

# LEASE

THIS LEASE AGREEMENT ("Lease") is made and executed at Yuma, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), between the City of Yuma, an Arizona municipal corporation, hereinafter referred to as "Lessor," and the Arizona Housing Development Corporation, an Arizona nonprofit corporation, hereinafter referred to as "Lessee." Lessor and Lessee are sometimes referred to in this Lease collectively as "Parties," or individually as "Party."

IT IS AGREED by and between the Parties hereto as follows:

1. **DESCRIPTION OF PREMISES.** The Lessor hereby leases to Lessee, on the terms and conditions set forth in this Lease, the real property and building located at the address commonly referred to as 1100 South 13<sup>th</sup> Avenue, Yuma, Arizona 85364 ("Premises") and more particularly described in Exhibit A, attached hereto and incorporated herein.
2. **TERM.** This Lease shall run for a period of three (3) years commencing on the 1st day of February, 2020 ("Initial Term"). This Lease may be renewed for one (1) additional one (1) year term ("Renewal Term"), unless terminated earlier pursuant to the termination provisions set forth in Section 3 herein. Lessee shall notify Lessor in writing not less than sixty (60) days prior to the end of the Initial Term of Lessee's intent to exercise the Renewal Term.
3. **TERMINATION.** This Lease will terminate at the end of the Initial Term, unless terminated earlier by the Parties, or unless Lessee fails to notify Lessor of its intent to renew for the Renewal Term of an additional one (1) year period. The notice shall be in writing and must be received by Lessor not less than sixty (60) days prior to the end of the Initial Term. Upon the expiration or other termination of this Lease or any extension thereof, Lessee shall vacate the Premises and surrender the Premises to Lessor in good condition. Notwithstanding the foregoing, either Party may terminate this Lease at any time with sixty (60) days' written notice to the non-terminating Party.
4. **HOLDING OVER.** Lessee agrees not to hold over after the termination of the Lease or any extension thereof. If Lessee remains in possession of the Premises with the written consent of Lessor after the expiration of this Lease, a new tenancy from month-to-month may be created between Lessor and Lessee. If such a new tenancy is created, it shall be subject to all of the terms and conditions of this Lease, except that such tenancy shall be terminable upon thirty (30) days written notice served by either party.
5. **RENT.** Lessee shall pay Lessor one dollar (\$1.00) per month as rent for the Premises. The rent is first due and payable upon the Effective Date and payable on the first day of each month thereafter. Payments shall be mailed to or made in person at the following location:

City of Yuma  
Finance Department  
Attn: Senior Accounting Specialist  
One City Plaza  
Yuma, AZ 85364

The duty to pay rent as required herein shall survive this Lease.

