting in excess of building standard, or any other item of electrical equipment which singly consumes more than 0.5 kilowatts per hour at rated capacity or requires a voltage other than 120 volts single phase except electrical consumption that is separately metered. Should such electrical service for the Premises for normal office machines and other equipment including lighting of low electrical consumption be separately metered, Tenant shall pay for electric current supplied or used in the premises at the rate as established by the company providing electricity to the premises. Electric current shall be measured by meter. Tenant will be billed monthly for such current. Landlord will maintain an energy management tracking system that will track each commercial tenant's electrical consumption, segregated by each tenant, including electrical consumption by each tenant that occurs either during and/or outside (i.e., after-hours) of Normal Building Operating Hours. Thus, Landlord will invoice Tenant, and Tenant agrees to pay, for Tenant's actual after-hours consumption of electricity for the Leased Premises, without any markup on such consumption.

(6) Replacement of lamps/bulbs in Building Standard light fixtures installed by Landlord and replacement in all public areas.

(7) Sewer services and trash disposal for the Leased Premises.

B. "*Normal Building Operating Hours*" for purposes of this Lease shall be, for the retail and commercial office portions of the building, from 7:00 a.m. to 6:00 p.m. Monday through Friday, and closed Saturday, Sunday and holidays. The normal operations of the residential portion of the building, which is not applicable to this Lease or to Tenant, shall be a 24-hour per day basis.

C. Failure by Landlord, to any extent to any extent to furnish such services or any cessation thereof of Landlord shall not render Landlord liable in any respect for damages to either person or property, nor be construed as an eviction of Tenant, nor work and abatement of rent, nor relieve Tenant from fulfillment of any covenant or agreement hereof. Should any of such services be interrupted, Landlord shall use reasonable diligence to restore same promptly, but Tenant shall have no claim for rebate of rent or damages or eviction on account thereof. Notwithstanding anything to the contrary, if the Landlord fails to furnish services and such failure to furnish services prevents the Tenant from accessing the Leased Premises for more than 30 calendar days and causes the Tenant to become liable to the United States Department of Housing and Urban Development ("HUD") for any amount of Community Development Block Grant ("CDBG") funds, then this failure by the Landlord will constitute a material default of this Agreement. No default is considered if Landlord's failure to provide services is caused by natural catastrophic event.

D. Landlord is responsible for the operation and maintenance of the Building and Leased Premises, including but not limited to providing all operations and services covered by the Basic Operating Costs.

3.02 Access by Tenant Prior to Commencement of Term. Landlord, at its discretion, may permit Tenant and its employees, agents, suppliers, contractors and work crews to enter the Leased Premises prior to the commencement of the Term to enable Tenant to do such things as may be required by Tenant to make the Leased Premises ready for Tenant's occupancy. If such permission is granted, such parties will not interfere with or delay the performance of any activities by Landlord or other occupants to the Building. Landlord may withdraw such permission upon twenty-four (24) hours' notice to Tenant if Landlord determines that any such interference or delay has been or may be caused. Any such entry into the Leased Premises shall be at Tenant's own risk and Landlord shall not be liable in any way for personal injury, death, or property damage which may be suffered in or about the Leased Premises or the Building by Tenant or its employees, agents, contractors, suppliers or work crews.

3.03 Repair and Maintenance by Landlord. Landlord shall not be required to make any improvements or repairs of any kind or character to the Leased Premises, except such repairs as may be required to the Building corridors, lobby, utility infrastructure, fire sprinkler equipment, walls (interior and exterior), flooring support, frame, structural members of the Building (including roof), and equipment used to provide the services referred to in Section 3.01, and such additional maintenance to such corridors, lobbies or structural members as may be necessary because of damage by persons other than Tenant, its agents, employees, invitees or visitors. The obligation of Landlord to so maintain and repair the Leased Premises shall be limited to Building Standard items. Tenant will promptly give Landlord written notice of any damage in the Leased Premises. This Section shall not apply in the case of damage or destruction by fire or other casualty (as to which Section 5.02 shall apply), or damage resulting from an eminent domain taking (as to which Section 5.01 shall apply).

3.04 Parking.

A. **General Parking.** There is no parking on-site at, or below, the Building. However, Landlord maintains an agreement with a third-party (the "*Parking Owner*") that owns and operates a parking structure located at 122 N. Kansas, El Paso, Texas adjacent to the Building (the "*Parking Structure*"). Any of Tenant's rights related to parking at the Parking Structure through this Lease are set forth on Exhibit "D" hereto. Any parking at the Parking Structure are subject to the rules and regulations set by the Parking Owner.

B. **Assigned Parking Spaces in the Parking Structure.** As of the Commencement Date, Landlord will assign to Tenant two (2) non-reserved, general use parking spaces in the Parking Structure. Tenant may choose to lease the (2) spaces directly from the third party operator of the Parking Structure. The Parking Structure is owned and operated by a third-party. Any rights to use the Parking Structure are subject to the terms, restrictions, and hours of the facility as offered to the public by the third-party operator of the Parking Structure.

C. Public Access to Parking Structure. Tenant is free to seek or utilize additional parking for its employees, guests, or customers at the Parking Structure, at Tenant's own expense, subject to availability and the rules and operations of the third-party that operates the Parking Structure.

Article 4: Tenant's Covenants

4.01 Payments by Tenant. Tenant shall timely pay all Base Rental and sums provided to be paid to Landlord hereunder at the times and in the manner herein provided and to occupy at all times the Leased Premises. If Tenant should fail to pay Landlord by more than six (6) days after when due any installment of Base Rental or any sum to be paid hereunder by the first day of each such month in which such installment or payment is due, Tenant will pay Landlord on demand a late charge fee calculated as five percent (5%) of the late amount each and every month such installment is past due in order to reimburse Landlord for additional expenses and costs in an amount that is not readily ascertainable and which has not been elsewhere provided for between the parties hereto, to the extent allowed under law. Late charge fees shall not be constructed as liquidated damages or limiting Landlord's remedies in any manner.

4.02 Certain Taxes. Tenant shall pay all ad valorem taxes, if any, assessed on all improvements installed in the Leased Premises that are in excess of those installed by Landlord from time to time as Building Standard.

4.03 Repairs by Tenant. Tenant shall, at its cost, repair or replace any damage to the Building, or any part thereof, caused by Tenant or Tenant's agents, employees, invitees or visitors.

4.04 Care of the Leased Premises. Tenant shall maintain the Leased Premises in a clean, attractive condition, and not commit or allow any waste or damage to be committed on or to any portion of the Leased Premises, and at the expiration or termination of this Lease shall deliver up the Leased Premises to Landlord in as good condition as at date of possession by Tenant, ordinary wear and tear excepted.

4.05 Transfer by Tenant. Tenant's right to transfer any interest in this Lease or the Leased Premises, directly or indirectly, are limited as follows:

A. Tenant shall not assign or sublease, in whole or in part, this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise (including, without limitation, by transfer of a majority interest of stock, merger, dissolution, or death which transfer of majority interest of stock, merger, dissolution, or death shall be deemed an assignment) or mortgage or pledge the same, or sublet the Premises, in whole or in part, without the prior written consent of Landlord which shall not be unreasonably withheld. Upon an approved assignment of this Lease by Landlord, the Tenant shall be released from all obligation under this Lease.

B. If Tenant files a petition under any Chapter of the Federal Bankruptcy Code, or under any successor statute governing liquidation, then this Lease shall terminate as soon as permitted by the provisions of the Federal Bankruptcy Code. By this Lease, the trustee in

bankruptcy or debtor in possession, as applicable, is hereby requested to assume or reject the unexpired Lease of Tenant within the shortest period of time permitted by law.

C. If Tenant becomes insolvent, if a writ of attachment or execution is levied upon this Lease; the Premises, Tenant's interest in either or in any part of them, if a receiver is appointed with authority to take possession of the Premises or if any part of either occurs without Landlord's prior written consent, then Landlord may terminate this Lease at Landlord's option. This provision shall be binding upon all of Tenant's heirs, assigns and other successors in interest.

4.06 Alterations, Additions, Improvements. Tenant will make no alteration, change, improvement, repair, replacement, or addition to the Leased Premises without the prior written consent of Landlord, such consent which shall not be unreasonably withheld. Tenant may remove its trade fixtures, office supplies, office equipment, and movable office furniture and equipment not attached to the Building provided such removal is made prior to the termination or expiration of the Term; Tenant is not then in default in the timely performance of any obligation or covenant under this Lease; and Tenant promptly repairs all damage caused by such removal. All other property at the Leased Premises (including but not limited to wall-to-wall carpeting, drywall, partitions, paneling or other wall covering) and any other article attached or affixed to the floor, wall, or ceiling of the Leased Premises shall become the property of the Landlord and shall be surrendered with the Leases Premises as part thereof at the termination of this Lease, without payment or compensation thereof.

4.07 Compliance with Laws and Usage; Liens. Tenant, at its cost, shall comply with all federal, state, municipal and other laws and ordinances, and the Building Rules and Regulations applicable to the Leased Premises and the business conducted therein by Tenant; will not engage in any activity which would cause landlord's fire and extended coverage insurance to be canceled or the rate therefore to be increased (or, at Landlord's option, will pay any such increase); will not commit any act which is a nuisance or annoyance to Landlord or to other tenants, or tend to injure or depreciate the Building; and will not commit or permit waste in the Leased Premises or Building. Tenant has no authority to encumber the Building or Leased Premises with any lien, and Tenant shall not suffer or permit any such lien to exist. Should any such lien hereafter be filed, Tenant shall promptly discharge the same at its sole cost.

4.08 Access by Landlord. Tenant shall permit Landlord or its agents or representatives to enter into and upon any part of the Leased Premises at all reasonable hours to clean. Upon a minimum 24 hour advance notice, the Landlord may enter the Leased premises to inspect, make repairs, alterations, or additions to the Leased Premises. Upon prior written approval from the Tenant, the Landlord may enter the Leased Premises to show the Leased Premises to prospective purchasers or tenants; or for any other purpose deemed reasonable by Landlord.

4.09 Landlord's Mortgagee. Tenant agrees with Landlord and with the mortgagee of any mortgage or the beneficiary of any deed of trust or other loan now or hereafter constituting a lien on the Building or the Leased Premises ("*Landlord's Mortgagee*") that any Landlord's Mortgagee shall have the right at any time to elect, by notice in writing given to Tenant, to make this Lease superior to the lien of such mortgage or deed of trust and upon the giving of such notice to Tenant, this Lease shall be deemed prior and superior to the mortgage or deed of trust in respect

to which such notice is given; and at Landlord's Mortgagee's request Tenant shall execute a reasonable and recordable memorandum of this Lease establishing this Lease as superior to such lien; or Landlord's Mortgagee may, by like notice, make this Lease subordinate to such mortgage or deed of trust. If Landlord's Mortgagee shall elect to make this Lease subordinate to such mortgage or deed of trust, the same shall be self-operative and no further instrument of subordination need be required by any mortgagee. In confirmation of such subordination, however, Tenant shall execute promptly any reasonable instrument that Landlord may request or need for its lender(s) or investor(s), provided that such document does not modify the terms of this Lease or obligate the Tenant to new obligations. In the event of the enforcement by Landlord's Mortgagee of the remedies provided by law or by such mortgage, deed of trust, or loan, Tenant will, upon request of any person or party succeeding the interest of Landlord as a result of such enforcement, automatically become the Tenant of such successor in interest without change in terms or other provisions of such Lease provided, however, that such successor in interest shall not be bound by any payments in the nature of security for the performance by Tenant of its obligations under this Lease, unless such successor is in actual possession of such security, or any amendment or modification of this Lease made without the written consent of such trustee or such beneficiary or such successor in interest. Upon request by such successor in interest, Tenant shall execute and deliver reasonable instruments confirming the attornment provided for herein, provided that such attornment does not modify the terms of this Lease or obligate the Tenant to any new responsibilities.

4.10 Estoppel Certificate. At Landlord's request Tenant will promptly execute an estoppel certificate addressed to Landlord's Mortgagee or any other third party certifying as to such notice provisions and other matters as Landlord's Mortgagee or any other third party may reasonably request. At Landlord's request from time to time, Tenant will execute a certificate stating the commencement and expiration dates of the Term, the rental then payable hereunder, that there are no defaults on the part of Landlord or claims against Landlord hereunder (or if there are any, stating the same with particularity), and such other information pertaining to this Lease as Landlord may reasonably request. Provided however, that Tenant will not be obligated to sign an estoppel certificate if Landlord is in material default under this Lease.

4.11 Environmental.

A. As used in this Lease: (i) "*Environmental Claim*" means any investigative, enforcement, cleanup, removal, containment, remedial or other governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement (hereinafter defined) against Landlord, Tenant or against or with respect to the Leased Premises or any use or activity on the Leased Premises, and any claim at any time threatened or made by any person against Landlord, Tenant or against or with respect to the Leased Premises or any use or activity on the Leased Premises, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Substance; (ii) "*Environmental Requirement*" means any legal requirement which pertains to ground or air or water or noise pollution or contamination, underground or aboveground tanks, health or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("*CERCLA*"), the Resource Conservation and Recovery Act of 1976, as amended ("*RCRA*"), the Texas Water Code and the Texas Solid

Waste Disposal Act; and (iii) “Hazardous Substance” means any substance, whether solid, liquid or gaseous; (x) which is listed, defined or regulated as a “hazardous substance,” “hazardous waste,” or “solid waste,” or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Requirement; or (y) which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, or explosive or radioactive material; or (z) which causes or poses a threat to cause a contamination or nuisance on the Leased Premises or on any adjacent premises or a hazard to the environment or the health or safety of persons on the Leased Premises. As used in this paragraph, the word “on” when used with respect to the Leased Premises or adjacent premises means “on, in, under, above, or about.”

B. Tenant will not cause, commit, permit, or allow to continue any violation of any Environmental Requirement by Tenant or by or with respect to the Leased Premises or any use or activity on the Leased Premises, or the attachment of any environmental lien to the Leased Premises. Tenant will not place, install, dispose of or release, or cause, permit or allow the placing, installation, disposal or release of, any Hazardous Substance or storage tank (or similar vessel) on the Leased Premises and will keep the Leased Premises free of any Hazardous Substance.

C. Tenant will promptly advise Landlord in writing of any Environmental Claim or of the discovery of any Hazardous Substance on the Leased Premises, as soon as Tenant first obtains knowledge thereof, including a full description of the nature and extent of the Environmental Claim and/or Hazardous Substance and all relevant circumstances.

D. If Landlord through an inspection confirms the existence of any Hazardous Substance on the Leased Premises, or if any Environmental Claim is made or threatened, or if a default shall have occurred, Tenant will at its expense provide to Landlord from time to time, in each case within 30 days of Landlord’s request, a report (including all drafts thereof if requested by Landlord) of an environmental assessment of the Leased Premises made after the date of Landlord’s request and of such reasonable scope (including but not limited to the taking of soil borings, air and groundwater samples and other above and below ground testing) as Landlord may request and by a consulting firm acceptable to Landlord. Tenant will cooperate with each consulting firm making any such assessment and will supply to the consulting firm, from time to time and promptly on request, all information available to Tenant to facilitate the completion of the assessment and report.

E. Without limitation of Landlord’s rights to declare an Event of Default and to exercise all remedies available by reason thereof, if any Hazardous Substance is discovered on the Leased Premises at any time and provided such cause was not caused by the Landlord or any other tenant of the building, Tenant shall: (i) promptly at Tenant’s sole risk and expense remove, treat and dispose of the Hazardous Substance in compliance with all applicable Environmental Requirements and solely under Tenant’s name (or if removal is prohibited by any Environmental Requirement, take whatever action is required by applicable Environmental Requirements), in addition to taking such other action as is necessary to have the full use and benefit of the Leased Premises, and provide Landlord with satisfactory evidence thereof; and (ii) if requested by Landlord, provide to Landlord within 30 days of Landlord’s request a bond, letter of credit or other financial assurance evidencing to Landlord’s satisfaction that all necessary funds are readily available to pay the costs and expenses of the actions required by clause (i) preceding and to

discharge any assessments or liens established against the Leased Premises as a result of the presence of the Hazardous Substance on the Leased Premises.

F. If the Leased Premises or any condition existing on the Leased Premises is ever determined to be in violation of any law, ordinance, or regulation which requires correction or clean-up, as provided in any law, ordinance, or regulation relating to environment protection, occupational health or safety, public health or safety, or public nuisance or menace, Landlord, in its discretion, but without the obligation to do so, may correct the condition or violation and will conclusively be deemed to be acting reasonably and for the purpose of protecting the value of the Leased Premises. Landlord may charge all costs of correcting the condition or violation to the Tenant.

4.12 Vending Machines. Tenant shall not place, or allowed to be placed, or operate, any soft drink, snack or other food vending machines in the Leased Premises.

4.13 ADA Compliance.

A. **Landlord's Compliance Obligation.** Tenant requires that the Building, Leased Premises and site (collectively, the "*Project*") be in compliance with all laws and codes including without limitation the Americans with Disabilities Act of 1990 ("*ADA*") and The Texas Architectural Barriers Act, as amended, and laws of a similar nature (collectively "*Disability Access Laws*"). Should the Building not be in compliance with Disability Access Laws, Landlord shall, at its sole cost and expense, make any changes or alterations required to so comply and such costs shall be excluded from the calculation of Operating Expenses.

B. **Tenant's Compliance Obligation.** Tenant shall, at its sole expense, be responsible (i) for compliance with the ADA, to the extent that the ADA imposes obligations on the procedure and design of any alterations to the Leased Premises made by Tenant, and (ii) for making modifications in its policies, practices and procedures in connection with the operation of Tenant's business if failure to make such modifications would constitute a violation of the ADA.

4.14 Tenant Ratio. Tenant will not exceed the occupancy limits of the Leased Premises in accordance to local ordinances and fire code.

4.15 Non-Interference with Residential Tenants. Tenant shall not interfere with the residential tenants use and enjoyment of the residential component of the Building.

