

CITY OF SAN DIEGO
SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT

THIS CITY OF SAN DIEGO SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT (“Permit”) is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation (CITY), and THE VILLAGE ARTS AND EDUCATION FOUNDATION, a California Nonprofit, Public Benefit Corporation (PERMITTEE), to be effective as of January 1, 2024, when signed by the parties and approved by the City of San Diego City Attorney as follows:

WHEREAS, the CITY, through its Parks and Recreation Department and its Director, or their designee, (“Director” or “CITY Contact”), operates and maintains more than 340 parks, including Balboa Park, with the goal of providing healthy, sustainable, and enriching environments for all; and

WHEREAS, the CITY owns that certain real property known as Balboa Park located in the City of San Diego, a 1200-acre urban, regional park providing a mix of cultural, educational, and recreational activities serving the nation, state, and CITY with approximately 85 cultural, conservation, and recreational organizations, attracting more than 10 million visitors each year; and

WHEREAS, Spanish Village Art Center, located in Balboa Park, was established in 1948 with the purpose of providing a place where artists and craftsmen may apply their talents and where creative work may be witnessed by the general public; and

WHEREAS, CITY desires to provide facilities and use of CITY-owned land to its citizens, guests, local societies, clubs, and organizations engaged in civic, social, educational, cultural, recreational, and philanthropic work and activities; and

WHEREAS, CITY negotiates with organizations for the use of CITY-owned land and facilities for the purpose of providing recreational and educational enrichment, and other public services and benefits to the citizens and visitors of CITY; and

WHEREAS, PERMITTEE is such an organization and, in the promotion and sponsorship of such work and activities, generates revenue from voluntary contributions, special events, membership dues, and fundraising projects.

NOW, THEREFORE, it is hereby mutually agreed by and between CITY and the PERMITTEE as follows.

1. Occupancy. CITY does hereby grant to PERMITTEE this Permit for the non-exclusive use of certain CITY-owned property, commonly known as the Spanish Village Art Center which is located at 1770 Village Place, San Diego, CA 92101 in Balboa Park, and as more particularly described on Exhibit A attached hereto (Premises). This Permit does not

guarantee that the Premises requested or assigned will always be available at the date and time requested by the PERMITTEE.

a. For purposes of this Permit, PERMITTEE includes its directors, officers, members, partners, employees, agents, contractors, Sublicensees, third-party permittees, attorneys, and all other persons whom PERMITTEE authorizes or allows to use or occupy the Premises.

2. Term. The term (Term) shall be for the period of three years beginning on the _____, 2023 and expiring on the _____, 2026, provided, however, that this Permit may be terminated by either party for convenience upon 30 days prior written notice to the non-terminating party.

3. Processing Fee. The PERMITTEE shall pay the CITY a one-time processing fee of four hundred and four dollars (\$404.00) prior to the Effective Date.

4. Use of Premises. The Premises must be used only for the purposes of operating, maintaining, and administering the Premises which may include special events, fundraising activities, events described in sections 5, and 9-11 of this Permit, and providing recreational programs, classes, camps, and activities (Permit Use), and for no other use whatsoever without obtaining the prior written approval of the Director. PERMITTEE may provide art education and training for a fee, established in accordance with this Permit. All other commercial activities are prohibited on the Premises unless PERMITTEE obtains the prior written approval of the Director. PERMITTEE shall not place, or allow the placement of, written communication that is not related to the Premises and its activities or recreational opportunities on the Premises without the prior written approval of the Director. In all instances where the Director's prior written approval is required in this section, the PERMITTEE shall submit a written request to the Director prior to engaging in such activity. The Director may, in his or her sole discretion, approve or deny PERMITTEE's request. If the request is approved by the Director, PERMITTEE must maintain the approval on file at all times.

5. Programming and Outreach.

a. PERMITTEE will be responsible for programming, outreach, and community relations among San Diego residents and other parkwide institutions to expand reach and create integration within the Balboa Park stakeholder community. This includes ongoing studio art classes, camps, and youth art programming, courtyard events, gallery events in Studio 21, advertising, and marketing for the Premises. Any fees charged by PERMITTEE associated with programming and outreach must remain at a reasonable cost, and proceeds must be used for ongoing future programming as well as maintenance expenses for the Premises.

b. PERMITTEE will be responsible for providing a minimum of 5 annual scholarships for San Diego youth in underserved communities to receive low-cost art classes or other programming or activities under the Permit Use. The Director or CITY Contact must review and approve any scholarship program or application process. The Director or CITY Contact may seek input and recommendations from CITY's City Council for eligible scholarship

candidates. PERMITTEE must provide CITY with updates on scholarship opportunities and successes at quarterly meetings held pursuant to section 21 of the Permit.

6. Assignment and Sublicense. PERMITTEE must not assign or sublicense, in whole or in part, any part of the Premises, rights granted by this Permit, or any interest in this Permit without CITY's prior written consent in each instance, which may be withheld or delayed in CITY's sole and absolute discretion. Any assignment or sublicense without CITY's prior written consent by operation of law will automatically terminate this Permit.

a. CITY hereby acknowledges that PERMITTEE intends to sublicense the individual studios or facilities located on the Premises to working artists or art related guilds for art related activities and for display and sale of their artwork (Sublicensee or Sublicensees). Occupancy or use of the studios or facilities on the Premises by Sublicensees will be allowed under the following terms and conditions:

i. Every individual artist, person, guild, or group currently using or occupying a studio or facility on the Premises, as of the Effective Date of this Permit, must submit a signed Sublicense Agreement, attached as Exhibit B, with all their required contact information, licenses, permits, any additional forms required by CITY, and insurance, to the Director for review and written approval in the Director's sole and absolute discretion. Every studio or facility on the Premises is subject to inspection by CITY before approval. Any individual artist, person, guild, or group who fails to comply with this section, or any requirements of this Permit, must vacate the Premises within 30 days of the Effective Date of this Permit.

ii. Process for studio or facility occupancy: Any individual artist, person, guild, or group that wishes to obtain a sublicense to use or occupy a studio or facility on the Premises (Applicant or Applicants) must apply through an application process (otherwise known as the jurying process) approved in writing by the Director and administered by PERMITTEE. After initial selection of an Applicant by PERMITTEE, PERMITTEE must present the Applicant's credentials, artistry, and application to the Balboa Park Committee, at one of their regularly scheduled public meetings, for their review and recommendation for approval by CITY. The Director will review all Applicants recommended for approval by the Balboa Park Committee and has sole and absolute discretion on final approval of Applicants.

iii. Approved Applicants: Once an Applicant has been approved by the Director in writing pursuant to this section 6, the Applicant must submit a signed Sublicense Agreement with all their required contact information, licenses, permits, any additional forms required by CITY, and insurance to the Director for review and written approval. The Applicant's assigned studio or facility may be subject to inspection by CITY before Applicant's use or occupancy.

iv. Studio/Facility Placement: All approved Sublicensees will be assigned to a specific studio/facility on the Premises. PERMITTEE may move a Sublicensee to another studio/facility on the Premises during the term of the Sublicensee's Sublicense Agreement twice a year, or every six months after the Sublicense Agreement is executed and

approved. Exceptions to this time period rule may be considered by CITY. PERMITTEE must provide at least 30 days written notice to CITY prior to any change in occupancy of a studio or facility so that the Sublicense Agreement may be amended to include the new studio/facility placement.

v. The Director must approve all Applicants or Sublicensees in writing before use or occupancy of the Premises.

vi. PERMITTEE will administer and manage the application process and Applicants, and ensure compliance with this section 6 and this Permit. This includes, but may not be limited to, obtaining all Sublicense Agreements and any required contact information, licenses, permits, additional forms required by CITY, and insurance from any Sublicensee or Applicant. PERMITTEE must ensure that all Sublicensees have current and valid Sublicense Agreements, licenses, permits, and insurance, and complies with all local, state, or federal laws at all times during their use or occupancy of the Premises.

vii. Studio sitters: A studio sitter is a person selected on an occasional basis by PERMITTEE to assist with running and operating studios or facilities at the Premises for a Sublicensee when a Sublicensee is unavailable to keep the studio open during approved hours of operation. All studio sitters must be approved in writing by PERMITTEE. A studio sitter must not be an individual artist or person conducting a separate business of any kind. PERMITTEE must keep a separate list of all approved studio sitters which is subject to review and inspection by the Director at all times.

viii. License Fee(s): Every Sublicensee must pay a License Fee in an amount to be determined by the Director to use or occupy the Premises. The License Fee must be paid to CITY every six months. PERMITTEE or any Sublicensee must not receive or accept any License Fee payments as all payments must be made directly to CITY in an amount to be determined by the Director. Failure of any Sublicensee to pay the required License Fee(s) will be considered a default of their Sublicense Agreement and this Permit. CITY may also charge interest or penalties for failure to pay the required License Fee(s) when due.

(1) As of the effective date of this Permit, each individual artist or person who obtains a sublicense with CITY under this section 6 and this Permit, must pay CITY \$250.00 twice annually.

(2) As of the effective date of this Permit, each group or guild who obtains a sublicense with CITY under this section 6 and this Permit, must pay CITY \$500.00 twice annually.

(3) CITY reserves the right to increase the payment of any License Fee under this Permit or any Sublicense Agreement, and will provide each Sublicensee with at least 30 days' notice of any increase.

ix. PERMITTEE may charge and collect reasonable fees, previously

approved by the Director in writing, for the use or occupancy of the Premises by Sublicensees to cover the maintenance and operations costs of the Premises.

x. The use and occupancy of the Premises or any individual studio or facility at the Premises by a Sublicensee is subject to the terms and conditions of this Permit.

xi. Any and all sublicenses will be and must be subject and subordinate to this Permit, as may be amended from time to time. If there is conflict between any Sublicense Agreement or Sublicensee and this Permit, the terms, conditions, and obligations of this Permit will control.

xii. Budget, Records, and Inspection. Every Sublicensee must keep accurate and complete books of accounts and records indicating all financial transactions made in connection with the Premises. All records and accounts will be subject to inspection by an authorized representative of CITY at all reasonable times. Records must be maintained for a minimum period of five years.

xiii. CITY's consent to any Sublicense Agreement with a Sublicensee will be subject to the following conditions, and will only be valid provided that all of the following conditions remain true:

(1) The Sublicense Agreement will not release PERMITTEE from any liability, whether past, present, or future, under this Permit, as to the Premises, or any portion thereof.

(2) The Sublicense Agreement must not authorize any additional uses of the Premises, not authorized in this Permit.

(3) The Sublicense Agreement must not alter the primary liability of PERMITTEE to perform all of PERMITTEE's obligations under this Permit.

(4) The Sublicense Agreement will not be construed as a waiver of the requirement to obtain the Director's written consent or act as a consent to any other proposed sublicense, assignment, or transfer of any right to use or occupy the Premises by PERMITTEE or Sublicensee to any portion of the Premises. Any transfer of the right to use or occupy the Premises by operation of law will automatically terminate the Sublicense Agreement.

(5) The Sublicense Agreement must not grant any rights to the Sublicensee greater than those rights granted to PERMITTEE under this Permit.

(6) The Sublicense Agreement will not require CITY to recognize Sublicensee in the event of a default in the Permit by PERMITTEE.

(7) The Sublicense Agreement will not enlarge or in any manner increase CITY's obligations or duties under this Permit.

(8) The Sublicense Agreement will not create obligations or costs to CITY with regard to the Sublicense Agreement.

(9) The Sublicense Agreement must not modify, waive, amend, or otherwise affect any provision of this Permit.

(10) The Sublicense Agreement will not be deemed to be any type of obligation by CITY to PERMITTEE, Sublicensee, or to any governmental agent, board, commission, or agency with regard to any other action relating to Sublicensee's use, occupancy, or maintenance of any portion of the Premises or improvements thereon.

(11) Prior to PERMITTEE allowing a Sublicensee's use or occupancy of the Premises, PERMITTEE must cause to be filed with the CITY, a Sublicense Agreement approved by the CITY which must include a certificate of insurance demonstrating that the Sublicensee is in compliance with the insurance requirements in Section 42, which must name PERMITTEE and the "City of San Diego, its elected officials, officers, representative, agents, and employees," as additional insureds for the entire term of the Sublicense Agreement.

(12) Sublicensee will assume the defense of, indemnify, and hold harmless CITY from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, the condition of the Premises, or from any act or omission of Sublicensee, its agents, invitees, contractors, and guests; provided however, Sublicensee's duty to indemnify and hold harmless will not include any claims or liability arising from the established sole negligence or willful misconduct of CITY, its agents, officers, or employees.

(13) PERMITTEE or Sublicensee must not sublicense, or attempt to transfer any other interest or right to use the Premises, in whole or in part, any facility or studio on the Premises, or any right or appurtenant privilege to the Premises, without CITY's prior written consent, which consent must be in CITY's sole and absolute discretion and must require additional compensation.

(14) Any default of a Sublicensee or a Sublicense Agreement will be considered a default by PERMITTEE or of the terms and conditions of this Permit.

(15) That any Sublicense Agreement may be terminated by CITY or the Sublicensee for convenience upon 30 days prior written notice to the non-terminating party.

7. Patio artists: A patio artist is a juried artist selected by PERMITTEE who is not assigned to a studio or facility and has been authorized by CITY to sell artistic goods on the Premises. All patio artists must be approved in writing by PERMITTEE and CITY.

PERMITTEE must keep a separate list of all approved patio artists which is subject to review by the Director at all times.

a. Patio artists are hereby exempt from the requirements of CITY's Sidewalk Vending ordinance pursuant to San Diego Municipal Code section 36.0113(a)(4).

b. Patio artists must comply with all local, state, and federal laws including complying with all of CITY's business license and insurance requirements.

c. If a patio artist becomes eligible for placement in a studio or facility, then they must comply with section 6 of this Permit.

d. Patio artists may sell artistic related goods on the Premises during regular business hours (Monday – Sunday, 11:00 a.m. to 4:00 p.m.) or during additional hours approved by CITY and PERMITTEE.

e. CITY or PERMITTEE may change hours of operation for patio artists at any time.

f. Patio artists may also sell artistic goods on the Premises as part of a specially permitted event under sections 9-11.

8. Membership. Membership or enrollment in the PERMITTEE's organization must be open to anyone meeting the requirements of PERMITTEE's rules and bylaws, subject to the requirements of this Permit and applicable laws. Membership in PERMITTEE's organization must be voluntary and cannot be made a requirement for any person, Sublicensee, group, or studio artist at the Premises or be made a requirement for use of the Premises by the general public. PERMITTEE's bylaws and rules must be reviewed and approved by the Director. PERMITTEE must provide the Director with a roster of all members in PERMITTEE's organization and must provide an updated roster at each quarterly meeting held pursuant to section 21 of this Permit.

9. Other Allowed Uses on the Premises. Subject to the terms and conditions of this Permit, notably sections 10-12 of this Permit, the Premises may also be used for:

a. Non-programmed passive public park recreational uses.

b. Temporary pre-scheduled park, recreational, cultural, educational, and promotional events facilitated or permitted by PERMITTEE that take place over the course of no more than five consecutive calendar days (including set-up and dismantling time) ("Limited Duration Events"), as set forth in this Permit including, but not limited to, the following categories of activities:

- i. Arts and entertainment programs and events;
- ii. Promotional programs and events;
- iii. Concert and performance programs and events;

- iv. Educational programs and events;
- v. Fairs, festivals and market programs and events;
- vi. Awareness and fundraising programs and events;
- vii. Athletic, recreation and health programs and events;
- viii. Holiday special programs and events;
- ix. Exhibits and shows
- x. Weddings; and
- xi. Corporate functions.

