

INTRODUCED: October 10, 2023

AN ORDINANCE No. 2023-300

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Sublease Agreement between the City of Richmond and Emergency Shelter, Inc., doing business as HomeAgain, for the purpose of subleasing the property located at 7 North 2nd Street to Emergency Shelter, Inc., doing business as HomeAgain, for the operation of a 50-bed, year-round emergency shelter.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: NOV 13 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

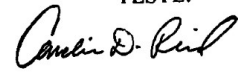
§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Sublease Agreement between the City of Richmond and Emergency Shelter, Inc., doing business as HomeAgain for the purpose of subleasing the property located at 7 North 2nd Street to Emergency Shelter, Inc., doing business as HomeAgain, for the operation of a 50-bed, year-round emergency shelter. The Sublease Agreement shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: NOV 13 2023 REJECTED: _____ STRICKEN: _____

§ 2. This ordinance shall be in force and effect upon adoption.

A TRUE COPY:
TESTE:

A handwritten signature in cursive script, appearing to read "Carolin D. Reed".

City Clerk



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Master

File Number: Admin-2023-1690

File ID: Admin-2023-1690

Type: Request for Ordinance or Resolution

Status: Regular Agenda

Version: 2

Reference:

In Control: City Clerk Waiting Room

Department:

Cost:

File Created: 10/04/2023

Subject:

Final Action:

Title:

Internal Notes:

Code Sections:

Agenda Date: 10/10/2023

Patron(s):

Enactment Date:

Contact:

Introduction Date:

Drafter: dominic.barrett@rva.gov

Effective Date:

Related Files:

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
2	1	10/5/2023	Traci DeShazor	Approve	10/6/2023
2	2	10/5/2023	Sharon Ebert - FYI	Notified - FYI	
2	3	10/5/2023	Jason May	Approve	10/6/2023
2	4	10/5/2023	Cynthia Osborne - FYI	Notified - FYI	
2	5	10/5/2023	Sheila White	Approve	10/6/2023
2	6	10/6/2023	Sabrina Joy-Hogg	Approve	10/7/2023
2	7	10/6/2023	Caitlin Sedano - FYI	Notified - FYI	
2	8	10/6/2023	Lincoln Saunders	Approve	10/10/2023
2	9	10/6/2023	Mayor Stoney	Approve	10/16/2023

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File Admin-2023-1690

City of Richmond
Intracity Correspondence

O&R REQUEST

DATE: September 27th, 2023 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sabrina Joy-Hogg, Deputy Chief Administrative Officer for Finance and Administration

THROUGH: Sheila White, Director of Finance

THROUGH: Jason May, Director of Budget and Strategic Planning

THROUGH: Traci DeShazor, Deputy Chief Administrative Officer for Human Services

FROM: Dominic Barrett, Strategic Projects and Grants Advisor - Office of Human Services

RE: Establishing a new 50 bed Year-Round Emergency Shelter for families

ORD. OR RES. No.

PURPOSE: This request speaks to the multiple ordinances necessary to establish a new 50 bed Year-Round Emergency Shelter for families:

- 1) To authorize the Chief Administrative Officer to execute, for and on behalf of the City, a Deed of Lease between the City and Potomac Area Hostels, Inc., for the purpose of the City leasing, for use by HomeAgain, the approximately .113 acre parcel of real estate located at 7 North 2nd Street consisting of a free-standing building of 13,867 ± square feet.
- 2) To authorize the Chief Administrative Officer to execute a sub-lease between the City of Richmond as Lessor and Emergency Shelter, Inc. d/b/a HomeAgain as Lessee for the purpose of operating a 50 bed year-round emergency shelter at the real property located on the approximately .113 acre parcel of real estate located at 7 North 2nd Street consisting of a free-standing building of 13,867 ± square feet.

- 3) To authorize the Chief Administrative Officer to execute a grant contract between the City of Richmond and Emergency Shelter, Inc. d/b/a HomeAgain for the purpose of funding the operations of a 50 bed emergency shelter at 7 North 2nd Street.
- 4) To amend the Fiscal Year 2023-2024 General Fund Budget to:
 - a. (i) to transfer \$542,056 from the Non-Departmental agency, United Nations Church International of VA, Inc. - Inclement Weather Shelter line item, (ii) create a new line item in the Non-departmental agency entitled “HomeAgain Emergency Shelter” and (iii) to appropriate such transferred funds in the amount of \$542,056 to such new line item in the Non-Departmental agency for the purpose of making a grant to operate a new 50 bed emergency shelter for families.
 - b. (i) to transfer \$121,800 from the Non-Departmental agency, United Nations Church International of VA, Inc. - Inclement Weather Shelter line item, and (ii) to appropriate such transferred funds in the amount of \$121,800 to the Office of Deputy Chief Administrative Officer for Human Services for the purpose of leasing the property at 7 N. 2nd Street for use as an emergency shelter.

REASON: To establish a new 50 bed emergency shelter for families at 7 North 2nd Street, the Administration requires authorization to sign a lease for the building, sublease the building to the shelter operator HomeAgain, make a grant to HomeAgain to operate the shelter, and re-appropriate unspent FY23 funds that had been appropriated for FY23 shelter costs and have since been encumbered and rolled over into the FY24 General Fund Budget.

RECOMMENDATION: The City Administration recommends adoption.