Article 5: Mutual Covenants

5.01 Condemnation and Loss or Damage. If the Leased Premises, Building, or any part thereof shall be taken or condemned for any public purpose (or conveyed in lieu or in settlement thereof) to such an extent as to render the remainder of the Building or Leased Premises, in the opinion of the Landlord and Tenant, not reasonably suited for occupancy, this Lease shall, at the option of either party, forthwith cease and terminate. All proceeds from any taking or condemnation of the Building, as unencumbered by the Tenant's leasehold estate, shall be paid to the Landlord and all proceeds awarded for any Tenant-owned improvements and the Leasehold

estate shall belong to and be paid to the Tenant. If this Lease is not so terminated, Landlord shall repair any damage resulting from such taking, to the extent and in the manner provided in Section 5.02, and Base Rental hereunder shall be abated to the extent the Leased Premises are rendered untenantable during the period of repair, and thereafter be adjusted on an equitable basis considering the areas of the Leased Premises taken and remaining.

5.02 Fire or Other Casualty; Certain Repairs.

A. In the event of a fire or other casualty in the Building and/or the Leased Premises not caused by the Tenant, the Landlord shall repair/rebuild the Building and/or Leased Premises to the condition of the Leased Premises prior to the fire or casualty, including improvements made by Tenant. Landlord will complete all repairs/rebuilding within 9 months of the fire or casualty date. All amounts owed by Tenant under this Lease will be abated as to the portion of the Leased Premises rendered untenable until such time as the Leased Premises are made Tenable. If the Building is damaged in a manner that prevents access to the Leased Premises, then all amounts owed by the Tenant under this Lease will be abated until the damages to the Building are repaired to allow safe access to the Leased Premises. If the Landlord cannot complete repairs/rebuilding within 9 months of the fire or casualty date or if the Landlord decides not to rebuild the Building or the Leased Premises after a fire or casualty not caused by the Tenant, then the Landlord will reimburse the Tenant all costs of improvements made by the Tenant to the Leased Premises, including any grants used by the City to improve the Leased Premises, and this Lease will terminate. The Tenant will provide Landlord proof of costs incurred by the City in improving the Leased Premises.

5.03 Lien for Amounts Due. To the extent allowed by law, as security for payment of Base Rental, damages and all other payments required to be made by this Lease, Tenant hereby grants to Landlord a lien upon all property of Tenant now or subsequently located in the Premises. If Tenant abandons or vacates any substantial portion of the Premises or is in default in the payment of any Base Rental, damages or other payments required to be made by this Lease or is in default of any other provision of this Lease, Landlord may enter upon the Premises, and take possession of all or any part of the personal property, and may sell all or any part of the personal property at a public or private sale, in one or successive sales, with or without notice, to the highest bidder for cash, and, on behalf of Tenant, sell and convey all or part of the personal property to the highest bidder, delivering to the highest bidder all of Tenant's title and interest in the personal property sold. The proceeds of the sale of the personal property shall be applied by Landlord toward the reasonable costs and expenses of the sale, including attorney's fees, and then toward the payment of all sums then due by Tenant to Landlord under the terms of this Lease. Any excess remaining shall be paid to Tenant or any other person entitled thereto by law. This Lease is intended as and constitutes a security agreement within the meaning of the Texas Business and Commerce Code ("Code") and Landlord, in addition to the rights prescribed in this Lease, shall have all of the rights, titles, liens, and interests in and to Tenant's property now or hereafter located upon the Premises which are granted a security party, as that term is defined, under the Code to secure to Landlord payment of all sums due under and the full performance of all Tenant's covenants under this Lease. Tenant will on request execute and deliver to Landlord a financing statement for the purpose of perfecting Landlord's security interest under this Lease or Landlord may file this Lease or a copy thereof as a financing statement. Unless otherwise provided by law and for the purpose of

exercising any right pursuant to this section, Landlord and Tenant agree that reasonable notice shall be met if such notice is given by five (5) days written notice, certified mail, return receipt requested to Landlord or Tenant at the addresses specified herein.

5.04 Holding Over. If Tenant should remain in possession of the Leased Premises after the termination or expiration of the Term without the execution by Landlord and Tenant of a new lease, Tenant will: (a) do so as a month-to-month tenant and (b) pay Landlord 150% of the of the annual Net Base Rent in effect for the last month of the Lease Term, plus Additional Rent computed in accordance with the Lease, for any additional holdover. Landlord will not be entitled to consequential damages as a result of Tenant's holdover, but such holding over shall not extend the Term. If Tenant does not exercise option to renew, then the Landlord will provide to the Tenant notice of the expiration of the Lease 60 calendar days in advance. Such notice must provide the expiration date of the Lease and a provision notifying Tenant of the hold over provisions in this Section.

5.05 Assignment by Landlord. If Landlord disposes of its reversionary interest in the Leased Premises during the term of this Lease, then Landlord shall immediately be relieved of any and all further obligations to perform Landlord's covenants under this Lease.

5.06 Limitation to Landlord's Liability. Tenant specifically agrees to look solely to Landlord's interest in the Building or policies of insurance held by the Landlord or third parties for the recovery of any judgment from Landlord, it being agreed that Landlord shall never be personally liable for any such judgment. The provisions contained in the foregoing sentence shall not limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord, or any other action not involving the liability of Landlord to respond in monetary damages from assets other than Landlord's interest in the Building or policies of insurance held by the Landlord or third parties.

5.07 Control of Common Areas and Parking Facilities by Landlord. All automobile parking areas, driveways, entrances and exits thereto, and other facilities furnished by Landlord, including all parking areas, truck way or ways, loading areas, pedestrian walkways, ramps, landscaped areas, stairways and other areas and improvements provided by Landlord for the general use, in common, of tenants, their officers, agents, employees, invitees, licensees, visitors and customers shall be at all times subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify and enforce reasonable rules and regulations (herein called the "*Building Rules and Regulations*") with respect to all facilities and areas mentioned in this Section; the initial Building Rules and Regulations are set out in Exhibit "E" hereto and are of equal dignity herewith, provided such rules and regulations do not modify the terms of this Lease or add any additional obligations on the Tenant that are not included in this Lease.

5.08 Termination.

A. Each of the following occurrences relative to Tenant shall constitute an "Event of Default" for purposes of this Lease:

(1) Abandonment or vacating of the Leased Premises or any significant portion thereof; or

(2) the filing or execution or occurrence of a petition in bankruptcy or other insolvency proceeding by or against Tenant or any guarantor of Tenant; or petition or answer seeking relief under any provision of the Bankruptcy Act; or as assignment for the benefit of creditors or composition; or a petition of other proceeding by or against the Tenant for the appointment of a trustee, receiver or liquidator of Tenant or any of Tenant's property; or a proceeding by any governmental authority for the dissolution or liquidation of Tenant or any guarantor of Tenant; or

(3) Failure by Tenant in the performance or compliance with any of the agreements, terms, covenants or conditions provided in this Lease, including timely payment of any rental or other sums payable under this Lease, for a period of 30 calendar days after notice from Landlord to Tenant specifying the items in default; or

(4) Failure by any guarantor to fulfill his, her or its obligations under any guaranty required by Section 5.26 hereof, of such guarantor's revocation or attempt to revoke any such guaranty; or

(5) The occurrence of any other event herein provided to be an Event of Default.

B. This Lease and the Term and estate hereby made are subject to the limitation that if and whenever any Event of Default shall occur, Landlord may, at its option and without further written notice to Tenant, in addition to all other remedies given hereunder or by law or equity, do anyone or more of the following:

(1) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises to Landlord; or

(2) Terminate this Lease and enter upon and take possession of the Leased Premises and expel or remove Tenant and any other occupant therefrom; or

(3) Alter locks and other security devices at the Leased Premises.

C. Exercise by Landlord of any one or more remedies shall not constitute an acceptance or surrender of the Leased Premises by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement of Landlord and Tenant.

D. If Landlord terminates this Lease by reason of an Event of Default, Tenant shall pay to Landlord the sum of all Base Rental and operating costs accrued to the date of such termination, and the City will be released from all further obligations under this Agreement. No other rents will be owed by the City under this Lease following payment as provided in this Subsection.

E. In case of an Event of Default, to the extent the same were not deducted under Section 5.08 D, Tenant shall also pay to Landlord: the cost of removing and storing Tenant's or any other occupant's property; and the cost of repairing, altering, remodeling or otherwise putting the Leased Premises into the same condition as originally provided to the Tenant; and all reasonable expenses incurred by Landlord in enforcing Landlord's remedies, including reasonable attorneys' fees and court costs if any.

F. If Tenant should fail to make any payment, perform any obligation, or cure any defect hereunder after notice from Landlord to Tenant, Landlord, without obligation to do so and without thereby waiving such failure or default, may make such payment, perform such obligation, and/or remedy such other default for the account of Tenant (and enter the Leased Premises for such purpose), and Tenant shall pay upon demand all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Landlord in taking such remedial action.

G. Landlord's exercise, following a default by Tenant under this Lease, of any right granted hereunder or under any applicable law to lock out or change the locks securing the Leased Premises, shall not impose upon Landlord any duty to notify Tenant of the name and address or telephone number of the individual or company from whom a new key may be obtained, nor shall Landlord have any duty to provide Tenant with a new key or any other means of access to the Leased Premises.

H. Failure by Landlord to perform any obligations under this Agreement after written notice by Tenant and a calendar day opportunity to cure, will constitute an event of default by Landlord. If the Landlord defaults, then the Tenant may terminate this Lease and the Tenant will not be obligated to pay for any further obligations under this Lease incurred after the date of termination for default by Landlord. Upon a termination for default by Landlord, Landlord will reimburse the City any amounts that the City is required, after reasonable due diligence to avoid any refund obligation, to refund back to the United States Department of Housing and Urban Development ("HUD") related to the construction of the Center.

I. To the extent permitted by Tenant's CDBG Grant and without creating liability to Landlord under the CDBG Grant, Tenant may terminate this Lease upon six (6) months advance written notice if the City Council for the City of El Paso votes to terminate the Lease for public interest purposes or for a failure to appropriate funds to cover the costs under this Lease. If the Tenant terminates the Lease under this Provision, then the City will only be obligated to pay the Base Rental, Basic Operating Costs, and any past due Base Rental or Operating Costs, owed up to the date of termination of the Lease.

5.09 Non-Waiver. Neither acceptance of rent by Landlord nor failure by Landlord or Tenant to complain of any action, non-action or default of Tenant or Landlord shall constitute a waiver of any of Landlord's or Tenant's rights hereunder. Waiver by Landlord or Tenant of any right for any default of Tenant or Landlord shall not constitute a waiver of any right for either a subsequent default of the same obligation or any other default.

5.10 Independent Obligations. The obligation of Tenant to pay all Base Rental and other sums hereunder provided to be paid by Tenant and the obligation of Tenant to perform Tenant's other covenants and duties hereunder constitute independent unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is hereinabove expressly provided for and not otherwise. Tenant waives and relinquishes all rights which Tenant might have to claim any nature of lien against or withhold against, or deduct from or offset against any Base Rental and other sums provided hereunder to be paid Landlord by Tenant.

5.11 Time of Essence. In all instances where any act is required at a particular indicated time or within an indicated period, it is understood and stipulated that time is of the essence.

5.12 Remedies Cumulative. Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty, or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm. The remedies of Landlord hereunder shall be deemed cumulative and no remedy of Landlord, whether exercised by Landlord or not, shall be deemed to be in exclusion of any other. Except as otherwise specified herein, Landlord will provide Tenant written notice and a 30 calendar day opportunity to cure any defect or default before taking any action under this Agreement.

5.13 Insurance, Subrogation, Liability, and Waiver.

A. Landlord shall maintain fire and extended coverage insurance on the portion of the Building constructed by Landlord including building standard leasehold improvements. Such insurance shall be maintained with an insurance company authorized to do business in Texas, in amounts desired by Landlord and payments for losses thereunder shall be made solely to Landlord. Tenant shall maintain at its expense fire and extended coverage insurance for all tenant improvements constructed on the leased Premises by Tenant and on all of its personal property, including removable trade fixtures, located in the Leased Premises and on its non-building standard leasehold improvements and all additions and improvements made by Tenant and not required to be insured by Landlord above.

B. Landlord shall maintain a policy or policies of comprehensive general liability insurance, including contractual liabilities, with the premiums thereon fully paid, issued by and binding upon some solvent insurance company, such insurance to afford minimum protection (which may be affected by primary and/or excess coverage) with bodily injury limits of not less than \$1,000,000 for each occurrence and \$1,000,000 in the aggregate and property damage liability of not less than \$500,000 for each occurrence and \$500,000 in the aggregate.

C. Tenant shall handle all negligence claims involving the Tenant, its employees, contractors, or agents in regards to the use or operation of the Leased premises in accordance to the Texas Tort Claims Act and in accordance with Tenant's practice for responding to such claims at the time any such claim is made.

D. Anything herein to the contrary notwithstanding each party hereto hereby releases and waives all claims, rights of recovery and causes of action that either party or any party claiming

by, through or under such party by subrogation or otherwise may now or hereafter have against the other party or any of the other party's directors, officers, employees or agents for any loss or damage that may occur to the Building, Leased Premises, Tenant improvements or any of the contents of any of the foregoing by reason of fire or other casualty, or any other cause including negligence of the parties hereto or their directors, officers, employees, or agents, that is insured against under the terms of (1) standard fire and extended coverage insurance policies with vandalism and malicious mischief endorsement and sprinkler leakage endorsement (where applicable) or (2) any other loss covered by insurance of the respective parties except gross negligence or willful misconduct; provided, however, that this waiver shall be ineffective against any insurer of Landlord or Tenant to the extent that such waiver (i) is prohibited by the laws and insurance regulations of the State of Texas or (ii) would invalidate any insurance coverage of Landlord or Tenant. The waiver set forth in this Section 5.13D shall not apply to any deductible on policies carried by Landlord nor to any coinsurance penalty which Landlord might sustain.

E. TO THE EXTENT ALLOWED BY LAW, LANDLORD WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AGAINST ANY THIRD PARTY CLAIMS FOR INJURY, PROPERTY DAMAGE, PROPERTY LOSS, OR DEATH OCCURRING ON THE BUILDING OR CAUSED BY THE LANDLORD OR THE LANDLORD'S AGENTS, CONTRACTORS, INVITEES, LICENSEES, OR TENANTS. THE LANDLORD'S INDEMNIFICATION OBLIGATIONS UNDER THIS LEASE DOES NOT EXTEND TO CLAIMS ARISING OUT OF THE TENANT'S ACTIONS.

F. Tenant shall deposit all insurance policies or duplicates or certificates thereof (or proof of Tenant's self-insurance program) with Landlord and said policies (or self-insurance program) shall provide that same may not be canceled or altered without at least thirty (30) days prior written notice to Landlord. If Tenant fails to provide its self-insurance program (or, in its place, procure such insurance with equivalent coverage or pay when due any insurance premium for any policy), Landlord may (but shall not be required to) procure such insurance and/or make such payments, and the costs thereof shall be deemed additional rent and paid by Tenant to Landlord with the next payment of rent. Landlord shall provide Tenant annually copy of certificate of insurance for all policies under this Lease along with a copy of all policy endorsements.

5.14 Venue: Governing Law. This Lease shall be governed by the laws of the State of Texas and the United States of America. All monetary and other obligations of Landlord and Tenant are performable exclusively in El Paso County, Texas.

5.15 Notice. Any notice which may or shall be given under the terms of this Lease shall be in writing and shall be either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid, if for Landlord to the address provided herein; or if for Tenant, to the Leased Premises. Such addresses may be changed from time to time by either party by giving notice as provided above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent by mail).

5.16 Entire Agreement, Binding Effect, and Severability. This Lease and any written addenda and all exhibits hereto (which are expressly incorporated herein by this reference) shall constitute the entire agreement between Landlord and Tenant; no prior written or prior or

contemporaneous oral promises or representations shall be binding. This Lease shall not be amended, changed or extended except by written instruments signed by both parties hereto. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and assigns of the parties, but this provision shall in no way alter the restrictions on assignment and subletting applicable to the Tenant hereunder. If any provision of this Lease or application thereof to any person or circumstance shall at any time or to any extent be held invalid or unenforceable, and the basis of the bargain between the parties hereto is not destroyed or rendered ineffective thereby, the remainder of this Lease or the application of such provisions to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby.

5.17 Right of Re-Entry. Upon the expiration or termination of the Term or extended term if applicable for whatever cause, Landlord shall have the right to immediately re-enter and reassume possession of the Leased Premises and remove Tenant's property therefrom, and Tenant expressly acknowledges such right.

5.18 Number and Gender; Captions; References. Pronouns, where used herein, of whatever gender, shall include natural persons, corporations, and associations of every kind and character, and the singular shall include the plural and vice versa where appropriate. Article and section headings under this Lease are for convenience of reference and shall not affect the construction of interpretation of this Lease. Whenever the terms "hereof," "herein," or words of similar import are used in this Lease, they shall be construed as referring to this Lease in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated article or section of this Lease.

5.19 Security Deposit – omitted, not applicable

5.20 Delinquent Payments: Handling Charge. Any payments required of Tenant hereunder, whether as rental or otherwise, shall bear interest from the time due until paid at the maximum rate of interest allowed, if any interest is allowed to be charged, under Chapter 2251 of the Texas Government Code for municipalities.

5.21 Quiet Enjoyment. Tenant, on paying all sums herein called for and performing and observing all of its covenants and agreements hereunder, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Leased Premises during the Term subject to the provisions of this Lease and applicable governmental laws, rules, and regulations; and Landlord agrees to warrant and forever defend Tenant's right to such occupancy against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, subject only to the provisions of this Lease and all applicable governmental laws, rules, and regulations.

5.22 Signs. No signs, symbols, or identifying marks shall be placed upon the Building or in the halls, elevators, staircases, entrances, parking areas or upon the doors of walls without prior written approval of Landlord which shall not be unreasonably withheld. Any and all exterior signs need to comply with applicable City of El Paso ordinances and/or laws regarding exterior signage, as well as any exterior sign requirements or permits/approvals required by the Texas

Historic Commission, National Parks Service, and/or City of El Paso. Landlord agrees to provide and install, at Tenant's cost, all letters or numerals on doors in the Leased Premises. All such letters and numerals shall be in the Building standard graphics, and no others shall be used or permitted on the Leased Premises.