6. **LATE CHARGES.** Lessee agrees to pay one hundred dollars (\$100.00) as a late charge should Lessee fail to pay any installment of rent or any other sum due under this Lease within thirty (30) days after the due date or five (5) days after written notice of failure to pay, whichever occurs first. If Lessor waives the late charge with respect to any single installment of rent, the waiver shall not be deemed to constitute a waiver with respect to any subsequent installment of rent due.
7. **INTEREST ON RENT IN ARREARS.** Any installment of rent owed under the provisions of this Lease which is not paid when due shall bear interest at the rate of ten percent (10%) per annum from the date the rent is due until such time as Lessee pays the amount due.
8. **USE.** Lessee shall primarily use the Premises for the operation of a program that serves the youth in the Yuma community ("Program"). Lessee shall operate the Program consistent with the secular program offered by the Boys and Girls Club of America and which has historically operated in Yuma. Lessee may use the Premises for additional uses authorized and consistent with the zoning district applicable to the Premises and any other land use entitlement applicable to the Premises either now existing or subsequently approved by the City of Yuma. In the event Lessee discontinues its use of the Premises for such a Program, the Lessor may terminate this Lease upon thirty (30) days written notice to Lessee, notwithstanding anything to the contrary contained herein.
9. **CONDITION OF PREMISES.** Premises are rented "as is." Upon termination of Lease, the Premises shall be restored to as clean condition and good repair as when leased, with normal wear and tear excepted. Lessee shall remove all of Lessee's personal property and fixtures, except those items permanently affixed (including but not limited to lighting fixtures, fans, plumbing fixtures) before vacating the Premises. Lessee shall make no changes, alterations, or improvements to the Premises without the prior, express written consent of Lessor, nor shall Lessee cause, or permit to be caused, any damage to the Premises. Lessee acknowledges Lessor is providing certain equipment, furniture and fixtures, more particularly described on Exhibit B attached hereto and incorporated herein ("Equipment"), and made available for Lessees' use while operating the Boys and Girls Club program. Lessee agrees to keep the Equipment in good repair and shall replace, with like quality and quantity, any Equipment damaged, destroyed or impaired during Lessee's occupancy of the Premises. Upon the termination of the Lease, all Equipment shall remain upon the Premises as the property of Lessor.
10. **RELOCATION BENEFITS.** Lessee shall not be entitled to relocation costs, expenses or any other relocation benefits.
11. **TAXES.** Unless exempted or abated by Arizona Revised Statutes ("A.R.S.") §§ 42-6208 or 42-6209, in addition to any rent payable under this Lease, Lessee shall pay any government property lease excise, sales, property, privilege or any other applicable tax imposed or levied by any government or governmental agency upon Lessor or Lessee and attributed to the rent payable by Lessee. Pursuant to A.R.S. § 42-6206(A), failure by Lessee to pay any government

property lease excise tax after notice and an opportunity to cure shall be deemed a default, and Lessor may terminate this Lease.

12. **CONDUCT OF BUSINESS.** Lessee shall not use or permit the Premises, or any part thereof, to be used for any purpose or purposes other than the purposes for which the Premises are hereby leased as set forth in Section 8. Lessee shall also not use or do anything to the Premises which will increase Lessor's existing rate of insurance upon the Building, or cause a cancellation of any insurance policy covering said Building, or any part thereof. Lessee shall not sell nor permit to be kept or sold, any article which may be prohibited by the standard form of fire insurance policy in and about the Premises.

13. **COMPLIANCE WITH AUTHORITIES.** Lessee shall, at its sole cost and expense, comply with and obey all applicable requirements of all municipal, county, state and federal laws, regulations, and ordinances now in force or which may hereafter be in force, pertaining to the Premises. Lessee shall maintain and procure at Lessee's expense all licenses, permits or inspection certificates required by any governmental authority with respect to Lessee's business. Lessee may, at its expense, contest any such law, ordinance or regulation.

14. **UTILITIES.** Utilities (including, but not limited to, electricity, telephone, communications, water, wastewater, gas, and sanitation) and janitorial, landscaping and facilities maintenance services are not included in the rent set forth in Section 5 of this Lease and are the sole responsibility of Lessee. Lessee shall be responsible for all other service charges associated with operation of the Premises, including telephone and Internet access charges. Lessor shall not be liable for, and Lessee shall not be entitled to any relief by reason of, the unavailability, suspension or limited availability of any utilities or services resulting from matters not within Lessor's control, including without limitation riot, strike, fire, flooding, labor disputes, energy shortage, inability to obtain supplies or materials from the usual source of supply, inevitable accident or breakdown, or for the stoppage to or interruption of any such services for the purpose of making routine or necessary maintenance and repairs.

15. **MAINTENANCE.**

- a. Lessee shall keep and maintain the roof, exterior surfaces, and all electrical, plumbing, and mechanical systems of the Premises in a good state of repair. Lessee shall be responsible for any interior maintenance of the Premises including electrical and plumbing issues or failures. Lessee shall keep and maintain the interior of the Premises in a reasonable condition of repair at Lessee's sole expense, including but not limited to interior walls, plumbing fixtures, electrical fixtures, heating and air conditioning filters, telephone lines, and interior doors.
- b. Lessor shall insure the Premises against fire or storm loss. Lessee shall insure the Premises against and bear the risk of vandalism, theft, window glass breakage, exterior vandalism, and casualty and fire loss to Lessee's own merchandise, wares and personal property.