BACKGROUND: In March of 2023 Mayor Levar Stoney and City Council declared a housing crisis in the City of Richmond. Emergency shelters for persons without housing serve as a safety net of last resort for this vulnerable population. In its 2020-2030 strategic plan to end homelessness, the City identified a 150 bed shortage in emergency shelter beds. This O&R request supports one component of the strategy to meet the urgent need for more emergency shelter capacity for families. Once adopted and implemented the region’s current 92-bed capacity to serve families year-round will be expanded by 50 beds as early as December 1, 2023. This O&R seeks authorization to achieve the following:

- 1) An operating grant between the City and Home Again, an experienced emergency shelter provider for families since 1979, to operate the 50 bed year-round emergency family shelter out of the “Richmond Hostel”. Families with the most urgent needs will be admitted to the shelter, as prioritized and coordinated by the Greater Richmond Continuum of Care and federally approved. The total amount of the grant contract is \$1,653,718.42. FY 24 costs total \$542,056, including \$101,080 for start-up and one-time equipment and \$440,976 in operating costs for the 7 months of the fiscal year. All cost obligations beyond FY24 costs are subject to Council appropriation. The length of the operating agreement is two years, with the option to

extend one additional year upon mutual agreement.

- 2) A lease for the 50-bed family shelter between the City and Potomac Area Hostels, owner of the “Richmond Hostel” at 7 North 2nd Street. The first month’s rent will be \$16,800 and \$15,000 per month for the duration of the lease without escalation. The lease term is two years. The equivalent of one month’s rent, \$15,000, would be provided as a security deposit when the lease is signed. The City has the option to extend one additional year if notice is given to the Owner six months in advance of the expiration of the two year lease. As part of the lease agreement, the City has a first right of negotiation to purchase the property, if the owner decides to sell the property before the lease expires. The City has the option to assign that “negotiation to purchase right” to the operator of the 50-bed year-round emergency shelter at the Hostel.
- 3) A sublease between the City and HomeAgain to operate the shelter at 7 North 2nd Street. There is no charge to HomeAgain to sublease the property from the City.
- 4) Re-appropriation of unspent shelter funds from FY23 non-departmental lines to fund FY24 costs to lease and operate the shelter.

Note: Ordinance No. 2022-349, adopted December 12, 2022, appropriated \$17,107,509.00 in surplus revenues to various agencies and non-departmental programs including \$3,129,685 appropriated in Non-Departmental for implementing inclement weather shelter. \$1,158,086 of the \$3,129,685 was appropriated to a new line item entitled “United Nations Church International of VA, Inc. - Inclement Weather Shelter.” \$693,084 of the \$1,158,086 was not spent in FY 23 and was rolled over into the FY24 budget as part of an encumbrance roll completed in September of 2023. The funds are not contractually obligated and are available to be transferred for the FY24 shelter-related purposes outlined in this O&R. This O&R request seeks to amend the FY 24 General Fund budget where the funds now exist. However, it does not seek to amend a specific ordinance, as the ordinance initially appropriating the funds was an FY23 budget ordinance. Funds carried over from year to year in an encumbrance roll do not show up in the budget adopted in May, as the roll does not occur until weeks or months after the budget is adopted.

FISCAL IMPACT/COST: The lease and security deposit will cost the City \$121,800 in FY24 and \$180,000 in FY25. The grant to HomeAgain to operate the shelter will cost \$542,056 in FY24 and a projected \$774,139.64 in FY25. All cost obligations in FY25 and beyond are subject to Council appropriations in those fiscal years.

BUDGET AMENDMENT NECESSARY: Yes

REVENUE TO CITY: None

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: October 10, 2023

CITY COUNCIL PUBLIC HEARING DATE: November 13, 2023

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Education and Human Services Committee

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Budget and Strategic Planning, Finance, Human Services, Housing and Community Development

RELATIONSHIP TO EXISTING ORD. OR RES.: N/A

REQUIRED CHANGES TO WORK PROGRAM(S): N/A

ATTACHMENTS: Lease, Sublease, Grant Contract

STAFF: Stephen Harms, Senior Policy Advisor - Office of Chief Administrative Officer, 646-0043
Dominic Barrett, Strategic Projects and Grants Advisor - Office of Human Services, 646-5861

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (this “Agreement”) is made this ____ day of _____, 2023 (“Effective Date”) by and between the **CITY OF RICHMOND, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, hereinafter designated as Sublandlord, and **EMERGENCY SHELTER, INC. d/b/a HomeAgain**, a Virginia non-stock corporation, hereinafter designated as Subtenant. Sublandlord and Subtenant are at times collectively referred to hereinafter as the “Parties” or individually as a “Party.”

RECITALS

- A. Pursuant to that certain Lease, a true and complete copy of which is attached hereto as Exhibit A, dated _____, 2023 (together with any and all modifications of, extensions of, amendments to and replacements of the same, now or hereafter existing, the “Prime Lease”), Sublandlord leases from Potomac Area Hostels, Inc., a not-for-profit Maryland corporation (the “Owner”), that certain real and personal property located at 7 N 2nd Street in the City of Richmond, Virginia, known as Tax Parcel No. W0000047027 (the “Subleased Premises”).
- B. Sublandlord and Subtenant are parties to that certain Grant Contract dated as of _____, 2023, in furtherance of that certain Ordinance No. _____ adopted on _____, 2023 by the City Council of the city of Richmond, Virginia (together with any requirements of such grant and ordinance, and any and all modifications of, extensions of, amendments to, and replacements of the same, now or hereafter existing, the “Grant”). Pursuant to the Grant, Sublandlord agrees to pay funds to Subtenant for the purpose of operating a non-congregate family shelter at the Property, which will serve unsheltered homeless families in the City of Richmond, Virginia (the “Family Shelter”), as more particularly set forth therein.
- C. Subtenant desires to sublease from Sublandlord, and Sublandlord desires to sublease to Subtenant, in accordance with the terms of this Agreement, the Subleased Premises for the purpose of operating the Family Shelter in accordance with the Grant.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, Sublandlord and Subtenant agree as follows:

- 1. **Recitals; Conflicts.** The foregoing Recitals are true and correct and are incorporated herein by reference.
- 2. **Definitions.**
 - a. **CAO.** CAO means the Chief Administrative Officer of the City of Richmond, Virginia, or their designee.
 - b. **Effective Date.** “Effective Date” means the date set forth above.

