

THE STATE OF TEXAS   )  
                                          )  
COUNTY OF EL PASO   )

**SUBLEASE AGREEMENT**

This Sublease Agreement ("Agreement") is made this 15<sup>th</sup> day of Feb., 2022 ("Effective Date") between the **ADVOCACY CENTER FOR THE CHILDREN OF EL PASO**, a Texas non-profit corporation and existing under the laws of the State of Texas, ("**Landlord**"), and the City of El Paso, Texas, a municipal corporation existing under the laws of the State of Texas ("**Tenant**"). For purposes of this Sublease Agreement, Landlord shall be used to reference the Sublessor and Tenant shall be used to reference Sublessee. For the convenience of the parties, all defined terms appear in **bold face** print when first defined.

The parties agree as follows:

**SECTION 1. LEASED PREMISES.**

A. Subject to the provisions of this Agreement, the Landlord subleases to the Tenant the Premises described below. The lease under this agreement includes the right to access the Premises in accordance to the provisions of this Agreement.

1. Approximately 2,000 square feet of the building located at 1100 E. Cliff, Bldg. D, El Paso County, Texas, as further described in the floor plans in **Attachment "A"** of this Agreement ("**Premises**"). The Premises are located within the building commonly known as 1100 E. Cliff, Bldg. D., El Paso, Texas 79902, (the "**Building**"). Additionally, Landlord agrees to allow the use of the conference room located near the Lease Premises, when such room is not being used by Landlord (as requested by Tenant and approved by the Landlord).

B. The Tenant will only use the Premises for the following purpose: **As an office and police facility for the Police Department's Crimes Against Children Section.** Tenant may use the Lease premises to conduct all police duties necessary to complete the mission of the Crimes Against Children Section and the investigations assigned to the Section ("**Purpose**").

C. The Tenant may use all Common Areas of the Building including the designated parking lot, if any. The Tenant will follow the Landlord's policies for the use of the Common Area, if any.

D. Condition of premises. Except as otherwise stated in this Agreement, the Tenant accepts the premises in their present condition "as is", with all faults, relying on the Tenant's own inspection and judgment and not in reliance on any representations of the Landlord. If Landlord will be constructing any tenant improvements on the Premises, then Landlord

will provide Tenant an opportunity to inspect such improvements before accepting possession of such improvements.

## SECTION 2. TERM.

- A. The initial term of this Agreement is two (2) years commencing on the Effective Date ("Initial Term").
- B. RENEWAL. The Tenant may extend the Initial Term of this Agreement for three (3) periods of two (2) years ("Renewal Period"). If the Tenant wishes to extend the Term of this Agreement, then the Tenant will notify the Landlord in writing that the Tenant wishes to extend the term at least ninety (90) days before the expiration of the Initial Term of this Agreement. The extension of the Term will be subject to the provisions of this Agreement.

## SECTION 3. RENT AMOUNTS.

- A. BASE RENT. The Tenant will pay a monthly base rent of ONE THOUSAND NINE HUNDRED FIFTY and 00/100 DOLLARS \$1,950.00 ("Base Rent"). The Tenant will pay the Base Rent in monthly installments ("Installments"). The Base Rent will be paid to the Landlord in the form of a check or ACH on the first day of each month for the Term of this Agreement. If the Initial Term begins or ends on a day that is neither the first or the last day of the month, then the Base Rent Installment for that month will be prorated.
- B. HOLDOVER. If there is any holdover of the Premises by the Tenant at the expiration of this Agreement, then this Agreement will function as a month-to-month tenancy. During any holdover the Tenant will pay the Landlord the amount of the most recent Base Rent. The Tenant will be liable to the Landlord for any loss or damage caused by the Tenant's holdover of the Premises. The Landlord may retake possession of the Premises during any holdover after providing a 30-day notice of such to the Tenant. The Tenant will not construe action or lack thereof on the part of the Landlord as waiver of the right of the Landlord to retake the possession of the Premises or as a reinstatement or extension of this Agreement. Both parties will be subject to the terms of this Agreement during any holdover period.

## SECTION 4. OPERATION AND OPERATION COSTS FOR COMMON AREAS.

- A. The Landlord will operate and maintain all common areas of the Building. For purposes of this Agreement, the term "Common Areas" refers to the non-exclusive areas of the Building including parking lots and landscaping (if any) not including the Premises.