- c. In the event of injury or damage to the Premises, unless caused by the Lessor or Lessor's employees or agents, fire, flood, earthquake, or the elements, Lessee shall immediately repair and/or replace such damages at its own expense. If the repairs are not properly done by Lessee, Lessor may make said repair and Lessee shall be liable to repay and reimburse Lessor, as additional rent hereunder, including all expenses in connection herewith.

16. **INSURANCE.** Before the commencement of this Lease, Lessee shall, at its own expense, secure and maintain during the term of this Lease, Commercial General Liability insurance including bodily injury, property damage, contractual, personal injury, and products/completed operations. Liability limits shall be no less than \$1,000,000.00 per occurrence, and no less than a \$4,000,000.00 general aggregate limit. If Lessee sublets the Premises, Lessee shall require and verify that all sublessees maintain CGL insurance meeting all the requirements stated in this Lease. Certificates of Insurance shall be delivered to the Lessor prior to the commencement of this Agreement. The CGL policy shall include endorsements naming the Lessor and its officers, elected offices, agents, directors, employees, and volunteers as additional insureds. The CGL policy shall also contain an endorsement waiving subrogation against Lessor, its officers, elected officials, directors, employees, and agents for losses arising from activities under this Lease and Lessors' operations on the Premises.

Lessee shall during the term of this Lease, at the expense of Lessee, insure the Premises and other improvements owned by Lessor on the Premises against broad perils of property loss or casualty for a minimum of \$500,000.00. Lessor, its officers, elected officials, employees, and agents shall be named and endorsed as an additional insureds on the policy. The policy shall also contain an endorsed waiver of subrogation against Lessor, its officers, elected officials, employees, and agents for losses arising from activities under this Lessee. Lessor shall be named as a Loss Payee with respect to the Premises and any other improvements owned by Lessor on the Premises.

If Lessee has employees, Lessee must carry Worker's Compensation Insurance to cover obligations imposed by federal and state statutes having jurisdiction of employees engaged in the performance of the work or services, and Employer's Liability Insurance of not less than \$100,000.00 for each accident, \$100,000.00 disease for each employee, and \$500,000.00 disease policy limit. The Workers Compensation Insurance policy shall also contain an endorsed waiver of subrogation against Lessor, its officers, elected officials, employees, and agents for losses arising from activities under this Lease and Lessors' operations on the Premises.

All of the policies of insurance required under this Section 16 shall be endorsed as primary, non-contributory insurance policies and any insurance policy maintained by the Lessor is considered excess, non-contributory insurance. The existence of excess insurance policies should in no way be construed to limit the requirements of insurance described herein.

Failure to provide required coverage and failure to comply with the terms and conditions of this Lease shall not waive the contractual obligations herein. If the policy or policies are canceled or not renewed, the insurance company shall provide thirty (30) days written notice to the Lessor prior to the effective date of such cancellation or termination.

The amount and types of insurance coverage requirements set forth in this Lease will in no way be construed as limiting the scope of the indemnity in this Lease.