- c. **Hazardous Substances and Wastes.** “Hazardous Substances and Wastes” means those hazardous substances and hazardous wastes as defined in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. §§9601 et seq., respectively, and in any regulations promulgated thereto.
 - d. **Improvements.** “Improvements” means any alterations, painting, recarpeting, decorations, additions, or other improvements, including the addition or replacement of fixtures and plumbing, electrical, and mechanical systems (including HVAC), made to the Subleased Premises by Subtenant during the Term.
 - e. **Laws.** “Laws” means i) all applicable laws, rules, regulations, ordinances, and zoning and land use regulations; and ii) all restrictions of record, permits, and building codes, now in effect or which may hereafter come into effect.
 - f. **Permitted Use.** Permitted Use means the purpose of operating the Family Shelter, and incidental, related uses in compliance with the Grant and all Laws.
 - g. **Subtenant Parties.** Subtenant Parties means Subtenant’s employees, agents, contractors, subcontractors, invitees, guests, clients, and licensees, including, without limitation residents of the Family Shelter.
 - h. **Term.** Term means the period of time during which Sublandlord agrees to sublease the Subleased Premises to Subtenant and shall comprise the period set forth in Section 4 below, plus any Term Extension(s).
 - i. **Term Extension.** Term Extension means a one (1) year extension of the Term, to commence on an anniversary of the Effective Date and to expire at 11:59 p.m. on the three hundred and sixty-fifth (365th) day thereafter.
3. **Sublease.** Sublandlord hereby subleases to Subtenant, and Subtenant hereby subleases from Sublandlord, the Subleased Premises and all of the personal property listed on Exhibit B hereto, of which Subtenant shall have exclusive use and possession during the Term, subject to the terms and conditions of this Agreement. Subtenant acknowledges that no parking (on-site, street, or otherwise) is provided by Sublandlord or Owner for the Subleased Premises.
4. **Term.** The Term will commence on the “Start Date” as that term is defined in the Grant (the “Commencement Date”) and to expire at 11:59 p.m. on the 30th day of November, 2025, unless the Parties extend the Term in accordance with this Section 4. If the parties extend the terms and conditions of the Grant as provided therein, then Sublandlord will timely exercise the Term Extension under the Prime Lease, and the Parties shall exercise the Term Extension under this Agreement. The parties shall use good faith efforts to mutually agree whether to extend the Grant in accordance with its terms at least seven (7)

months prior to the then current expiration of the Term to allow time for the timely exercise of the Term Extension under the Prime Lease. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, in the event that the Grant terminates or is terminated, this Agreement shall also terminate effective as of the termination under the Grant, automatically and without the need for further writing from either Party.

5. **Rent.** There shall be no rent owed by Subtenant to Sublandlord under this Agreement. The Parties acknowledge and agree that consideration for Subtenant's sublease of the Subleased Premises shall be Subtenant's operation of the Family Shelter in accordance with the terms and conditions of the Grant, and the other covenants and agreements of Subtenant contained in this Agreement, including, without limitation, Subtenant's obligation to coordinate and pay for utilities, services and maintenance as provided in this Agreement (for which Subtenant is entitled to reimbursement by Sublandlord pursuant to the Grant, and Subtenant's obligation to pay for such items is expressly conditioned upon Subtenant's receipt of sufficient funds under the Grant to make such payments).
6. **Permitted Use.** Subtenant shall only use and permit the use of the Subleased Premises for the Permitted Use. Subtenant shall not use or permit use of the Sublicensed Premises in a manner that is not in accordance with the Laws or this Agreement.
7. **Utilities and Services.** The parties acknowledge and agree that the Owner shall maintain the majority of utilities and services necessary and desirable to operate the Family Shelter, including, without limitation, water, sanitary sewer, gas, and electricity, in Owner's name. Pursuant to the Prime Lease, Owner shall invoice Sublandlord, which shall in turn invoice Subtenant, for the costs of such utilities and services which are attributable to the Term, plus three percent (3%). Subtenant agrees to pay such invoices, either to Owner or directly to the provider, within thirty (30) days of receipt of written invoice therefor. Pursuant to the Prime Lease, Subtenant shall have the right to engage a high-speed internet / WIFI provider directly; in such event, Subtenant shall pay the costs of such services as and when due, before delinquency, directly to the provider. Sublandlord shall not be obligated to provide such any utilities and services, nor shall Sublandlord be liable for any interruption in any such utilities and services. Subtenant shall coordinate and pay for janitorial services as necessary to keep the Subleased Premises in a neat, clean, orderly condition for use as the Family Shelter and in compliance with the Prime Lease. Subtenant shall pay and shall discharge punctually, as and when the same shall become due and payable, all taxes and fees assessed against or owed by Subtenant (including, but not limited to, taxes on licenses, meals, and admission) in connection with the Permitted Use at the Subleased Premises, provided that Owner shall be responsible for any and all real estate taxes or special assessment levied against the Premises pursuant to the Prime Lease. Notwithstanding anything herein to the contrary, Subtenant shall be entitled to reimbursement from Sublandlord of all of the forgoing costs and expenses incurred by Subtenant in accordance with the Grant.
8. **Improvements; Signage.** Subtenant shall not make any Improvements or install any signage within the Subleased Premises, without (i) prior submission to the CAO of all plans and specifications pertaining to such work and (ii) subsequent receipt of written consent