5.23 Condition of Leased Premises; Limitations on Warranties. Tenant has been or will be entitled to inspect every aspect of the Leased Premises to Tenant's satisfaction. Tenant understands that Tenant may employ professionals to advise Tenant on every aspect of the Leased Premises, and Tenant has agreed to do so rather than to rely on Landlord for such information. Tenant is not relying on any of Landlord's representations, statements, or assertions concerning the Leased Premises. Tenant is not relying on Landlord to provide any information on the Leased Premises that Tenant has not independently verified. Tenant is relying solely upon Tenant's independent verifications, rather than Landlord's information, assertions, statements, or representations. LANDLORD DISCLAIMS AND TENANT WAIVES ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR HABITABILITY. TENANT ACCEPTS THE LEASED PREMISES' CONDITION AND VALUE AS IS AND WITH ALL FAULTS, INCLUDING WITHOUT LIMITATION, LATENT AND PATENT DEFECTS. LANDLORD HAS GIVEN NO EXPRESS WARRANTIES, WHETHER BY AFFIRMATION, PROMISE, DESCRIPTION, SAMPLE, OR OTHERWISE. Tenant has thoroughly inspected the Leased Premises to determine the existence of any conditions posing unreasonable risk of harm. To the extent such conditions have been discovered, Tenant will prevent persons from being subject to the risks of such conditions and Tenant will exercise reasonable care to reduce or eliminate the risks.

5.24. Personal Guarantee. Not Applicable.

Article 6: Miscellaneous

6.01 Construction of Premises.

A. CDBG-Funded Grant Improvements by Tenant. Separate from the improvements to be made by Landlord under this Lease Tenant will make improvements to the Leased Premises as set forth in a separate Interlocal Agreement between Tenant and the Housing Authority for the City of El Paso (the "*CDBG Improvements*"), with the terms of such Interlocal Agreement incorporated into this Lease.

B. Property Manager. Landlord shall have the right to designate a third-party property management company to serve as Landlord's property manager for the commercial space of the Building.

C. No Additional Amounts. In no event shall Landlord be obligated to make disbursements for designs or improvements to the Premises that are not required by the Lease or exceed the total Tenant Improvement Allowance and Design Allowance set forth in this paragraph 36.

6.02 Brokers' Fees. The parties represent neither is represented by a broker or agent and there shall be no brokers' or agents' fees related to the lease of the Premises.

EXECUTED in multiple counterparts, each of which shall have the force and effect of an original on the date first above written.

[Signature Page Landlord]

Landlord:

Paisano Housing Redevelopment Corporation

By: 
Gerald W. Cichon
Secretary and Chief Executive Officer

ACKNOWLEDGMENT

THE STATE OF Texas)

)

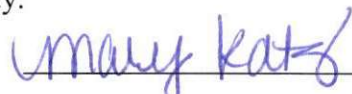
COUNTY OF El Paso)

This instrument was acknowledged before me on this 15th day of October, 2019 by Gerald W. Cichon, Chief Executive Officer of Paisano Housing Redevelopment Corporation on behalf of said entity.




My Commission Expires:

06/04/2022



Notary Public, State of Texas

[Signature Page Tenant]

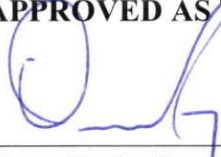
TENANT: City of El Paso, Texas

for 
Tomás González
City Manager

APPROVED AS TO CONTENT


Nicole Ferrini, Director
Community & Human Development

APPROVED AS TO FORM


Omar De La Rosa
Assistant City Attorney

ACKNOWLEDGMENT

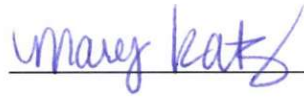
THE STATE OF Texas)

)

COUNTY OF El Paso)

This instrument was acknowledged before me on this 15th day of October, 2019 by Tomás González, City Manager for the City of El Paso, Texas on behalf of said entity.

mary katz for:


Notary Public, State of Texas

My Commission Expires:

06/04/22



**Exhibit “A” to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

Floor Plans of the Leased Premises

**Exhibit "B" to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

Description of the Building

**304 Texas Ave.
El Paso, Texas 79901**

(formerly, 120 N. Stanton, El Paso, Texas 79901)

Legal Description of Building Property

A portion of Block 39, ANSON MILLS MAP ADDITION, an addition to the City of El Paso, El Paso County, Texas, being 99.3 feet on Stanton Street by 120 feet on Texas Street, Plus the portion of the adjacent alley on the east vacated by Ordinance No. 5320 dated 5/2/74 and filed in Volume 519, Page 535, Real Property Records, El Paso County, Texas, being more particularly described by metes and bounds in Exhibit "A" attached hereto.

PARCEL 2: (EASEMENT RIGHTS)

Easement rights pursuant to that certain Easement Grant dated May 25, 1982 filed in Volume 1262, Page 78, Real Property Records, El Paso County, Texas, from the State of California Public Employees' Retirement System to El Paso Natural Gas Building Company, and amended by Amendment to Easement Grant dated December 27, 1996 and filed in Volume 3148, Page 1094, Real Property Records, El Paso County, Texas.

**Exhibit “C” to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

CDBG Improvements

Exhibit “D” to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant

Tenant’s Right to Parking at the Parking Structure

See Attached Parking Agreement, as Amended

**Exhibit “E” to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

**Building Rules and Regulations
For the Commercial Offices of The Blue Flame Building**

We welcome you and hope that your tenancy with us is beneficial and enjoyable. These Building Rules and Regulations have been written and incorporated into your Lease to ensure that you, your employees, and your visitors may safely, securely and pleasantly use the Leased Premises and common areas of the Building.

These Building Rules and Regulations apply to the commercial portions of the Building, as well as any common spaces, including the lobby, outside grounds, walkways, and passageways. Capitalized terms have the definitions provided for in the Lease.

Security Notice. We want to discuss security first and foremost. We take security seriously and expect you and your employees to do the same. While the Building and your Leased Premises may have certain security devices, security systems or security patrols, as Landlord, we must warn you that commercial properties may be targets for criminal activity and that you, as Tenant, should take all reasonable and necessary precautions to safeguard yourself, your employees, your visitors, and your property because there is no security system, security device or patrol service available to completely protect you and/or your property from criminal actions.

As Landlord, we must state that we cannot provide assurances, guarantees, or representations as to any protection afforded by the use of any security system and, it is because the inability of the security devices, security systems or patrol service to completely protect you as Tenant, your employee, and your invitees/guests/visitors from crime or injury, that we are hereby confirming our understanding that you have received no representations, guarantees or warranties, either express or implied, from Landlord or any of its representatives in connection with any security (or the effectiveness of such security) with regard to the Building or Leased Premises or lack thereof, and you further acknowledge that it is your sole responsibility as Tenant under this Lease (as well as the responsibility of local law enforcement agencies) to protect yourself, your employees, your guests and invitees, and your property and theirs, from crime and/or the criminal element.

If there are security devices, security systems or patrol services in the Building, they are simply an attempt by Landlord to better serve you as Tenant. However, to be clear – there is no security device, security system, or security patrol that is perfect and will absolutely protect you or prevent injury, theft, vandalism, or damage to you or your property. Therefore, neither us the Landlord nor our agents, employees and representatives shall be liable or responsible in any way for any loss suffered as a result of any criminal activity or action, or from any failure of any security device, system, or patrol, whether provided or not, at the Building or Leased Premises.

As Landlord, we urge you to contact your insurance agent and ensure that you,, as Tenant, maintain adequate and appropriate insurance coverage for your organization, your own person, your

personal belongings and those of your guests and employees, your business assets, and keep in a readily accessible place the telephone number for local law enforcement agencies.

1. Shared Mixed-Use Facilities. The Building is a mixed-use development consisting of residential apartments, retail, and commercial offices. Tenants are required to respect the rights of, not only the other tenants of the commercial offices, but the residential and retail tenants of the building. Inappropriate or lewd behavior of any type directed at residents or retail tenants, or their guests, is not permitted. The Building was originally constructed as part of a single corporate campus by the El Paso Natural Gas Company. Thus, the Building shares outdoor and indoor access to the adjacent building, 100 N. Stanton, known as the “Stanton Tower.” Tenant are required to respect the rights of the tenants of the Stanton Tower. This includes observing and respecting the reserved areas maintained by the Stanton Tower for its tenants, guest, and visitors.

2. Basement Facilities. There is a basement loading dock area beneath the ground floor of the Building. Access to the basement level loading area is available through the building property management on an appointment basis only. The basement level is shared in use with the owner of 100 Stanton, the “Stanton Tower” building (currently, El Paso Electric) and is an access-controlled area.

3. Waste/Refuse. As a commercial office tenant, Tenant’s refuse will be placed in basement level waste facilities. Access to the basement level waste facilities is strictly limited to building property management.

4. Walk and Passageway Obstruction. The sidewalks, entries, passages, courts, corridors, stairways and elevators shall not be obstructed by Tenant, Tenant's employees or agents or used by them for other purposes than for ingress and egress to and from their respective suites. The halls, passages, exits, entrances, elevators, escalators and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building and its tenants; provided, that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Tenant, and no employee, invitee, agent, license or contractor of Tenant, shall be upon or be entitled to use any portion of the roof of the Building.

5. Heavy Equipment; Large/Heavy Merchandise; Furniture Movement. All safes or other heavy articles shall be carried up or into the Building only at such manner as shall be prescribed by Landlord and Landlord shall in all cases have the right to specify the proper weight and position of any such safe or other heavy article. Any damage done to the Building by taking in or removing any safe or other heavy article or from overloading any floor in any way shall be paid by Tenant. Maximum live floor loads shall not exceed fifty (50) pounds per square foot. Defacing or injuring in any way any part of the Building by Tenant, its/his/her agents or employees, shall be paid by Tenant. Movement of future or receipt of Tenant of any heavy equipment, bulky material, or merchandise which requires use of elevators or stairways, or movement through the Building’s service or lobby entrance shall be restricted to such hours as Landlord shall designate. All such movement shall be in a manner to be agreed up between Tenant (upon Tenant’s initiation)

and Landlord in advance. The time, method, and routing of movement and limitations for safety or other concern which may prohibit any article, equipment, or other item from being brought into the Building shall be subject to Landlord's discretion and control. Any hand trucks, carryalls, or similar appliances or devices used for the delivery or receipt of merchandise or equipment shall be equipped with rubber tires, side guards, and such other safeguards as the Building shall require. Although Landlord or its personnel may participate in or assist in the supervision of such movement, Tenant assumes full and final responsibility for all risks as to damage to articles moved and injury to persons or property engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with carrying out his service for Tenant, from the time of entering the Building to completion of work. Landlord shall not be liable for the acts of any person engaged in, or any damage or loss to any of said property or persons resulting from any act in connection with such service performed for Tenant.

6. Signs, Directories. All exterior signs, including paint or decals that appear on windows, must comply with the Lease. No sign, advertisement or notice shall be inscribed, painted or affixed on any part of the inside or outside of the Building unless approved by Landlord. Tenant shall not mark, paint, drill into or in any way deface the walls, ceilings, partitions or floors of the Building and shall not put therein any spikes, hooks, screws or nails. A building directory in a conspicuous place, with the names of the tenants will be provided by Landlord; any necessary revision in such directory will be made by Landlord within a reasonable time after written notice from Tenant of the change making the revision necessary, but Landlord shall not be responsible for any inconvenience or damage caused to Tenant as a result of any error in such directory. Landlord will provide and install, at Tenant's cost, Tenant's name and suite number on the main entrance of Leased Premises, and will provide strips on the building directories. All such letters and numerals shall be in the Building's standard graphics, and no other shall be used or permitted on the Leased Premises.

Interior: Tenant will be allowed signage on the designated building standard sign panels for office tenants and will be installed and located in front of tenant suite(s) next to the Suite entrance door. Tenant will provide Landlord with a draft of Tenant's proposed signage artwork, if any, for approval prior to Tenant installing any building standard tenant signage. Tenant will utilize only the sign vendor for the building which will be provided to tenant by Landlord. All tenant's building standard signage will be the sole responsibility and expense of the Tenant. Tenant will be listed on any building directory lobby signage.

All signage is subject to approvals from Texas Historic Commission, National Parks Service, City of El Paso, and Landlord or designee. Tenant will submit any sign design to Landlord for advance approval by Landlord.

7. Non-Smoking Building. The Blue Flame Buildings is designated as a "smoke free" building, both in the residential and commercial areas. Therefore, there shall be no smoking of tobacco or any other products inside the building, including inside the Leased Premises and Common Areas.

8. Display Cases. No showcase or any other fixture or objects whatsoever shall be placed in front of the Building or in the lobby, corridor, or other public areas, within the Building or the grounds contiguous therewith by Tenant, without written consent of Landlord.

9. Janitorial Service. Tenant shall not employ any person or persons other than the approved janitor of the Landlord (the “*Janitor*”) for the purpose of cleaning or taking charge of the Leased Premises, without the written consent of the Landlord, it being understood and agreed that the Landlord shall be in no way responsible to any Tenant for any loss of property from the Leased Premises, however occurring, or for any damage done to the furniture by the Janitor or any of its/his/her employees or contractors, or by any other person or persons whomsoever. Any person or persons employed by Tenant to clean or repair the Building or Leased Premises, with the written consent of Landlord, must be subject to and under the control and direction of the Janitor in the Building. The Janitor may at all times keep a master/pass key, and the Janitor and agents designated by Landlord, shall at all times be allowed admittance to said Leased Premises. Janitor and its/his/her employees or contractors shall not be hindered by Tenants in the performance of janitorial duties. Tenant shall not cause or permit any unnecessary labor, time, or expense to be incurred by Janitor or Landlord due to Tenant’s carelessness or indifference to the good order and cleanliness of the Leased Premises or shared spaces of the Building.

10. Locks. Landlord will furnish Tenant, free of charge, with two keys for each corridor door entering the Leased Premises, additional keys to be furnished at a reasonable charge by Landlord on an order signed by Tenant or Tenant's authorized representatives. All such keys shall remain the property of Landlord. No additional locks shall be allowed on any door of the Leased Premises without Landlord's permission, and Tenant shall not make or permit to be made any duplicate keys, except those furnished by Landlord. Upon termination of this Lease, Tenant shall surrender to Landlord all keys to the Leased Premises and give to Landlord the explanation of the combination of all locks for safes, safe cabinets and vault doors, if any, in the Leased Premises.

11. Building Security. The Landlord specifically reserves the right to refuse admittance to the Building after 6:00 p.m. daily, or Saturday, Sunday, or on legal holidays to any person or persons who cannot furnish satisfactory identification or to any person or persons who for any other reason should be denied access to the premises. Landlord will use reasonable efforts to provide security to the Building (but shall have no obligation to do so) during the weekends and after normal working hours during the week; provided, however, Landlord shall not be liable to Tenant for losses due to theft or burglary, or for damage done by unauthorized persons in the Building. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage. Such responsibility shall include keeping doors locked and other means of entry to the Premises closed.

12. Light and Air Passageways. The doors, skylights and windows that reflect or admit light and air into the corridors and passageways, or to any place in said Building shall not be covered or obstructed by Tenant.

13. Plumbing Fixtures. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse or the defacing or injury of any part of the Building shall be paid for by Tenant, excepting

only where the defacing or injury is by Landlord or an agent of Landlord. Tenant shall not waste water by interfering with the faucets or otherwise.

14. Noise. Tenant shall not disturb the occupants of the Building by the use of any musical or sound producing instrument, making unseemly noises, or by interference in any way, Tenant shall not bring any dogs or other animals into the building, with the exception of lawfully-approved service animals.

15. Bicycles, Skateboards, Etc. Tenant shall not bring bicycles, skateboards, roller skates or similar types of devices or objects into the inside of the Building.

16. Debris. Nothing shall be thrown out of doors of the Buildings, out windows, or down the stairways, or left in passageways or walkways by Tenants or their guests.

17. Excess Trash or Waste Disposal. In the event Tenant must dispose of crates, boxes, etc., which will not fit into office waste disposal bins, it is the responsibility of Tenant to dispose of same. In no event will Tenant set or leave excess trash or debris in public hallways or passageways or public areas of the Building. Any excess trash or waste must be left in Tenant's own Leased Premises.

18. Elevator Service. Landlord shall not be liable for any damages from stoppage of elevators for necessary or desirable repairs or improvements, or delays of any sort or duration in connection with the elevator service. Advance notice of arriving or departing shipments will enable the Building Management to give better assistance.

19. Electric/Power Service; Wiring for Computer Systems, Security, IT, Music, etc. If Tenant desires to add, alter, or modify the wiring in the Leased Space or any portion of the Building for purposes such as alarm systems, IT systems, computers, routers, background music, telegraphic, telephonic, or other electric communications, the Landlord or its agents will direct the electricians, security professionals, or IT professionals, as to where and how any such wires may be introduced, and without such directions, no boring or cutting for or of wires will be permitted.

20. Canvassing and Soliciting. Canvassing, soliciting, distribution of handbills or written materials, and peddling by Tenant or anyone under Tenant's control inside the Residence or Building is prohibited and Tenant shall cooperate to prevent the same.

21. Vehicle Parking. If Tenants have purchased or obtained access to parking in the Parking Structure, Tenant agrees to comply with the rules and regulations imposed by the Parking Owner. In addition, Tenant will ensure that all vehicles will be parked within striped lanes as designated by Landlord or the Parking Owner from time to time. Parking across the stripes or in unmarked areas, blocking of walkways, loading areas, entrances or driveways, will not be permitted. Tenants and their employees shall observe rules, regulations and restrictions as may be imposed by Landlord from time to time on such parking areas. Without limitation of other remedies available at law or set forth herein, Landlord may at owner's cost and without liability to the Landlord, tow away or cause to be towed away all vehicles owned by Tenant or Tenant's employees parked in any reserved parking areas in violation of this provision or parked in any other area in violation of

this agreement or any other agreement, rule or regulation relating to the parking. Landlord reserves the right to utilize the parking areas during other than normal building operating hours. Landlord shall not be liable for violations of any parking agreement, rule, regulation, or law by any other party.