17. **VACATION OR ABANDONMENT.** Lessee shall not vacate or abandon the Premises at any time during the term of this Lease or any extension thereof, except when required to do so by this Lease. If Lessee abandons, vacates, surrenders, or is dispossessed of the Premises by process of law or otherwise, any personal property belonging to Lessee that is left on the Premises shall be deemed to be abandoned at the sole option of Lessor. Vacation or abandonment of Premises does not relieve Lessee of the duty to pay rent for the remainder of the term of this Lease.
18. **ENTRY AND INSPECTION.** Lessee shall permit Lessor and its employees and agents to enter the Premises at all reasonable times to inspect and/or maintain the Premises, or to make repairs, alterations or additions to any other portion of the Building, including the erection of scaffolding, props, or other mechanical devices, without any rebate of rent to Lessee or damages for occupation or quiet enjoyment of the Premises. Within thirty (30) days prior to the expiration of the Lease Lessee shall permit Lessor, or its employees and/or agents, at reasonable hours, to enter the Premises to show the Premises to prospective tenants.
19. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign this Lease, or any interest therein, and shall not sublet the Premises or any part thereof or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of Lessee excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of Lessor. The requirements of this Lease are binding upon the heirs, executors, administrators, successors, and assigns of both Parties.
20. **BREACH.** In the event of any breach of this Lease by Lessee, Lessor, in addition to any other rights or remedies available to Lessor, may terminate this Lease and shall have the immediate right of re-entry and may remove all persons and property from the Premises. Lessee hereby waives all claims for damages which may be caused by the re-entry of Lessor and Lessor's taking possession of the Premises or removing or storing Lessee's property, and will defend and save Lessor harmless from any losses, liabilities, costs, or damages occasioned Lessor thereby, and no such re-entry shall be considered or construed to be a forcible entry. Should Lessor at any time terminate this Lease for any breach, Lessor may, in addition to any other remedy it may have, recover from Lessee all damages Lessor may incur by reason of such breach, including the cost of recovering the Premises, and the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term over the then reasonable rental value of the premises for the remainder of the stated term.
21. **RESTRICTIONS.** This Lease is subject to any and all provisions of leases and encumbrances of record or extensions thereof under which Lessor holds title or possession of the Premises.
22. **ASBESTOS NOTICE.** An asbestos inspection has not been conducted and the existence of asbestos material in the facility has not been determined.
23. **NON-WAIVER FOR BREACH.** The failure by Lessor to pursue a remedy of any default or breach of any term, covenant or condition herein contained is not deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or other term, covenant or

condition herein contained. The acceptance of rent hereunder shall not be a waiver of any breach by Lessee of any term, covenant or condition of this Lease.

24. **ADDITIONAL RULES AND REGULATIONS.** Lessor has the further right and power to prescribe rules and regulations for the use, entry, operation and management of the Premises, to insure the safety, care and cleanliness of the Premises and preservation and good order thereon.
25. **CUMULATIVE REMEDIES.** It is understood and agreed that the remedies herein given to Lessor are cumulative, and the exercise of any one remedy by Lessor is not to the exclusion of any other remedy.
26. **NOTIFICATION.** All notices, demands or other communications must be in writing and are deemed duly delivered upon personal delivery or as of the second business day after mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed as follows:

To Lessor:           City of Yuma  
                          Attn: City Administrator  
                          One City Plaza  
                          Yuma, Arizona 85364

To Lessee:           Arizona Housing Development Corporation  
                          420 South Madison Avenue  
                          Yuma, Arizona 85364

If any Party changes its address, the Party must give written notice to the other Party. Notice of change of address is deemed effective five (5) days after mailing by the Party changing address.

27. **VENUE.** Any action to enforce any provision of this Lease or to obtain any remedy with respect this Lease shall be brought exclusively in the Superior Court, Yuma County, Arizona (or, as may be appropriate, in the Justice Courts of Yuma County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks jurisdiction over such action). The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action commenced in accordance with the terms of this Section.
28. **INDEMNITY.** To the fullest extent permitted by law, Lessee shall indemnify, defend, and hold harmless the Lessor, its agents, employees, officers, volunteers, and officials ("Indemnified Party") for, from and against all claims, liabilities, demands, damages, losses, and expenses, including attorneys' fees and litigation expenses, to which any such Indemnified Party may become subject, under any theory of liability whatsoever, ("Claims") to the extent that such Claims result from and/or arise out of the Lessee's intentional, reckless, or negligent acts, mistakes, errors, or omissions at, on or relating to the Premises or in performance of this Lease. This includes any intentional, reckless, or negligent acts, mistakes, errors, or omissions of Lessee's employees, agents, contractors, and officers employed directly or indirectly by Lessee, and any intentional, reckless, or negligent acts, mistakes, errors, or omissions of Lessee's customers, guests, students, visitors, invitees, licensees, assignees, and sublessees.

This indemnity provision shall also apply to any liability or remediation costs under Comprehensive Environmental Response, Compensation, and Liability Act, state statute or municipal ordinance arising as a result of contamination of the property or the surrounding environment, or violation of any Federal or state environmental laws due to any discharge of waste by Lessee, its employees and agents, regardless of whether the event requiring such remediation was intentional or accidental.