from the CAO and Owner to engage in such work, which consent the CAO may grant or withhold at their sole discretion; Subtenant acknowledges and agrees that Sublandlord, as "Tenant" under the Prime Lease, does not have the right to make any improvements or other alterations to the Subleased Premises under the Prime Lease without Owner's prior written permission. Performance, installation and maintenance of any and all Improvements and signage shall be at Subtenant's sole cost and in accordance with the Laws. At the end of the Term, all Improvements shall, at the sole option of the Owner, remain and become the property of Owner, and Subtenant shall remove all signage and any Improvements the Owner elects not to retain (and Sublandlord shall provide written notice of Owner's determination to Subtenant), from the Subleased Premises and restore the Subleased Premises to its prior condition. Subtenant shall be financially responsible for any portion of the Subleased Premises, damaged or disturbed by Subtenant or the Subtenant Parties, or both, in connection with such removal, and Subtenant shall remit payment to Sublandlord or, at Sublandlord's direction, to Owner, for such damage or disturbance within thirty (30) days of written invoice therefor accompanied by reasonable supporting documentation. Alternatively, in and, at Sublandlord's sole option and at Subtenant's sole cost and expense, shall restore such damage to its original condition, as reasonably determined by Sublandlord.

9. **Termination.** Unless earlier terminated in accordance with the terms of this Section 9 or as otherwise provided in this Agreement, this Agreement will terminate upon expiration of the Term.
10. **Force Majeure.** Whenever the performance (but not payment) of either Party hereunder is delayed by reason of an act of God, including, but not limited to, wind, lightning, rain, ice, earthquake, floods, or rising water, or by aircraft or vehicle damage, or other reason beyond the control of the parties, such delay shall not constitute a default under this Agreement.
11. **No Holdover.** Subtenant shall not hold over upon termination or expiration of this Agreement. If Subtenant fails to vacate the Subleased Premises upon such termination or expiration, such failure shall not confer to Subtenant any rights to occupy the Subleased Premises or further tenancy, regardless of the acts or omissions of Sublandlord, Subtenant, or any of Sublandlord's employees or agents, including but not limited to Subtenant's possession of the Subleased Premises and any payment to Sublandlord and Sublandlord's acceptance of payment and failure to evict Subtenant from the Subleased Premises. If Subtenant holds over in violation of this paragraph, Subtenant shall be a tenant at sufferance, shall daily pay to Sublandlord, for each day of its possession beyond termination or expiration, any and all additional amounts which may be due under the Prime Lease as a result of any such holdover, and shall reimburse Sublandlord for the amount of the "Security Deposit" under the Prime Lease (\$15,000.00) within thirty (30) days of written demand therefor from Sublandlord, which Security Deposit the Owner shall be entitled to retain in the event of a Subtenant holdover. This paragraph will survive termination or expiration of this Agreement.

12. **Removal at End of Term.** Subtenant shall, upon termination or expiration of this Agreement, peacefully surrender possession of the Subleased Premises to Sublandlord and, subject to the terms of Section 8 above, have removed all of its personal property, which shall, at the sole option of Sublandlord, include any property Subtenant has affixed to the Subleased Premises, from beneath, upon, or above the Subleased Premises, and have restored the Subleased Premises to its condition as when delivered to Subtenant, reasonable wear and tear and damage beyond Subtenant's control excepted. If Subtenant does not so remove its personal property from the Subleased Premises, Sublandlord may do so at Subtenant's cost and expense and without incurring liability to Subtenant for damages that may directly or indirectly result therefrom, or Sublandlord may allow such property to remain on the Subleased Premises, in which case title to such property shall vest in Sublandlord. This Section 12 will survive termination of this Agreement. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, (i) any and all personal property purchased with any Grant funds or purchased by, through or under Sublandlord for the Family Shelter shall be and remain the property of Sublandlord throughout the Term, and shall remain in the Subleased Premises upon any termination or expiration of this Agreement and be surrendered to Sublandlord in good, working condition, normal wear and tear expected; and (ii) all personal property leased from Owner pursuant to this Agreement shall be and remain the property of Owner throughout the Term, which personal property is listed on Exhibit B attached hereto ("Owner's Personal Property") and any remaining items donated to Sublandlord by Owner pursuant to the Prime Lease which are still in use at the time of such expiration or termination, shall remain in the Subleased Premises upon any termination or expiration of this Agreement and be surrendered to Owner in good, working condition, normal wear and tear excepted.
13. **Right of Entry.** At any and all times during the Term, upon reasonable advance notice and during reasonable hours during Family Shelter operations (in each case, except in the event of an emergency and subject to the rights of Owner under the Prime Lease), Sublandlord, Owner and any representatives shall have the right to enter the Subleased Premises to inspect the Subleased Premises to ensure compliance with the terms of this Agreement, to make repairs or alterations to the Subleased Premises, as provided in the Prime Lease, or for any other lawful reason. Subtenant shall provide Sublandlord with a current set of keys or entry codes for the Subleased Premises. Nothing contained in this Section 13 shall prohibit Family Shelter residents from being present during the inspections of Sublandlord or Owner.
14. **Care and Maintenance.** Sublandlord shall deliver the Subleased Premises and Owner's Personal Property in "as is, where is, with all faults" condition as of the Commencement Date, and Subtenant accepts the Subleased Premises and Owner's Personal Property in "as is, where is, with all faults" condition as of the Commencement Date. Except as explicitly set forth herein or in the Prime Lease, Subtenant, in accordance with the Laws, shall (i) be responsible for regular, non-structural maintenance and repair (but not replacement) of the Subleased Premises, Owner's Personal Property and any Improvements and shall make such repairs to the Subleased Premises and repairs and replacements of Owner's Personal Property as are reasonably necessary to comply with the foregoing and as shall from time to time be required by the CAO or authorized