22. Unattended Premises. Tenant, its agents, representatives, and employees before leaving the Leased Premises unattended shall close and lock all doors, turn off any lights (excluding emergency lighting) and secure any windows.

23. Carpet Damage. Tenant will be responsible for any damage to carpeting and flooring as a result of rust or corrosion of file cabinets, pot holders, roller chairs and metal objects, spilled beverages and stains.

24. Extra Utility Usage. In the event Tenant desires utility or air conditioning service at other than normal operating hours the request must be made at the Property Manager's Office. This service will be made available at the then prevailing rate established on an hourly basis.

25. Additional Rules. The Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be needed for the safety care and cleanliness of the Building and Leased Premises and for the preservation of good order therein.

26. Housekeeping. Tenant space that is visible from public areas must be kept neat and clean. All freight and passenger elevator lobbies are to be kept neat and clean. The disposal of trash or storage of materials in these areas is prohibited.

27. Thermostat Settings. Tenant shall not tamper with or attempt to adjust temperature control thermostats in Leased Premises. Landlord shall adjust thermostats as required to maintain the building standard temperature.

28. Locking and Securing Doors. All doors leading from public corridors to the Leased Premises are to be kept closed when not in use, and locked during the night, or when the space is unoccupied. Tenant must be responsible for key entry into its own suite. Under no circumstances will Landlord allow entry into an office without adequate proof of identity and authorization by Tenant.

29. Notices. Tenant shall give immediate notice to the Property Manager's Office in case of accidents in the Leased Premises or in the Building or of detects therein or in any fixtures or equipment, or of any known emergency in the Building.

30. Cooking and Lodging Prohibited. No cooking shall be done or permitted by Tenant on the Leased Premises; nor shall sleeping or lodging of any type be permitted.

31. Services. Tenant will refer all contractors, contractors' representatives and installation technicians rendering any service for Tenant to Landlord for Landlord's supervision and/or approval before performance of any such contractual services. This shall apply to all work

performed in the Building including but not limited to installation of telephones, telegraph equipment, and electrical devices and attachments, and installations of any and every nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment or any other physical portion of the Building. None of this work will be done by the Tenant without Landlord's written approval first had and obtained, except as otherwise expressly provided in the Lease.

32. Windows and Doors. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises, other than Building standard materials, without the prior written consent of Landlord. Tenant shall keep corridor doors closed and shall close window coverings at the end of each business day.

33. Vending Machines. Tenant shall not install, maintain or operate upon the Premises any vending machines without the prior written consent of Landlord, which shall not be unreasonably withheld.

34. Heating and Air Conditioning. Tenant shall not use any method of heating or air-conditioning other than that supplied by Landlord.

35. HVAC and Lighting, Etc. Tenant will be responsible for all charges incurred by building for its use of afterhours services including but not limited to electricity for heating, cooling, lighting, etc. Prevailing after- hours hourly rates apply and are subject to change. HVAC services will be available to Tenant during normal operating hours of the building, which are from 7:00am to 6:00pm on weekdays and from 8:00am to 1:00 pm on Saturdays. HVAC services required after-hours will be provided, upon request, with an additional charge based upon Tenant's actual consumption, with no markup by Landlord, with such cost to be paid by Tenant within 30 days of invoice for same.

36. Sale of Goods. Tenant shall not sell, or permit the sale at retail, of newspapers, magazines, periodicals, theater tickets, or any other goods or merchandise to the general public in or on the Leased Premises or the Building.

37. Questions. If you have any questions about the Lease or these rules, please visit or call the Property Manager at _____. You can also email the Property Manager at _____.

CITY CLERK
2019 JAN 14 PM 2:49

STATE OF TEXAS)
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COUNTY OF EL PASO)

INTERLOCAL COOPERATION AGREEMENT

This Interlocal Cooperation Agreement (“*Agreement*”) is entered into pursuant to Tex. Gov’t Code Chapter 791 (“*Chapter 791*”) by and between the City of El Paso, Texas (the “*City*”) and the Housing Authority of the City of El Paso (“*HACEP*”) for the designated purpose set forth herein:

Whereas, the City is a Texas municipality and unit of local government (municipality) pursuant to Tex. Gov’t Code § 791.003(4)(A); and

Whereas, HACEP is a Texas municipal housing authority that owns, operates, develops, constructs, and manages residential housing for low income families and individuals in El Paso, Texas pursuant to Tex. Loc. Gov’t Code Chapter 392 and unit of local government (political subdivision) pursuant to Tex. Gov’t Code § 791.003(4)(A); and

Whereas, HACEP and its public facility corporations, including Paisano Housing Redevelopment Corporation (“*PHRC*”) and development partnerships, including EP Blue Flame, LP (collectively, the “*Affiliates*”) are jointly developing the 17-story historic high rise Blue Flame Building, located at 304 Texas Ave., El Paso, Texas 79901 as an adaptive reuse and historic rehabilitation project consisting of (1) low-income housing project with 120 residential housing units on the second through thirteenth floors of the building and (2) retail and commercial office space on the ground floor and four upper floors (14 through 17) (collective, the “*Project*”); and

Whereas, PHRC is a Texas public facility corporate under Tex. Loc. Gov’t Code Chapter 303 and, as such, is an instrumentality of HACEP and is also itself a unit of local government (political subdivision) pursuant to Tex. Gov’t Code § 791.003(4)(A); and

Whereas, Tex. Loc. Gov’t Code Chapter 791 authorizes the City, HACEP and PHRC to cooperate in providing governmental functions or services; and

Whereas, the purpose of this Agreement is to, among other things, (1) provide funding for the construction of a public community meeting, general assembly, and nonprofit/governmental event space in Downtown El Paso, (2) to assist in the redevelopment of the historic Blue Flame Building to support the revitalization of a vibrant Downtown, (3) to add a high-quality public general assembly space for residents of El Paso to use and to create a space that will draw residents and visitors to Downtown, (4) to benefit and enhance the quality of life of residents and visitors of El Paso, (5) to serve as a hub for governmental and nonprofit meetings in Downtown, particularly for the governmental and/or nonprofit entities that lease space in the Blue Flame Building, and (6) for the other purposes described herein; and

Whereas, HACEP procured the services of a private developer for the Project; and

Whereas, the developer subcontracted the services of architects, engineers and general contractor; and

Whereas, the City and PHRC will enter into a lease agreement for the City to lease the 17th floor of the Blue Flame Building that will require construction; and

Whereas, the City and HACEP believe it is in the best interests of the City, HACEP, and PHRC to enter into this Agreement for the designated purpose stated below of completing the construction through the services subcontracted by the developer.

Now, therefore, the City and HACEP agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are incorporated by reference and made part of this Agreement.
2. **Designated Purpose.** The designated purpose of this Agreement is to provide the general framework for the parties' agreement and cooperation to fund, build, develop, construct, and access the Downtown Center for Civic Empowerment (the "*Center*") on the 17th Floor of the Blue Flame Building in accordance with the terms and obligations of the grant which is being used to fund the Center and to meet the national objectives of the grant program.
3. **Factual Background.**
 - a. HACEP and its Affiliates, including EP Blue Flame, LP (the "*Owner*"), in accordance with procurement procedures that reflect state and local regulations, procured the services of and thereafter entered into an agreement with a private developer, Franklin Development Properties, Ltd. (the "*Developer*") to assist HACEP and the Owner in the development of the Project.
 - b. The Developer, in turn, subcontracted the services of architects, engineers, and a general contractor to providing design and construction services for the Project.
 - c. A 2019 application for a large-scale Community Development Block Grant ("*CDBG*") has been awarded to fund the construction of the of a community meeting room and other improvements, referred to as the "Downtown Center for Civic Empowerment," on the 17th floor of the Blue Flame Building, referred to herein as the "*Center*".
 - d. In July 2019, following the review of all CDBG applications, public input and other considerations, the El Paso City Council approved an Annual Action Plan including an award of \$1.5 million in CDBG for the construction of the Center.
 - e. The City and PHRC will enter into a lease for the use and utilization of the 17th floor of the Blue Flame Building and, moreover, the City will draw upon federal

CDBG funds to reimburse HACEP or PHRC up to \$1.5 million for the construction of the Center.

- f. HACEP has, on its part, agreed to secure or provide additional funding (by or through HACEP or the Affiliates) for the construction of the Center in the approximate (preliminary) amount of \$800,000. This amount does not include other HACEP and PHRC financial contributions to the Blue Flame Building, including for the outdoor patio area adjacent to the Center. Nor does this amount include HACEP's "match" commitment under the CDBG Grant funding the Center. The total HACEP and PHRC contribution related to the Center is estimated to be approximately equivalent to the \$1.5 million of CDBG funds dedicated to this Agreement.

- 4. Purpose of the Downtown Center for Civic Empowerment.** The parties to this Agreement agree to cooperate to construct the Center on the 17th floor of the Blue Flame Building, with the construction to be to the general specifications shown in the approved and permitted plan sets referenced in the lease agreement attached to this Agreement as Exhibit A.

Furthermore, the parties agree the Center will, among other things, provide a space for general assembly, community meetings, public service programming, indoor and outdoor meetings, training sessions, access to technology, teleconferencing, and public assembly/Empowerment for the benefit of not only the City of El Paso, the residents of the Blue Flame Building and other HACEP residents, but also for the citizens and general public of El Paso. The Center will be primarily utilized in support of the national objectives of the CDBG Grant for the benefit of vulnerable, low-income population or as otherwise permitted by the law, regulations, and program funding agreements related to the CDBG Grant. The parties agree that the use of the Center is consistent with HUD approved activities in the leased space. The parties agree that benefit to the City of El Paso as set forth in the recitals herein (and in the form of reduced rent for the operation of the Center) is valid and sufficient consideration for the access and use of the Center under the management and control of the City.

The calculation used to qualify the neighborhoods in this area for funding, specifies the primary purpose for the facility is to serve the surrounding low to moderate income neighborhoods.

- 5. City's Obligations.**

- a. The City agrees to inspect the progress of the construction of the Center and approve and make reimbursement payments to HACEP upon HACEP's submission of appropriate documentation as set forth in Section 5c below
- b. Upon acceptance of the completed construction progress and upon proof of payment by HACEP in compliance with Section 5c below, the City agrees to reimburse HACEP an amount up to \$1.5 million in CDBG funds for the Project as described in this section, subject to HACEP performing its

obligations herein. These funds will be used for the construction of the Downtown Center for Civic Empowerment on the 17th floor of the Blue Flame Building, as generally shown in the specifications approved and permitted plan sets referenced in the lease agreement attached to this Agreement as Exhibit A.

- c. City will not be responsible for the costs of construction above the \$1.5 million identified in this Agreement.
- d. HACEP will be responsible to make initial payments for all design and construction of the Center, and then will be reimbursed up to the maximum amount set forth herein within 45 days of submission of appropriate documentation of the expenditure. Reimbursements paid by the City to HACEP will be made only upon approval by the Director, Community + Human Development ("*Director*"). Such requests are accompanied by documentation of the architect(s) and/or contractor(s) hired by HACEP, which reflects the amount paid by HACEP and the percentage of completion of the construction. Approval of reimbursements may be withheld by the Director if, in the reasonable exercise of the Director's discretion, there is a determination that the request or its backup material is inaccurate or inadequate.
- e. When the construction of the Center is completed, accepted by the City, and ready to be occupied, the City agrees to lease the Center, in the general form of the lease attached hereto as Exhibit B.
- f. The City intends to conduct outreach and enter into a separate agreements with local nonprofits for use of the Center in consideration of providing a benefit to the City, the population to be served by the CDBG Grant, or for the benefit of the public.
- g. The City further intends to develop operating and use policies and rental terms so that individuals and/or organizations can utilize the Center.
- h. The City agrees to make the Center available to HACEP, at no cost to HACEP, for HACEP to use in a manner consistent with the national objectives of the CDGB Grant, to include but not be limited to HACEP's regular and special meetings of its Board of Commissioners (and to the same board, when it meets on behalf of HACEP's affiliates), training, events, resident meetings, provided such meetings and/or uses do not conflict with other planned uses of the Center.

6. HACEP's Obligations.

- a. HACEP will provide proof to the City of the costs incurred by HACEP to complete the construction of the Center.
- b. HACEP shall use the up to \$1.5 million in CDBG funds reimbursed by the City set forth above for the construction of the Center on the 17th floor of the Blue Flame Building, as generally shown in the specifications approved and permitted plan sets referenced in the lease agreement attached to this Agreement as Exhibit A.

- c. HACEP shall secure such additional funding from other sources or its own sources, in an amount not yet determined in final amount (but estimated to be approximately \$800,000), to ensure the Center is constructed through HACEP Developer's General Contractor and design firm that resulted from the HACEP's procurement. This amount does not include HACEP's match obligation under the CDBG Grant. Although it is not anticipated to occur, the parties will confer with each other in the event there is a need to expend construction costs for the Center that are above the \$1.5 million. In the event this occurs, the parties shall seek to utilize value engineering methodology to update the plans for the Center to be completed within its intended budget. Cost beyond the \$1.5 million for construction shall be HACEP's responsibility. .
 - d. HACEP shall ensure the Owner and its contractors, including the Developer, complete construction of Center and have it ready for occupation and use by July 1, 2020.
 - e. HACEP shall complete and execute all other documents and agreements reasonably required by the City for the provision of CDBG funding to occur.
 - f. HACEP shall make the outdoor patio area outside of the Center available to the City for the use of visitors to the Center at the time the outdoor patio is completed, and in accordance with the building rules and procedures for use of such space.
 - g. HACEP shall be responsible to ensure compliance with all federal, state and local laws, regulations and policies regarding its receipt and use of the CDBG funds referenced herein.
7. **Term.** Unless terminated sooner as allowed under this Agreement, the term of this Agreement expires upon the conclusion of the Lease of the Center.
8. **Termination.** Until such time construction is complete and the Lease commences, this Agreement may be terminated as follows:
- a. Termination for Convenience. Either party may terminate this Agreement for any reason upon a 120-calendar day advance written notice. If the City terminates for convenience prior to the completion of the construction and commencement of the Lease term, the City is responsible to cover any costs associated with the reimbursement of the CDBG funding. If HACEP terminates for convenience prior to the completion of the construction and commencement of the Lease term, HACEP will reimburse the City for all CDBG funds spent by the City as a result of this Agreement.
 - b. Termination for Cause. The City may terminate this Agreement for cause if HACEP is in material breach of the Agreement and fails to cure performance under this Agreement after the receipt of a 60 days written notice to cure. If the City terminates this Agreement for cause prior to the completion of the construction and commencement of the Lease term,

HACEP will reimburse the City (i) all the funds paid by City to HACEP pursuant to this Agreement and (ii) which are required to be reimbursed to the United States Department of Housing and Urban Development.

- c. **Non-Appropriation of Funds.** The City may terminate this Agreement upon six months' advance written notice for a failure from City council to appropriate any funds in a fiscal year to cover the obligations under this Agreement. If the City terminates this Agreement under this provision, then the City will not be obligated to disburse any payments under this Agreement.

After completion of construction and commencement of the Lease, attached hereto as Exhibit B, the Lease provisions regarding termination shall govern the termination of this Agreement.

9. **No Waiver of Sovereign Immunity.** The City and HACEP agree that neither the City nor HACEP waive their sovereign immunity or immunity to suit, liability or limitation upon damages by executing this Agreement or any other contract or agreement related to the Agreement.
10. **No Joint Enterprise.** This Agreement does not create any joint enterprise between the parties.
11. **Amendments.** This Agreement may be amended at any time only by written agreement signed by the parties. Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal or state law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date that portion of the law or regulations becomes effective.
12. **Severability.** It is agreed that if any provisions of this Agreement is determined to be invalid, illegal, or unenforceable, applicable law and/or regulations shall take precedence in resolving any inconsistencies, and that the remainder of the Agreement shall remain valid and binding.
13. **Authorization.** Pursuant to Chapter 791, this Agreement shall only be effective after its approval by the City Council on behalf of the City and the Board of Commissioners of HACEP on behalf of HACEP.
14. **Limited Scope.** This Agreement is written to document the parties' agreement with respect to the designated purpose stated herein. This Agreement does not affect, impact, alter, or amend any other agreement between the City and HACEP.
15. **Governmental Function.** Both parties agree that in all things relating to this Agreement, the City and HACEP are performing a governmental function as defined by the Texas Tort Claims Act. The parties agree that the City and HACEP both enter into this Agreement as governmental entities for the purpose of performing a governmental function.

16. Authorized City Representative. The City designates the City Manager, or designee, as the person authorized to issue any approvals or requests under this Agreement.

17. Notices. The parties will send all notices to the addresses below. All notices must be sent by certified mail and postmarked. Notices under this Agreement are deemed to be received 3 calendar days following the postmark date. The parties may notify to each other, in writing at the addresses below, any changes in address in which case such address in the notice will replace the address described below.

CITY: Attn: City Manager
300 N. Campbell
El Paso, Texas 79901

With copy to: Director of Community Development
801 Texas, 3rd Floor
El Paso, TX 79901

HACEP: Attn: Gerald Cichon, Chief Executive Officer
5300 E. Paisano Dr.
El Paso, Texas 79905
Email: gcichon@hacep.org and asaenz@hacep.org

With copy
To: Attn: Art Provenghi, Corporate Counsel
5300 E. Paisano Dr.
El Paso, Texas 79905
Email: aprovenghi@hacep.org

18. Funding. Each party paying for performance of governmental functions or services is making such payments from current revenues available to the paying party.

19. Governing Law and Venue. This Agreement is governed by Texas law. The venue for any disputes regarding this Agreement lies exclusively in the City and County of El Paso, Texas.

20. Captions. The captions of this Agreement are for information purposes only, and in no way affect the substantive terms or conditions of this Agreement.

21. Complete Agreement. This Agreement contains all of the agreements between the parties.

Executed this 15th day of October, 2019.

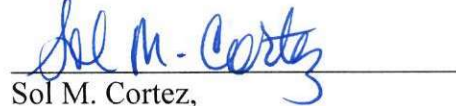
(Signatures begin on the following page.)