10. Programming and Permitting Services on the Premises. Except as set forth herein, PERMITTEE must perform the following for Limited Duration Events:¹

a. Plan, develop, market, schedule, manage, support, and coordinate Limited Duration Events held on the Premises by PERMITTEE.

b. PERMITTEE may issue, on behalf of the CITY, permits for Limited Duration Events for the use of the Premises by third parties, subject to the same park use provisions in the San Diego Municipal Code that govern all City parks, which are not subject to the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038) and must use CITY's FACILITY AND PARK USE PERMIT APPLICATION, attached as Exhibit C, or another application form approved by the Director ("Event Permits"); or

c. Issue a reservation of space, pursuant San Diego Municipal Code section 63.0103(d)(1), as amended from time to time, using CITY's PARKS AND RECREATION DEPARTMENT RESERVATION OF SPACE form, attached as Exhibit D, or another reservation of space form approved by the Director, and PERMITTEE must contact the Special Events and Filming Department or direct the third party to the Special Events and Filming Department for all Limited Duration Events subject to the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038). Any permit, reservation, or authorization issued by PERMITTEE beyond the authority granted under this Section 10 will be deemed null and void by operation of law. Nothing in this Permit will be construed as exempting PERMITTEE or any third party from the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038), the Special Event Permit Planning Guide, or any other applicable local, state, or federal rules, regulations, policies, or laws. PERMITTEE and all third parties holding a Limited Duration Event on the Premises must secure all applicable authorizations, approvals, and permits from all local, state, and federal authorities prior to commencing a Limited Duration Event. Limited Duration Events are subject to the Special Events Ordinance when certain criteria is met, including but not limited to, alcohol service, road closures, structural elements, regulatory permitting, or commercial vending activities.

¹ A "Limited Duration Event" means any activity that takes place over the course of no more than 10 consecutive calendar days (including set-up and dismantling time), or any activity that takes place over the course of twenty 20 or less total calendar days in any calendar year (including set-up and dismantling time).

11. Additional Provisions Applicable to Limited Duration Events, Event Permits and Fees.

a. All requests or inquiries for filming of the Premises or on the Premises for any purpose must be referred to the Special Events and Filming Department. PERMITTEE is not authorized to approve or permit any filming of the Premises for any purpose.

b. All Event Permits, including those subject to the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038), will be subject to the California Environmental Quality Act, Public Resources Code sections 21000 et seq., and where applicable, PERMITTEE must refer the Event Permits, and all events subject to the Special Events Ordinance, to the corresponding department of CITY for the corresponding determination.

c. PERMITTEE must issue all Event Permits, at no cost, on a first-come first-serve basis, and no more than 365 days in advance of the date of the Limited Duration Event. All Limited Duration Events, whether held on the Premises by PERMITTEE, or a third-party, shall be calendared, reserved, or permitted no more than 365 days in advance of the date of the Limited Duration Event, unless approve by CITY in writing.

d. PERMITTEE will have the right to charge and collect reasonable fees, previously approved by CITY in writing, for the use of the Premises which are designed to cover the maintenance and operations costs of the Premises for Limited Duration Events ("Event Fees"). No fees may be imposed for the passive use of the Premises by the public. No fees beyond the Event Fee will be required by CITY unless any other applicable permit is required. Nothing in this Permit will prevent PERMITTEE from also charging the third-party permittee of a Limited Duration Event for all costs incurred by PERMITTEE for personnel, equipment, maintenance, or other expenses resulting from each event permittee's Limited Duration Event.

e. When a Limited Duration Event is subject to the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038), PERMITTEE must refer said Limited Duration Event to the Special Events and Filming Department, including Limited Duration Events held by PERMITTEE on the Premises and any such Limited Duration Events will be planned, developed, marketed, scheduled, managed, supported, and coordinated in a manner consistent with policies, permitting procedures, and requirements set out in the City of San Diego Special Event Planning Guide, as produced and administered by the Special Events and Filming Department. All applications for a Special Event Permit submitted by a third-party to the Special Events and Filming Department to use the Premises may be reviewed by PERMITTEE and PERMITTEE may provide recommendations to the Special Events and Filming Department, in a purely advisory capacity, for approval, disapproval, or special conditions.

f. The Premises must be utilized and operated in a drug-free, smoke-free, and vape-free environment. PERMITTEE must make this fact known, both in writing and in oral communication, to Limited Duration Event permittees throughout the Term. PERMITTEE must document such written and oral communication. PERMITTEE must also abide by and provide a copy of the following to all Limited Duration Event permittees: "CITY OF SAN DIEGO PARK AND RECREATION DEPARTMENT RULES AND REGULATIONS FOR USE OF CITY PARK AND RECREATION DEPARTMENT SITES" (Attached as Exhibit E) which must be

signed by every Limited Duration Event permittee or third party permittee, and the "RULES OF CONDUCT FOR PATRONS."

g. Coordination and Scheduling of Limited Duration Events. All inquiries for Limited Duration Events for the Premises received by CITY will be directed to PERMITTEE.

h. Provision of Calendar of All Activities and Reoccurring events. PERMITTEE must provide CITY Contact with a complete and accurate written calendar of all activities that will be held, and have been authorized, or permitted by PERMITTEE to utilize any portion of the Premises, including all Limited Duration Events. PERMITTEE will include the full name of any such activity and sponsoring entity as well as the date and time of the particular activity.

i. PERMITTEE must provide a monthly calendar by the end of the calendar month for all activities taking place on the Premises in the following month (Example: PERMITTEE is to provide calendar of all activities on the Premises for June 2023 no later than May 31, 2023).

ii. A calendar of all reoccurring events or activities subject to the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038) occurring within the next 365 days (one year) may be provided to the City Contact so that they may be considered and approved at one time by the Special Events and Filming Department. Any additional, or added, events or activities not previously approved, whether reoccurring or not, which are subject to the Special Events Ordinance must be submitted to the City Contact for review and referral to the proper CITY Department or the Special Events and Filming Department.

i. Security. Security needs in connection with any Limited Duration Event will be the responsibility of the PERMITTEE or third-party permittee, and will be subject to all applicable local, state, and federal rules, regulations, statutes, and laws.

j. Insurance and Indemnity to CITY from Third Parties Obtaining PERMITTEE's Authorization to Use the Premises. PERMITTEE must require each and every third-party Limited Duration Event permittee to indemnify and hold harmless CITY and name CITY as an additional insured in any insurance policies and endorsements related to any permit issued by PERMITTEE or any other agreement or authorization for the use of any portion of the Premises. PERMITTEE must make a copy of all insurance certificates and endorsements set forth in this subsection available to CITY within seven calendar days of CITY's request. PERMITTEE must ensure that any permit or any other such agreement or authorization for the use of any portion of the Premises contains the following language:

"Indemnity and Hold Harmless. _____ (insert name of third-party permittee) will protect, defend, indemnify, and hold the City of San Diego (City), its elected officials, officers, departments, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to _____'s (insert name of third-party permittee) officers, employees, agents, contractors, PERMITTEES, invitees, and guests, which arise out of or are in

any manner directly or indirectly connected with this permit, or the occupancy, use, development, restoration, or maintenance of that portion of the Permit Area occupied or otherwise used by _____ (insert name of third-party permittee), including, but not limited to attorney's fees and costs; provided, however, that the duty of _____ (insert name of third-party permittee) to indemnify and hold harmless will not include any claims or liability arising from the sole negligence, or willful misconduct of City, and its elected officials, officers, departments, representatives, agents, and employees. City may, at its discretion, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, _____ (insert name of third-party permittee) will be liable for paying all reasonable costs related thereto, including without limitation, attorney's fees and costs.

Insurance. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form] _____ (insert name of third-party permittee) shall name "City of San Diego its elected officials, officers, departments, representatives, agents, and employees" as additional insured in all policies issued to _____ (insert name of third-party permittee) relating to the permit between the The Village Arts and Education Foundation, a California Nonprofit, Public Benefit Corporation, and _____ (insert name of third-party permittee) including, but not limited to coverage under endorsement CG2010 (11/85) or its equivalent. Insurance policies must be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by the City. The policies shall be kept in force for the entire duration of the term of the permit between the The Village Arts and Education Foundation, a California Nonprofit, Public Benefit Corporation and _____ (insert name of third-party permittee).

12. Collection and Use of Revenues from Limited Duration Events. The revenue collected by PERMITTEE from a Limited Duration Event in excess of PERMITTEE's costs incurred in connection with that Limited Duration Event must be used solely for the operation, maintenance, and improvement of the Premises, and not be used to fund other activities of PERMITTEE not relating to the Premises.

13. Non-Exclusive Use of Premises. The general public must not be wholly or permanently excluded from the Premises, except as it relates to a Limited Duration Event which requires an entrance fee. PERMITTEE, with prior written approval of the Director, may develop reasonable rules and restrictions for the use of the Premises, including but not limited to reasonable restrictions on access, hours of operation, and noise generation, provided that the rules and restrictions are consistent with the rights of the general public to not be wholly or permanently excluded from the Premises (except as stated in this Section), are designed to enable PERMITTEE to use the Premises for the purposes herein granted, and comply with all applicable local, state, and federal laws, rules, regulations, and policies.

14. Hours of Operation for Premises. Subject to reasonable hours of operation restrictions for Limited Duration Events, as set forth in this Permit, the Patio on the Premises must be operated by PERMITTEE as a public plaza, open to the public 24 hours each day unless the CITY's City Council duly adopts an ordinance setting hours for closure. Studios and

facilities located on the Premises are subject to the following hours of operation: 11:00 a.m. – 4:00 p.m., Monday through Sunday, unless used as part of an approved, permitted Limited Duration Event or other activity approved and permitted under this Permit.

15. Encroachments. This Permit does not authorize PERMITTEE to create any encroachment on the Premises in connection with its performance or use pursuant to this Permit.

16. Management of Premises: PERMITTEE will be responsible for managing the Premises including all Permitted Events, representing, and managing all those using or occupying the Premises, including all approved Sublicensees, approved studio sitters, patio artists, and third-party permittees, and for the Permit Use as described in this Permit.

a. PERMITTEE must ensure compliance with all local, state, and federal laws.

b. PERMITTEE is solely responsible for the security and safety of the Premises.

c. PERMITTEE must track and ensure compliance with all CITY business license requirements, required financial disclosures, California State Seller's Permit requirements, County Health Department requirements, and ensure that any third-party Permittees, Sublicensees, employees, vendors, patio artists, or studio sitters have the appropriate permits, licenses, insurance, and required approval by CITY and the Director.

d. PERMITTEE must ensure compliance with the hours of operation for the Premises, and all rules and regulations pertaining to the Premises, including the "CITY OF SAN DIEGO PARK AND RECREATION DEPARTMENT RULES AND REGULATIONS FOR USE OF CITY PARK AND RECREATION DEPARTMENT SITES" (Attached as Exhibit E), and the "RULES OF CONDUCT FOR PATRONS."

e. PERMITTEE will act as the day-to-day liaison for all Sublicensees, patio artists, and studio sitters on the Premises and for all events or reoccurring activities on the Premises. This responsibility includes, but is not limited to, collecting utility dues, and paying for utility costs for all Sublicensees on the Premises, fielding miscellaneous daily inquiries and facility repair requests, and then reporting them directly to the City Contact for response.

f. Any forms or paperwork used by PERMITTEE in its management, operation, or administration of the Premises must be approved by the Director.

17. Maintenance, Installation, Improvements, and Repairs of the Premises. For purposes of this Section 17, "CITY Contact" shall mean CITY's Parks and Recreation Department District Manager (or designee), who currently is Johnny Chou, (619) 235-1106.

a. Maintenance Services. PERMITTEE, to CITY's satisfaction, must perform all of the following maintenance work for the Premises (Services):

i. Maintain the Premises in good order and repair and in a safe, healthy, and sanitary condition at all times during the Term, subject to normal wear and tear.


ii. Cleaning and Daily Maintenance of Premises - PERMITTEE must inspect the Premises daily and ensure the Premises are clean and free of rubbish, debris, litter, and graffiti. PERMITTEE must notify the City Contact in writing of any graffiti or other cleaning or maintenance concerns immediately or within 24 hours, as described in section 17 of this Permit. Daily written inspection records must be kept for one year.

iii. Restroom Operation and Maintenance for After-Hours or Limited-Duration Events – PERMITTEE must maintain and service all restrooms at the Premises, including cleaning and restocking supplies, during after-hours or Limited-Duration Events hosted by Permittee or any Sublicensee. Permittee must lock restrooms at the end of the after-hours or Limited-Duration events prior to vacating the Premises.

1. City will unlock restrooms daily in the morning for general public use and lock restrooms in the evening at the close of business for the Premises. City will maintain and operate restrooms on the Premises during normal business hours of the Premises.
2. Permittee will be provided with a set of keys for the restrooms on the Premises and may also restock and maintain the restrooms as appropriate during normal business hours between City maintenance visits.

iv. Trash Collection –PERMITTEE will be responsible for all trash collection and disposal twice daily. City will provide dumpster service for ongoing trash collection.

b. Maintenance Specific Requirements. PERMITTEE must conduct monthly on-site inspections of all studios, buildings, facilities, and structures under this Permit and on the Premises, and must submit a quarterly report to the CITY Contact indicating that such monthly on-site inspections have been completed.

i. PERMITTEE must report any facilities and landscape maintenance needs, deficiencies, or problems, including graffiti, to the “Get it Done” application within 24 hours and alert the City Contact of the “Get it Done” submission in writing within 24 hours. PERMITTEE must keep all daily and monthly inspection reports, ~~Exhibit~~  for one year detailing all reports and requests submitted to City.

ii. PERMITTEE must be responsible for responding, in writing, not later than five calendar days to the CITY Contact regarding any maintenance complaints received by CITY or PERMITTEE. The response must set forth the date of the complaint, the nature of the complaint, the contact information of the complainant, the corrective action taken by PERMITTEE, and the completion date of the corrective action taken by PERMITTEE.

iii. PERMITTEE and any Sublicensee are responsible for general facility and studio maintenance on the Premises, including any Sublicensee moving and cleaning expenses and must not use City dumpsters for the disposal of furniture, junk, bulky items, or any hazardous waste, that are not considered normal debris and trash. PERMITTEE and Sublicensees must order, and pay any required fees, for the appropriate dumpsters or trash removal service for any such items needed for the removal of any hazardous waste, furniture, junk, or bulky items.

iv. PERMITTEE must maintain a separate set of books and records of costs associated with PERMITTEE's responsibilities under this Permit from those kept with respect to other business of PERMITTEE.

v. No Interference; Park Closure for Maintenance. PERMITTEE must provide the Services in a manner which results in the least interference as reasonably possible with the public's use of the Premises. Closures of the whole, or any part of the Premises will be permitted for repairs or maintenance as reasonably required, and on prior notice to CITY. Except in the case of a closure required for maintenance or repair activities needed to respond to an emergency, in which case PERMITTEE must give such notice as is reasonably possible under the circumstances, the PERMITTEE must notify CITY in writing at least seven calendar days in advance of any maintenance activities that would cause some or all of the Premises to be closed from public use.