representative, and Subtenant shall be entitled to reimbursement of the foregoing costs by Sublandlord pursuant to the Grant; and (ii) shall not commit or allow any waste or damage to be committed on or to any portion of the Subleased Premises or Owner's Personal Property, which waste or damage shall not be reimbursed by Sublandlord pursuant to the Grant. Subtenant shall be responsible for damage to the Subleased Premises caused by Subtenant/guests/residents (including damage to Structural Elements), the costs and expenses of which shall be reimbursed pursuant to the Grant (but only to the extent not covered by Subtenant's insurance, or to the extent such costs and expenses would have been covered by Subtenant's insurance, in the event Subtenant shall fail to carry the insurance required under this Agreement), except to the extent resulting from the Subtenant's gross negligence or willful misconduct. Sublandlord and Subtenant acknowledge and agree that the elevator formerly serving the Subleased Premises has been decommissioned; Subtenant shall not use the elevator, and acknowledges and agrees that Owner shall have no obligation to maintain the elevator. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, any and all the costs of maintenance resulting from Subtenant's gross negligence or willful misconduct, and the costs to repair any damage to the Subleased Premises, Owner's Personal Property or equipment located on the Premises shall be, at Sublandlord's option, either (1) paid by Sublandlord and Subtenant shall promptly pay Sublandlord, or at Sublandlord's direction, paid directly to Owner, the current value thereof (i.e., original value minus any depreciation for age or prior use), including three percent (3%) of the costs thereof sufficient to reimburse Owner for overhead, general conditions, fees and other costs or expenses arising from Owner's involvement with such repairs and replacements, or (2) repaired or replaced by Subtenant promptly, which costs shall not be subject to reimbursement under the Grant in any case. Notwithstanding anything herein to the contrary, Owner shall remain responsible for its maintenance and repair obligations set forth in Section 6.1 of the Prime Lease as being the responsibility of Owner. If Subtenant shall in good faith determine that there are maintenance obligations which Owner has failed to perform under the Prime Lease, Subtenant may notify Sublandlord, and if Sublandlord reasonably agrees with such determination, Sublandlord agrees to send written notice to Owner as to the same. In the event that Owner fails to timely cure any such maintenance obligations of Owner in accordance with the Prime Lease after receipt of such notice, resulting in a material "Default" of Owner under the Prime Lease, and such material Default of Owner shall prohibit or substantially impair Subtenant from operating for the Permitted Use in the Subleased Premises, in Subtenant's reasonable judgement, then Subtenant may discontinue operations at the Subleased Premises in a manner that uses reasonable efforts to minimize disruption to the Family Shelter residents (and such discontinuation shall not be a default under Section 20.a(iii) hereof). In the event Subtenant so discontinues operations, (i) payments under the Grant will cease and Subtenant shall promptly refund any unused Grant funds to Sublandlord; and (ii) if the deferred maintenance is not performed within thirty (30) days of such discontinuance, then both the Sublandlord and the Subtenant shall have the right to terminate this Agreement and the Grant upon written notice to the other.

15. Environmental Terms.

- a. **Environmental Conditions of the Property.** Sublandlord shall not be responsible to Subtenant for the correction of any environmental conditions on the Subleased Premises or any violations of the Laws thereon due to the presence of any of the Hazardous Substances and Wastes, and Subtenant understands that Sublandlord has not conducted tests for the presence of lead, asbestos, radon, freon or other refrigerant, methane, and other gases. In the event that either Sublandlord or Subtenant becomes aware of the presence of any of the Hazardous Substances and Wastes on the Property in violation of the Laws, this lease shall terminate at Sublandlord's sole option and upon written notice from Sublandlord, and, at the request of Sublandlord, Subtenant shall vacate the Subleased Premises immediately.
 - b. **No Illegal Use.** Subtenant shall not cause or permit the use, storage, generation, escape, disposal or release of any Hazardous Substances and Wastes within, over or under the Subleased Premises except in accordance with Law.
 - c. **Survival.** Notwithstanding any other provisions in this Agreement, the provisions of this Section 15 shall survive termination of this Agreement.
16. **Indemnity.** Subtenant agrees to indemnify, defend and hold Sublandlord, Sublandlord's officers, agents, contractors and employees, and Owner harmless against and from any and all actual, threatened or alleged claims of liability or loss, causes of action, judgments, penalties, fines, administrative actions and costs, including without limitation reasonable attorney's fees and court costs, relating to, resulting from or arising out of a breach of this Agreement by Subtenant beyond notice and cure periods, or out of any act or omission by Subtenant or the Subtenant Parties in connection with Subtenant's use or occupation of the Subleased Premises. Nothing herein may be construed as a waiver of the sovereign immunity granted to Sublandlord the Commonwealth of Virginia Constitution, statutes, and applicable case law. This Section 16 will survive the termination of this Agreement.
17. **Insurance.** Throughout the Term, Subtenant shall, at its own expense, maintain liability insurance policies in a form reasonably acceptable to Sublandlord, the following insurance policies:
- (i) Commercial General Liability insurance policy with a minimum combined single limit of liability of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate for personal injuries or deaths of persons occurring in or about the Subleased Premises, and such policy shall provide that it shall not be cancelable or reduced without at least thirty (30) days prior notice to Sublandlord;
 - (ii) Business Automobile Liability insurance, to include Auto Physical Damage coverage, in the amount of one million dollars (\$1,000,000) combined single limit covering all owned, non-owned borrowed, leased or rented motor vehicles operated by Subtenant or its third-party agents. In addition, all motorized equipment, both licensed and not licensed for road use, operated or used by Subtenant or its third-party agents within the Subleased

Premises will be insured under either a standard Automobile Liability policy or a Comprehensive General Liability policy;

- (iii) To the extent required by the Code of Virginia and other applicable Virginia laws and regulations, Workers' Compensation insurance in an amount no less than one hundred-thousand dollars (\$100,000), or in amounts not less than the minimum required by the Virginia Code and other applicable law, rules, and regulations;
- (iv) Employer's Liability insurance with limits of not less than one million dollars (\$1,000,000) each accident/disease/policy limit;
- (v) Umbrella Liability insurance maintained above the primary Commercial General Liability, Business Automobile Liability and Employer's Liability policies required herein. The limit of such Umbrella Liability insurance shall not be less than two million dollars (\$2,000,000) each occurrence and aggregate.