CITY OF EL PASO



Dee Margo
Mayor

APPROVED AS TO FORM:



Sol M. Cortez,
Senior Assistant City Attorney

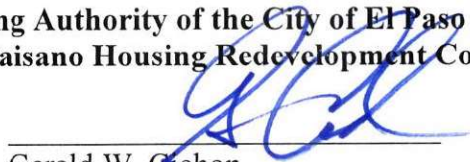
APPROVED AS TO CONTENT:



Nicole Ferrini, Director
Community and Human Developer

**Housing Authority of the City of El Paso
And Paisano Housing Redevelopment Corporation**

By:



Gerald W. Cichon
Secretary and Chief Executive Officer

EXHIBIT "A"

EXHIBIT “B”

Lease Agreement

This Lease Agreement ("*Lease*") is entered as of this ____ day of October 2019 by and between Paisano Housing Redevelopment Corporation ("*Landlord*") and the City of El Paso, Texas ("*Tenant*").

Whereas, the Tenant is seeking appropriate space to house the Tenant's Center for Civic Empowerment; and

Whereas, the Tenant has approached the Landlord for the use of the 17th floor of the Blue Flame building located at 304 Texas Avenue; and

Whereas, the 17th floor is currently a mechanical space floor not fit for leasing; and

Whereas, the 17th floor will need improvements to get the floor to condition fit for occupation;

Whereas, the Tenant and Landlord are willing to work together to improve the 17th floor to house the Center for Civic Empowerment; and

Whereas, the Tenant and Landlord, by separate agreement between them, have obtained and approved the use of Community Development Block Grant ("*CDBG*") funds to contribute to the construction of the Center for Civic Empowerment:

Now therefore, the parties agree as follows:

Article 1: Premises, Term, and Use

1.01 Leased Premises.

A. Upon the terms, provisions and conditions hereof, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the meeting room space known as the "Center for Civic Empowerment" reflected on the floor plans set forth in Exhibit "A" hereto in the Building known as The Blue Flame Building, 304 Texas Ave., El Paso, Texas 79901 (the "*Building*," which term shall also include the related parking areas, landscaping, and other similar improvements), constructed or to be constructed on the land described in Exhibit "B" hereto. The Center for Civic Empowerment, together with any other space in the Building leased by Tenant pursuant hereto, are herein called the "*Leased Premises*." The Leased Premises does not include the outdoor patio area immediately outside of the Leased Premises.

B. The net rentable of the initial Leased Premises for office space is approximately 6,115 square feet on the 17th Floor of the Building, and the rentable area for the commercial office space of the Building is approximately 42,191 square feet. This amount does not include the residential portions of the Building.

C. Before or on the commencement date of the Term of this Lease, the Landlord will deliver the Leased Premises to the City in accordance to the final approved plans and specifications attached to this Agreement as Exhibit "C".

1.02 Term.

A. Initial Term. Subject to the terms, provisions and conditions hereof, this Lease shall continue in force for a term ("*Term*") of ten (10) years, beginning on the later to occur of receipt of Certificate of Occupancy from City of El Paso or 1st day of July 2020, and ending on the last day of the 120th month or 30th day of June, 2030 respectively. If the Leased Premises are not ready for occupancy by such commencement date for any reason, Landlord shall not be liable for any claims, damages, or liabilities in connection therewith or by reason thereof, and the Term shall commence on the date the Leased Premises are ready for occupancy by Tenant. Should the Term commence on a date other than that specified above, Landlord and Tenant will, at the request of either, execute a declaration specifying the actual commencement date. In such event, rental under this Lease shall not commence until the actual commencement date, and the stated Term shall thereupon commence and the expiration date shall be extended so as to give effect to the full Term stated above.

B. Renewal Option. Landlord hereby grants to Tenant, and Tenant shall have, the right and option to extend the Term of this Lease for two (2) periods of five (5) years (a "*Renewal Term*"). The Renewal Term, if exercised by Tenant, shall commence upon the next day following the last day of the initial Term. Tenant shall notify Landlord in writing of Tenant's election to extend the lease for the Renewal Term at least 60 days prior to the expiration of the Term, time being of the essence with respect to such notification. If Landlord does not receive written notice of the exercise of a renewal option by Tenant as required herein, the Lease shall expire as of the term then in effect as if the Renewal Term was not granted and did not apply. The Renewal Term shall be upon all of the terms and conditions of this Lease, except the Base Monthly Rent shall be increased as stated in Section 2.01 of this Agreement.

1.03 Tenant's Use. The Leased Premises shall be used and occupied by Tenant solely and exclusively for the purposes as a general assembly space, trainings, and special events.

1.04 Landlord's Mixed-Use of the Building. Landlord maintains and operates the Building as a combination of affordable housing apartments, retail, and commercial office space, referred to as a mixed-use building. This Lease does not permit or grant rights to Tenant to provide retail services or residential living, as the retail and residential components of the Building are subject to a separate form of lease. By executing this Lease, however, Tenant agrees to and accepts Landlord's current and future mixed usages of the Building as set forth herein.

1.05 Use of Shared Use Spaces. Tenant may use all publicly shared use spaces within the Building including the patio located outside the Leased Premises, excluding the private residential floors and secure areas of the underground facilities.

Article 2: Rent

2.01 Rental Rates.

A. Base Rental. During the Term, Tenant shall pay an annual base rental ("*Base Rental*") in the sum per the schedule below; Base Rental includes Initial Basic Operating Costs (hereafter defined). Such annual Base Rental together with all increases thereof provided for herein shall be due and payable in advance in twelve (12) equal installments on the first day of each calendar month during the Term, at Landlord's address as provided herein (or at such other place as Landlord may hereafter designate) without demand, deduction, abatement, or set off (except as otherwise expressly provided for in Sections 5.01 and 5.02. If the Term commences or ends on other than the first or last day of a calendar month, then the installment of Base Rental or such month shall be appropriately prorated.

Year	Net Rentable Square Foot Rate	Base Rental/Year	Rent Per Month
1	\$11.50	\$70,317	\$5,859.78
2	\$11.85	\$72,427	\$6,035.57
3	\$12.20	\$74,600	\$6,216.64
4	\$12.57	\$76,838	\$6,403.14
5	\$12.94	\$79,143	\$6,595.23
6	\$13.33	\$81,517	\$6,793.09
7	\$13.73	\$83,963	\$6,996.88
8	\$14.14	\$86,481	\$7,206.79
9	\$14.57	\$89,076	\$7,422.99
10	\$15.00	\$91,748	\$7,645.68

B. Base Rental for Renewal Term(s). Base Rental for the Renewal Terms shall increase by two percent (2.0%) each year.

2.02 Tenant's Share of Basic Operating Costs.

A. Tenant shall also pay, as hereinafter provided, Tenant's Share (hereafter defined) of any increases in the Basic Operating Costs (hereinafter defined) for the commercial office space of the Building (Floors 1 and 14 through 17, excluding the outdoor patio area on 17th floor) over the Initial Basic Operating Costs. The "*Initial Basic Operating Costs*" (on a per square foot of rentable area per year basis) is hereby stipulated to be \$5.00. The Initial Basic Operating Cost is included in, and not in addition to, the Base Rental amount paid by Tenant. Prior to the commencement of each calendar year during the Term, Landlord shall provide a then current estimate of Basic Operating Costs for the initial calendar year, and thereafter, Tenant shall pay, as additional rent, in twelve (12) equal monthly installments at the time and place provided in Section 2.01, Tenant's Share of the estimated difference between Basic Operating Costs and Initial Basic Operating Costs for the calendar year in question.

B. Within one hundred fifty (150) days or as soon thereafter as possible of the conclusion of each calendar year of the Term, whichever is earlier, Landlord shall furnish to Tenant

a statement of actual Basic Operating Costs for such year, and within ten (10) business days thereafter an appropriate cash adjustment shall be made between Landlord and Tenant to reflect any difference between Landlord's estimate of, and the Actual, Basic Operating Costs. The Landlord will either refund or credit to Tenant any excess payments of Basic Operating Costs made by the Tenant as stated above.

C. Basic Operating Costs shall be paid by Tenant in the proportion (herein called "*Tenant's Share*") which the net rentable area of the Leased Premises bears to the total net rentable area of the commercial office space portion of the Building.

D. "*Basic Operating Costs*" shall mean the operating expenses solely of the commercial office space of the Building. All operating expenses shall be determined on an accrual basis in accordance with generally accepted accounting principles which shall be consistently applied. Such operating expenses shall include all expenses, costs and disbursements of every kind and nature which Landlord shall become obligated to pay because of or in connection with the ownership, operation, and maintenance of the commercial office space of the Building, including, but not limited to, the following:

(1) Wages and salaries of all employees engaged in direct operation and maintenance of the commercial office space portion of the Building, employer's social security taxes, unemployment taxes or insurance, and any other taxes which may be levied on such wages and salaries, the cost of disability and hospitalization insurance and pension or retirement benefits for such employees;

(2) All supplies and materials used in the operation and maintenance of the commercial office space portion of the Building;

(3) Cost of all utilities for the commercial office space portion of the Building, including the cost of water, electricity, power, heating, lighting, air conditioning, and ventilating for the Leased Premises (excluding Tenant's own after-hours utility usage for the Leased Premises, which is addressed in Section 3.01A(5) below);

(4) Cost of all maintenance and service agreements for the commercial office space portion of the Building, the equipment therein and grounds, including janitorial service, security service, landscape maintenance, alarm service, window cleaning and elevator maintenance;

(5) Cost of the trash and waste removal services, including the Leased Premises and the commercial office space portion of the use of the compactor and waste removal services shared with Stanton Tower;

(6) All taxes and assessments and governmental charges, whether federal, state, county, or municipal and whether they be by taxing districts or authorities presently taxing the Leases Premises or by others, subsequently created or otherwise, and any other taxes and assessments attributable to the Building or its operation excluding, however, federal and state taxes on income and ad valorem taxes on Tenant's personal property and on the

value of leasehold improvements to the extent the same exceeds standard building allowances;

(7) Cost of repairs and general maintenance for the common areas and commercial office space portion of the Building (excluding such repairs and general maintenance paid by insurance proceeds or by Tenant or other third parties and alterations attributable solely to tenants of the Building other than Tenant);

(8) Legal expenses, accounting expenses, and management fees incurred with respect to the commercial office space portion of the Building;

(9) Costs incurred in compliance with new or revised federal or state laws or municipal ordinances or codes or regulations promulgated under any of the same; and

E. Basic Operating Costs shall not include (i) expenditures classified as capital expenditures for Federal income tax purposes (except as set forth in Section 2.02 D.(10), (ii) costs for which Landlord is entitled to specific reimbursement by Tenant, any other tenant of the Building, or any other third party, (iii) costs of initial construction of the Building, (iv) cost of renovating or modifying space in the Building for lease to other tenants, (v) leasing commissions, ground rentals, and all non-cash expenses (including depreciation), (vi) debt service on any indebtedness secured by the Building, (vii) the cost of maintaining the retail or residential portions of the Building, (viii) tenant improvements, (ix) any replacement reserves, (xi) capital expenditures, and (xii) state or local taxes, including property taxes on the value of property or improvements in the Leased Premises, provided that the Tenant continues to use the Leased Premises for tax exempt purposes. Tenant will provide documentation to Landlord showing that the Leased Premises are tax exempt.

F. If the commercial office space of the Building is not fully occupied during any year, an adjustment shall be made in computing the Basic Operating Costs for such year so that the Basic Operating Costs shall be computed as though ninety-five percent (95%) of the commercial office space portions of the Building has been occupied during such year. At no time will the computation of operating costs be based on a percentage lower than 95% as provided in the previous sentence.

G. Notwithstanding anything to the contrary and to provide budgeting certainty to Tenant, Landlord agrees that the Basic Operating Costs shall not increase above the following maximum amounts during the initial term of the Lease:

Year	Maximum Amount of Basic Operating Costs
1	5.00
2	7.50
3	7.73
4	7.96
5	8.20
6	8.44
7	8.69
8	8.96

9	9.22
10	9.50

Basic Operating Costs shall increase no more than 10 percent after year 10 of this Lease. Notwithstanding anything to the contrary, the Tenant will only pay the Tenant's actual share of the Basic Operating Costs provided that such costs do not exceed the Basic Operating Cost caps established above under Section 2.02(G).

2.03 Audit. Tenant, at its expense, shall have the right upon giving reasonable notice, to audit Landlord's books and records relating to any increased or additional rental payable hereunder for any periods within one (1) year prior to such audit; or at Landlord's sole discretion, Landlord will provide an audit or report prepared by a certified public accountant, which audit or report for purposes of this Lease shall be conclusive. The right to audit shall be limited to the Landlord's costs and expenses related to the commercial office portion of the Building. Notwithstanding anything to the contrary, if the U.S. Department of Housing and Urban Development ("HUD") requests from the Tenant documents exceeding the one year period in this Section, then Landlord will work with Tenant to provide such documents to HUD.

2.04 Commencement Date Triggers Base Rental Payments. All obligations to pay Base Rental, including Tenant's share of Basic Operating Costs, commence upon the delivery of the Leased Premises to the Tenant in accordance with the terms of this Agreement.

Article 3: Landlord's Services

3.01 Services to Be Furnished by Landlord.

A. At Landlord's expense and subject to the Building Rules and Regulations (hereinafter defined) and Tenant's performance of its obligations hereunder, the Landlord will furnish to Tenant the following services:

(1) Air conditioning and heating in season, during Normal Building Operating Hours (hereafter defined), at such temperatures and in such amounts as are considered by Landlord to be standard; HVAC will be provided by Landlord to maintain the temperature in the Leased Premises between 66 degrees and 78 degrees Fahrenheit, a range Landlord and Tenant agree provides a reasonably comfortable working environment and that is recommended by OSHA to assist in the prevention or alleviation of indoor air quality problems (see the OSHA Technical Manual).

(2) Hot and cold water at those points of supply provided for lavatory and drinking purposes only;

(3) Janitor service in and about the Building and the Leased Premises five (5) days per week, and periodic window washing; however, Tenant shall pay, as additional rent the additional costs attributable to the cleaning of improvements within the Leased Premises other than building standard improvements;

(4) Access to the Leased Premises 24 hours for all days during the term of this Lease. Elevators for access to and egress from the Leased Premises and the Building twenty-four (24) hours a day, seven (7) days a week;

(5) Electricity and proper facilities to furnish sufficient electrical power during Normal Building Operating Hours for normal office machines and other equipment including lighting of low electrical consumption, but not including electricity required for electronic data processing equipment, special lighting in excess of building standard, or any other item of electrical equipment which singly consumes more than 0.5 kilowatts per hour at rated capacity or requires a voltage other than 120 volts single phase except electrical consumption that is separately metered. Should such electrical service for the Premises for normal office machines and other equipment including lighting of low electrical consumption be separately metered, Tenant shall pay for electric current supplied or used in the premises at the rate as established by the company providing electricity to the premises. Electric current shall be measured by meter. Tenant will be billed monthly for such current. Landlord will maintain an energy management tracking system that will track each commercial tenant's electrical consumption, segregated by each tenant, including electrical consumption by each tenant that occurs either during and/or outside (i.e., after-hours) of Normal Building Operating Hours. Thus, Landlord will invoice Tenant, and Tenant agrees to pay, for Tenant's actual after-hours consumption of electricity for the Leased Premises, without any markup on such consumption.

(6) Replacement of lamps/bulbs in Building Standard light fixtures installed by Landlord and replacement in all public areas.

(7) Sewer services and trash disposal for the Leased Premises.

B. "Normal Building Operating Hours" for purposes of this Lease shall be, for the retail and commercial office portions of the building, from 7:00 a.m. to 6:00 p.m. Monday through Friday, and closed Saturday, Sunday and holidays. The normal operations of the residential portion of the building, which is not applicable to this Lease or to Tenant, shall be a 24-hour per day basis.

C. Failure by Landlord, to any extent to any extent to furnish such services or any cessation thereof of Landlord shall not render Landlord liable in any respect for damages to either person or property, nor be construed as an eviction of Tenant, nor work and abatement of rent, nor relieve Tenant from fulfillment of any covenant or agreement hereof. Should any of such services be interrupted, Landlord shall use reasonable diligence to restore same promptly, but Tenant shall have no claim for rebate of rent or damages or eviction on account thereof. Notwithstanding anything to the contrary, if the Landlord fails to furnish services and such failure to furnish services prevents the Tenant from accessing the Leased Premises for more than 30 calendar days and causes the Tenant to become liable to the United States Department of Housing and Urban Development ("HUD") for any amount of Community Development Block Grant ("CDBG") funds, then this failure by the Landlord will constitute a material default of this Agreement. No default is considered if Landlord's failure to provide services is caused by natural catastrophic event.

D. Landlord is responsible for the operation and maintenance of the Building and Leased Premises, including but not limited to providing all operations and services covered by the Basic Operating Costs.

3.02 Access by Tenant Prior to Commencement of Term. Landlord, at its discretion, may permit Tenant and its employees, agents, suppliers, contractors and work crews to enter the Leased Premises prior to the commencement of the Term to enable Tenant to do such things as may be required by Tenant to make the Leased Premises ready for Tenant's occupancy. If such permission is granted, such parties will not interfere with or delay the performance of any activities by Landlord or other occupants to the Building. Landlord may withdraw such permission upon twenty-four (24) hours' notice to Tenant if Landlord determines that any such interference or delay has been or may be caused. Any such entry into the Leased Premises shall be at Tenant's own risk and Landlord shall not be liable in any way for personal injury, death, or property damage which may be suffered in or about the Leased Premises or the Building by Tenant or its employees, agents, contractors, suppliers or work crews.

3.03 Repair and Maintenance by Landlord. Landlord shall not be required to make any improvements or repairs of any kind or character to the Leased Premises, except such repairs as may be required to the Building corridors, lobby, utility infrastructure, fire sprinkler equipment, walls (interior and exterior), flooring support, frame, structural members of the Building (including roof), and equipment used to provide the services referred to in Section 3.01, and such additional maintenance to such corridors, lobbies or structural members as may be necessary because of damage by persons other than Tenant, its agents, employees, invitees or visitors. The obligation of Landlord to so maintain and repair the Leased Premises shall be limited to Building Standard items. Tenant will promptly give Landlord written notice of any damage in the Leased Premises. This Section shall not apply in the case of damage or destruction by fire or other casualty (as to which Section 5.02 shall apply), or damage resulting from an eminent domain taking (as to which Section 5.01 shall apply).