vi. Landscape Maintenance – PERMITTEE must sweep and remove any leaves and debris on the Premises. PERMITTEE must maintain all potted plants on the Premises, which includes watering them daily or more frequently if needed. Any additional landscape maintenance needs on the Premises must be reviewed and approved by the City Contact.

c. Improvements. PERMITTEE must not make or cause any improvements, changes, or alterations to be made to the Premises or to any improvements thereon without prior written approval by CITY.

d. PERMITTEE agrees that CITY will not be required to perform or assume the cost of any maintenance, repairs, or services to the Premises.

e. Contingency. Prior to undertaking any improvements, repairs, or alterations, after approval by the City Contact, PERMITTEE must validate, to the satisfaction of CITY, that it has all the necessary funds plus a 5% contingency readily available to complete subject improvements and installation before beginning any such work.

f. Structures. Under no circumstances will PERMITTEE or PERMITTEE's agents place, store, or allow temporary or permanent structures of any kind on the Premises, including but not limited to cargo containers, trailers, and storage sheds, without the prior written authorization of the CITY and obtaining all permits required by competent governmental entities. Any structure violating this provision will be subject to immediate and summary removal, at PERMITTEE's sole cost and expense.

g. Required Approvals. PERMITTEE must obtain all required permits and regulatory approvals required by competent governmental entities relating to PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises. PERMITTEE shall be solely responsible for the cost of all plans, permits, and construction and maintenance costs attendant to any improvements.

h. Work Schedule. PERMITTEE must contact the CITY Contact a minimum of five working days prior to the start date of any maintenance or improvements. At that time, PERMITTEE must submit a work schedule to the Director that includes a description of the work to be performed, the specific location of such work, plan and design sheets showing construction specifications, precise locations, the dates and times of such work, and other relevant information deemed necessary by CITY to the CITY Contact. CITY reserves the right to impose reasonable restrictions and scheduling conditions for any activities related to the improvements or installations, and no work will commence without the prior verbal approval of the CITY Contact. PERMITTEE must further notify CITY Contact a minimum of 10 working days prior to start of any work that may affect public access on or adjacent to the Premises.

i. Pre-Construction Meeting. A minimum of 30 working days prior to commencement of any work, PERMITTEE must invite CITY Contact to a pre-construction meeting. This meeting will establish points of contact, define means and methods of all maintenance or improvements, and coordinate PERMITTEE's work schedule with scheduled activities and Parks and Recreation Department operations in and adjacent to the Premises.

j. Security and Safety of Work Areas. PERMITTEE will bear sole responsibility for the security and safety of work areas relating to any work performed under the direction of PERMITTEE. PERMITTEE will be responsible for the maintenance, cleanup, and securing of the work areas, as appropriate, during and immediately following each day's work to ensure security and safety. CITY has no obligation to provide oversight of any maintenance or improvements, staffing or resources for the maintenance of the Premises.

k. Repair. PERMITTEE will be responsible, at its sole cost and expense, for the repair or replacement of any damage caused by PERMITTEE's maintenance or improvements. PERMITTEE must comply with the direction of the CITY Contact or other competent CITY staff with respect to the method of any repairs or replacement.

l. Vehicular Traffic. All vehicular traffic must be confined to concrete, asphalt, or decomposed aggregate surfaces and must not enter the Premises unless otherwise approved in writing by CITY Contact prior to the commencement of any maintenance or improvement work.

m. Subcontractors. PERMITTEE must provide to CITY Contact a list of all contractors and subcontractors, including name, address, email, fax, and phone number. All construction work requiring a licensed PERMITTEE pursuant to the PERMITTEE's State Licensing Laws (California Business & Professions Code sections 7000-7191) must be done by PERMITTEEs licensed within the State of California.

n. Grading and Barriers. PERMITTEE must not change the surface grade or construct any permanent barriers within the Premises. Any violations must be corrected by PERMITTEE at its sole expense to the satisfaction of CITY.

o. Construction Guidelines. All new construction must comply with CITY design guidelines, regulations, California Building Code Title 24, and Americans with Disability Act standards. Any items that are not pre-approved or not to code will be rejected at the time of walk-through and must be removed and/or corrected at PERMITTEE's expense. It is the responsibility of PERMITTEE to obtain the necessary permits prior to commencement of any work, to obtain any inspections required for the work involved and to ensure all work will adhere to all laws, rules, and regulations, including California Building Code Title 24, American with Disabilities Act, California Disabled Act, the latest edition of the Parks and Recreation Department's *Consultant's Guide to Park Design and Development, San Diego Standard Drawings for Public Works Construction*, the *Standard Specifications for Public Works Construction* (Greenbook, 2009 edition), the 2012 City of San Diego "Whitebook" supplement to the Greenbook (Document No. PITS090110-1), City of San Diego regulations and other local agencies regulations.

p. Construction Guidelines for Historical Properties. All new construction within the National Historic Landmark District (NHLD), or any historical resources, must comply with the requirements of the State Historical Building Code, Title 24 of the Health and Safety Code of the State of California (Part 2.7 and Part 8), the latest edition of The Secretary of the Interior Standards for the Treatment of Historic Properties, with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (National Park Service), CITY design guidelines and regulations, California Building Code, and ADA standards. Any items that are not pre-approved or not complaint to code requirements will be rejected at the time of walk-through and must be removed and/or corrected at PERMITTEE's expense. It is the responsibility of PERMITTEE to obtain the necessary permits prior to commencement of any work on the project, to obtain any inspections required for the work involved and to ensure the project will adhere to all laws, rules, and regulations, including the State Historical Building Code, Title 24 of the Health and Safety Code of the State of California (Part 2.7 and Part 8); the latest edition of *The Secretary of the Interior Standards for the Treatment of Historic Properties, with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (National Park Service); California Building Code Title 24, ADA, and the latest edition of the Parks and Recreation Department's *Consultant's Guide to Park Design and Development*, 2012 *San Diego Standard Drawings for Public Works Construction* the *Standard Specifications for Public Works Construction* (Greenbook; 2021 edition), the City of San Diego Standard Specifications for Public Works Construction "Whitebook" supplement to the Greenbook (2021 edition), Facilities Maintenance Division's Guideline Specifications, City of San Diego Land Development Code – Historical Resources Regulations and Land Development Manual – Historical Resources Guidelines and other local agency regulations.

q. All work, activities and projects must comply with the Balboa Park Master Plan, Central Mesa Precise Plan, East Mesa Precise Plan, Balboa Park Sign Manual Update, and the Synthetic Turf Use Guidelines Report, if applicable. If proposed activities and projects do not

comply, then a General Development Plan (GDP) amendment process must be completed by the PERMITTEE.

r. Final Walkthrough. PERMITTEE must conduct a final walkthrough with CITY Contact to review and inspect all improvements and installations, in each instance, for compliance with this Permit and with Parks and Recreation Department standards. All items noted to be noncompliant with that certain *Consultant's Guide to Park Design and Development*, and any concerns identified by CITY Contact as being incomplete or unacceptable, must be corrected to the satisfaction of CITY prior to final acceptance of the work that is performed.

s. Competitive Process. All projects proposed under this Permit in which the CITY contributes funds are subject to the competitive bidding requirements pursuant to SDMC section 22.3203.

18. Alterations. CITY retains the right to alter the Premises from time to time. In addition, and pursuant to this Permit, PERMITTEE has the obligation to maintain and operate the Premises as a public park containing the Premises Improvements or substantially similar replacement improvements.

19. Incident Reports. PERMITTEE must provide CITY copies of reports on the form attached hereto as Exhibit F, listing all accidents, vandalism, and other incidents relating to public health and safety occurring on the Premises, within 72 hours of PERMITTEE's receiving notice of same.

20. Vehicular Traffic. In accordance with San Diego Municipal Code section 63.0102(b), no vehicles must be parked or driven on the Premises unless approved in writing by the Director. Any traffic bollards installed on or near the Premises by CITY must not be removed, tampered with, or moved in any way without permission of CITY.

21. Quarterly Meeting. During the Term, PERMITTEE must hold a quarterly meeting with the CITY to review budget, an accounting of funds from activities, events, and Limited Duration Events, inventory, facility maintenance, sublicenses, services offered, and to discuss the receipt and resolution of any complaints received.

22. Coffee Cart Management. PERMITTEE will be directly responsible for the oversight and operation of a coffee cart business on the Patio of the Premises under the following terms and conditions:

a. Any operator or contractor who operates the coffee cart must be approved in writing by CITY in its sole and absolute discretion, sign a Sublicense Agreement, pay a License Fee in an amount determined by CITY in its sole and absolute discretion, and provide the required contact information, licenses, permits, additional forms required by CITY, and insurance to the CITY before operating on the Premises.

b. The coffee cart operator must adhere to all local and state health and safety code requirements including obtaining a valid San Diego County Health Certificate, and

San Diego County Food Handlers Card, and must obtain any other required permits and licenses before operating at the Premises.

c. Coffee cart operator must dispose of trash in accordance with all local, state, and federal laws, including the California Health and Safety Code.

d. The coffee cart must be flexible and be able to relocate if CITY requires the space for another event or reason.

e. PERMITTEE will provide all utilities necessary and required for the safe, sanitary, and efficient operations of the coffee cart.

f. PERMITTEE must clean all areas of the Patio daily, including sweeping, spot cleaning, and litter abatement, when the coffee cart is in operation. PERMITTEE will power wash the Patio at a minimum of every six weeks. All cleaning required under this Permit and all activities on the Patio must comply, at all times, with the current level of Emergency Water Regulations (on the Effective Date located at San Diego Municipal Code section 67.38) with respect to water usage and all applicable water restrictions relating to water quality assurance and storm water management, all of which may be amended from time to time. PERMITTEE must inspect the Patio daily for hazards and debris, and correct or remove any hazard or debris immediately. Daily inspection records must be kept for one year.

g. PERMITTEE agrees that CITY will not be required to perform or assume the cost of any additional maintenance, repairs, or services to the Patio.

h. The coffee cart, and all related components and accessories, must be stored away off the Premises when not in use. Hours of operation of the coffee cart must be approved by the Director.

i. Coffee cart funds. All funds and net proceeds collected by PERMITTEE from the coffee cart must be used for the sole purpose of maintaining the Patio or Premises, and promoting PERMITTEE's activities, and related services at the Premises. PERMITTEE must collect no more than a 20 percent administrative fee for the management of the coffee cart. Net proceeds will be calculated by deducting the actual expenses to operate the coffee cart, and clean and maintain the Patio pursuant to this Permit, and reasonable administrative costs to provide accounting, and reasonable support services for the coffee cart from the gross profits of the coffee cart. The calculation of net proceeds must not include any deductions for projects or costs related to other projects outside the scope of this Permit; or salaries, or other expenses related to PERMITTEE's internal operations, including any insurance costs, and other related items. PERMITTEE must not use any revenue or profit generated from the Permit Use, including but not limited to the coffee cart, for any of PERMITTEE's other activities, services, expenses, salaries, unrelated to this Permit, or the Patio/Premises.

i. For the purposes of this section, actual expenses mean verifiable direct expenses that are directly attributable and incurred for the operation, maintenance, and

administration of the coffee cart, but shall exclude depreciation, replacement, and obsolescence charges, or reserves, and further exclude amortization of intangibles, or other bookkeeping entries of a similar nature and as noted in section a. above.

23. Governmental Approvals. By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or any governmental agent, board, commission, or agency with regard to any other discretionary action relating to PERMITTEE's occupancy, use, development, maintenance, or restoration of the Premises. Discretionary action includes without limitation re-zonings, variances, environmental clearances, and all other required governmental approvals.

24. Revocable License. This Permit is not a lease. It is a non-exclusive license to use CITY-owned property and may be revoked at will by CITY, in its sole discretion: (a) immediately upon written notice delivered to PERMITTEE if PERMITTEE, any Sublicensee, third party permittee, or any Event Permittee breaches or defaults any of the obligations under this Permit, or in case of an emergency; or (b) upon reasonable prior written notice, but not less than thirty (30) days, delivered to PERMITTEE if for CITY's convenience. CITY will not be obligated for any loss or burden, financial or otherwise, which may be incurred by PERMITTEE, any Sublicensee, third party permittee, or Event Permittee, as a result of such revocation or termination of this Permit. PERMITTEE, any Sublicensee, third party permittee, or any Event Permittee, expressly waives any claim for expense or loss which might incur as a result of CITY's revocation or termination of this Permit.

25. Termination for Convenience. Either party may terminate this Permit upon 30 calendar day's written notice to the other party. CITY will not be obligated for any loss or burden, financial or otherwise, which may be incurred by PERMITTEE, any Sublicensee, third party permittee, or any Event Permittee, as a result of termination of this Permit. PERMITTEE, and any Sublicensee, third party permittee or Event Permittee, expressly waives any claim for expense of loss which might incur as a result of termination of this Permit.

26. No Holdover. If PERMITTEE, or any Sublicensee, continues to occupy the Premises after the expiration or earlier termination of this Permit, such occupancy will neither constitute a renewal or extension of this Permit, nor give PERMITTEE, or any Sublicensee, any rights in or to the Premises. If PERMITTEE, or any Sublicensee, continues to occupy the Premises after the expiration or earlier termination of this Permit, PERMITTEE, or the Sublicensee, will pay to CITY rent calculated on a per diem basis at the market rental rate as calculated by competent CITY staff. CITY's acceptance of such rent will neither constitute a renewal or extension of this Permit, nor give the PERMITTEE, or any Sublicensee, any rights in or to the Premises.

27. Restore and Vacate. Prior to the expiration or termination of this Permit, PERMITTEE, and any Sublicensee, must restore the Premises to its condition on the Effective Date, excepting therefrom all normal wear and tear and all authorized improvements, and upon such expiration or termination immediately vacate the Premises. Upon CITY's termination of this Permit, PERMITTEE, and any Sublicensee, must immediately cease all operations, including any businesses, on the Premises and as soon as practicable thereafter restore the

Premises to its condition on the Effective Date, normal wear and tear excepted, and vacate the Premises.

28. Keys. PERMITTEE acknowledges receipt of () keys to _____ from CITY. PERMITTEE will be responsible for issuing keys to Sublicensees as necessary.

29. Superior Interests. This Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights-of-way pertaining to the Premises, whether or not of record. PERMITTEE must obtain all licenses, permits, and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the Premises, relative to any such superior interest. If PERMITTEE's, or any Sublicensee's, use of the Premises is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE, or any Sublicensee, must take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.

30. Inspection. CITY may at all times enter and inspect the Premises, including all of the facilities and studios within the Premises, without prior notice to PERMITTEE, Sublicensee, a studio sitter, patio artist, or any third-party permittee.

31. Prevailing Wage. Prevailing wage rates apply to this Permit. PERMITTEE and any Sublicensee or third-party permittee must comply with State prevailing wage laws, including, but not limited to, those requirements set forth in Exhibit G, attached hereto and incorporated herein by this reference.