In the event of a conflict between the requirements of this Sublease and the Prime Lease, Tenant shall obtain the insurance coverage that is broadest. All such policies shall i) be issued by companies duly authorized or permitted to conduct business in the Commonwealth of Virginia and having a Best's Key Rating of at least A: VI, ii) shall insure Subtenant and, with the exception of Workers Compensation and Employer's Liability policies, include Sublandlord and Owner (and any lender of Owner secured by the Subleased Premises, upon written request) as additional insureds as their interests may appear, and iii) shall be primary to any insurance coverage Sublandlord and Owner may possess. Prior to the earlier of Subtenant's access to the Subleased Premises and the Commencement Date, prior to any expiration as to each renewal, and anytime upon written request of Sublandlord, Subtenant shall provide a certificate of liability insurance demonstrating that Subtenant is maintaining the insurance requirements of this Section 17. The parties recognize and agree that Owner is obligated to maintain property casualty insurance for the full replacement value of the Premises pursuant to the terms of the Prime Lease. Sublandlord shall request a waiver of subrogation against Subtenant from the Owner (which shall be verified by an endorsement to its property casualty insurance policy), so long as Subtenant's insurance carried hereunder contains a similar endorsement as to Owner.

18. Casualty & Condemnation.

- a. In the event of a casualty, the terms and conditions of the Prime Lease shall control, including but not limited to the Owner's restoration obligations, and this Sublease shall terminate if the Prime Lease is terminated. If the casualty is caused by the willful misconduct of Subtenant, Subtenant shall have the obligations of "Tenant" under the Prime Lease as to such damage, to the extent not covered by insurance, which shall not be subject to reimbursement under the Grant.

- b. If all or any substantial part of the Subleased Premises shall be taken as a result of the exercise of the power of eminent domain or agreement in lieu thereof, this Sublease shall terminate as to the part so taken as of the date of taking. In the case of a partial taking of the Subleased Premises which materially, adversely impacts Subtenant's ability to conduct the Permitted Use, either Sublandlord or Subtenant shall have the right to terminate this Agreement as to the balance of the Subleased Premises by giving written notice to the other within thirty (30) days after such date. In the event of any taking, Subtenant shall have no claim against Sublandlord or against the condemning authority for the value of any leasehold estate or for the value of the unexpired Term (and Subtenant hereby assigns to Sublandlord any right or interest to any award applicable thereto), provided that the foregoing shall not preclude any claim permitted by law that Subtenant may have against the condemning authority for the unamortized cost of Improvements made, if any, or for loss of business or moving expenses or other damages and losses.

19. Compliance with Laws; Liens.

- a. **Compliance with Laws.** Subtenant shall, at Subtenant's sole cost and expense, comply with all Laws relating to the Subleased Premises and Subtenant's use thereof.
- b. **Liens.** Subtenant shall not encumber the Subleased Premises with any materialmen's or mechanic's lien, nor shall Subtenant suffer or permit any such lien to exist. Should any such lien hereafter be filed as a result of Subtenant's actions or failure to act, Subtenant shall at its sole cost, within thirty (30) days after the lien is filed, discharge the lien or post a bond in the amount of the lien. This paragraph will survive termination of this Agreement.

20. Default.

- a. The occurrence of any of the following events shall constitute a default under this Agreement (each, a "Default"):
 - (i) So long as Sublandlord shall have made the required payments to Subtenant under the Grant, if Subtenant shall fail to pay when or before due any sum of money becoming owing to Sublandlord (or directly to Owner, if applicable hereunder) under this Agreement, and such failure shall continue for a period of ten (10) days after written notice thereof to Subtenant;
 - (ii) Subtenant shall fail to comply with any term, provision or covenant of this Agreement, including a violation of the Permitted Use or breach any representation hereunder, other than failing to pay when or before due any sum of money and other than as set forth in subsections (iii) through (vi) below, or Subtenant shall cause a breach under the Prime Lease, and shall not cure such failure or breach within thirty (30) days after written notice thereof to Subtenant, or if such failure or breach is not susceptible to cure within such thirty (30) day period, then Subtenant shall have such longer period as is reasonably necessary to cure not to exceed ninety (90) days so long as Subtenant has commenced to cure within the initial thirty (30) day period and thereafter diligently pursues such cure to completion (provided, however, and notwithstanding the

foregoing, that the Subtenant shall not have longer than any cure period allotted under the Prime Lease to cure any default by Subtenant under the Prime Lease);

(iii) Subtenant shall vacate or abandon the Subleased premises or any substantial portion thereof for a period of more than ten (10) days;

(iv) Subtenant shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, dissolve, terminate its corporate existence or otherwise cease to do business as an ongoing concern, or any similar action make be taken by or with respect to Subtenant;

(v) Subtenant shall make any Transfer (as hereinafter defined) of this Agreement without Sublandlord's prior written consent; or

(vi) Subtenant shall breach or default under the Grant, subject to applicable notice and cure periods set forth therein.