## SECTION 5. LANDLORD'S OBLIGATIONS, RIGHTS, AND WARRANTIES REGARDING THE PREMISES.

A. OBLIGATIONS. The Landlord will provide the following services to the Premises:

1. Air conditioning and heating;
2. Trash collection;
3. Janitorial services;
4. Access to the Premises;
5. Proper facilities to furnish sufficient electrical power for the Tenant Purpose on the Premises; and
6. Connection points for water, sewer, and electrical.

B. The Landlord will maintain, repair, and/or replace all Structural elements of the Premises. "Structural" elements of the Premises are limited to the roof, foundation, load bearing walls, exterior walls, electrical and utility infrastructure not including fixtures installed by the Tenant and exterior paint.

C. RIGHTS.

1. The Landlord reserves the right to enter the Premises for the purpose of inspecting the condition of the Premises, perform any maintenance or repairs under this Agreement, and/or show the Premises to other prospective tenants. Prior to entering the Premises, the Landlord will provide the Tenant a 24-hour prior notice. The exercise of Landlord's right to enter the Premises for the purposes under this Section do not constitute an eviction or disturbance of the Tenant's rights under this Agreement.
2. The Landlord may allow the Tenant and the Tenant's employees, agents, and contractors access to the Premises before the Effective Date of this Agreement to allow the Tenant to make the Premises ready for Tenant occupancy. If the Landlord permits the Tenant or the Tenant's employees, agents, or contractors access to the Premises before the Effective Date of this Agreement, then the Tenant and the Tenant's employees, agents, and contractors will not interfere with the activities in the Building of the Landlord or other occupants in the Building. The Landlord may withdraw the early access permission granted to the Tenant and the Tenant's employees, agents, and contractors at any time with a notice of 24 hours,

#### D. WARRANTIES.

1. Provided that the Tenant performs all obligations under this Agreement, the Landlord warrants that the Tenant may have quiet enjoyment of the Premises.

### SECTION 6. TENANT'S RIGHTS AND OBLIGATIONS REGARDING THE PREMISES.

#### A. OBLIGATIONS. The Tenant will abide by all of the following:

1. Pay all ad valorem taxes on all improvements made by the Tenant (if applicable) on the Premises and all personal property of the Tenant that is located on the Premises ("**Improvements**").
2. Maintain the Premises and Improvements, for the term of this Agreement, in a clean and attractive condition. At the latter of the expiration of the Initial Term or the Renewal Period, the Tenant will remove all improvements made by the Tenant to the Premises and return the Premises to the Landlord in the same condition which the Tenant received the Premises, except Improvements that are now part of the Premises which will become property of the Landlord.
3. The Tenant is responsible for maintaining, repairing, and/or replacing all Non-Structural elements of the Premises. "**Non-Structural**" elements of the Premises are all those elements of the Premises that are not considered Structural under this Agreement.
4. The Tenant will not make any improvements (to include any changes or modifications) to the Premises without the advance written permission of the Landlord. As a condition of allowing improvements on the Premises, the Landlord will require the Tenant to provide in advance plans, engineer and architect approvals, or other requirements as the Landlord deems necessary. The Tenant will follow all federal, state, and local laws when performing any improvements to the Premises, including the ADA accommodations. The Tenant will obtain all building permits as required by law.
5. The Tenant is responsible for obtaining all utilities needed by the Tenant including but not limited to water, sewer, electricity, and solid waste removal.
6. Tenant will not place any signs without the advance approval of the Landlord.
7. Tenant will comply with all environmental laws as outlined by this Agreement.



8. Tenant will not encumber the Building or Premises with any lien. If there is a lien that is filed, the Tenant will promptly discharge of the lien.

#### B. RIGHTS.

1. If the Tenant has prior written consent from the Landlord, then the Tenant may make changes or Improvement to the Premises. The Tenant may remove any Improvements made to the Premises that are not attached to the Building upon the expiration of the later of the Initial Term or the Renewal Period. Any Improvement that is attached to the Building and the Premises become property of the Landlord and will be surrendered with the Premises at the expiration of this Agreement without compensation.

### SECTION 7. ENVIRONMENTAL LAWS.

#### A. For purposes of this Agreement:

1. **“Environmental Laws”** means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.
2. **“Hazardous Material”** means all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel, and the like.
3. **“Releasing”** means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

#### B. COMPLIANCE.

1. Tenant will not cause any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises or the Building, by Tenant, its sublessees, agents,

employees, contractors, invitees, licensees, or a third party in violation of any Environmental Law.