32. Payment Bond. Prior to the commencement of any work on the Premises, PERMITTEE must deliver to CITY a payment bond (materials and labor bond) in an amount not less than one hundred percent (100%) of the total amount payable under the contract for construction to satisfy claims of material suppliers and of mechanics and laborers employed on the work. The bond must be provided in compliance with California Civil Code sections 9550-9566. The bond must be executed by an admitted surety, consistent with California Code of Civil Procedure section 995.670, that is authorized by the State of California Department of Insurance to transact surety insurance in the State. PERMITTEE must maintain the bond in full force and effect until all improvements for the work are accepted by CITY and until all claims for materials and labor are paid, and must otherwise comply with the Government Code. Should the bond become insufficient, PERMITTEE must renew, or cause the renewal of, the bond within ten calendar days after receiving notice from CITY.

33. Water Quality – Best Management Practices. CITY, PERMITTEE, and any Sublicensee, are committed to the implementation of controls (best management practices, or BMPs) to manage activities on the Premises in a manner which aids in the protection of City's precious water resources. It is PERMITTEE's responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of San Diego Storm Water Management and Discharge Control Ordinance (San Diego Municipal Code sections 43.0301 to 43.0312).

Therefore, PERMITTEE will, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under the San Diego Municipal Code section 43.0307(a).

It is ultimately PERMITTEE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, PERMITTEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

34. Non-Exclusive Use. The general public must not be wholly or permanently excluded from the Premises or any activity or event thereon. However, PERMITTEE, with prior written approval of the Director, may develop reasonable and non-discriminatory restrictions for the use of facilities and participation in certain activities, provided that the restrictions are consistent with the rights of the general public and are designed to enable PERMITTEE to use the Premises for the purposes herein granted.

35. Fees Charged by PERMITTEE. PERMITTEE will have the right to charge reasonable fees for the use of the facilities or services provided on the Premises. All fees must be limited to recovery of PERMITTEE's reasonable costs for the involved program or activity, in compliance with all applicable laws and CITY policies. No fees imposed by PERMITTEE for any program or activity may exceed the total cost incurred by PERMITTEE for providing that program or activity. All fees imposed by PERMITTEE are subject to review and approval by the Director, in his or her sole discretion and must be approved in writing.

36. Utilities. All utilities that may be necessary for the use and occupancy of the Premises will be provided at PERMITTEE's sole cost and expense, unless otherwise stated or agreed upon in any particular activity, or project. If separate metering is not available at the Premises, payment will be proportional based on estimates of PERMITTEE use, as calculated by CITY in its sole discretion.

37. Campaigning. The Premises must not be utilized for the purpose of working or campaigning for the nomination or election to any public office, whether partisan or non-partisan, or for the adoption or defeat of any public ballot measure.

38. Budget, Records, and Inspection. PERMITTEE must keep accurate and complete books of account indicating all financial transactions made in connection with the Premises. On July 1st of each year of the Term, PERMITTEE shall prepare and submit to the Director a proposed budget for the following fiscal year detailing estimated revenues and expenditures to include details regarding salaried positions (if any), salaries and wages, miscellaneous personnel expenses (if any), non-personnel expense, and capital outlay. A financial report showing all revenue by source and all expenditures in connection with the Premises shall be submitted to the Director on an annual basis by July 1st of each year. In the event of a termination of this Permit, the financial report must be submitted within 30 days of the date of said termination. All budgets and financial reporting must be in a format acceptable to CITY. PERMITTEE's accounting records shall be subject to inspection by an authorized representative of CITY at all reasonable times. PERMITTEE must maintain all such records and accounts for a minimum period of five years.

39. Use of Funds. All funds collected by PERMITTEE from the use of the Premises must be used in a fiscally responsible manner and for the sole purpose of maintaining and improving the facilities, Premises, and promoting the PERMITTEE's art related activities on the Premises.

40. Non-discrimination. PERMITTEE will not discriminate in any manner against any person or groups of persons on account of race, color, religion, gender, gender identity, gender expression, sexual orientation, medical status, national origin, age, familial status, source of income, marital status, or disability in PERMITTEE's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

41. Smoke/Vape/Drug Free Environment. The Premises must be utilized and operated in a smoke/vape/drug free environment. PERMITTEE must make this fact known, both in writing and in oral communication, to participants periodically throughout the Term. PERMITTEE must document such written or oral communication and provide copies of such to CITY on an annual basis.

42. Insurance. Prior to the Effective Date, PERMITTEE must (a) provide to CITY insurance certificates reflecting evidence of all insurance required below; however, the CITY reserves the right to request, and the PERMITTEE must submit, copies of any policy upon reasonable request by the CITY; (b) obtain CITY approval of each insurance company or companies; and (c) confirm with CITY that all policies contain the specific provisions required below. PERMITTEE's liabilities under this Permit, including without limitation PERMITTEE's indemnity obligations, must not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Permit and PERMITTEE's failure to maintain or renew coverage or to provide evidence of renewal during the Term may be treated as a material breach of contract by the CITY. PERMITTEE shall not modify any policy or endorsement thereto which increases CITY's exposure to loss.

a. Types of Insurance. At all times during the term of this Permit, PERMITTEE must maintain insurance coverage and shall deliver to CITY current certificates of insurance for:

i. Commercial General Liability Insurance (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which must cover liability arising from any and all personal injury or property damage in the amount of \$2 million per occurrence and subject to an annual aggregate of \$4 million. There must be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs must be outside the limits of the policy.

ii. Automobile Liability Insurance. For all of the PERMITTEE's automobiles including owned, hired, and non-owned automobiles, the PERMITTEE must keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later

version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

iii. Worker's Compensation Insurance. For all of the PERMITTEE's employees who are subject to this Permit and to the extent required by the applicable state or federal law, the PERMITTEE must keep in full force and effect, a Workers' Compensation policy. That policy must provide a minimum of \$1 million of employers' liability coverage, and the PERMITTEE must provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents, and representatives.

iv. Causes of Loss - Special Form Property Insurance. PERMITTEE must obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of PERMITTEE's insurable property related to the Permit Use of the Premises under this Permit or the Premises in an amount to cover 100 percent (100%) of the replacement cost.

a. Required Endorsements: The following endorsements to the policies of insurance are required to be provided to CITY before any work is initiated under this Permit.

i. Commercial General Liability Insurance Endorsements:

(1) Additional Insured: To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured "The City of San Diego and its elected officials, officers, employees, agents and representatives" with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

(2) Primary and Non-Contributory Coverage: The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents, and representatives must be in excess of PERMITTEE's insurance and must not contribute to it.

(3) Severability of Interest. The policy or policies must be endorsed to provide that the PERMITTEE's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

ii. Causes of Loss - Special Form Property Insurance. PERMITTEE must obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on

all of PERMITTEE's insurable property related to the Permit Use of the Premises under this Permit or the Premises in an amount to cover 100 percent (100%) of the replacement cost.

iii. Worker's Compensation Insurance Endorsements:

(1) Waiver of Subrogation: The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for CITY.

iv. Automobile Liability Insurance Endorsements.

(1) Additional Insured. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents, and representatives with respect to liability arising out of automobile owned, leased, hired, or borrowed by or on behalf of the PERMITTEE.

(2) Severability of Interest. The policy or policies must be endorsed to provide that PERMITTEE's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

b. Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by this Permit must only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

c. Deductibles. All deductibles on any insurance policy must be the sole responsibility of PERMITTEE and must be disclosed and acceptable to the CITY at the time evidence of insurance is provided.

d. Continuity of Coverage. All policies must be in effect on or before the first day of the Term and must be in effect and kept in force for the duration of the Term. At least thirty (30) days prior to the expiration of each insurance policy, PERMITTEE must furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. PERMITTEE must provide proof of continuing insurance at least annually during the Term and otherwise upon CITY's request. If insurance lapses or is discontinued for any reason, PERMITTEE must immediately obtain replacement insurance as soon as possible.

e. Modification. To assure protection from and against the kind of extent of risk existing on the Premises, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time during the Term by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE must also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY'S reasonable reevaluation of risk levels related to PERMITTEE'S use of the Premises.

f. Accident Reports. PERMITTEE must immediately report to CITY any accident causing property damage or injury to persons on the Premises or otherwise related to the Permit. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

43. Indemnification & Hold Harmless: PERMITTEE will protect, defend, indemnify, and hold CITY and its elected officials, officers, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE'S officers, employees, agents, PERMITTEES, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this Permit, entering into this Permit, the Permit Use, or PERMITTEE'S occupancy, use, development, maintenance, improvement, or restoration of the Permit Areas, including damages arising out of release of hazardous materials, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that PERMITTEE'S duty to indemnify and hold CITY harmless will not include any established liability arising from the sole negligence or willful misconduct of CITY, its elected officials, officers, representatives, agents, and employees. CITY may, at its own discretion, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY elects to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE will pay the CITY for all costs related thereto, including, and without limitation, reasonable attorneys' fees, and costs.

44. Program and Service Accessibility Requirements. PERMITTEE will, as applicable to the Permit Area and PERMITTEE'S possession, use, and occupancy of the Permit Area, comply with all accessibility requirements under California Government Code sections 11135-11139.5; Title 24 of the California Code of Regulations; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); California Disabled Persons Act; and all other applicable state and federal laws, rules, and regulations of competent governmental authority protecting the rights of individuals with disabilities. When a conflict exists between any federal or state accessibility requirements, PERMITTEE will follow the most restrictive accessibility requirement (i.e., that which provides the most access). PERMITTEE'S compliance will include without limitation the following:

a. PERMITTEE will not discriminate against qualified individuals with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of PERMITTEE.

c. PERMITTEE will post a statement addressing the requirements of the ADA in a prominent place at the work site.

d. Where required by law, all improvements, fixtures, alterations to structures or buildings, or installations done or installed by PERMITTEE on the Permit Area must comply with municipal, state, and federal accessibility requirements by bringing up to code and making accessible any areas of the Permit Area which deny access to individuals with disabilities. All improvements, added fixtures, alterations, and installations to the Premises will be at PERMITTEE's sole expense.

e. PERMITTEE's failure to comply with the accessibility requirements of this section or submitting false information in response to these accessibility requirements, or both, will be a default of this Permit.

45. Accessibility Assessment. In accordance with California Civil Code section 1938, CITY hereby states that the Premises has not been inspected by a Certified Access Specialist (CASp). Further, pursuant to California Civil Code section 1938(e), CITY is required to state: "A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

46. Spanish Village Art Center Website. PERMITTEE must maintain an official website for the Premises and must post on such official website all of the following: (a) Board of Directors roster (names and business affiliations); (b) all regular Board of Directors and committee meeting agendas; (c) all approved Board of Directors and committee meeting minutes; (d) PERMITTEE's bylaws; (e) all annual audits, reports, and financial statements or disclosures prepared by PERMITTEE or provided by PERMITTEE to CITY pursuant to section 36; (f) the application process for new Applicants for a Sublicense Agreement; (g) list of artists and Sublicensees at each studio or facility; (h) list of juried patio artists; (i) an up-to-date calendar of events and activities for the Premises; (j) all contracts for which PERMITTEE will expend \$5,000 or more of funds, including notation of the total number of bidders for each such contract in the top right hand corner of the posted contract; and (k) any other information or data recommended by CITY. All items required to be posted on the official website pursuant to this section 46 must be maintained on the website for a minimum of five years.

47. Open and Public Meetings. PERMITTEE acknowledges and agrees that all portions of meetings of PERMITTEE's Board of Directors at which this Permit, activities, and events, Sublicensees, revenue and funding, or any Permit Use are discussed must be conducted in accordance with the Ralph M. Brown Act, California Government Code sections 54950-54963, which may be amended from time to time. PERMITTEE will be responsible for posting meeting dates, agendas, and minutes on the Spanish Village Art Center Website for public access and is responsible for providing a copy to the Director each month. PERMITTEE will be responsible for all administrative functions related to public meetings, including preparing the agenda, meeting minutes, reports and documents that support meeting agenda items, and posting all meeting material for public view on the Premises and on the Spanish Village Art Center Website.

a. Balboa Park Committee. As a park stakeholder, PERMITTEE will be responsible for providing monthly updates to the Balboa Park Committee on PERMITTEE's business and public events. The following items to be publicly noticed and reported out at the Balboa Park Committee include but may not be limited to: updates on upcoming events, activities, and programs; Applicants, and selection of new artists or groups to serve as Sublicensees. Balboa Park Committee meetings are held the first Thursday of every month at 6:00 p.m.

48. California Public Records Act. CITY will determine, in its sole discretion, whether this Permit, or information provided to CITY by PERMITTEE pursuant to this Permit is or is not a public record subject to disclosure under the California Public Records Act, California Government Code sections 7920.000-7930.215 (formally 6250 et seq.) ("CPRA"). PERMITTEE will hold CITY, its elected officials, officers, and employees harmless for CITY's disclosure of any such information in response to a request for information under the CPRA.

a. CITY will not be liable or obligated for any burden or loss (financial or otherwise) incurred by PERMITTEE as a result of CITY's disclosure or non-disclosure of this Permit, or PERMITTEE information requested pursuant to the CPRA. PERMITTEE EXPRESSLY WAIVES ANY CLAIM AGAINST CITY AND ITS ELECTED OFFICIALS, OFFICERS, EMPLOYEES, REPRESENTATIVES AND AGENTS FOR ANY BURDEN, EXPENSE OR LOSS WHICH PERMITTEE INCURS AS A RESULT OF CITY'S DISCLOSURE OR NON-DISCLOSURE OF THIS PERMIT OR ANY PERMITTEE INFORMATION REQUESTED PURSUANT TO THE CPRA.

b. PERMITTEE is subject to the CPRA, and in the event PERMITTEE receives requests for records under the CPRA, PERMITTEE must respond and comply with the provisions of the CPRA, including timely responding to all CPRA requests as required under the law. CITY will not be liable or obligated for any burden or loss (financial or otherwise) incurred by PERMITTEE as a result of PERMITTEE's disclosure or non-disclosure of records pursuant to any CPRA request processed by PERMITTEE. PERMITTEE will protect, defend, indemnify, and hold CITY, and its elected officials, officers, representatives, agents, volunteers, and employees harmless from and against any and all claims asserted, or liability established, for damages or injuries to any person or property, including injury to PERMITTEE's officers, employees, volunteers, agents, contractors, invitees, and guests, which arise out of or are in any manner directly or indirectly connected with the CPRA, responding to CPRA requests, or the

disclosure or non-disclosure of records pursuant to any CPRA request processed by PERMITTEE, including without limitation attorneys' fees and costs. CITY may, at its own discretion, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY elects to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE will pay the CITY for all costs related thereto, including, without limitation, reasonable attorneys' fees, and costs.

49. PERMITTEE'S Risk. PERMITTEE must bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises and any damages to the improvements on, under, or in the vicinity of the Premises resulting directly or indirectly thereby.

50. Signs. PERMITTEE must not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising on the Premises or any CITY-owned property without CITY's prior written consent. If any such unauthorized item is found on the Premises or any CITY-owned property, PERMITTEE must move the item at its sole cost and expense within 24 hours after notice from CITY, or CITY may thereafter summarily remove the item at PERMITTEE's sole cost and expense.

