

**SECOND AMENDMENT TO
GROUND LEASE
BETWEEN
THE CITY OF SAN JOSE
AND
OUR CITY FOREST**

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 of California (“City”), and OUR CITY FOREST, a California nonprofit corporation (“Lessee”).

RECITALS

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 required under state law;

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

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.

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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 OUR CITY FOREST, a California nonprofit corporation (“Lessee”) entered into a Ground Lease (“Lease”) which contains the option for City to extend the term of the Lease for up to five (5) one-year periods (each, an “Option Period”); and

WHEREAS, City has made the determination to extend the Lease for the [first/second/third/fourth/fifth] Option Period;

NOW THEREFORE,

CITY HEREBY EXERCISES, pursuant to Section 2 of the Lease, Option Period Number _____ to extend the term of the Lease for the period of _____ through _____.

“CITY”

CITY OF SAN JOSE, a municipal corporation of the State of California

APPROVED AS TO FORM:

Name

Title

City Attorney’s Office

Name

Director of Aviation

Date: _____

All of the terms and conditions of the Lease shall remain in full force and effect during the Option Period.