2. If the presence of any Hazardous Material introduced by the Tenant on, under or about the Premises or in any Improvements built by the Tenant results in any contamination of the Premises or any Improvements thereon, or any surrounding property, the Tenant will promptly take all actions at its sole cost and expense as are necessary to remove such contamination made by the Tenant.
3. Tenant will notify the Landlord promptly after the Tenant becomes aware of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or the Tenant's Purpose on the Premises, and (b) any change in the Tenant's Purpose on the Premises that will change or has the potential to change the Tenant's or Landlord's obligations or liabilities under the Environmental Laws.

#### C. RELEASING HAZARDOUS MATERIAL.

1. Tenant's failure or the failure of its agents, employees, contractors, licensees, invitees, or a third party to comply with any of the requirements and obligations of this section is a material default of this Agreement. As such, Landlord may pursue the remedies as set forth in this Agreement, in addition to all other rights and remedies provided by law.

### SECTION 8. MUTUAL COVENANTS.

#### A. FIRE OR OTHER CASUALTY.

1. If the Building and the Premises are entirely destroyed by fire or another casualty that was not caused by Tenant, then the Landlord may choose to rebuild. If the Landlord chooses not to rebuild the Building or the Premises, then either party may terminate this Agreement, with the termination date being the date of the fire or other casualty that caused the damage. Tenant is responsible for paying the Base Rent until the date of termination. If the Landlord chooses to rebuild, then the Landlord will be responsible for repairing the building and the Structural elements of the Premises and the Tenant is responsible for repairing the Non-Structural elements of the premises and Improvements, if any. If the Landlord chooses to rebuild, then the Base Rent will be abated during the time the Landlord is rebuilding the Building and the Premises and will resume when the Landlord repairs the Premises and the Building to a condition where the Landlord can fulfil the obligations of this Agreement, regardless of whether the Tenant has completed the repairs to the Improvements and personal property



needed to resume the Purpose on the Premises. The Tenant may elect to terminate the lease if the Landlord chooses to rebuild and the rebuild time is expected to take, or actually takes, more than 3 months.

2. If only the Premises are damaged by fire or another casualty, then the Landlord will rebuild the Premises the Structural elements of the Premises and the Tenant will be responsible for rebuilding the Non-Structural elements of the Premises. The Base Rent will be abated for the time period that it takes to make the Premises suitable for normal operations of the Tenant.
3. If the Building is damaged by fire or another casualty that was not caused by the Tenant, but the Premises remained unharmed, then the Landlord may choose to repair the building. If the Landlord chooses not to repair the Building, then either party may terminate this Agreement, with the termination date being the date of the fire or other casualty that caused the damage. If the Landlord chooses to repair the Building, then the Base Rent will be abated during the time of repair. If the Landlord cannot make the repairs within 3 months, then the Tenant may terminate this Agreement.

#### B. CONDEMNATION AND LOSS OR DAMAGE.

1. If the entire Building and Premises are condemned leaving the Premises untenable, then either party may terminate this Agreement, with the date of termination being the condemnation date.
2. If the Building is condemned, but the Premises remains tenable, then either party may terminate this Agreement, with the termination date being the date of the condemnation. If this Agreement is not terminated then the Tenant will only be responsible for paying the Base Rent to the point that the Premises and Building are tenable and function for the Purpose needed by the Tenant. The Base Rent will be adjusted to account for any parts of the Premises that were condemned.
3. If the Premises is completely condemned and deemed untenable but the Building remains unharmed, then either party may terminate this Agreement, with the termination date being the date of condemnation.
4. If the Building remains unharmed and the Premises are only partially condemned, then either party may terminate this Agreement with the termination date being the date of condemnation. If this Agreement is not terminated, then the Tenant will only be responsible for paying the Base Rent for the portion of the Premises that is still tenable.

The Base Rent will be adjusted to account for any parts of the Premises that were condemned.