51. No Nuisance. PERMITTEE must not use the Premises in any manner which, in the opinion of CITY, creates a nuisance or disturbs the quiet enjoyment of persons in and to the surrounding area of that violates CITY's Noise Abatement and Control Ordinance (Chapter 5, Article 9.5 of the San Diego Municipal Code, as amended from time to time).

52. Encumbrances. PERMITTEE must keep the Premises, any CITY-owned property of which the Premises is a part, and all improvements thereon, free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with this Permit or PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises. PERMITTEE will protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Premises, including without limitation PERMITTEE's failure or the failure of any PERMITTEE, Subpermittee, Sublicensee, agent, employee, or third-party permittee hired by PERMITTEE to pay any person or persons entitled to record a lien or encumber the PREMISES or City-owned property pursuant to the California Civil Code or other applicable sections thereof.

53. Compliance with Laws. PERMITTEE must, at its sole cost and expense, comply with all rules, regulations, ordinances, laws and direction of all CITY, county, state, and federal governing authorities now in effect or which may hereafter be in effect, which pertain to PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises. Violation of this provision will be cause for immediate revocation of this Permit.

54. Unauthorized Use Charge. PERMITTEE will pay CITY 100% of the gross revenue (all revenue without any deduction, credit, or set-off) from any use of the Premises that is not part of the Permit Use, in violation of the law, or in violation of the terms and conditions of this Permit, regardless of any related penalties charged PERMITTEE by competent Government authorities. The gross revenue from each use of the Premises that is not part of the Permit Use, in violation of the law, or in violation of any of the terms and conditions of this Permit is payable to the CITY within 30 days after PERMITTEE receives such revenue. Nothing in this section 54 is intended to authorize any use of the Premises that is not part of the Permit Use, waive PERMITTEE's default for conducting or allowing such use, or waive any CITY right or remedy under this Permit and Agreement.

55. Taxes. PERMITTEE must pay, before delinquency, all taxes, assessments and fees assessed or levied upon PERMITTEE or the Premises, including the land and any buildings, structures, machinery, equipment, appliances, or other improvements, or property of any nature whatsoever erected, installed or maintained by PERMITTEE, or levied by reason of PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises, including without limitation any licensing or permitting costs and fees. PERMITTEE acknowledges that this Permit may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE will be solely responsible for all and shall pay all such possessory interest taxes. PERMITTEE's payment of such taxes, fees, and assessments shall not reduce any payment due to CITY.

56. Hazardous Substances. PERMITTEE must not allow the illegal installation, storage, utilization, generation, sale, or release of a Hazardous Substance or otherwise regulated substance in, on, under or from the Premises by any of the PERMITTEE's officers, employees, agents, Sublicensees, third-party invitees, invitees, and guests. PERMITTEE and PERMITTEE's officers, employees, agents, Sublicensees, third-party invitees, invitees, and guests, including third parties conducting Limited Duration Events on the Premises must not install, store, utilize, generate, or sell any Hazardous Substance on the Premises without CITY's prior written consent. PERMITTEE must, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.

a. Release. For all purposes of this Permit, a "release" includes without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of a Hazardous Substance.

b. Hazardous Substance. For all purposes of this Permit, "Hazardous Substance" means any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.

c. Remediation. If PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises results in a release of a Hazardous Substance, PERMITTEE will pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Premises, and in accordance with all applicable laws, rules, and regulations of governmental authorities.

d. Removal. If PERMITTEE or PERMITTEE's officers, employees, agents, Sublicensees, third-party permittees, invitees, and guests has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Premises, PERMITTEE must remove all Hazardous Substances in any type of container, equipment or device from the Premises immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Premises and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment, or devices from the Premises. PERMITTEE will be responsible for any and all costs incurred by CITY to remove any container, equipment, or device requiring disposal or removal as required by this provision.

e. Indemnity. PERMITTEE will protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties, or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents, Sublicensees, third-party permittees, or the public; and (vii) all costs of any health assessments or health effect studies.

f. Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Premises, PERMITTEE must immediately notify CITY and any appropriate regulatory or reporting agency in compliance with California Code of Regulations Title 19 and all other applicable laws or regulations. PERMITTEE must deliver a written report thereof to CITY within three days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE take must all actions necessary to alleviate the danger. PERMITTEE must immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Premises.

g. Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's occupancy, use, development, maintenance, or restoration of the Premises resulted in any Hazardous Substance being released on, from or beneath the Premises, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a

Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment will be obtained at PERMITTEE's sole cost and expense, and must establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's occupancy, use, development, maintenance, or restoration of the Premises, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state or federal laws, statutes, ordinances, or regulations, or require future restricted re-use of the Premises, then the environmental assessment must include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE will cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Premises and compliance with environmental law and regulations are achieved, and PERMITTEE will pay all costs and expenses therefor.

57. Alcohol. No alcohol may be served at the Premises absent written permission obtained in advance from the Director, which permission may be reasonably withheld or delayed in the Director's sole discretion, and PERMITTEE, Sublicensee, or any third-party permittee has obtained a Special Event Permit pursuant to the Special Events Ordinance (San Diego Municipal Code sections 22.4001-22.4038), and 56.54, as amended from time to time. PERMITTEE must follow and bear full responsibility for compliance with all alcohol laws, regulations, and any applicable licenses or permit conditions regarding the consumption, sale, or any other use of alcohol on the Premises, all at PERMITTEE's sole risk and cost.

58. Exclusive Vending Machine. PERMITTEE acknowledges and understands that Compass Group USA, Inc., a Delaware corporation doing business as Canteen San Diego, is the exclusive "vending machine" provider for CITY and must be used for all machine vending at the Premises. PERMITTEE, or any Sublicensee or third-party permittee must not procure, use, or otherwise allow any vending services at the Premises other than CITY's designated exclusive provider. If at any time CITY changes its exclusivity pertaining to the provision of vending machines, PERMITTEE, any Sublicensee, or third-party permittee, must adhere with whomever has been designated the exclusive vendor as set forth by CITY.

59. Music. PERMITTEE, any Sublicensee, and third-party permittees will only perform music for which the CITY has obtained a "non-dramatic" (as hereinafter defined) performance license from ASCAP, Broadcast Music, Inc., SESAC, or any other musical industry licensing entity (Licensing Entity). For a list of approved music and artists, PERMITTEE may contact the respective Licensing Entity. CITY will notify PERMITTEE in writing of any other approved Licensing Entity and any additional PERMITTEE requirements (hereinafter "Additional Requirements") imposed upon PERMITTEE by CITY by virtue of its licensing agreement with any Licensing Entity.

a. For the purposes of this Permit, a "non-dramatic" performance includes live performances and recorded performances (CD, tapes, radio, and television over loudspeakers). PERMITTEE, any Sublicensee, and third-party permittees must not perform music with any "dramatic" performances. For purposes of this Permit, "dramatic" performances

includes, but is not be limited to, the following: (a) performance of a "dramatico-musical work" (as hereinafter defined) in its entirety; (b) performance of one or more musical compositions from a "dramatico-musical work" (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken; (c) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual presentation; and (d) performance of a concert version of a "dramatico-musical work" (as hereinafter defined). The term "dramatico-musical work" as used in this Permit, includes, but is not limited to, a musical, comedy, opera, play with music, revue, or ballet.

b. PERMITTEE, any Sublicensee, or third-party permittee must not perform music from a coin-operated phono record (or CD) player commonly known as a "juke-box" or a computer on-line service or electronic bulletin board on the Premises.

c. It will be PERMITTEE's sole responsibility to ensure it, or any Sublicensee or third-party permittee, only performs or authorized to be performed music for which CITY has obtained a valid music license. Should there be a desire to perform music for which CITY does not have a license, PERMITTEE must obtain its own license from the appropriate Licensing Entity before PERMITTEE, any Sublicensee or third-party permittee performs the desired music. PERMITTEE must ensure that (1) CITY is named in the license; (2) each CITY premises/location where PERMITTEE intends to perform the music is identified in the license; and (3) PERMITTEE has provided CITY with a fully executed copy of the license at least ten days prior to the performance of the music.

60. Waiver. The property constituting the Premises is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of PERMITTEE's obligations under this Permit, in one or more instance, will not be construed as a waiver of any such obligation, and the same will remain in full force and effect. CITY's waiver of a default will not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy will not be deemed a waiver of that or any other right or remedy under this Permit, at law or in equity. The exercise of any particular right or the use of any particular remedy for any default will not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any rents or fees will not be a waiver of any default preceding the rent or fee payment. CITY's failure to discover a default or take prompt action to require the cure of any default will not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.

61. Cumulative Remedies. CITY's rights and remedies under this Permit are cumulative and will not limit or otherwise waive or deny any of the CITY's rights or remedies at law or in equity.


62. Survival. Any obligation which accrues under this Permit prior to the expiration or termination of this Permit will survive such expiration or termination.

63. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons, and entities, and each of them, will be jointly and severally liable for each and every obligation of PERMITTEE under this Permit.

64. No Affiliation. Nothing contained in this Permit will be deemed or construed to create a partnership, joint venture, or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, including any Sublicensee or third-party permittee, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE, any Sublicensee, third-party permittee, or any other party or entity.

65. Entire Agreement. This Permit, including the Exhibits attached hereto, constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties, and agreements between them pertaining to this Permit and PERMITTEE's occupancy, use, development, maintenance, and restoration of the Premises. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.

66. Notices. Any notice required or permitted to be given under this Permit must be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE as follows:

 Frank Casciani, Deputy Director
Village Arts and Education Foundation
1770 Village Place
San Diego, CA 92101

And to the CITY as follows:

THE CITY OF SAN DIEGO
ATTENTION:
Johnny Chou, District Manager
City of San Diego Parks and Recreation Department
2125 Park Blvd.
San Diego, CA 92101


67. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms. Upon request, each person executing this Permit on behalf of PERMITTEE shall provide CITY with evidence, satisfactory to CITY, that such authority is valid, and that PERMITTEE is a valid, qualified corporation, Limited Liability Company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

68. Acceptance of Premises. PERMITTEE accepts all physical conditions of the Premises, as of the effective date, and releases CITY from all liability whatsoever for all known or unknown conditions of the property. PERMITTEE will enter the Premises for the Permit Use under this Permit and Agreement, on the Premises "as is," "where is" and "subject to all faults" condition, as of the effective date. PERMITTEE acknowledges and agrees that it is relying solely upon its own knowledge or investigation of the property, as it deems appropriate. PERMITTEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself as to the condition of the Premises and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Premises or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations, and observations of the Premises in entering into this Permit. Without limiting the foregoing provisions of this section 68, CITY makes no representation or warranty as to the physical condition of the Premises or whether the Premises presently complies with any law. Without limiting the foregoing provisions of this section 68, PERMITTEE, on behalf of itself and its successors and assigns, waives, and releases CITY and its successors and assigns from all costs or expenses whatsoever (including legal costs), whether direct or indirect, known or unknown, foreseen or unforeseen, arising from or relating to the physical condition of the Premises or compliance of the Premises with any law applicable to the Premises. PERMITTEE expressly waives all rights and benefits available to it with respect to the releases contained in this section 68 under any provision of applicable law providing that a general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his, her, or their favor at the time of executing the release and that, if known by his, her, or their, would have materially affected his, her, or their settlement with the debtor or released party, including California State Civil Code section 1542. The provisions of this section 68 will survive the termination date of this Permit.

[Remainder of page intentionally blank. Signatures appear on the following page.]

IN WITNESS WHEREOF, this Permit is executed by the CITY OF SAN DIEGO, acting by and through its Parks and Recreation Director pursuant to San Diego Municipal Code Section 22.1502, authorizing such execution, and by PERMITTEE.

PERMITTEE:

By: 
THE VILLAGE ARTS AND EDUCATION
FOUNDATION, A California Nonprofit,
Public Benefit Corporation

Date: 11/1/2023
Title: Deputy Director VAEF
Frank Casciani

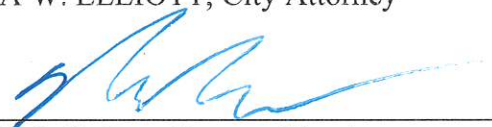
CITY: THE CITY OF SAN DIEGO, a California Municipal Corporation

By: 
Andrew Field, Director
Parks and Recreation Department

Date: 10/25/23

Approved as to form
This 27th day of November, 2023.

MARA W. ELLIOTT, City Attorney

By: 
Nicole Pedone, Deputy City Attorney

Attachments:

- Exhibit A - Premises
- Exhibit B - Sublicense Agreement
- Exhibit C - CITY's FACILITY AND PARK USE PERMIT APPLICATION
- Exhibit D - CITY's PARKS AND RECREATION DEPARTMENT RESERVATION OF SPACE
- Exhibit E - CITY OF SAN DIEGO PARK AND RECREATION DEPARTMENT RULES AND REGULATIONS FOR USE OF CITY PARK AND RECREATION DEPARTMENT SITES
- Exhibit F - Incident Report
- Exhibit G - Prevailing Wage

**EXHIBIT A
PREMISES**

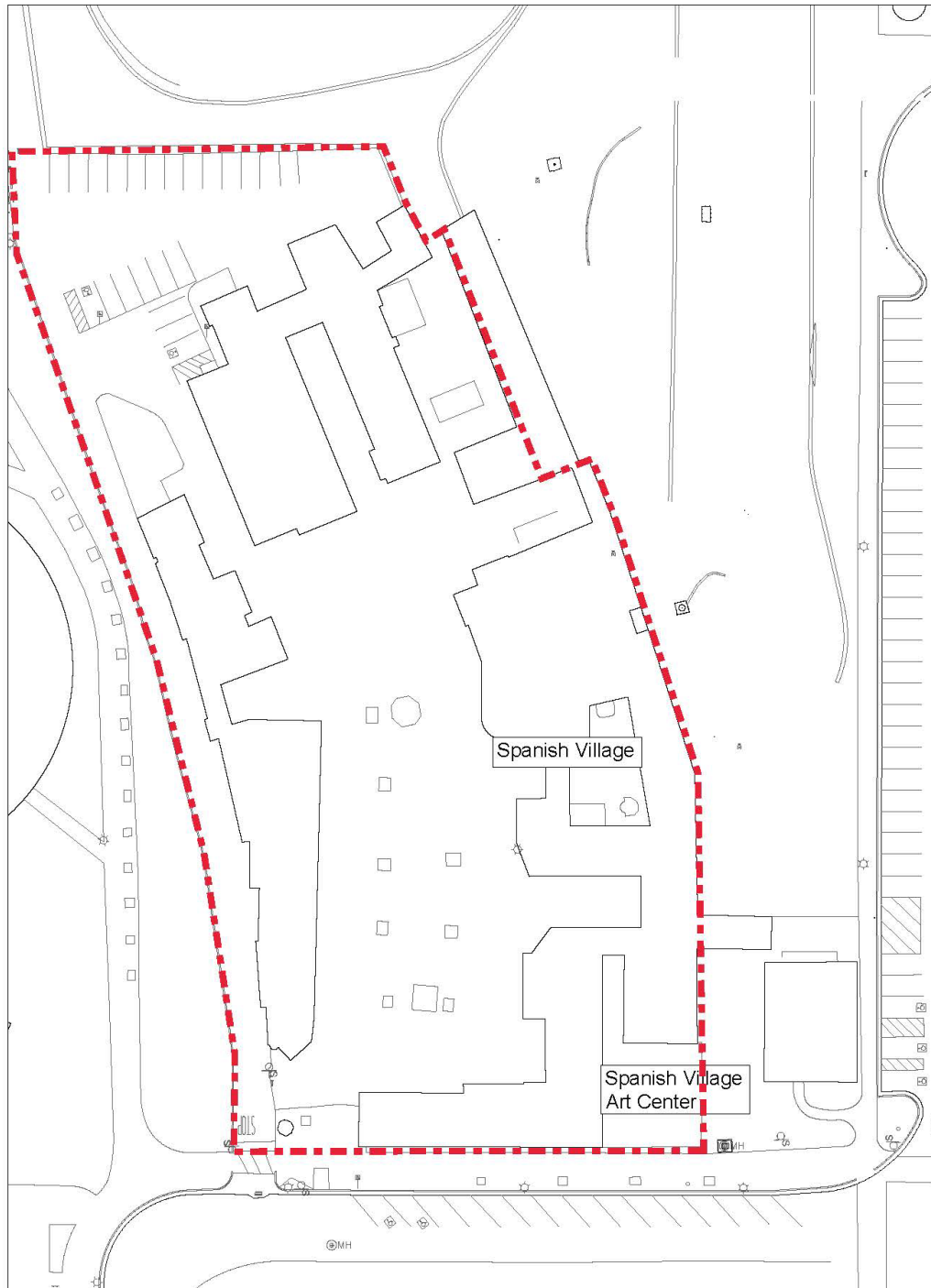


EXHIBIT A PREMISES

BALBOA PARK Spanish Village	2022 			
				
<p>Every reasonable effort has been made to assure the accuracy of this map. However, neither the SanGIS participants nor San Diego Data Processing Corporation assume any liability arising from its use. This map contains information from the San Diego Association of Governments (San-DAG) Regional Information System. This map cannot be reproduced without the written permission of San-DAG.</p>	<p>THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.</p>	<p>This map contains information which has been reproduced with permission granted by Thomas Brothers Map Company PROPRIETARY INFORMATION. The use of this information is pursuant to a sublicense agreement only. Any resale or relicense of this information is prohibited, except in accordance with such sublicensing agreements.</p>		