3.04 Parking.

A. **General Parking.** There is no parking on-site at, or below, the Building. However, Landlord maintains an agreement with a third-party (the "*Parking Owner*") that owns and operates a parking structure located at 122 N. Kansas, El Paso, Texas adjacent to the Building (the "*Parking Structure*"). Any of Tenant's rights related to parking at the Parking Structure through this Lease are set forth on Exhibit "D" hereto. Any parking at the Parking Structure are subject to the rules and regulations set by the Parking Owner.

B. **Assigned Parking Spaces in the Parking Structure.** As of the Commencement Date, Landlord will assign to Tenant two (2) non-reserved, general use parking spaces in the Parking Structure. Tenant may choose to lease the (2) spaces directly from the third party operator of the Parking Structure. The Parking Structure is owned and operated by a third-party. Any rights to use the Parking Structure are subject to the terms, restrictions, and hours of the facility as offered to the public by the third-party operator of the Parking Structure.

C. **Public Access to Parking Structure.** Tenant is free to seek or utilize additional parking for its employees, guests, or customers at the Parking Structure, at Tenant's own expense, subject to availability and the rules and operations of the third-party that operates the Parking Structure.

Article 4: Tenant's Covenants

4.01 Payments by Tenant. Tenant shall timely pay all Base Rental and sums provided to be paid to Landlord hereunder at the times and in the manner herein provided and to occupy at all times the Leased Premises. If Tenant should fail to pay Landlord by more than six (6) days after when due any installment of Base Rental or any sum to be paid hereunder by the first day of each such month in which such installment or payment is due, Tenant will pay Landlord on demand a late charge fee calculated as five percent (5%) of the late amount each and every month such installment is past due in order to reimburse Landlord for additional expenses and costs in an amount that is not readily ascertainable and which has not been elsewhere provided for between the parties hereto, to the extent allowed under law. Late charge fees shall not be constructed as liquidated damages or limiting Landlord's remedies in any manner.

4.02 Certain Taxes. Tenant shall pay all ad valorem taxes, if any, assessed on all improvements installed in the Leased Premises that are in excess of those installed by Landlord from time to time as Building Standard.

4.03 Repairs by Tenant. Tenant shall, at its cost, repair or replace any damage to the Building, or any part thereof, caused by Tenant or Tenant's agents, employees, invitees or visitors.

4.04 Care of the Leased Premises. Tenant shall maintain the Leased Premises in a clean, attractive condition, and not commit or allow any waste or damage to be committed on or to any portion of the Leased Premises, and at the expiration or termination of this Lease shall deliver up the Leased Premises to Landlord in as good condition as at date of possession by Tenant, ordinary wear and tear excepted.

4.05 Transfer by Tenant. Tenant's right to transfer any interest in this Lease or the Leased Premises, directly or indirectly, are limited as follows:

A. Tenant shall not assign or sublease, in whole or in part, this Lease, or allow it to be assigned, in whole or in part, by operation of law or otherwise (including, without limitation, by transfer of a majority interest of stock, merger, dissolution, or death which transfer of majority interest of stock, merger, dissolution, or death shall be deemed an assignment) or mortgage or pledge the same, or sublet the Premises, in whole or in part, without the prior written consent of Landlord which shall not be unreasonably withheld. Upon an approved assignment of this Lease by Landlord, the Tenant shall be released from all obligation under this Lease.

B. If Tenant files a petition under any Chapter of the Federal Bankruptcy Code, or under any successor statute governing liquidation, then this Lease shall terminate as soon as permitted by the provisions of the Federal Bankruptcy Code. By this Lease, the trustee in

bankruptcy or debtor in possession, as applicable, is hereby requested to assume or reject the unexpired Lease of Tenant within the shortest period of time permitted by law.

C. If Tenant becomes insolvent, if a writ of attachment or execution is levied upon this Lease, the Premises, Tenant's interest in either or in any part of them, if a receiver is appointed with authority to take possession of the Premises or if any part of either occurs without Landlord's prior written consent, then Landlord may terminate this Lease at Landlord's option. This provision shall be binding upon all of Tenant's heirs, assigns and other successors in interest.

4.06 Alterations, Additions, Improvements. Tenant will make no alteration, change, improvement, repair, replacement, or addition to the Leased Premises without the prior written consent of Landlord, such consent which shall not be unreasonably withheld. Tenant may remove its trade fixtures, office supplies, office equipment, and movable office furniture and equipment not attached to the Building provided such removal is made prior to the termination or expiration of the Term; Tenant is not then in default in the timely performance of any obligation or covenant under this Lease; and Tenant promptly repairs all damage caused by such removal. All other property at the Leased Premises (including but not limited to wall-to-wall carpeting, drywall, partitions, paneling or other wall covering) and any other article attached or affixed to the floor, wall, or ceiling of the Leased Premises shall become the property of the Landlord and shall be surrendered with the Leases Premises as part thereof at the termination of this Lease, without payment or compensation thereof.

4.07 Compliance with Laws and Usage; Liens. Tenant, at its cost, shall comply with all federal, state, municipal and other laws and ordinances, and the Building Rules and Regulations applicable to the Leased Premises and the business conducted therein by Tenant; will not engage in any activity which would cause landlord's fire and extended coverage insurance to be canceled or the rate therefore to be increased (or, at Landlord's option, will pay any such increase); will not commit any act which is a nuisance or annoyance to Landlord or to other tenants, or tend to injure or depreciate the Building; and will not commit or permit waste in the Leased Premises or Building. Tenant has no authority to encumber the Building or Leased Premises with any lien, and Tenant shall not suffer or permit any such lien to exist. Should any such lien hereafter be filed, Tenant shall promptly discharge the same at its sole cost.

4.08 Access by Landlord. Tenant shall permit Landlord or its agents or representatives to enter into and upon any part of the Leased Premises at all reasonable hours to clean. Upon a minimum 24 hour advance notice, the Landlord may enter the Leased premises to inspect, make repairs, alterations, or additions to the Leased Premises. Upon prior written approval from the Tenant, the Landlord may enter the Leased Premises to show the Leased Premises to prospective purchasers or tenants; or for any other purpose deemed reasonable by Landlord.

4.09 Landlord's Mortgagee. Tenant agrees with Landlord and with the mortgagee of any mortgage or the beneficiary of any deed of trust or other loan now or hereafter constituting a lien on the Building or the Leased Premises ("*Landlord's Mortgagee*") that any Landlord's Mortgagee shall have the right at any time to elect, by notice in writing given to Tenant, to make this Lease superior to the lien of such mortgage or deed of trust and upon the giving of such notice to Tenant, this Lease shall be deemed prior and superior to the mortgage or deed of trust in respect

to which such notice is given; and at Landlord's Mortgagee's request Tenant shall execute a reasonable and recordable memorandum of this Lease establishing this Lease as superior to such lien; or Landlord's Mortgagee may, by like notice, make this Lease subordinate to such mortgage or deed of trust. If Landlord's Mortgagee shall elect to make this Lease subordinate to such mortgage or deed of trust, the same shall be self-operative and no further instrument of subordination need be required by any mortgagee. In confirmation of such subordination, however, Tenant shall execute promptly any reasonable instrument that Landlord may request or need for its lender(s) or investor(s), provided that such document does not modify the terms of this Lease or obligate the Tenant to new obligations. In the event of the enforcement by Landlord's Mortgagee of the remedies provided by law or by such mortgage, deed of trust, or loan, Tenant will, upon request of any person or party succeeding the interest of Landlord as a result of such enforcement, automatically become the Tenant of such successor in interest without change in terms or other provisions of such Lease provided, however, that such successor in interest shall not be bound by any payments in the nature of security for the performance by Tenant of its obligations under this Lease, unless such successor is in actual possession of such security, or any amendment or modification of this Lease made without the written consent of such trustee or such beneficiary or such successor in interest. Upon request by such successor in interest, Tenant shall execute and deliver reasonable instruments confirming the attornment provided for herein, provided that such attornment does not modify the terms of this Lease or obligate the Tenant to any new responsibilities.

4.10 Estoppel Certificate. At Landlord's request Tenant will promptly execute an estoppel certificate addressed to Landlord's Mortgagee or any other third party certifying as to such notice provisions and other matters as Landlord's Mortgagee or any other third party may reasonably request. At Landlord's request from time to time, Tenant will execute a certificate stating the commencement and expiration dates of the Term, the rental then payable hereunder, that there are no defaults on the part of Landlord or claims against Landlord hereunder (or if there are any, stating the same with particularity), and such other information pertaining to this Lease as Landlord may reasonably request. Provided however, that Tenant will not be obligated to sign an estoppel certificate if Landlord is in material default under this Lease.

4.11 Environmental.

A. As used in this Lease: (i) "*Environmental Claim*" means any investigative, enforcement, cleanup, removal, containment, remedial or other governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement (hereinafter defined) against Landlord, Tenant or against or with respect to the Leased Premises or any use or activity on the Leased Premises, and any claim at any time threatened or made by any person against Landlord, Tenant or against or with respect to the Leased Premises or any use or activity on the Leased Premises, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Substance; (ii) "*Environmental Requirement*" means any legal requirement which pertains to ground or air or water or noise pollution or contamination, underground or aboveground tanks, health or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("*CERCLA*"), the Resource Conservation and Recovery Act of 1976, as amended ("*RCRA*"), the Texas Water Code and the Texas Solid

Waste Disposal Act; and (iii) "Hazardous Substance" means any substance, whether solid, liquid or gaseous; (x) which is listed, defined or regulated as a "hazardous substance," "hazardous waste," or "solid waste," or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Requirement; or (y) which is or contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, or explosive or radioactive material; or (z) which causes or poses a threat to cause a contamination or nuisance on the Leased Premises or on any adjacent premises or a hazard to the environment or the health or safety of persons on the Leased Premises. As used in this paragraph, the word "on" when used with respect to the Leased Premises or adjacent premises means "on, in, under, above, or about."

B. Tenant will not cause, commit, permit, or allow to continue any violation of any Environmental Requirement by Tenant or by or with respect to the Leased Premises or any use or activity on the Leased Premises, or the attachment of any environmental lien to the Leased Premises. Tenant will not place, install, dispose of or release, or cause, permit or allow the placing, installation, disposal or release of, any Hazardous Substance or storage tank (or similar vessel) on the Leased Premises and will keep the Leased Premises free of any Hazardous Substance.

C. Tenant will promptly advise Landlord in writing of any Environmental Claim or of the discovery of any Hazardous Substance on the Leased Premises, as soon as Tenant first obtains knowledge thereof, including a full description of the nature and extent of the Environmental Claim and/or Hazardous Substance and all relevant circumstances.

D. If Landlord through an inspection confirms the existence of any Hazardous Substance on the Leased Premises, or if any Environmental Claim is made or threatened, or if a default shall have occurred, Tenant will at its expense provide to Landlord from time to time, in each case within 30 days of Landlord's request, a report (including all drafts thereof if requested by Landlord) of an environmental assessment of the Leased Premises made after the date of Landlord's request and of such reasonable scope (including but not limited to the taking of soil borings, air and groundwater samples and other above and below ground testing) as Landlord may request and by a consulting firm acceptable to Landlord. Tenant will cooperate with each consulting firm making any such assessment and will supply to the consulting firm, from time to time and promptly on request, all information available to Tenant to facilitate the completion of the assessment and report.

E. Without limitation of Landlord's rights to declare an Event of Default and to exercise all remedies available by reason thereof, if any Hazardous Substance is discovered on the Leased Premises at any time and provided such cause was not caused by the Landlord or any other tenant of the building, Tenant shall: (i) promptly at Tenant's sole risk and expense remove, treat and dispose of the Hazardous Substance in compliance with all applicable Environmental Requirements and solely under Tenant's name (or if removal is prohibited by any Environmental Requirement, take whatever action is required by applicable Environmental Requirements), in addition to taking such other action as is necessary to have the full use and benefit of the Leased Premises, and provide Landlord with satisfactory evidence thereof; and (ii) if requested by Landlord, provide to Landlord within 30 days of Landlord's request a bond, letter of credit or other financial assurance evidencing to Landlord's satisfaction that all necessary funds are readily available to pay the costs and expenses of the actions required by clause (i) preceding and to

discharge any assessments or liens established against the Leased Premises as a result of the presence of the Hazardous Substance on the Leased Premises.

F. If the Leased Premises or any condition existing on the Leased Premises is ever determined to be in violation of any law, ordinance, or regulation which requires correction or clean-up, as provided in any law, ordinance, or regulation relating to environment protection, occupational health or safety, public health or safety, or public nuisance or menace, Landlord, in its discretion, but without the obligation to do so, may correct the condition or violation and will conclusively be deemed to be acting reasonably and for the purpose of protecting the value of the Leased Premises. Landlord may charge all costs of correcting the condition or violation to the Tenant.

4.12 Vending Machines. Tenant shall not place, or allowed to be placed, or operate, any soft drink, snack or other food vending machines in the Leased Premises.

4.13 ADA Compliance.

A. **Landlord's Compliance Obligation.** Tenant requires that the Building, Leased Premises and site (collectively, the "*Project*") be in compliance with all laws and codes including without limitation the Americans with Disabilities Act of 1990 ("*ADA*") and The Texas Architectural Barriers Act, as amended, and laws of a similar nature (collectively "*Disability Access Laws*"). Should the Building not be in compliance with Disability Access Laws, Landlord shall, at its sole cost and expense, make any changes or alterations required to so comply and such costs shall be excluded from the calculation of Operating Expenses.

B. **Tenant's Compliance Obligation.** Tenant shall, at its sole expense, be responsible (i) for compliance with the ADA, to the extent that the ADA imposes obligations on the procedure and design of any alterations to the Leased Premises made by Tenant, and (ii) for making modifications in its policies, practices and procedures in connection with the operation of Tenant's business if failure to make such modifications would constitute a violation of the ADA.

4.14 Tenant Ratio. Tenant will not exceed the occupancy limits of the Leased Premises in accordance to local ordinances and fire code.

4.15 Non-Interference with Residential Tenants. Tenant shall not interfere with the residential tenants use and enjoyment of the residential component of the Building.

Article 5: Mutual Covenants

5.01 Condemnation and Loss or Damage. If the Leased Premises, Building, or any part thereof shall be taken or condemned for any public purpose (or conveyed in lieu or in settlement thereof) to such an extent as to render the remainder of the Building or Leased Premises, in the opinion of the Landlord and Tenant, not reasonably suited for occupancy, this Lease shall, at the option of either party, forthwith cease and terminate. All proceeds from any taking or condemnation of the Building, as unencumbered by the Tenant's leasehold estate, shall be paid to the Landlord and all proceeds awarded for any Tenant-owned improvements and the Leasehold

estate shall belong to and be paid to the Tenant. If this Lease is not so terminated, Landlord shall repair any damage resulting from such taking, to the extent and in the manner provided in Section 5.02, and Base Rental hereunder shall be abated to the extent the Leased Premises are rendered untenable during the period of repair, and thereafter be adjusted on an equitable basis considering the areas of the Leased Premises taken and remaining.

5.02 Fire or Other Casualty; Certain Repairs.

A. In the event of a fire or other casualty in the Building and/or the Leased Premises not caused by the Tenant, the Landlord shall repair/rebuild the Building and/or Leased Premises to the condition of the Leased Premises prior to the fire or casualty, including improvements made by Tenant. Landlord will complete all repairs/rebuilding within 9 months of the fire or casualty date. All amounts owed by Tenant under this Lease will be abated as to the portion of the Leased Premises rendered untenable until such time as the Leased Premises are made Tenable. If the Building is damaged in a manner that prevents access to the Leased Premises, then all amounts owed by the Tenant under this Lease will be abated until the damages to the Building are repaired to allow safe access to the Leased Premises. If the Landlord cannot complete repairs/rebuilding within 9 months of the fire or casualty date or if the Landlord decides not to rebuild the Building or the Leased Premises after a fire or casualty not caused by the Tenant, then the Landlord will reimburse the Tenant all costs of improvements made by the Tenant to the Leased Premises, including any grants used by the City to improve the Leased Premises, and this Lease will terminate. The Tenant will provide Landlord proof of costs incurred by the City in improving the Leased Premises.

5.03 Lien for Amounts Due. To the extent allowed by law, as security for payment of Base Rental, damages and all other payments required to be made by this Lease, Tenant hereby grants to Landlord a lien upon all property of Tenant now or subsequently located in the Premises. If Tenant abandons or vacates any substantial portion of the Premises or is in default in the payment of any Base Rental, damages or other payments required to be made by this Lease or is in default of any other provision of this Lease, Landlord may enter upon the Premises, and take possession of all or any part of the personal property, and may sell all or any part of the personal property at a public or private sale, in one or successive sales, with or without notice, to the highest bidder for cash, and, on behalf of Tenant, sell and convey all or part of the personal property to the highest bidder, delivering to the highest bidder all of Tenant's title and interest in the personal property sold. The proceeds of the sale of the personal property shall be applied by Landlord toward the reasonable costs and expenses of the sale, including attorney's fees, and then toward the payment of all sums then due by Tenant to Landlord under the terms of this Lease. Any excess remaining shall be paid to Tenant or any other person entitled thereto by law. This Lease is intended as and constitutes a security agreement within the meaning of the Texas Business and Commerce Code ("Code") and Landlord, in addition to the rights prescribed in this Lease, shall have all of the rights, titles, liens, and interests in and to Tenant's property now or hereafter located upon the Premises which are granted a security party, as that term is defined, under the Code to secure to Landlord payment of all sums due under and the full performance of all Tenant's covenants under this Lease. Tenant will on request execute and deliver to Landlord a financing statement for the purpose of perfecting Landlord's security interest under this Lease or Landlord may file this Lease or a copy thereof as a financing statement. Unless otherwise provided by law and for the purpose of

exercising any right pursuant to this section, Landlord and Tenant agree that reasonable notice shall be met if such notice is given by five (5) days written notice, certified mail, return receipt requested to Landlord or Tenant at the addresses specified herein.