**C. SUBORDINATION, NON-DISTURBANCE, ATTORNMENT, AND ESTOPPEL.**

1. The Tenant will sign a Subordination, Nondisturbance, and Attornment agreement (“SNDA”) at the request of the Landlord. The Tenant agrees to the following which will also be included in the SNDA:
  - a. SUBORDINATION. The Tenant’s interest under this Agreement is, at all times, subordinate to other present and future liens on the Building or Premises and any modifications, supplements, extensions, amendments, renewals, consolidations, and replacements of said liens.
  - b. NON-DISTURBANCE. If the ownership of the Building or Premises changes in any way, then the Tenant’s right to quiet enjoyment and other rights under this Agreement will not be disturbed or terminated, provided that this Agreement is in full force and effect and that there are no defaults by the Tenant.
  - c. ATTORNMENT. By signing this Agreement, the Tenant agrees to recognize any future owners of the Building or Premises as the Landlord and will continue perform the obligations outlined in this Agreement until the termination or expiration of this Agreement to the full effect as with the original Landlord of this Agreement.
2. ESTOPPEL. At a party’s request the other party will execute an estoppel certificate addressed to the third party identified in the request. The following will be included in the estoppel certificate: the Effective Date and expiration date of this Agreement, the amounts that are to be paid under this Agreement, a statement that there have been no defaults under the Agreement and that there are no pending claims under the lease. However, neither party will be obligated to sign any estoppel certificate if the other party is under default under the Agreement.

**SECTION 9. TERMINATION, DEPOSIT, AND OTHER LANDLORD REMEDIES.**

A. This Agreement may be terminated as provided by this Section.

1. TERMINATION BY EITHER PARTY FOR CAUSE. Either party may terminate this Agreement if one party fails to fulfill the obligations set out in this Agreement. Before terminating this Agreement pursuant to this provision, the terminating party will



provide written notice of the intent to terminate enumerating the failure for which the termination is being sought and provide at least 30 calendar days to the non-terminating party to cure such failure. If the Landlord terminates this Agreement pursuant to this provision, then the Tenant will surrender the Premises to the Landlord immediately after being provided 30 calendar days to cure the default.

- a. If the Landlord terminates the lease for the fault of the Tenant, then the Tenant will owe the Landlord the Base Rent up to the date of termination plus 6 months of Base Rent as the sole remedy under this Agreement.
  - b. If the Tenant terminates the lease for the fault of the Landlord, then the Tenant will only be responsible for paying the Base Rent until the date of termination.
2. AFTER TERMINATION. Regardless of which party and of which of the abovementioned methods is used to terminate this Agreement the following conditions apply:
- a. Upon termination or expiration of this Agreement, the Tenant will surrender the Premises to the Landlord no later than the date of the termination or expiration of this Agreement.
  - b. If the Tenant does not surrender the Premises over to the Landlord after the time enumerated in the provisions above, then the Landlord may take possession of the Premises. The Tenant will be responsible for any costs incurred by the Landlord in retaking possession of the Premises.

## SECTION 10. GENERAL PROVISIONS

- A. NO WAIVER. Either party may waive any default without waiving any prior or subsequent defaults. Either party's failure to exercise or delay in exercising any right under this Agreement, will not operate as a waiver of such right.
- B. INDEPENDENT CONTRACTOR RELATIONSHIP. This Agreement does not create an employee-employer relationship between the Tenant and the Landlord. As such, the Landlord is not subject to the liabilities or obligations the Tenant obtains under the performance of this Agreement.
- C. TIME IS OF THE ESSENCE. The times and dates specified in this contract are material to this Agreement. For the purpose of this agreement "**business days**" means Monday through Friday excluding City of El Paso holidays and "**calendar days**" means Monday through Sunday excluding City of El Paso holidays.

D. NOTICES. The parties will send all notices required by this Agreement in writing, postmarked, and delivered by certified mail. All notices are considered received 3 business days after the postmark date. Parties may change their address by sending a written notice to the other party. A new address is not official until the change of address notice is received by the other party as provided in this section. Upon receipt of proper notification of change of address the notified party will send all further notifications to the new address. Parties will address notices as follows:

To the Landlord:                      Advocacy Center for the Children of El Paso  
Attn: Susan H. Oliva, Executive Director  
1100 E. Cliff Drive, Bldg. D  
El Paso, Texas 79902

To the City:                              Capital Improvement Department  
Attn: Capital Assets Manager  
218 N. Campbell, 3<sup>rd</sup> Floor  
El Paso, Texas 79901  
realestate@elpasotexas.gov

With a Copy to:                      El Paso Police Department  
Attn: Office of the Chief  
911 N. Raynor St.  
El Paso, Texas 79903

E. CONFIDENTIALITY. The Tenant acknowledges that this Agreement is subject to Chapter 552 of the Texas Government Code (Texas Public Information Act). The release of the Agreement as a whole or in part must comply with Chapter 552 of the Texas Government Code (Texas Public Information Act).