EXHIBIT B
SUBLICENSE AGREEMENT

This Sublicense Agreement (“Sublicense”) is made effective as of _____, by and between THE VILLAGE ARTS AND EDUCATION FOUNDATION, a California Nonprofit, Public Benefit Corporation (“PERMITTEE/LICENSEE”), THE CITY OF SAN DIEGO (“CITY”), and _____ (“SUBLICENSEE”).

PERMITTEE/LICENSEE has previously entered into a SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT with CITY effective _____ (“Permit”), a copy of which is attached as an exhibit to this Sublicense. PERMITTEE/LICENSEE now desires to sublicense the whole or part of the Premises for the non-exclusive use of certain CITY-owned property, commonly known as the Spanish Village Art Center located at 1770 Village Place, San Diego, CA 92101 in Balboa Park (“Premises”). Therefore, the parties agree as follows:

1. Studio/Facility on Premises. SUBLICENSEE, in consideration of the License Fees provided in the Permit and this Sublicense, and with permission and approval by CITY and PERMITTEE/LICENSEE, will use and occupy the following studio/facility on the Premises _____.

2. TERM AND POSSESSION. The term of this Sublicense will begin on _____ and unless terminated sooner pursuant to the terms of the Permit or this Sublicense, it will continue for the remainder of the term provided in the Permit, which terminates on _____.

3. Sublicense Fees. SUBLICENSEE must pay to CITY a License Fee in the amount of \$_____.00 every six (6) months, payable at least 30 days in advance of when it is due. License Fee payments must be made to _____ at _____, which may be changed from time to time by CITY. SUBLICENSEE is hereby on notice that the amount of the License Fee could increase at any given time. SUBLICENSEE will receive at least 30 days’ notice of any change to the amount of the License Fee due under the Permit and this Sublicense. Failure of SUBLICENSEE to pay the required License Fee(s) will be considered a default of the Permit and this Sublicense. CITY may also charge interest or penalties for failure to pay the required License Fee(s) when due.

4. Budget, Records, and Inspection. SUBLICENSEE must keep accurate and complete books of accounts and records indicating all financial transactions made in connection with the Premises. All records and accounts will be subject to inspection by an authorized representative of CITY at all reasonable times. Records must be maintained for a minimum period of five years.

5. SUBLICENSEE agrees to the following terms and conditions:

a. SUBLICENSEE is not authorized to allow any additional uses on the Premises or any additional persons or groups to use the Premises. This Sublicense will not be construed as a waiver of the requirement to obtain CITY’s written consent to any other proposed sublicense, assignment, or transfer of any right to use or occupy the Premises by PERMITTEE/LICENSEE or SUBLICENSEE to any portion of the Premises. Any transfer of the right to use or occupy the Premises by operation of law will automatically terminate the Sublicense and the underlying Permit.

b. SUBLICENSEE must abide by all local, state, and federal laws including always having the proper licenses, permits, and insurance certificates.

EXHIBIT B
SUBLICICENSE AGREEMENT

- c. This Sublicense will not require CITY to recognize SUBLICENSEE in the event of a default in the Permit by PERMITTEE/LICENSEE.
- d. The Sublicense will not enlarge or in any manner increase CITY's obligations or duties under this Permit or to SUBLICENSEE.
- e. The Sublicense does not grant any rights to the SUBLICENSEE greater than those rights granted to PERMITTEE/LICENSEE under the Permit.
- f. The Sublicense does not create obligations or costs to CITY with regard to the Sublicense.
- g. The Sublicense does not modify, waive, amend, or otherwise affect any provision of the Permit.
- h. The Sublicense will not be deemed to be any type of obligation by CITY to PERMITTEE/LICENSEE, SUBLICENSEE, or to any governmental agent, board, commission, or agency with regard to any other action relating to Sublicensee's use, occupancy, or maintenance of any portion of the Premises or improvements thereon.
- i. Prior to SUBLICENSEE's use or occupancy of the Premises, SUBLICENSEE must provide a certificate of insurance demonstrating that the SUBLICENSEE is in compliance with the insurance requirements in Section 42 of the Permit, which must name PERMITTEE/LICENSEE and the "City of San Diego, its elected officials, officers, representative, agents, and employees," as additional insureds for the entire term of the Sublicense.
- j. SUBLICENSEE will assume the defense of, indemnify, and hold harmless CITY from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, the condition of the Premises, or from any act or omission of SUBLICENSEE, its agents, invitees, contractors, and guests; provided however, SUBLICENSEE's duty to indemnify and hold harmless will not include any claims or liability arising from the established sole negligence or willful misconduct of CITY, its agents, officers, or employees.
- k. SUBLICENSEE must not sublicense, or attempt to transfer any other interest or right to use the Premises, in whole or in part, any facility or studio on the Premises, or any right or appurtenant privilege to the Premises, without CITY's prior written consent, which consent must be in CITY's sole and absolute discretion and must require additional compensation.
- l. Any default of SUBLICENSEE or of this Sublicense will be considered a default by PERMITTEE/LICENSEE or of the terms and conditions of the Permit.
- m. This Sublicense may be terminated by CITY or the SUBLICENSEE for convenience upon 30 days prior written notice to the non-terminating party.
- n. SUBLICENSEE agrees to surrender and deliver to CITY the Premises and all furniture, appurtenances, and decorations within the Premises in as good a condition as they were at the beginning of the term, reasonable wear and tear excepted. SUBLICENSEE will be liable to CITY for any damages occurring to the Premises or the contents thereof or to the building which are used or occupied by SUBLICENSEE or their guests.

EXHIBIT B
SUBLICENSE AGREEMENT

6. NOTICE. Notices under this Sublicense Agreement shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows to every interested party:

The Village Arts and Education Foundation, a California Nonprofit, Public Benefit Corporation:

SUBLICENSEE:

(Include name, mailing address, phone number, email address)

CITY: _____

Such addresses may be changed from time to time by any party by providing notice to the other interested parties as described above.

7. GOVERNING LAW. This Sublicense will be construed in accordance with the laws of the State of California.

8. CITY'S CONSENT. The Permit requires the prior written consent of CITY prior to any SUBLICENSEE using or occupying the Premises. Such consent has been obtained and a copy is attached as an exhibit.

9. INCORPORATION OF THE PERMIT. **This Sublicense incorporates and is subject to the original Permit between PERMITTEE/LICENSEE and CITY, a copy of which is attached hereto, and which is hereby referred to and incorporated as if it were set out here at length. SUBLICENSEE agrees to assume all the obligations and responsibilities of the PERMITTEE/LICENSEE under the original PERMIT for the duration of this Sublicense.**

Date: _____

SUBLICENSEE: _____

Print name: _____

PERMITTEE/LICENSEE : _____

Print name/title: _____

Approved by CITY:

Date: _____

Name and title: _____ (sign and print name)

EXHIBIT C
CITY's FACILITY AND PARK USE PERMIT APPLICATION

FACILITY AND PARK USE PERMIT APPLICATION

City of San Diego – Developed Regional Parks Division
2125 Park Boulevard, San Diego, CA 92101

AskParks@san Diego.gov

Event Name _____ No. of Attendees _____

Customer Name _____ Phone () _____

Event Day Contact Person _____ Phone () _____

Address _____ City, State _____ Zip _____

Email _____

Company Name (if applicable) _____

501c, bona fide tax exempt non-profit entities must provide (IRS) tax exempt letter in order to receive the non-profit rate.

Address _____ City, State _____ Zip _____

Note for caterers/organizers: Written authorization is required which authorizes an event organizer to apply for a permit on customer behalf. Applications will not be accepted without such written authorization.

Facility Name (park, building, or room) _____

Event Type (wedding, birthday party, boot camp, etc.) _____

Set-up Date _____ Set-up time from _____ to _____

Event Date _____ Time of use from _____ to _____

Clean-up Date _____ Clean-up time from _____ to _____

Picnic Shelter/Gazebo (Mission Bay Park only). Time of use from _____ to _____

Alcohol Use Yes NO (alcohol is prohibited in all shoreline parks and beaches and most outdoor areas of Balboa Park)

Water Activity – please describe (baptism, swimming, etc.) _____

How many of each item below:

_____ Tables _____ Chairs _____ PA System _____ Megaphone _____ Air Horn

_____ Boom Box/Radio _____ 10'x10' Canopy _____ 10'x20 Canopy _____ 20'x20' Canopy

_____ Inflatable Jumper; Company Name _____

Other equipment (list): _____

Customers Please Note:

Revised 05/23/2022

(1 of 2 OVER)

EXHIBIT C
CITY's FACILITY AND PARK USE PERMIT APPLICATION

- Inflatable jumper companies must provide to permit holder a Certificate of Liability that lists the City of San Diego, its Officers, Employees and Agents as additional Insured. Liability insurance requirements are 1 million occurrence and 2 million general aggregate. The City of San Diego also requires an additional endorsement accompany each certificate of insurance also naming the City of San Diego as an additional insured. **Park Use Permit is invalid without proper insurance.** _____
(Customer Signature, if applicable)
- Shade structures larger than 20'x20' require a fire permit and Park and Recreation District Manger approval.
- Indoor facilities (Balboa Park only) must provide room set up diagram
- Alcohol (indoor facilities, Balboa Park only) require insurance, licensed security guard, licensed bartender. Alcoholic Beverage Control (ABC) Permit may be required in addition to the Facility Park Use Permit.
- Amplification by battery operated units only; use is limited by time of day and park sites.

Additional Requirements (outdoor only):

- Number of Toilets _____ 1 portable toilet required for 300 people or more and 1 additional for each additional 150 people.
- Number of Dumpsters _____ 1 dumpster with lid for each full increment of 300 people.
- Number of Recycling _____ 1 recycling for every dumpster with lid

Activities Occurring During Event (briefly describe activities/event):

Please notify this office in writing if your event is cancelled. Refunds are granted for grounds use cancellations made no less than 60 calendar days prior to event/setup date, less a \$50 processing fee. For all other events, cancellations must be made no less than 30 calendar days prior to date of event. Cancellations received less than 30 calendar days will be charged 25% of the fee paid. Cancellations received less than 10 calendar days prior to the event will be charged 50% of the fee paid. City Transactions fees and credit card fees are non-refundable. **No refunds or cancellations less than 48 hours prior to event.**

(Print Name)

(Signature)

(Date)

EXHIBIT D
CITY'S PARKS AND RECREATION DEPARTMENT RESERVATION OF SPACE



STAFF USE ONLY

Pending Park Use Permit No. _____

Over Capacity Special Event

New Special Event

PARKS AND RECREATION DEPARTMENT
RESERVATION OF SPACE

Reservation of Space application will not be accepted without site plan and/or route maps.
All Reservation of Space applications will require an initial CEQA review and NORA posting.
Changes made after original submittal will require a submission of a new application.

Event Name _____

Applicant Name _____ Mobile _____

On-site/Event Contact _____ Mobile _____

Host Organization/Company _____ Phone _____

Host Organization/Applicant Address _____

Email Address _____

Additional authorized representatives may be requested, in writing, by the original authorized representative or organization.

Is the Host Organization (company) a bona fide tax exempt nonprofit entity? Yes No

A copy of the non-profit (501 tax exemption) letter is required and must be attached to the application.

Fundraiser/Commercial/Promotional Activity: Yes No

The Opportunity Fund Fee (effective July 1, 2022) will apply to all permitted events/activities and on-going recreation-based business operations by commercial and non-profit entities. These fees will be in addition to applicable park use and facility rental fees. The fees will fund the Parks and Recreation Department's equity-based recreation programs. This fee will not be applicable when the Recreation Center Fund Fees are assessed for commercial, fundraising, and promotional activities within a specific community recreation area.

Outdoor events <50 people and on-going business/non-profit activities: Non-profit/Non-Commercial \$1 per hour/per location and Commercial/Government/Adult Non-Profits \$5 per hour/per location.

Outdoor events >50 people: Non-profit/Non-Commercial \$10 per hour/per location and Commercial/Government/Adult Non-Profits \$15 per hour/per location.

Commercial, fundraising, and promotional activities must pay to the Recreation Center Fund an additional \$10.00 per hour/per location (for youth activities) or \$15.00 per hour/per location (for adult activities).

For more information on fees, please refer to the Parks and Recreation Fee Schedule:
<https://www.sandiego.gov/sites/default/files/prfeeschedule20220701.pdf>

Copy of Insurance Provided: Yes No

\$1 million per occurrence/\$2 million general aggregate for events under 9,999 attendees
\$2 million per occurrence/\$4 million general aggregate for events over 10,000 attendees

In addition to the certificates of insurance, the City of San Diego requires proof of the following policy endorsements: The policy must be endorsed to name "The City of San Diego, its elected officials, representatives, employees and agents" as additionally insured. A copy of the endorsement must be provided.

EXHIBIT D

CITY'S PARKS AND RECREATION DEPARTMENT RESERVATION OF SPACE

#1 Venue/Park/Field

IF EVENT WILL HAVE MULTIPLE VENUES PLEASE PROVIDE INFORMATION FOR EACH VENUE AS AN ATTACHMENT

Set-up Date	Set-up time from	to	Total hrs.
Event Date(s)	Time of use from	to	Total hrs.
Clean-up Date	Clean-up time from	to	Total hrs.