5.04 Holding Over. If Tenant should remain in possession of the Leased Premises after the termination or expiration of the Term without the execution by Landlord and Tenant of a new lease, Tenant will: (a) do so as a month-to-month tenant and (b) pay Landlord 150% of the of the annual Net Base Rent in effect for the last month of the Lease Term, plus Additional Rent computed in accordance with the Lease, for any additional holdover. Landlord will not be entitled to consequential damages as a result of Tenant's holdover, but such holding over shall not extend the Term. If Tenant does not exercise option to renew, then the Landlord will provide to the Tenant notice of the expiration of the Lease 60 calendar days in advance. Such notice must provide the expiration date of the Lease and a provision notifying Tenant of the hold over provisions in this Section.

5.05 Assignment by Landlord. If Landlord disposes of its reversionary interest in the Leased Premises during the term of this Lease, then Landlord shall immediately be relieved of any and all further obligations to perform Landlord's covenants under this Lease.

5.06 Limitation to Landlord's Liability. Tenant specifically agrees to look solely to Landlord's interest in the Building or policies of insurance held by the Landlord or third parties for the recovery of any judgment from Landlord, it being agreed that Landlord shall never be personally liable for any such judgment. The provisions contained in the foregoing sentence shall not limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord, or any other action not involving the liability of Landlord to respond in monetary damages from assets other than Landlord's interest in the Building or policies of insurance held by the Landlord or third parties.

5.07 Control of Common Areas and Parking Facilities by Landlord. All automobile parking areas, driveways, entrances and exits thereto, and other facilities furnished by Landlord, including all parking areas, truck way or ways, loading areas, pedestrian walkways, ramps, landscaped areas, stairways and other areas and improvements provided by Landlord for the general use, in common, of tenants, their officers, agents, employees, invitees, licensees, visitors and customers shall be at all times subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify and enforce reasonable rules and regulations (herein called the "*Building Rules and Regulations*") with respect to all facilities and areas mentioned in this Section; the initial Building Rules and Regulations are set out in Exhibit "E" hereto and are of equal dignity herewith, provided such rules and regulations do not modify the terms of this Lease or add any additional obligations on the Tenant that are not included in this Lease.

5.08 Termination.

A. Each of the following occurrences relative to Tenant shall constitute an "Event of Default" for purposes of this Lease:

(1) Abandonment or vacating of the Leased Premises or any significant portion thereof; or

(2) the filing or execution or occurrence of a petition in bankruptcy or other insolvency proceeding by or against Tenant or any guarantor of Tenant; or petition or answer seeking relief under any provision of the Bankruptcy Act; or as assignment for the benefit of creditors or composition; or a petition of other proceeding by or against the Tenant for the appointment of a trustee, receiver or liquidator of Tenant or any of Tenant's property; or a proceeding by any governmental authority for the dissolution or liquidation of Tenant or any guarantor of Tenant; or

(3) Failure by Tenant in the performance or compliance with any of the agreements, terms, covenants or conditions provided in this Lease, including timely payment of any rental or other sums payable under this Lease, for a period of 30 calendar days after notice from Landlord to Tenant specifying the items in default; or

(4) Failure by any guarantor to fulfill his, her or its obligations under any guaranty required by Section 5.26 hereof, of such guarantor's revocation or attempt to revoke any such guaranty; or

(5) The occurrence of any other event herein provided to be an Event of Default.

B. This Lease and the Term and estate hereby made are subject to the limitation that if and whenever any Event of Default shall occur, Landlord may, at its option and without further written notice to Tenant, in addition to all other remedies given hereunder or by law or equity, do anyone or more of the following:

(1) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises to Landlord; or

(2) Terminate this Lease and enter upon and take possession of the Leased Premises and expel or remove Tenant and any other occupant therefrom; or

(3) Alter locks and other security devices at the Leased Premises.

C. Exercise by Landlord of any one or more remedies shall not constitute an acceptance or surrender of the Leased Premises by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement of Landlord and Tenant.

D. If Landlord terminates this Lease by reason of an Event of Default, Tenant shall pay to Landlord the sum of all Base Rental and operating costs accrued to the date of such termination, and the City will be released from all further obligations under this Agreement. No other rents will be owed by the City under this Lease following payment as provided in this Subsection.

E. In case of an Event of Default, to the extent the same were not deducted under Section 5.08 D, Tenant shall also pay to Landlord: the cost of removing and storing Tenant's or any other occupant's property; and the cost of repairing, altering, remodeling or otherwise putting the Leased Premises into the same condition as originally provided to the Tenant; and all reasonable expenses incurred by Landlord in enforcing Landlord's remedies, including reasonable attorneys' fees and court costs if any.

F. If Tenant should fail to make any payment, perform any obligation, or cure any defect hereunder after notice from Landlord to Tenant, Landlord, without obligation to do so and without thereby waiving such failure or default, may make such payment, perform such obligation, and/or remedy such other default for the account of Tenant (and enter the Leased Premises for such purpose), and Tenant shall pay upon demand all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Landlord in taking such remedial action.

G. Landlord's exercise, following a default by Tenant under this Lease, of any right granted hereunder or under any applicable law to lock out or change the locks securing the Leased Premises, shall not impose upon Landlord any duty to notify Tenant of the name and address or telephone number of the individual or company from whom a new key may be obtained, nor shall Landlord have any duty to provide Tenant with a new key or any other means of access to the Leased Premises.

H. Failure by Landlord to perform any obligations under this Agreement after written notice by Tenant and a calendar day opportunity to cure, will constitute an event of default by Landlord. If the Landlord defaults, then the Tenant may terminate this Lease and the Tenant will not be obligated to pay for any further obligations under this Lease incurred after the date of termination for default by Landlord. Upon a termination for default by Landlord, Landlord will reimburse the City any amounts that the City is required, after reasonable due diligence to avoid any refund obligation, to refund back to the United States Department of Housing and Urban Development ("HUD") related to the construction of the Center.

I. To the extent permitted by Tenant's CDBG Grant and without creating liability to Landlord under the CDBG Grant, Tenant may terminate this Lease upon six (6) months advance written notice if the City Council for the City of El Paso votes to terminate the Lease for public interest purposes or for a failure to appropriate funds to cover the costs under this Lease. If the Tenant terminates the Lease under this Provision, then the City will only be obligated to pay the Base Rental, Basic Operating Costs, and any past due Base Rental or Operating Costs, owed up to the date of termination of the Lease.

5.09 Non-Waiver. Neither acceptance of rent by Landlord nor failure by Landlord or Tenant to complain of any action, non-action or default of Tenant or Landlord shall constitute a waiver of any of Landlord's or Tenant's rights hereunder. Waiver by Landlord or Tenant of any right for any default of Tenant or Landlord shall not constitute a waiver of any right for either a subsequent default of the same obligation or any other default.

5.10 Independent Obligations. The obligation of Tenant to pay all Base Rental and other sums hereunder provided to be paid by Tenant and the obligation of Tenant to perform Tenant's other covenants and duties hereunder constitute independent unconditional obligations to be performed at all times provided for hereunder, save and except only when an abatement thereof or reduction therein is hereinabove expressly provided for and not otherwise. Tenant waives and relinquishes all rights which Tenant might have to claim any nature of lien against or withhold against, or deduct from or offset against any Base Rental and other sums provided hereunder to be paid Landlord by Tenant.

5.11 Time of Essence. In all instances where any act is required at a particular indicated time or within an indicated period, it is understood and stipulated that time is of the essence.

5.12 Remedies Cumulative. Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty, or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm. The remedies of Landlord hereunder shall be deemed cumulative and no remedy of Landlord, whether exercised by Landlord or not, shall be deemed to be in exclusion of any other. Except as otherwise specified herein, Landlord will provide Tenant written notice and a 30 calendar day opportunity to cure any defect or default before taking any action under this Agreement.

5.13 Insurance, Subrogation, Liability, and Waiver.

A. Landlord shall maintain fire and extended coverage insurance on the portion of the Building constructed by Landlord including building standard leasehold improvements. Such insurance shall be maintained with an insurance company authorized to do business in Texas, in amounts desired by Landlord and payments for losses thereunder shall be made solely to Landlord. Tenant shall maintain at its expense fire and extended coverage insurance for all tenant improvements constructed on the leased Premises by Tenant and on all of its personal property, including removable trade fixtures, located in the Leased Premises and on its non-building standard leasehold improvements and all additions and improvements made by Tenant and not required to be insured by Landlord above.

B. Landlord shall maintain a policy or policies of comprehensive general liability insurance, including contractual liabilities, with the premiums thereon fully paid, issued by and binding upon some solvent insurance company, such insurance to afford minimum protection (which may be affected by primary and/or excess coverage) with bodily injury limits of not less than \$1,000,000 for each occurrence and \$1,000,000 in the aggregate and property damage liability of not less than \$500,000 for each occurrence and \$500,000 in the aggregate.

C. Tenant shall handle all negligence claims involving the Tenant, its employees, contractors, or agents in regards to the use or operation of the Leased premises in accordance to the Texas Tort Claims Act and in accordance with Tenant's practice for responding to such claims at the time any such claim is made.

D. Anything herein to the contrary notwithstanding each party hereto hereby releases and waives all claims, rights of recovery and causes of action that either party or any party claiming

by, through or under such party by subrogation or otherwise may now or hereafter have against the other party or any of the other party's directors, officers, employees or agents for any loss or damage that may occur to the Building, Leased Premises, Tenant improvements or any of the contents of any of the foregoing by reason of fire or other casualty, or any other cause including negligence of the parties hereto or their directors, officers, employees, or agents, that is insured against under the terms of (1) standard fire and extended coverage insurance policies with vandalism and malicious mischief endorsement and sprinkler leakage endorsement (where applicable) or (2) any other loss covered by insurance of the respective parties except gross negligence or willful misconduct; provided, however, that this waiver shall be ineffective against any insurer of Landlord or Tenant to the extent that such waiver (i) is prohibited by the laws and insurance regulations of the State of Texas or (ii) would invalidate any insurance coverage of Landlord or Tenant. The waiver set forth in this Section 5.13D shall not apply to any deductible on policies carried by Landlord nor to any coinsurance penalty which Landlord might sustain.

E. TO THE EXTENT ALLOWED BY LAW, LANDLORD WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AGAINST ANY THIRD PARTY CLAIMS FOR INJURY, PROPERTY DAMAGE, PROPERTY LOSS, OR DEATH OCCURRING ON THE BUILDING OR CAUSED BY THE LANDLORD OR THE LANDLORD'S AGENTS, CONTRACTORS, INVITEES, LICENSEES, OR TENANTS. THE LANDLORD'S INDEMNIFICATION OBLIGATIONS UNDER THIS LEASE DOES NOT EXTEND TO CLAIMS ARISING OUT OF THE TENANT'S ACTIONS.

F. Tenant shall deposit all insurance policies or duplicates or certificates thereof (or proof of Tenant's self-insurance program) with Landlord and said policies (or self-insurance program) shall provide that same may not be canceled or altered without at least thirty (30) days prior written notice to Landlord. If Tenant fails to provide its self-insurance program (or, in its place, procure such insurance with equivalent coverage or pay when due any insurance premium for any policy), Landlord may (but shall not be required to) procure such insurance and/or make such payments, and the costs thereof shall be deemed additional rent and paid by Tenant to Landlord with the next payment of rent. Landlord shall provide Tenant annually copy of certificate of insurance for all policies under this Lease along with a copy of all policy endorsements.

5.14 Venue: Governing Law. This Lease shall be governed by the laws of the State of Texas and the United States of America. All monetary and other obligations of Landlord and Tenant are performable exclusively in El Paso County, Texas.

5.15 Notice. Any notice which may or shall be given under the terms of this Lease shall be in writing and shall be either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid, if for Landlord to the address provided herein; or if for Tenant, to the Leased Premises. Such addresses may be changed from time to time by either party by giving notice as provided above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent by mail).

5.16 Entire Agreement, Binding Effect, and Severability. This Lease and any written addenda and all exhibits hereto (which are expressly incorporated herein by this reference) shall constitute the entire agreement between Landlord and Tenant; no prior written or prior or

contemporaneous oral promises or representations shall be binding. This Lease shall not be amended, changed or extended except by written instruments signed by both parties hereto. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and assigns of the parties, but this provision shall in no way alter the restrictions on assignment and subletting applicable to the Tenant hereunder. If any provision of this Lease or application thereof to any person or circumstance shall at any time or to any extent be held invalid or unenforceable, and the basis of the bargain between the parties hereto is not destroyed or rendered ineffective thereby, the remainder of this Lease or the application of such provisions to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby.

5.17 Right of Re-Entry. Upon the expiration or termination of the Term or extended term if applicable for whatever cause, Landlord shall have the right to immediately re-enter and reassume possession of the Leased Premises and remove Tenant's property therefrom, and Tenant expressly acknowledges such right.

5.18 Number and Gender; Captions; References. Pronouns, where used herein, of whatever gender, shall include natural persons, corporations, and associations of every kind and character, and the singular shall include the plural and vice versa where appropriate. Article and section headings under this Lease are for convenience of reference and shall not affect the construction of interpretation of this Lease. Whenever the terms "hereof," "herein," or words of similar import are used in this Lease, they shall be construed as referring to this Lease in its entirety rather than to a particular section or provision, unless the context specifically indicates to the contrary. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated article or section of this Lease.

5.19 Security Deposit – omitted, not applicable

5.20 Delinquent Payments: Handling Charge. Any payments required of Tenant hereunder, whether as rental or otherwise, shall bear interest from the time due until paid at the maximum rate of interest allowed, if any interest is allowed to be charged, under Chapter 2251 of the Texas Government Code for municipalities.

5.21 Quiet Enjoyment. Tenant, on paying all sums herein called for and performing and observing all of its covenants and agreements hereunder, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Leased Premises during the Term subject to the provisions of this Lease and applicable governmental laws, rules, and regulations; and Landlord agrees to warrant and forever defend Tenant's right to such occupancy against the claims of any and all persons whomsoever lawfully claiming the same or any part thereof, subject only to the provisions of this Lease and all applicable governmental laws, rules, and regulations.

5.22 Signs. No signs, symbols, or identifying marks shall be placed upon the Building or in the halls, elevators, staircases, entrances, parking areas or upon the doors of walls without prior written approval of Landlord which shall not be unreasonably withheld. Any and all exterior signs need to comply with applicable City of El Paso ordinances and/or laws regarding exterior signage, as well as any exterior sign requirements or permits/approvals required by the Texas

Historic Commission, National Parks Service, and/or City of El Paso. Landlord agrees to provide and install, at Tenant's cost, all letters or numerals on doors in the Leased Premises. All such letters and numerals shall be in the Building standard graphics, and no others shall be used or permitted on the Leased Premises.

5.23 Condition of Leased Premises; Limitations on Warranties. Tenant has been or will be entitled to inspect every aspect of the Leased Premises to Tenant's satisfaction. Tenant understands that Tenant may employ professionals to advise Tenant on every aspect of the Leased Premises, and Tenant has agreed to do so rather than to rely on Landlord for such information. Tenant is not relying on any of Landlord's representations, statements, or assertions concerning the Leased Premises. Tenant is not relying on Landlord to provide any information on the Leased Premises that Tenant has not independently verified. Tenant is relying solely upon Tenant's independent verifications, rather than Landlord's information, assertions, statements, or representations. LANDLORD DISCLAIMS AND TENANT WAIVES ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR HABITABILITY. TENANT ACCEPTS THE LEASED PREMISES' CONDITION AND VALUE AS IS AND WITH ALL FAULTS, INCLUDING WITHOUT LIMITATION, LATENT AND PATENT DEFECTS. LANDLORD HAS GIVEN NO EXPRESS WARRANTIES, WHETHER BY AFFIRMATION, PROMISE, DESCRIPTION, SAMPLE, OR OTHERWISE. Tenant has thoroughly inspected the Leased Premises to determine the existence of any conditions posing unreasonable risk of harm. To the extent such conditions have been discovered, Tenant will prevent persons from being subject to the risks of such conditions and Tenant will exercise reasonable care to reduce or eliminate the risks.

5.24. Personal Guarantee. Not Applicable.

Article 6: Miscellaneous

6.01 Construction of Premises.

A. **CDBG-Funded Grant Improvements by Tenant.** Separate from the improvements to be made by Landlord under this Lease Tenant will make improvements to the Leased Premises as set forth in a separate Interlocal Agreement between Tenant and the Housing Authority for the City of El Paso (the "*CDBG Improvements*"), with the terms of such Interlocal Agreement incorporated into this Lease.

B. **Property Manager.** Landlord shall have the right to designate a third-party property management company to serve as Landlord's property manager for the commercial space of the Building.

C. **No Additional Amounts.** In no event shall Landlord be obligated to make disbursements for designs or improvements to the Premises that are not required by the Lease or exceed the total Tenant Improvement Allowance and Design Allowance set forth in this paragraph 36.

6.02 Brokers' Fees. The parties represent neither is represented by a broker or agent and there shall be no brokers' or agents' fees related to the lease of the Premises.

EXECUTED in multiple counterparts, each of which shall have the force and effect of an original on the date first above written.

[Signature Page Landlord]

Landlord:

Paisano Housing Redevelopment Corporation

By: _____
Gerald W. Cichon
Secretary and Chief Executive Officer

ACKNOWLEDGMENT

THE STATE OF _____)

)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of _____, 2019 by Gerald W. Cichon, Chief Executive Officer of Paisano Housing Redevelopment Corporation on behalf of said entity.

Notary Public, State of _____

My Commission Expires:

[Signature Page Tenant]


TENANT: City of El Paso, Texas

Tomás González
City Manager

APPROVED AS TO CONTENT

Nicole Ferrini, Director
Community & Human Development

APPROVED AS TO FORM



Omar De La Rosa
Assistant City Attorney

ACKNOWLEDGMENT

THE STATE OF _____)

)

COUNTY OF _____)

This instrument was acknowledged before me on this _____ day of _____, 2019 by Tomás González, City Manager for the City of El Paso, Texas on behalf of said entity.