F. GOVERNING LAW. This Agreement is governed by Texas law.

G. VENUE. The venue for disputes regarding this Agreement between the parties will be El Paso County, Texas.

H. SEVERABILITY. A future finding of invalidity of any provision of this Agreement does not affect the validity of any remaining provisions of this Agreement.

I. HEADINGS. The headings and subheadings of this Agreement are for information purposes only and are not substantive terms.



- J. **GOVERNMENTAL FUNCTIONS.** The parties agree that the Landlord is entering this Agreement in the exercise of its governmental functions under the Texas Tort Claims Act. The parties also agree that the City is entering into this Agreement as a governmental entity performing a governmental function.
- K. **COMPLIANCE WITH THE LAWS.** The parties will comply with all applicable laws, administrative orders, and any rules or regulations relating to the obligations under this Agreement. If applicable, then the Tenant will procure all licenses and pay all fees or other charges as required to complete the Work under this agreement.
- L. **AUDITING RECORDS FOR THE SPECIFIC PROJECT.** The Tenant will allow the Landlord to inspect and copy all records pertaining to the Purpose to be performed on the Premises provided in this Agreement.
- M. **FORCE MAJEURE.** There is no breach of contract should either party's obligations within this Agreement be delayed due to an act of God, outbreak of hostilities, riot, civil disturbance, acts of terrorism, the act of any government or authority, fire, explosion, flood, theft, malicious damage, strike, lockout, or any cause or circumstances whatsoever beyond either party's reasonable control. The delayed party must resume performing its obligations in this Agreement after the reason for the delay is resolved.
- N. **SUCCESSORS AND ASSIGNS.** This Agreement is binding on the Landlord and the Tenant, and the Tenant's successors and assigns. Neither party may assign, sublet, or transfer its interest or obligations in this Agreement without the written consent of the other.
- O. **THIRD-PARTY BENEFICIARIES.** There are no third-party beneficiaries for this Agreement.
- P. **PROVISIONS SURVIVING THIS AGREEMENT.** Representations, releases, warranties, covenants, indemnities, and confidentiality survive past the execution, performance, and termination of this Agreement.
- Q. **REPRESENTATIONS AND WARRANTIES.** The Tenant warrants to the Landlord that the Tenant has all required licenses, permits, and expertise to perform the Purpose of this Agreement. The person executing this Agreement on behalf of both parties have the authority to sign on behalf of their respective parties.
- R. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties.

**CITY OF EL PASO**

*Samuel Rodriguez*

Samuel Rodriguez  
Chief Transportation and Operations Officer

for Tomas Gonzalez, City Manager

**APPROVED AS TO CONTENT:**

*Leslie B. Jean-Pierre*  
Leslie B. Jean-Pierre  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Mary Lou Espinoza*  
Mary Lou Espinoza, Capital Assets Mgr  
Capital Improvement Department

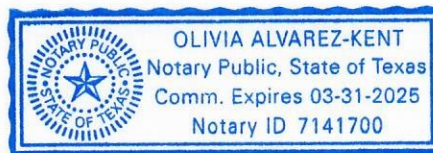
**STATE OF TEXAS            )**

**COUNTY OF EL PASO    )**

This instrument was acknowledged before me on the 01<sup>st</sup> day of February, 2022 by  
*Samuel Rodriguez* for City Manager, City of El Paso.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 01<sup>st</sup> day of  
February, 2022

*Olivia Alvarez-Kent*  
Notary Public in and for the State of Texas  
My Commission expires: 03-31-2025





Landlord:



Name: Susan A. Oliver

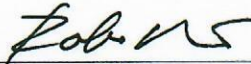
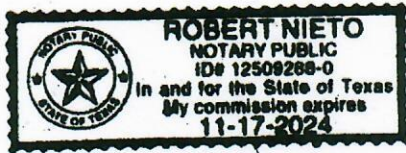
Title: Executive Director

STATE OF TEXAS )

COUNTY OF EL PASO )

This instrument was acknowledged before me on the 11<sup>th</sup> day of FEBRUARY, 2022, by ROBERT NIETO on behalf of Landlord.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 1<sup>st</sup> day of FEBRUARY, 2022



Notary Public in and for the State of Texas

My Commission expires: \_\_\_\_\_

# Attachment "A"

## Floor Plans