If this event is a race or walk, please include the start time: _____

Estimated Total Attendance: _____ Estimated Attendance at any given time: _____

Do you plan on having vendor sales? Yes No

List items that the vendor(s) are selling: _____

Do you plan on having alcoholic beverage service? Yes No

If yes, please check all that apply:

Free/Host Alcohol Alcohol Sales Host and Sales Alcohol Beer, Wine and/or Distilled Spirits

Beer Garden Venue(s): _____ Beer Garden Hours: _____

Glass containers of any kind are prohibited on all beaches and park areas (SDMC 56.54)

Are there any proposed road or parking lot closures? Yes No

Event organizer is responsible for **posting road closure signage no less than two (2) weeks prior to the event date**. Event organizer is responsible for parking lot closures associated with this event. **Signage must be posted no less than 72 hours in advance of the parking lot closure**. Event organizer must **remove all signage immediately after event**.

Road/Parking Lot	Date	Start Time	End Time	Total Hours

Equipment: Please provide the number equipment to be used at this site and the company providing equipment: (i.e. tables, chairs, canopies, stages, inflatables, etc.)

Name of Agency providing equipment: _____

Delivery Date & Time: _____ Pick-up Date & Time: _____

Air Jump Company Name (where permitted) _____	Canopy – up to 20' x 20' _____
Carnival/Animal Rides (where permitted) _____	Vendors _____
Tables _____ Chairs _____	Stage _____
Canopy – up to 10' x 10' _____	Lighting _____
Canopy – up to 10' x 20' _____	Other _____

(Any shade structure with two or more sides, larger than 20' x 20' requires a fire permit)

Music/voice amplification (restrictions may apply) Yes No

Purpose: _____ Hours of Amplification: _____

*No amplification during set-up or dismantle times. Time of Sound Check: _____

Please provide a detailed narrative of the event: Feel free to add attachment if more space is needed.

EXHIBIT D

CITY'S PARKS AND RECREATION DEPARTMENT RESERVATION OF SPACE

Portable Toilets	List Locations
No. of Portable Toilets (if required) _____	_____
(One Portable Toilet for every 250 persons is required; 10% ADA accessible).	Delivery/Pick-up Date & Time _____

Recycling and Trash Containers		
(One recycling container is required per each trash container provided).		
Container Type	Number of Containers	Delivery/Pick up Date & Time
Recycling Single Container	_____	_____
Trash Single Container	_____	_____

Recycling and Trash Dumpsters		
(One recycling dumpster is required for events over 300 persons).		
Container Type	Number of Dumpsters	Delivery/Pick up Date
Recycling 3-Yard Dumpster (lid)	_____	_____
Trash 3-Yard Dumpster (lid)	_____	_____
Recycling 40-Yard Roll Off	_____	_____
Trash 40-Yard Roll Off	_____	_____

Electrical	
No. of Generators (if needed) _____	_____
Generators are based on your event needs. All locations must be approved by the park supervisor. All cables must be ramped and a drip pan placed underneath the unit. Please note: Parks and Recreation does not provide power, water, or any equipment for outdoor events.	

New Special Events	Approved	Not Approved
Name of Advisory Group _____		
Meeting Date _____		
Appointing Authority Name _____		

Application must be completed and received at **least 120 Calendar Days** in advance for a permit. **This application may be cancelled by Parks & Recreation if all requirements are not met a minimum of 30 days before your event. ANY FAILURE TO FULLY DISCLOSE COMPLETE DETAILS OF YOUR EVENT MAY WARRANT YOUR APPLICATION TO BE RESUBMITTED WHICH INCLUDES THE REMITTANCE OF ADDITIONAL APPLICATION FEES. Please notify staff in writing if your event is cancelled.**

I have read and understand all the rules and regulations governing the use of City parkland and/or facilities that are attached to and a part of this application and agree to abide by same. By (print name) _____ who hereby certifies that he/she is the duly qualified and authorized representative of PERMITTEE as set forth in this Reservation of Space application. I further understand that only the authorized representative may cancel or make changes to the Reservation of Space.

Park use fees will be determined upon approval of this application. Fees will be calculated based on the City Council approved Parks and Recreation Fee Schedule in effect at the time of application approval (not submittal date).

Authorized Signature _____	Date ____/____/____
Parks & Recreation Staff (print name) _____	Phone _____
Staff Signature _____	Date ____/____/____

SITE PLAN/DIAGRAM	<input type="checkbox"/> Yes	<input type="checkbox"/> No
ROUTE MAP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the proposed ROS require a fully dimensioned close-up of an enclosed area (s)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

EXHIBIT E
SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT
CITY OF SAN DIEGO PARK AND RECREATION DEPARTMENT RULES AND
REGULATIONS FOR USE OF CITY PARK AND RECREATION DEPARTMENT SITES

All rules and regulations regarding the use of City Parks are enforceable by the San Diego Police Department and the City of San Diego Park and Recreation Department staff. The recreation areas of the Department are primarily for the recreation use of youth and adult activities sponsored by the Department and/or the Community Recreation Council. When sponsored activities do not completely occupy rental areas, other groups may use the facilities. All users will comply with the following conditions:

1. This permit shall not be transferred or assigned. The Permittee shall not engage in any activity on park property other than the activity for which this Permit is expressly issued and shall comply with applicable municipal, state, and federal laws and regulations.
2. The City, in its sole discretion, reserves the right at any time, and from time to time, to close any park area(s) or park facility(ies) and to cancel or reschedule any previously permitted/scheduled use(s) of any park area(s) or park facility(ies). Permittee acknowledges the City's foregoing rights and irrevocably waives any claim Permittee may have now or ever have based upon or related to any cost, loss, damage, or liability that results from the City's closure of any park area(s) or park facility(ies) or the cancellation or rescheduling of any previously permitted/scheduled (prepaid or not) use(s) of any park area(s) or park facility(ies).
3. Any special requests, additional amenities and/or services (i.e. portable restrooms, dumpsters, fences, athletic equipment, generators, etc.) must be addressed in the Permit and are the sole responsibility of the Permittee. The additional amenities must be provided by the Permittee at no expense to the City. All additional amenities must be approved in writing by the City staff in advance of the event, including information as to the number of amenities, location, and pickup and delivery times.
4. There must always be at least a portion of the park available to the general public during all park uses and rentals. The designated area(s) for this permit are indicated on the General Development Plan or Site Plan. Unless the area has been designated as an area that can be reserved, no areas can be roped off or secured in any way. Reserved parking spaces are not permitted.
5. For commercial and public events, the Permittee shall not discriminate against anyone on the basis of race, color, creed, sex, age, national origin or ancestry, religion, pregnancy, physical or mental disability, veteran status, marital status, medical condition (including HIV, AIDS, and AIDS-related complex), gender (transsexual and transgender), or sexual orientation.
6. The Park and Recreation Department cannot be held responsible for any lost or stolen property.
7. Rental rates will apply as designated for each area as outlined in the current Park and Recreation Department Fee Schedule that is approved by the City Council.

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SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT
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8. The Permittee received a copy of the following items and must have them available on the day of event: the permit and the Rules and Regulations related to this event; the General Development Plan with the storm drain inlets indicated for the permitted area; all applicable Park and Recreation Department Best Management Practices (BMP's); Storm Water; the Facility Site Plan; and the Good Housekeeping Guidelines to the rental permit.
9. Each rental group is responsible for leaving the facility and equipment in a safe, proper working order and clean condition. Any violations of rules, regulations or policies and/or damage attributable to the Permittee, sponsors or any other party associated with this event, will result in the forfeiture of all or part of the security deposit and in the case of extensive damages, an invoice from the City will be issued to the Permittee with applicable charges not covered by the deposits. Any pre-existing damage or poor conditions must be reported in writing to the City staff prior to the start of the event or the Permittee may be held responsible. Staff must be notified of the conclusion of the rental activity.
10. Litter pick-up and disposal is the responsibility of the Permittee. Trash must be bagged, sealed and placed in the park's trash receptacles and/or dumpster. If trash does not fit in the receptacles and/or dumpster, the Permittee is responsible for removing the trash off of park property. Any additional cleaning performed by City forces will be invoiced.
11. The use of disposable expanded polystyrene (a.k.a. Styrofoam™) food ware is highly discouraged due to its tendency to easily break apart and create litter. Alternatives such as plastic, paper, or reusable plates/cups should be used instead.
12. Request for cancellation refunds will be handled according to the regulations in the current Park and Recreation Fee Schedule. Requests for refunds due to rain only pertain to Field and Picnic Shelter rental permits and will be approved provided that a written request (Request for Refund Form AC-1066) is submitted within 48 hours after the scheduled event. All refunds will be issued only to the Permittee.
13. The use of any equipment including but not limited to staging, platforms, tables, chairs, risers, jumpers, etc., if permitted, shall not damage any City property, turf, shrubbery or irrigation or inhibit public access [SDMC 63.0102(b) (4)]. If any item requires staking in the ground for safety reasons, the stakes must be no longer than six (6) inches, no more than 1.5 inches in diameter, and must be colored/highly visible. All stakes must be secured in a manner that precludes a tripping hazard. For any item which damages any facility, the Permittee will be liable for costs to repair the damage. Intended staking must be noted on the permit with the types and sizes of stakes to be used. Permittee may not dig on park property or tie or adhere anything to trees, shrubbery etc., or City property [SDMC 63.0102(b) (4)]. All signs must be free standing and approved by the park supervisor in writing prior to the event. Items cannot inhibit public access. [SDMC 63.0102(b) (25)]. Inflatable jumps are prohibited in Balboa Park, Presidio Park and Shoreline parks.

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SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT
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14. Electronic amplification for music and/or voice projection must be approved in writing on the final permit by City staff and must comply with City noise regulations [SDMC §59.5.0501]. The required maximum allowance is 65 decibels at 50 feet between the hours of 7:00 a.m.-7:00 p.m. Events violating the maximum allowance may be turned down or shut off by SDPD or Park Ranger.
15. City staff must approve the use of City tables and chairs which are available for indoor use only. All setting up and taking down of tables and chairs will be done by the group using the facility (except in Balboa Park).
16. The City of San Diego does not provide any equipment, electrical power or water hookups for outdoor events. The use of generators must be pre-approved as a part of the permit process before the event. Safety precautions for use of a generator must be followed. Generator cables must be properly covered and must not impede pedestrian traffic at any time. Drip pans must be placed under the generators to eliminate potential damage.
17. Petting zoos, pony rides or any animal-related activities are not allowed without prior City staff approval. The proper fastening and/or enclosures and the proper care for the animals is required. All County Health Department regulations must be followed. Balboa Park, Mission Bay Park, and Shoreline Parks prohibit the use of pony rides, petting zoos, and livestock demonstrations.
18. Youth activities must be chaperoned by adults. The adult signing the application must be present throughout the entire rental period. When the signing adult cannot be present throughout the entire rental period, the Permittee must provide a list of responsible adults in advance of the rental to the City staff. It is the Permittee's responsibility to ensure that an adequate number of adults will be present depending on the activity, rental size, and ages of the youth participants.
19. All fires must be contained within barbecues. Portable barbecues are permitted and coals must be emptied into the concrete hot coal containers or permanent barbecues.
20. All motor vehicles are restricted to parking lots and public roadways unless prior written authorization is given by the park supervisor.
21. Vehicle parking is prohibited in most parking lots in Mission Bay and the beach areas between 2:00 a.m. to 4:00 a.m. in accordance with SDMC. Some parking lots may have more restrictive hours and/or gates. Each parking lot is signed where parking is prohibited or restricted.
22. The Park and Recreation Department cannot guarantee the planting or blooming of flowers, shrubs, etc. Maintenance schedules cannot be modified (i.e., sprinklers, lawn renovations, fertilization, aeration, mow day, etc.) to accommodate events in public parks.
23. In general, dogs are allowed on beaches after **6 p.m. from April 1st to October 31st or after 4:00 p.m. from**

EXHIBIT E
SPECIAL USE & OCCUPANCY PERMIT AND AGREEMENT
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November 1st to March 31st. Legally licensed dogs are allowed on the beach and on sidewalks and park areas near the beach during the night and early morning hours until 9 a.m., but they must be leashed.

24. Games such as horseshoes, baseball, lawn darts and other potentially hazardous games may be played only in courts/fields that are specifically designated for these purposes and requires prior written approval of the City staff.
25. The use of gypsum is allowed only for infield marking in baseball or softball. Biodegradable field marking paint must be used for all other field marking. These product(s) must be manufactured in the United States and approved by City staff in writing prior to use and a copy of the Material Safety Data Sheet of the product used must be provided to City staff.
26. Permittee must adhere to all County Health Department Food Handlers regulations. When caterers are used they must have a County Health Department permit. When food is served to the public, a Temporary Food Facility Permit or County Health Food Handlers Permit is required and must be submitted to City staff before a permit will be issued. More information regarding the regulations required to serve food can be obtained from the County Health Department at (619) 338-2222.
27. Alcohol is prohibited in certain parks; please refer to SDMC §56.54. If alcohol will be sold in park facilities, and/or caterers are used, renters are required to obtain a license from the California State Department of Alcoholic Beverage Control (619) 525-4064. Applicants requesting alcohol may be required to furnish additional written approval. Alcohol is not allowed on any athletic fields.
28. The following prohibitions are in place at all City parks and/or facilities:
 - Smoking [SDMC §43.1003]
 - Open fires [SDMC §630.102(b)(11)]
 - Glass beverage containers [SDMC §63.0102(b)(7)]
 - Picking flowers and/or damaging shrubs, plants, and trees [SDMC §62.0604]
 - Animals (other than service animals) inside buildings or off leash at any park facility (unless designated as an off leash site) [SDMC §63.0102(b)(2)]
 - Soliciting funds [SDMC §63.0102(b)(14)]
 - Sale of merchandise [SDMC §63.0102(b)(13)]
 - Balloons (all types) at all outdoor areas
 - Advertising on City park property; flyers, pamphlets, or handouts are not to be left on cars or passed out in parks [SDMC §63.0102]
 - Remote controlled soaring and/or gliding crafts [SDMC §63.0201]
29. The Permittee is required to obtain a minimum of \$1,000,000 general liability insurance with a \$2,000,000 aggregate insurance naming the City of San Diego as additionally insured in the following situations: groups conducting activities, instructions, and competitions; groups using supplemental staff; rentals open to the public; rentals using equipment such as jumpers, carnival, or animal rides; and other situations where deemed

EXHIBIT E
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necessary.

30. The Permittee shall comply with all applicable provisions of this permit, municipal, state, and federal laws and regulations. It is the responsibility of the Permittee to clear with City staff any special requests not addressed in the Rules and Regulations as presented. Failure to comply may result in the termination of this permit.

Indemnification: Permittee shall protect, defend indemnify, and hold City, its elected officials, officers, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Permittee's officers, employees, agents, contractors, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this Permit or Permittee's Operations, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that Permittee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of City, its elected officials, officers, representatives, agents and employees. City may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, Permittee shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.

By signing I acknowledge that I read and understood and will abide by all the above listed rules and regulations as they apply to my specific rental or use of City park land or facility.

