GROUND LEASE
BETWEEN
THE CITY OF SAN JOSE

OUR CITY FOREST

AND

This SECOND AMENDMENT TO GROUND LEASE is entered into this 16th day of December , 2021, by the CITY OF SAN JOSE, a municipal corporation of the State

, 2021, by the off 1 of often occ, a maniopal corporation of the otate

of California ("City"), and OUR CITY FOREST, a California nonprofit corporation

("Lessee").

<u>RECITALS</u>

WHEREAS, on December 12, 2018, City and Lessee entered into a ground lease entitled

"GROUND LEASE BETWEEN THE CITY OF SAN JOSE AND OUR CITY FOREST"

("Lease"); and

WHEREAS, on July 16, 2019, City and Lessee entered into a First Amendment to the

Lease to revise Exhibit E entitled "Master Plan for Our City Forest Guadalupe Garden

Site" solely to correct a clerical error and to retroactively extend the term; and

WHEREAS, on March 26, 2020, City exercised its option to extend the Lease through

April 30, 2021; and

WHEREAS, City and Lessee desire to amend the amended Lease to (i) retroactively

further extend the term of the Lease; (ii) provide City the option to extend the term of the

Lease for five (5) additional one-year periods; (iii) revise Exhibit F entitled "Notice of

Exercise of Option to Extend"; and (iv) add miscellaneous provisions and provisions

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required under state law;

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664089-003

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NOW, THEREFORE, retroactive to May 1, 2021, the parties agree to further amend the

amended Lease as follows:

SECTION 1. SECTION 1 "DEFINITIONS," the following term is amended to read as

follows:

"1.7 Expiration Date

Expiration Date shall mean April 30, 2022, subject to earlier termination as

provided in this Lease."

SECTION 2. SECTION 2 "Term," subsection 2.2 "Option to Extend" is restated to read

as follows:

"2.2 Option to Extend"

City, at its sole discretion, may extend the term of this Lease for five (5) additional

one-year periods (each, an "Option Period"). All terms and conditions of this Lease

shall remain in full force and effect during each Option Period. City shall elect to

extend the Lease for an Option Period no less than thirty (30) calendar days prior

to the then expiration date of the Lease, in a form substantially similar to Exhibit

F attached hereto."

SECTION 3. SECTION 20, "Americans with Disabilities Act" is hereby modified to add a

new subsection entitled "Disability Access Disclosure," to read as follows:

"20.2 Disability Access Disclosure

Pursuant to California Civil Code Section 1938, City states that, as of the Effective

Date of this Second Amendment, the Premises has not undergone inspection by a

Certified Access Specialist to determine whether the Premises meet all applicable

construction-related accessibility standards under California Civil Code section 55.53. A

Certified Access Specialist (CASp) can inspect the Premises and determine whether the

Premises comply with all of the applicable construction-related accessibility standards

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under state law. Although state law does not require a CASp inspection of the Premises,

the City may not prohibit the Lessee from obtaining a CASp inspection of the Premises

for the occupancy or potential occupancy of the Lessee if requested by the Lessee. The

parties shall mutually agree on the arrangements for the time and manner of the CASp

inspection. The parties mutually agree that Lessee shall be responsible for the payment

of any fees for the CASp inspection, and the cost of making any repairs necessary to

correct violations of construction-related accessibility standards within the Premises."

SECTION 4. SECTION 34 "Miscellaneous," subsection 34.19 "Use of Electronic

Signatures" is hereby added to read as follows:

"34.19 Use of Electronic Signatures

Unless otherwise prohibited by law or City policy, the parties agree that an

electronic copy of a signed contract, or an electronically signed contract, has the same

force and legal effect as a contract executed with an original ink signature. The term

"electronic copy of a signed contract" refers to a writing as set forth in Evidence Code

Section 1550. The term "electronically signed contract" means a contract that is executed

by applying an electronic signature using technology approved by the City."

SECTION 5. EXHIBIT F "Notice of Exercise of Option to Extend Ground Lease" is hereby

replaced with REVISED EXHIBIT F attached hereto and incorporated herein.

SECTION 6. All of the terms and conditions of the amended Lease not modified by this

Second Amendment shall remain in full force and effect.

[remainder of page intentionally left blank]

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WITNESS THE EXECUTION HEREOF on the day and year first written above.

"CITY"

APPROVED AS TO FORM:

X Jon Calegari
jon.calegari@sanjoseca.gov (12/08/2021)
Email: jon.calegari@sanjoseca.gov

JON CALEGARI Deputy City Attorney CITY OF SAN JOSE, a municipal corporation of the State of California

X Toni Taber

toni.taber@sanjoseca.gov (1/10/2022)

Email: toni.taber@sanjoseca.gov

TONI TABER, CMC City Clerk

Date: _____

"Lessee"

Our City Forest, a California nonprofit corporation

× Rhonda Berry rberry@ourcityforest.org (11/22/2021) Email: rberry@ourcityforest.org

Signature

CORPORATE SECRETARY CERTIFICATE

This certificate shall be executed by the secretary or assistant secretary of the corporation.

I,Irma Ba Name of Secreta	alderas Iry or Assistant Secretary	_certify that I
am the Secretary or Assistant Secretary of the corporation named in the		
attached agreement; that	Rhonda Berry Name of Person that Signed Agreement	
signed the agreement on behalf of the corpor	ration as the President & C Title of Person that S	
of the corporation; and that the agreement was duly signed for and on behalf of		
the corporation by authority of its Board of Directors, and is within the scope of its		
corporate powers.		
	× Irwa E. Balderas ibalderas2450@gmail.com (11/23/2021) Email: ibalderas2450@gmail.com	
	Signature of Secretary or Assistar	nt Secretary
Corporate Seal		

REVISED EXHIBIT F

NOTICE OF EXERCISE OF OPTION TO EXTEND GROUND LEASE AGREEMENT BETWEEN THE CITY OF SAN JOSE AND OUR CITY FOREST

WHEREAS, on	_, 20 the CITY OF SAN JOSE, a California
municipal corporation ("City") and OUI	R CITY FOREST, a California nonprofit corporation
("Lessee") entered into a Ground Lea	ase ("Lease") which contains the option for City to
extend the term of the Lease for up to t	ive (5) one-year periods (each, an "Option Period")
and	
NALIEDEAC City has made the determine	wingtion to output the Legge for the
WHEREAS, City has made the determ	
[first/second/third/fourth/fifth] Option P	'eriod;
NOW THEREFORE,	
CITY HEREBY EXERCISES, pursuar	nt to Section 2 of the Lease, Option Period Number
to extend the term of the Lease f	or the period of through
	"CITY"
	CITY OF SAN JOSE, a municipal
APPROVED AS TO FORM:	corporation of the State of California
	
Name Title	Name
City Attornov's Office	Director of Aviation
City Attorney's Office	Date:
All of the terms and conditions of the I	Lease shall remain in full force and effect during
the Option Period.	