This Section 28 shall survive the expiration or early termination of this Lease.

29. **FORCE MAJEURE.** Should the Premises or any part thereof become unsafe, unsuitable for use or otherwise uninhabitable due to an act of God, nature, or act of war or other event beyond the control of the Lessor, the Lessor may, at its sole option, choose not to repair or replace the Premises, and no liability shall accrue to Lessor. Should Lessor determine that the Premises are beyond reasonable repair, Lessee shall be relieved of any further duty to pay rent beyond the date the event occurs, and any rent paid by Lessee for any rent period falling after the date of such event shall be promptly returned to Lessee. Lessee shall, if feasible, remove all personal property from the Premises. If Lessor elects to repair the Premises: (i) this Lease shall continue in full force and effect, but the rent from the date of the event through the date of substantial completion of the repair shall be abated with regard to any portion of the Premises that Lessee is prevented from using by reason of such damage or its repair, and (ii) in no event shall Lessor be liable to Lessee by reason of any injury to or interference with Lessee's business or personal property, alterations, additions or improvements to the Premises arising from such event, or by reason of any repairs to the Premises necessitated by the event.
30. **COMPLIANCE WITH LAW.** The Parties shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities. The Parties shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap, and the Americans with Disabilities Act.
31. **TIME.** Time is of the essence in this Lease except where specified.
32. **ENTIRE AGREEMENT.** This Lease contains the entire agreement between the Parties and no oral or written statement, promises, or inducements made by either Party or agent of either Party that is not contained in this written Lease, or specifically referred to in a written agreement shall be valid or binding; and this agreement may not be enlarged, modified, or altered except in writing signed by the Parties and endorsed herein.
33. **RIGHTS/OBLIGATIONS OF PARTIES ONLY.** The terms of this Lease are intended only to define the respective rights and obligations of the Parties. Nothing expressed herein shall create any rights or duties in favor of any potential third party beneficiary or other person, agency or organization.

34. **CONFLICT OF INTEREST.** This Lease shall be subject to the Conflict of Interest provisions of Arizona Revised Statutes § 38-511, as amended.
35. **BOYCOTT OF ISRAEL.** Pursuant to A.R.S. § 35-393.01, Lessee certifies it is not engaged in a boycott of Israel as of the Effective Date of this Lease, and agrees for the duration of this Lease to not engage in a boycott of Israel.
36. **CHOICE OF LAW.** This Lease shall be interpreted in accordance with the laws of the State of Arizona.
37. **NO PARTNERSHIP.** Nothing in this Lease constitutes a partnership or joint venture between the Parties, and neither Party is the principal or agent of the other.
38. **SEVERABILITY.** If any provision of this Lease is held invalid the remainder of the Lease shall not be affected thereby and all other parts of this Lease shall be in full force and effect.
39. **PROVISIONS REQUIRED BY LAW.** Each and every provision of law and any clause required by law to be in this Lease will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, the Lease will promptly be physically amended to make such insertion or correction.
40. **HEADINGS AND COUNTERPARTS.** The headings of this Lease are for purposes of reference only and shall not limit or define the meaning of any provision of this Lease. This Lease may be executed in two or more counterparts, each of which is an original and all of which together constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged are effective to bind a Party.

*[Signatures on the next page]*



**IN WITNESS WHEREOF**, the Parties have caused to be affixed the signatures of their respective authorized officials on the Effective Date written above.

Lessor:  
**CITY OF YUMA**, a municipal  
corporation

Lessee:  
**ARIZONA HOUSING  
DEVELOPMENT CORPORATION**

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Philip Rodriguez  
City Administrator

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Fernando Quiroz  
President

ATTEST:

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Lynda L. Bushong  
City Clerk

APPROVED AS TO FORM:

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Richard W. Files  
City Attorney

## EXHIBIT A

### Legal Description of Premises

Block 7 of the Thomas Addition, as recorded in Book 1 of Plats, Page 21, Records, Yuma, Arizona.

EXHIBIT B

Equipment

*[To be added after close of escrow]*