Signature: _____ Print Name: _____

Date: _____

Organization: _____
(June 2017)

**EXHIBIT F
INCIDENT REPORT**



**INCIDENT/ACCIDENT
REPORT**

Do not use this form for vehicle accidents (RM 1551/1555)

Site: _____ Date of Occurrence: _____ Time: _____ am/pm

Location (gym, field, etc.): _____ Phone: _____

Staff Completing Report: _____ Classification: _____

1. Person Involved or Injured*:

Name: _____ Age: _____ Gender: M F

Home Address: _____ City: _____ State: _____ Zip: _____

Parent/Guardian (minor): _____ Contacted: No Yes

Phone: _____ Email: _____

2. Was SDPD called? yes No

If so, did they respond? _____

Case Number: _____

* List additional persons involved/witnesses on back side or attach additional pages.

3. Description of Incident, Injury or Accident (complete page 2 for injury details):

4. Staff Comments and Action Taken (Be specific):

Date report is submitted: _____ Employee Signature: Araceli Dominguez

5. Supervisor's Comments, Recommendations, and Follow Up:

Date report is received: _____ Supervisor Signature: _____

6. District Manager/Deputy Director Comments, Recommendations, and Follow up:

Date report is received: _____ Manager Signature: _____

If additional information, attach additional pages.

Revision 01/2020

EXHIBIT F
INCIDENT REPORT



INCIDENT/ACCIDENT
REPORT

Do not use this form for vehicle accidents (RM 1551/1555)

PERSONAL DATA-INJURED PARTY

Patron Name: _____ Age: _____ Gender: M F
Address: _____ City: _____ State: _____ Zip: _____
Phone: _____ Email: _____
Family Contact/Relationship: _____ Contacted: No Yes

INJURY INFORMATION

Description Injury (include location diagram) :

WITNESS INFORMATION

Name: _____ Age: _____ Gender: M F
Phone: _____ Email: _____

Witness Statement:

Type of Injury: Abrasion Laceration Fracture Sprain Bee Sting Burn
 Other (specify) _____
Injured Body Part: Head Neck Right Arm Left Arm Right Hand Left Hand
 Left Leg Right Leg Right Foot Left Foot Trunk (specify) _____
 Other (specify) _____
Were blood/bodily fluids present? No Yes. If yes, attach a Blood/Bodily Fluid Contact Report.
Did victim refuse medical attention by staff? No Yes Did staff provide care? No Yes
First Aid Provided: CPR Flush area Bandaged Ice pack Splint Direct Pressure
 Other (specify) _____
Released to parent/guardian? No Yes Remained in area? No Yes
Was EMS called? No Yes
Time EMS called: _____ am/pm Time EMS Arrived: _____ am/pm Caller: _____
Was the victim transported to an emergency facility? No Yes
If yes, where? _____ If no, did person return to activity? No Yes

_____ Patient Signature	_____ Date	_____ Parent Signature (minor)	_____ Date
_____ Printed Name/Classification of Staff Reporting		_____ Staff Signature	_____ Date
_____ Supervisor Signature	_____ Date	_____ Area Manager/SRS Signature	_____ Date

If additional information, attach additional pages.

EXHIBIT F INCIDENT REPORT

Instructions for Completion and Submission of Report: (Do not print/submit this page)

- A This report should be completed when documenting problems encountered at pools, parks, recreation facilities, and open space (i.e. complaints, injuries/accidents (non-vehicular), confrontations or patron discipline, police contacts including 911 calls reporting highly unusual circumstances, damage or destruction of equipment and/or facilities).
- B Type or print report in ink completely, accurately, and immediately.
- C Immediately notify your supervisor that the report is forthcoming and submit completed report to Division Headquarters within 24 hours following the incident.
- D Descriptions must be factual and devoid of editorial comments. Use proper grammar and complete sentences.
- F Attach additional pages as necessary. The description of the incident/accident should provide a detailed description of the circumstances when the incident/accident occurred, including what the patron was doing when they were injured.
- G When completing section's 5 and 6 on page 1, please indicate if additional follow up is required and document accordingly (i.e. Get it Done, Environmental Service Requests, etc)

**EXHIBIT G
PREVAILING WAGE**

**WAGE REQUIREMENTS: SERVICE AND MAINTENANCE CONTRACTS
EXECUTED ON OR AFTER JANUARY 1, 2015**

By signing this Contract, Bidder certifies that he or she is aware of the wage provisions described herein and shall comply with such provisions before commencing services.

A. PREVAILING WAGES. Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Contract is subject to State prevailing wage laws. For construction work performed under this Contract cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Contract cumulatively exceeding \$15,000, Bidder and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below. This requirement is in addition to the requirement to pay Living Wage pursuant to San Diego Municipal Code Chapter 2, Article 2, Division 42. Bidder must determine which per diem rate is highest for each classification of work (i.e. Prevailing Wage Rate or Living Wage Rate), and pay the highest of the two rates to their employees. Living Wage applies to workers who are not subject to Prevailing Wage Rates.

1. Compliance with Prevailing Wage Requirements. Pursuant to sections 1720 through 1861 of the California Labor Code, Bidder and its subcontractors shall ensure that all workers who perform work under this Contract are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

1.1. Copies of such prevailing rate of per diem wages are on file at the City of San Diego's Equal Opportunity Contracting Department and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Bidder and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Contract, each

EXHIBIT G
PREVAILING WAGE

successive predetermined wage rate shall apply to this Contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Contract, such wage rate shall apply to the balance of the Contract.

2. Penalties for Violations. Bidder and its subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 – 1861.

3. Payroll Records. Bidder and its subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Bidder shall require its subcontractors to also comply with section 1776. Bidder and its subcontractors shall submit weekly certified payroll records online via the City’s web-based Labor Compliance Program. Bidder is responsible for ensuring its subcontractors submit certified payroll records to the City. Bidder and its subcontractors shall also furnish the records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required in Labor Code section 1771.4.

4. Apprentices. Bidder and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Bidder shall be held responsible for their compliance as well as the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.

5. Working Hours. Bidder and its subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.

6. Required Provisions for Subcontracts. Bidder shall include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. Bidder in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Contract, Bidder certifies that “I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that

**EXHIBIT G
PREVAILING WAGE**

code, and I will comply with such provisions before commencing the performance of the work of this Contract.”

8. Labor Compliance Program. The City has its own Labor Compliance Program authorized in August 2011 by the DIR. The City will withhold contract payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after an investigation by the City or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego’s Equal Opportunity Contracting Department at 619-236-6000.

9. Contractor and Subcontractor Registration Requirements. This project is subject to compliance monitoring and enforcement by the DIR. A Bidder or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or enter into any contract for public work, as defined in this chapter of the Labor Code unless currently registered and qualified to perform the work pursuant to Section 1725.5. In accordance with Labor Code section 1771.1(a), “[i]t is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

9.1. A Bidder’s inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered contractor pursuant to Public Contract Code section 4107.

9.2. A Contract entered into with any Bidder or subcontractor in violation of Labor Code section 1771.1(a) shall be subject to cancellation, provided that a Contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, Bidder, or any subcontractor to comply with the requirements of section 1725.5 of this section.

9.3. By submitting a bid or proposal to the City, Bidder is certifying that he or she has verified that all subcontractors used on this public works project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Bidder shall provide proof of registration for themselves and all listed subcontractors to the City at the time of bid or proposal due date or upon request.

EXHIBIT G
PREVAILING WAGE

10. Stop Order. For Bidder or its subcontractor(s) engaging in the performance of any public work contract without having been registered in violation of Labor Code sections 1725.5 or 1771.1, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered Bidder or unregistered subcontractor(s) on ALL public works until the unregistered Bidder or unregistered subcontractor(s) is registered. Failure to observe a stop order is a misdemeanor.

11. List of all Subcontractors. The City may ask Bidder for the most current list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this contract at any time during performance of this contract, and Bidder shall provide the list within ten (10) working days of the City's request. Additionally, Bidder shall provide the City with a complete list of all subcontractors utilized on this contract (regardless of tier), within ten working days of the completion of the contract, along with their DIR registration numbers. The City shall withhold final payment to Bidder until at least 30 days after this information is provided to the City.

12. Exemptions for Small Projects. There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. The Bidder shall still comply with Labor Code sections 1720 et. seq. The only recognized exemptions are listed below:

12.1. Registration. The Bidder will not be required to register with the DIR for small projects. (Labor Code section 1771.1).

12.2. Certified Payroll Records. The records required in Labor Code section 1776 shall be required to be kept and submitted to the City of San Diego, but will not be required to be submitted online with the DIR directly. The Bidder will need to keep those records for at least three years following the completion of the contract. (Labor Code section 1771.4).

12.3. List of all Subcontractors. The Bidder shall not be required to hire only registered subcontractors and is exempt from submitting the list of all subcontractors that is required in section 11 above. (Labor Code section 1773.3).

B. Living Wages. This Contract is subject to the City's Living Wage Ordinance (LWO), codified in San Diego Municipal Code Chapter 2, Article 2, Division 42. Bidder agrees to require all of its subcontractors, sublessees, and concessionaires subject to the LWO to comply with the LWO and all applicable regulations and rules.

1. Payment of Living Wages. Pursuant to San Diego Municipal Code section 22.4220(a), Bidder and its subcontractors shall ensure that all workers who perform work under this Contract are paid not less than the required minimum hourly wage rates and health benefits rate unless an exemption applies.

EXHIBIT G PREVAILING WAGE

1.1 Copies of such living wage rates are available on the City website at <https://www.sandiego.gov/purchasing/programs/livingwage/>. Bidder and its subcontractors shall post a notice informing workers of their rights at each job site or a site frequently accessed by covered employees in a prominent and accessible place in accordance with San Diego Municipal Code section 22.4225(e).

1.2 LWO wage and health benefit rates are adjusted annually in accordance with San Diego Municipal Code section 22.4220(b) to reflect the Consumer Price Index. Service contracts, financial assistance agreements, and City facilities agreements must include this upward adjustment of wage rates to covered employees on July 1 of each year.

2. Compensated Leave. Pursuant to San Diego Municipal Code section 22.4220(c), Bidder and its subcontractors shall provide a minimum of eighty (80) hours per year of compensated leave. Part-time employees must accrue compensated leave at a rate proportional to full-time employees.

3. Uncompensated Leave. Bidder and its subcontractors must also permit workers to take a minimum of eighty (80) hours of uncompensated leave per year to be used for the illness of the worker or a member of his or her immediate family when the worker has exhausted all accrued compensated leave.

4. Enforcement and Remedies. City will take any one or more of the actions listed in San Diego Municipal Code section 22.4230 should Bidder or its subcontractors are found to be in violation of any of the provisions of the LWO.

5. Payroll Records. Bidder and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Bidder is responsible for ensuring its subcontractors submit certified payroll records to the City.

5.1 For contracts subject to both living wage and prevailing wage requirements, only one submittal will be required. Submittals by a Bidder and all subcontractors must comply with both ordinance requirements.

6. Certification of Compliance. San Diego Municipal Code section 22.4225 requires each Bidder to fill out and file a living wage certification with the Living Wage Program Manager within thirty (30) days of Award of the Contract.

7. Annual Compliance Report. Bidder and its subcontractors must file an annual report documenting compliance with the LWO pursuant to San Diego Municipal Code section 22.4225(d). Records documenting compliance must be maintained for a minimum of three (3) years after the City's final payment on the service contract or agreement.

EXHIBIT G
PREVAILING WAGE

8. Exemption from Living Wage Ordinance. Pursuant to San Diego Municipal Code section 22.4215, this Contract may be exempt from the LWO. For a determination on this exemption, Bidder must complete the Living Wage Ordinance Application for Exemption.

C. Highest Wage Rate Applies. Bidder is required to pay the highest applicable wage rate where more than one wage rate applies.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/21/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Springbrook Insurance Agency 10650 Treena Street Suite 101 San Diego, CA 92131.2435 Russell Lail	858-391-3001	CONTACT NAME: Jennifer Lail PHONE (A/C, No, Ext): 858-391-3001 FAX (A/C, No): 858-391-3010 E-MAIL ADDRESS: jennifer@springbrookins.com
INSURED Village Arts and Education Foundation 1770 Village Place San Diego, CA 92101-1651		INSURER(S) AFFORDING COVERAGE INSURER A : Nonprofits' Insurance Alliance INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
		NAIC # 11845

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y		202358209	02/01/2023	02/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
X	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			202358209	11/20/2023	02/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ -0-	Y		202358209	02/01/2023	02/01/2024	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of San Diego and its elected officials, officers, employees, agents and representative are named as additional insured by blanket endorsement.

CERTIFICATE HOLDER

CANCELLATION

CITYRIS City of San Diego 1200 3rd Avenue Ste1000 San Diego, CA 92101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Russell Lail</i>
---	--

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED
PRIMARY AND NON-CONTRIBUTORY
ENDORSEMENT FOR PUBLIC ENTITIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

City of San Diego, its officers, employees and agents

A. Section II – WHO IS AN INSURED is amended to include:

4. Any public entity as an additional insured, and the officers, officials, employees, agents and/or volunteers of that public entity, as applicable, who may be named in the Schedule above, when you have agreed in a written contract or written agreement presently in effect or becoming effective during the term of this policy, that such public entity and/or its officers, officials, employees, agents and/or volunteers be added as an additional insured(s) on your policy, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by:
- a. Your negligent acts or omissions; or
 - b. The negligent acts or omissions of those acting on your behalf;

in the performance of your ongoing operations.

No such public entity or individual is an additional insured for liability arising out of the sole negligence by that public entity or its designated individuals. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.

B. Section III – LIMITS OF INSURANCE is amended to include:

8. The limits of insurance applicable to the public entity and applicable individuals identified as an additional insured(s) pursuant to Provision A.4. above, are those specified in the written contract between you and that public entity, or the limits available under this policy, whichever are less. These limits are part of and not in addition to the limits of insurance under this policy.

C. With respect to the insurance provided to the additional insured(s), Condition 4. Other Insurance of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS is replaced by the following:

4. Other Insurance

a. Primary Insurance

This insurance is primary if you have agreed in a written contract or written agreement:

- (1) That this insurance be primary. If other insurance is also primary, we will share with all that other insurance as described in c. below; or

- (2) The coverage afforded by this insurance is primary and non-contributory with the additional insured(s)' own insurance.

Paragraphs (1) and (2) do not apply to other insurance to which the additional insured(s) has been added as an additional insured or to other insurance described in paragraph **b.** below.

b. Excess Insurance

This insurance is excess over:

1. Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b) That is fire, lightning, or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises temporarily occupied by you with permission of the owner; or
 - (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of **SECTION I – COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE.**
 - (e) Any other insurance available to an additional insured(s) under this Endorsement covering liability for damages which are subject to this endorsement and for which the additional insured(s) has been added as an additional insured by that other insurance.
- (1) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the additional insured(s) against any "suit" if any other insurer has a duty to defend the additional insured(s) against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the additional insured(s)' rights against all those other insurers.
- (2) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
 - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (3) We will share the remaining loss, if any, with any other insurance that is not described in this **Excess Insurance** provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Methods of Sharing

If all of the other insurance available to the additional insured(s) permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any other the other insurance available to the additional insured(s) does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.