b. Remedies. In addition, in the event of a Default, (a) Sublandlord may, without limiting its exercise of any right or remedy which it may have by reason of such Default, pursue any remedy now or hereafter available to it under the Laws and judicial decisions of the Commonwealth of Virginia, and (b) Subtenant shall be responsible for amounts and damages due, incurred or sustained by Sublandlord relating to such Default and all costs, fees and expenses incurred by Sublandlord in enforcing its rights under this Agreement and pursuing its remedies under this Agreement, including, without limitation, reasonable attorney's fees and sums incurred in reletting the Subleased Premises and in resuming operations of the Family Shelter. In addition, in the event of a Default, Sublandlord may (i) re-enter the Subleased Premises upon ten (10) days prior written notice to Subtenant without terminating this Agreement and Subtenant and Subtenant's personal property from the Subleased Premises, as Sublandlord may elect in its sole discretion, without Sublandlord being liable for any prosecution therefor or damages therefrom, and repossess and enjoy the Subleased Premises (including re-letting the Subleased Premises or instituting a new operator of the Family Shelter); or (ii) terminate this Agreement upon not less than ten (10) days prior written notice. Notwithstanding anything to the contrary contained in this Agreement, Sublandlord shall not be required to provide Subtenant with written notice of any Default and the opportunity to cure in accordance with 18.0(i) or (ii), or both, more than twice in any lease (not calendar) year during the Term prior to exercising its cumulative remedies under this Agreement. This paragraph shall survive the expiration or earlier termination of this Agreement.

c. Subtenant Termination. In the event that Sublandlord does not perform (beyond any applicable notice and cure periods) by making payments due under the Grant, then Subtenant shall have the right to terminate this Agreement upon thirty (30) days prior written notice to Sublandlord.

- d. **Parties' Rights Cumulative.** The rights of each party set forth in this Agreement upon a breach or default by the other shall be cumulative, and the exercise of any right shall not exclude the exercise of any other right.
21. **Limitation of Liability.** Notwithstanding anything in this Agreement to the contrary, neither Party shall be liable for any special, indirect, or consequential damages on account of any matter relating to or arising out of this Agreement, even if the other Party, to the extent applicable, is advised of those damages or the possibility of those damages. This limitation applies whether the damages are said to be based upon negligence, breach of contract, breach of warranty, or strict or any other kind of liability.
22. **Entire Agreement; Amendments; No Waiver; Severability.**
- a. **Entire Agreement.** This Agreement contains the entire understanding between the Parties and supersedes any prior understandings and written or oral agreements between them respecting this subject matter. Other than the Grant, there are no representations, agreements, arrangements, or understandings, oral or written, between the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement.
- b. **Amendments.** This Agreement may be amended, modified, and supplemented only by the written consent of both Parties, preceded by all formalities required as prerequisites to the signature by each Party to this Agreement, unless otherwise permitted by this Agreement.
- c. **No Waiver.** The failure of either of the Parties to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provision or of any other provision of this Agreement at any time. Waiver of any breach of this agreement shall not constitute waiver of a subsequent breach.
- d. **Severability.** In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement.
23. **Governing Law; Forum Choice.**
- a. **Governing Law.** All issues and questions concerning the construction, enforcement, interpretation and validity of this Agreement, or the rights and obligations of the Parties in connection with this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.

- b. Forum Choice.** Any and all disputes, claims and causes of action arising out of or in connection with this Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the city of Richmond, Virginia.
- 24. Assignment; Sublease.** Subtenant may neither sell, assign, sublease, license, nor otherwise transfer this Agreement or any interest herein (each, a “**Transfer**”) without the prior written consent of Sublandlord, in Sublandlord’s sole and absolute discretion, and Owner, to the extent applicable under the Prime Lease. For purposes of this Agreement, the sale, transfer or other conveyance of a majority or controlling interest in Subtenant shall constitute a “Transfer” requiring Sublandlord’s prior written approval. For the avoidance of doubt, Sublandlord shall have no obligation to consent to any Transfer unless the assignee, purchaser, sublessee or transferee will operate the Family Shelter for the Permitted Use as provided in this Agreement. The provisions of this Agreement shall inure to the benefit of and be binding upon Sublandlord and Subtenant and their respective successors and assigns (but this Agreement shall only inure to the benefit of such successors and assignees of Subtenant that Sublandlord has expressly approved as required by the terms of this Agreement). The parties acknowledge and agree that the Owner has consented to this Agreement in the Prime Lease. Sublandlord acknowledges and agrees that Sublandlord will not assign, convey or transfer this Agreement.
- 25. Notices.** Each party shall give any notice required or permitted to be given under this Agreement in writing and such notice shall be delivered by certified mail, postage prepaid, return receipt requested; or by a commercial overnight carrier that provides next day delivery and provides a receipt. Such notice shall be addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

SUBTENANT: Emergency Shelter, Inc. d/b/a HomeAgain
2001 Maywill St. Suite 201
Richmond, VA 23230
Attn: Mandy Herbert, Executive Director

SUBLANDLORD: City of Richmond
City Hall
900 E. Broad Street, 5th Floor
Richmond, Virginia 23219
Attn: Traci J. Deshazor

With a copy to: Office of the City Attorney
City of Richmond
900 E. Broad Street, Room 400
Richmond, Virginia 23219
Attn: Bonnie Ashley

Unless otherwise stated in this Agreement, notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

26. **Captions.** The captions contained in this Agreement are inserted for convenience only and are not intended to be part of this Agreement. They shall not affect or be utilized in the construction or interpretation of this Agreement.
27. **Survival.** The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive termination of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall survive such termination.
28. **Partial Invalidity; Authority.** If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Subtenant represents and warrants to Sublandlord that the person or persons executing this Agreement on behalf of such Party have/has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement as to Subtenant.
29. **Signature Authority.** Upon authorization of this Agreement by the City Council of the City of Richmond, Virginia, the CAO shall have the authority to execute this Agreement on behalf of Sublandlord, and, except as otherwise provided herein, the CAO or their designee shall have the authority to provide any notices or authorizations contemplated under this Agreement on behalf of Sublandlord, including amending this Agreement for purposes of extending the Term.
30. **Subject to Appropriation.** Notwithstanding any provision of this Agreement to the contrary, Sublandlord shall be liable under this Agreement, financially and otherwise, only to the extent that funds are appropriated by the City Council of the City of Richmond, Virginia on a no-less-frequent basis than once per Sublandlord's fiscal year.
31. **Sovereign Immunity.** Nothing herein may be construed as a waiver of the sovereign immunity granted to Sublandlord by the Commonwealth of Virginia Constitution, statutes, and applicable case law. This paragraph will survive the termination of this Agreement.
32. **Prime Lease.** This Agreement is entirely derivative of the Prime Lease. Subtenant shall have no greater rights than those that are granted to Sublandlord as "tenant" under the Prime Lease. Notwithstanding anything to the contrary contained in this Agreement, in