Notary Public, State of _____

My Commission Expires:

**Exhibit "A" to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

Floor Plans of the Leased Premises

**Exhibit "B" to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

Description of the Building

**304 Texas Ave.
El Paso, Texas 79901**

(formerly, 120 N. Stanton, El Paso, Texas 79901)

Legal Description of Building Property

A portion of Block 39, ANSON MILLS MAP ADDITION, an addition to the City of El Paso, El Paso County, Texas, being 99.3 feet on Stanton Street by 120 feet on Texas Street, Plus the portion of the adjacent alley on the east vacated by Ordinance No. 5320 dated 5/2/74 and filed in Volume 519, Page 535, Real Property Records, El Paso County, Texas, being more particularly described by metes and bounds in Exhibit "A" attached hereto.

PARCEL 2: (EASEMENT RIGHTS)

Easement rights pursuant to that certain Easement Grant dated May 25, 1982 filed in Volume 1262, Page 78, Real Property Records, El Paso County, Texas, from the State of California Public Employees' Retirement System to El Paso Natural Gas Building Company, and amended by Amendment to Easement Grant dated December 27, 1996 and filed in Volume 3148, Page 1094, Real Property Records, El Paso County, Texas.

**Exhibit "C" to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

CDBG Improvements

Exhibit "D" to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant

Tenant's Right to Parking at the Parking Structure

See Attached Parking Agreement, as Amended

**Exhibit "E" to the
Lease Agreement dated _____, 2020
by and between EP Blue Flame, LP as Landlord and _____ as Tenant**

**Building Rules and Regulations
For the Commercial Offices of The Blue Flame Building**

We welcome you and hope that your tenancy with us is beneficial and enjoyable. These Building Rules and Regulations have been written and incorporated into your Lease to ensure that you, your employees, and your visitors may safely, securely and pleasantly use the Leased Premises and common areas of the Building.

These Building Rules and Regulations apply to the commercial portions of the Building, as well as any common spaces, including the lobby, outside grounds, walkways, and passageways. Capitalized terms have the definitions provided for in the Lease.

Security Notice. We want to discuss security first and foremost. We take security seriously and expect you and your employees to do the same. While the Building and your Leased Premises may have certain security devices, security systems or security patrols, as Landlord, we must warn you that commercial properties may be targets for criminal activity and that you, as Tenant, should take all reasonable and necessary precautions to safeguard yourself, your employees, your visitors, and your property because there is no security system, security device or patrol service available to completely protect you and/or your property from criminal actions.

As Landlord, we must state that we cannot provide assurances, guarantees, or representations as to any protection afforded by the use of any security system and, it is because the inability of the security devices, security systems or patrol service to completely protect you as Tenant, your employee, and your invitees/guests/visitors from crime or injury, that we are hereby confirming our understanding that you have received no representations, guarantees or warranties, either express or implied, from Landlord or any of its representatives in connection with any security (or the effectiveness of such security) with regard to the Building or Leased Premises or lack thereof, and you further acknowledge that it is your sole responsibility as Tenant under this Lease (as well as the responsibility of local law enforcement agencies) to protect yourself, your employees, your guests and invitees, and your property and theirs, from crime and/or the criminal element.

If there are security devices, security systems or patrol services in the Building, they are simply an attempt by Landlord to better serve you as Tenant. However, to be clear – there is no security device, security system, or security patrol that is perfect and will absolutely protect you or prevent injury, theft, vandalism, or damage to you or your property. Therefore, neither us the Landlord nor our agents, employees and representatives shall be liable or responsible in any way for any loss suffered as a result of any criminal activity or action, or from any failure of any security device, system, or patrol, whether provided or not, at the Building or Leased Premises.

As Landlord, we urge you to contact your insurance agent and ensure that you,, as Tenant, maintain adequate and appropriate insurance coverage for your organization, your own person, your

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Lease Agreement-Blue Flame Building- Center for Civic Engagement | OAR Rev HACEP

personal belongings and those of your guests and employees, your business assets, and keep in a readily accessible place the telephone number for local law enforcement agencies.

1. Shared Mixed-Use Facilities. The Building is a mixed-use development consisting of residential apartments, retail, and commercial offices. Tenants are required to respect the rights of, not only the other tenants of the commercial offices, but the residential and retail tenants of the building. Inappropriate or lewd behavior of any type directed at residents or retail tenants, or their guests, is not permitted. The Building was originally constructed as part of a single corporate campus by the El Paso Natural Gas Company. Thus, the Building shares outdoor and indoor access to the adjacent building, 100 N. Stanton, known as the "Stanton Tower." Tenant are required to respect the rights of the tenants of the Stanton Tower. This includes observing and respecting the reserved areas maintained by the Stanton Tower for its tenants, guest, and visitors.

2. Basement Facilities. There is a basement loading dock area beneath the ground floor of the Building. Access to the basement level loading area is available through the building property management on an appointment basis only. The basement level is shared in use with the owner of 100 Stanton, the "Stanton Tower" building (currently, El Paso Electric) and is an access-controlled area.

3. Waste/Refuse. As a commercial office tenant, Tenant's refuse will be placed in basement level waste facilities. Access to the basement level waste facilities is strictly limited to building property management.

4. Walk and Passageway Obstruction. The sidewalks, entries, passages, courts, corridors, stairways and elevators shall not be obstructed by Tenant, Tenant's employees or agents or used by them for other purposes than for ingress and egress to and from their respective suites. The halls, passages, exits, entrances, elevators, escalators and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building and its tenants; provided, that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Tenant, and no employee, invitee, agent, license or contractor of Tenant, shall be upon or be entitled to use any portion of the roof of the Building.

5. Heavy Equipment; Large/Heavy Merchandise; Furniture Movement. All safes or other heavy articles shall be carried up or into the Building only at such manner as shall be prescribed by Landlord and Landlord shall in all cases have the right to specify the proper weight and position of any such safe or other heavy article. Any damage done to the Building by taking in or removing any safe or other heavy article or from overloading any floor in any way shall be paid by Tenant. Maximum live floor loads shall not exceed fifty (50) pounds per square foot. Defacing or injuring in any way any part of the Building by Tenant, its/his/her agents or employees, shall be paid by Tenant. Movement of future or receipt of Tenant of any heavy equipment, bulky material, or merchandise which requires use of elevators or stairways, or movement through the Building's service or lobby entrance shall be restricted to such hours as Landlord shall designate. All such movement shall be in a manner to be agreed up between Tenant (upon Tenant's initiation)

and Landlord in advance. The time, method, and routing of movement and limitations for safety or other concern which may prohibit any article, equipment, or other item from being brought into the Building shall be subject to Landlord's discretion and control. Any hand trucks, carryalls, or similar appliances or devices used for the delivery or receipt of merchandise or equipment shall be equipped with rubber tires, side guards, and such other safeguards as the Building shall require. Although Landlord or its personnel may participate in or assist in the supervision of such movement, Tenant assumes full and final responsibility for all risks as to damage to articles moved and injury to persons or property engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with carrying out his service for Tenant, from the time of entering the Building to completion of work. Landlord shall not be liable for the acts of any person engaged in, or any damage or loss to any of said property or persons resulting from any act in connection with such service performed for Tenant.

6. Signs, Directories. All exterior signs, including paint or decals that appear on windows, must comply with the Lease. No sign, advertisement or notice shall be inscribed, painted or affixed on any part of the inside or outside of the Building unless approved by Landlord. Tenant shall not mark, paint, drill into or in any way deface the walls, ceilings, partitions or floors of the Building and shall not put therein any spikes, hooks, screws or nails. A building directory in a conspicuous place, with the names of the tenants will be provided by Landlord; any necessary revision in such directory will be made by Landlord within a reasonable time after written notice from Tenant of the change making the revision necessary, but Landlord shall not be responsible for any inconvenience or damage caused to Tenant as a result of any error in such directory. Landlord will provide and install, at Tenant's cost, Tenant's name and suite number on the main entrance of Leased Premises, and will provide strips on the building directories. All such letters and numerals shall be in the Building's standard graphics, and no other shall be used or permitted on the Leased Premises.

Interior: Tenant will be allowed signage on the designated building standard sign panels for office tenants and will be installed and located in front of tenant suite(s) next to the Suite entrance door. Tenant will provide Landlord with a draft of Tenant's proposed signage artwork, if any, for approval prior to Tenant installing any building standard tenant signage. Tenant will utilize only the sign vendor for the building which will be provided to tenant by Landlord. All tenant's building standard signage will be the sole responsibility and expense of the Tenant. Tenant will be listed on any building directory lobby signage.

All signage is subject to approvals from Texas Historic Commission, National Parks Service, City of El Paso, and Landlord or designee. Tenant will submit any sign design to Landlord for advance approval by Landlord.

7. Non-Smoking Building. The Blue Flame Buildings is designated as a "smoke free" building, both in the residential and commercial areas. Therefore, there shall be no smoking of tobacco or any other products inside the building, including inside the Leased Premises and Common Areas.

8. Display Cases. No showcase or any other fixture or objects whatsoever shall be placed in front of the Building or in the lobby, corridor, or other public areas, within the Building or the grounds contiguous therewith by Tenant, without written consent of Landlord.

9. Janitorial Service. Tenant shall not employ any person or persons other than the approved janitor of the Landlord (the "*Janitor*") for the purpose of cleaning or taking charge of the Leased Premises, without the written consent of the Landlord, it being understood and agreed that the Landlord shall be in no way responsible to any Tenant for any loss of property from the Leased Premises, however occurring, or for any damage done to the furniture by the Janitor or any of its/his/her employees or contractors, or by any other person or persons whomsoever. Any person or persons employed by Tenant to clean or repair the Building or Leased Premises, with the written consent of Landlord, must be subject to and under the control and direction of the Janitor in the Building. The Janitor may at all times keep a master/pass key, and the Janitor and agents designated by Landlord, shall at all times be allowed admittance to said Leased Premises. Janitor and its/his/her employees or contractors shall not be hindered by Tenants in the performance of janitorial duties. Tenant shall not cause or permit any unnecessary labor, time, or expense to be incurred by Janitor or Landlord due to Tenant's carelessness or indifference to the good order and cleanliness of the Leased Premises or shared spaces of the Building.

10. Locks. Landlord will furnish Tenant, free of charge, with two keys for each corridor door entering the Leased Premises, additional keys to be furnished at a reasonable charge by Landlord on an order signed by Tenant or Tenant's authorized representatives. All such keys shall remain the property of Landlord. No additional locks shall be allowed on any door of the Leased Premises without Landlord's permission, and Tenant shall not make or permit to be made any duplicate keys, except those furnished by Landlord. Upon termination of this Lease, Tenant shall surrender to Landlord all keys to the Leased Premises and give to Landlord the explanation of the combination of all locks for safes, safe cabinets and vault doors, if any, in the Leased Premises.

11. Building Security. The Landlord specifically reserves the right to refuse admittance to the Building after 6:00 p.m. daily, or Saturday, Sunday, or on legal holidays to any person or persons who cannot furnish satisfactory identification or to any person or persons who for any other reason should be denied access to the premises. Landlord will use reasonable efforts to provide security to the Building (but shall have no obligation to do so) during the weekends and after normal working hours during the week; provided, however, Landlord shall not be liable to Tenant for losses due to theft or burglary, or for damage done by unauthorized persons in the Building. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage. Such responsibility shall include keeping doors locked and other means of entry to the Premises closed.

12. Light and Air Passageways. The doors, skylights and windows that reflect or admit light and air into the corridors and passageways, or to any place in said Building shall not be covered or obstructed by Tenant.

13. Plumbing Fixtures. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed, and any damage resulting to them from misuse or the defacing or injury of any part of the Building shall be paid for by Tenant, excepting

only where the defacing or injury is by Landlord or an agent of Landlord. Tenant shall not waste water by interfering with the faucets or otherwise.

14. Noise. Tenant shall not disturb the occupants of the Building by the use of any musical or sound producing instrument, making unseemly noises, or by interference in any way, Tenant shall not bring any dogs or other animals into the building, with the exception of lawfully-approved service animals.

15. Bicycles, Skateboards, Etc. Tenant shall not bring bicycles, skateboards, roller skates or similar types of devices or objects into the inside of the Building.

16. Debris. Nothing shall be thrown out of doors of the Buildings, out windows, or down the stairways, or left in passageways or walkways by Tenants or their guests.

17. Excess Trash or Waste Disposal. In the event Tenant must dispose of crates, boxes, etc., which will not fit into office waste disposal bins, it is the responsibility of Tenant to dispose of same. In no event will Tenant set or leave excess trash or debris in public hallways or passageways or public areas of the Building. Any excess trash or waste must be left in Tenant's own Leased Premises.

18. Elevator Service. Landlord shall not be liable for any damages from stoppage of elevators for necessary or desirable repairs or improvements, or delays of any sort or duration in connection with the elevator service. Advance notice of arriving or departing shipments will enable the Building Management to give better assistance.

19. Electric/Power Service; Wiring for Computer Systems, Security, IT, Music, etc. If Tenant desires to add, alter, or modify the wiring in the Leased Space or any portion of the Building for purposes such as alarm systems, IT systems, computers, routers, background music, telegraphic, telephonic, or other electric communications, the Landlord or its agents will direct the electricians, security professionals, or IT professionals, as to where and how any such wires may be introduced, and without such directions, no boring or cutting for or of wires will be permitted.

20. Canvassing and Soliciting. Canvassing, soliciting, distribution of handbills or written materials, and peddling by Tenant or anyone under Tenant's control inside the Residence or Building is prohibited and Tenant shall cooperate to prevent the same.

21. Vehicle Parking. If Tenants have purchased or obtained access to parking in the Parking Structure, Tenant agrees to comply with the rules and regulations imposed by the Parking Owner. In addition, Tenant will ensure that all vehicles will be parked within striped lanes as designated by Landlord or the Parking Owner from time to time. Parking across the stripes or in unmarked areas, blocking of walkways, loading areas, entrances or driveways, will not be permitted. Tenants and their employees shall observe rules, regulations and restrictions as may be imposed by Landlord from time to time on such parking areas. Without limitation of other remedies available at law or set forth herein, Landlord may at owner's cost and without liability to the Landlord, tow away or cause to be towed away all vehicles owned by Tenant or Tenant's employees parked in any reserved parking areas in violation of this provision or parked in any other area in violation of

this agreement or any other agreement, rule or regulation relating to the parking. Landlord reserves the right to utilize the parking areas during other than normal building operating hours. Landlord shall not be liable for violations of any parking agreement, rule, regulation, or law by any other party.

22. Unattended Premises. Tenant, its agents, representatives, and employees before leaving the Leased Premises unattended shall close and lock all doors, turn off any lights (excluding emergency lighting) and secure any windows.

23. Carpet Damage. Tenant will be responsible for any damage to carpeting and flooring as a result of rust or corrosion of file cabinets, pot holders, roller chairs and metal objects, spilled beverages and stains.

24. Extra Utility Usage. In the event Tenant desires utility or air conditioning service at other than normal operating hours the request must be made at the Property Manager's Office. This service will be made available at the then prevailing rate established on an hourly basis.

25. Additional Rules. The Landlord reserves the right to make such other and further reasonable rules and regulations as in its judgment may from time to time be needed for the safety care and cleanliness of the Building and Leased Premises and for the preservation of good order therein.

26. Housekeeping. Tenant space that is visible from public areas must be kept neat and clean. All freight and passenger elevator lobbies are to be kept neat and clean. The disposal of trash or storage of materials in these areas is prohibited.

27. Thermostat Settings. Tenant shall not tamper with or attempt to adjust temperature control thermostats in Leased Premises. Landlord shall adjust thermostats as required to maintain the building standard temperature.

28. Locking and Securing Doors. All doors leading from public corridors to the Leased Premises are to be kept closed when not in use, and locked during the night, or when the space is unoccupied. Tenant must be responsible for key entry into its own suite. Under no circumstances will Landlord allow entry into an office without adequate proof of identity and authorization by Tenant.

29. Notices. Tenant shall give immediate notice to the Property Manager's Office in case of accidents in the Leased Premises or in the Building or of defects therein or in any fixtures or equipment, or of any known emergency in the Building.

30. Cooking and Lodging Prohibited. No cooking shall be done or permitted by Tenant on the Leased Premises; nor shall sleeping or lodging of any type be permitted.

31. Services. Tenant will refer all contractors, contractors' representatives and installation technicians rendering any service for Tenant to Landlord for Landlord's supervision and/or approval before performance of any such contractual services. This shall apply to all work

performed in the Building including but not limited to installation of telephones, telegraph equipment, and electrical devices and attachments, and installations of any and every nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment or any other physical portion of the Building. None of this work will be done by the Tenant without Landlord's written approval first had and obtained, except as otherwise expressly provided in the Lease.

32. Windows and Doors. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises, other than Building standard materials, without the prior written consent of Landlord. Tenant shall keep corridor doors closed and shall close window coverings at the end of each business day.

33. Vending Machines. Tenant shall not install, maintain or operate upon the Premises any vending machines without the prior written consent of Landlord, which shall not be unreasonably withheld.

34. Heating and Air Conditioning. Tenant shall not use any method of heating or air-conditioning other than that supplied by Landlord.

35. HVAC and Lighting, Etc. Tenant will be responsible for all charges incurred by building for its use of afterhours services including but not limited to electricity for heating, cooling, lighting, etc. Prevailing after- hours hourly rates apply and are subject to change. HVAC services will be available to Tenant during normal operating hours of the building, which are from 7:00am to 6:00pm on weekdays and from 8:00am to 1:00 pm on Saturdays. HVAC services required after-hours will be provided, upon request, with an additional charge based upon Tenant's actual consumption, with no markup by Landlord, with such cost to be paid by Tenant within 30 days of invoice for same.

36. Sale of Goods. Tenant shall not sell, or permit the sale at retail, of newspapers, magazines, periodicals, theater tickets, or any other goods or merchandise to the general public in or on the Leased Premises or the Building.

37. Questions. If you have any questions about the Lease or these rules, please visit or call the Property Manager at _____. You can also email the Property Manager at _____.