the event of a conflict between this Agreement and the Prime Lease, the terms and conditions of the Prime Lease shall control. Notwithstanding anything in this Agreement, in the event of a termination under the Prime Lease, this Agreement shall automatically terminate without the need for further writing from either party. Sublandlord hereby agrees to fully comply with its obligations under the Prime Lease, subject to applicable notice and cure periods thereunder. Sublandlord shall provide Subtenant with copies of any written notices given to Owner under the Prime Lease.

33. **Brokers.** Each of the Parties hereby represents and warrants to the other, as of the Effective Date and the Commencement Date, that such party has not dealt with any broker or finder in connection with this Agreement. Subtenant hereby indemnifies and holds Sublandlord harmless from any and all liability, costs or expenses (including attorneys' fees) incurred as a result of a breach or an alleged breach of the foregoing warranty. This Section 33 shall survive the expiration or earlier termination of this Agreement.
34. **Subordination.** This Agreement shall be subject and subordinate to the Prime Lease and any and all ground leases and deeds of trust which may not or hereafter be recorded against the Subleased Premises, and to all renewals of, modifications to, refinancings of and amendments to same. Within fifteen (15) days after written request therefore, Subtenant agrees to execute and deliver an acknowledged subordination agreement on a form reasonably acceptable to Subtenant.
35. **Estoppel.** At any time and from time to time, within thirty (30) days after written request therefore, Subtenant agrees to execute, acknowledge and deliver to Sublandlord or to any designated party, an estoppel certificate (i) certifying that this Agreement is unmodified and in full effect (or if there have been modifications, stating such modifications); (ii) states the dates through which any sums due under this Agreement have been paid; (iii) stating whether Sublandlord is in default beyond applicable notice and cure periods; and (iv) certifying as to any other matters as Sublandlord may reasonably request.
36. **Rules and Regulations.** Subtenant shall at all times abide by and observe such rules and regulations as reasonably promulgated by Sublandlord and Owner from time to time as to the use, operation and maintenance of the Subleased Premises.
37. **Owner Sponsored Programming.** Pursuant to the Prime Lease, Sublandlord, in its sole and absolute discretion, has agreed to consider any Owner requests to access non-sleeping, common areas within the Subleased Premises in order for Owner or Owner's designee to host programs of mutual interest during Term (e.g., "Cooking as a Second Language") for the benefit of the residents of the Family Shelter (but not outside guests). If Sublandlord receives such a request from Owner, Sublandlord shall submit the request in writing to Subtenant for Subtenant's review and approval in Subtenant's sole discretion. Subtenant may request as a condition to such access, that Owner, or Owner's designee, as applicable, shall provide proof of insurance satisfactory to Subtenant and shall indemnify Subtenant as well as waive claims against Subtenant as to such access, all in forms acceptable to the Subtenant in its sole and absolute discretion.

***[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK;
SIGNATURES ON NEXT PAGE(S).]***

IN WITNESS WHEREOF, this Agreement has been entered into as of the Effective Date by duly authorized officers of the Parties.

SUBLANDLORD:

CITY OF RICHMOND, a municipal corporation of the Commonwealth of Virginia

By: _____
Name: _____
Title: _____
Date: _____

APPROVED TO FORM:

Lindsey D. Chase
Senior Assistant City Attorney

APPROVED AS TO TERMS:

SUBTENANT:

**EMERGENCY SHELTER, INC. d/b/a
HomeAgain**, a Virginia non-stock corporation,

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

PRIME LEASE

LEASE

Between

POTOMAC AREA HOSTELS, INC., a Not-for-Profit Maryland Corporation,

Landlord

and

CITY OF RICHMOND, VIRGINIA, a municipal corporation and political
subdivision of the Commonwealth of Virginia,

Tenant

LEASE

SECTION 1

BASIC LEASE PROVISIONS

1.1 **Date and Parties.** This Lease ("Lease") is effective as of the ____ day of _____, 2023, by and between **Potomac Area Hostels, Inc.**, a not-for-profit Maryland corporation ("Landlord"), and **City of Richmond, Virginia**, a municipal corporation and political subdivision of the Commonwealth of Virginia ("Tenant").

1.2 **The Premises and Use.** Subject to the terms and conditions of this Lease, Landlord agrees to lease to Tenant, and Tenant agrees to lease from Landlord, (i) the building located at 7 North Second Street, Richmond, Virginia (the "Building") and the surrounding land, together with all improvements thereon and all appurtenances thereunto belonging, and further together with all associated fixtures and equipment (collectively, the "Premises"); and (ii) the Personal Property (as defined below). Tenant may use the Premises for the purpose of operating a non-congregate family shelter at the Property, which will serve unsheltered homeless families in the city of Richmond, Virginia (the "Family Shelter"). Tenant may operate the Family Shelter either directly or through an operator selected by Tenant, in its sole and absolute discretion (each, an "Operator").

1.3 **Term.** The Lease term (the "Term") shall begin on the last date Landlord or Tenant executes this Lease ("Beginning Date"), which date shall be written into the blank in Section 1.1 above, and shall end on November 30, 2025 ("Ending Date").

1.4 **Tenant's Option to Extend Term.** Tenant shall have the right to extend the Term for an additional one (1) year by giving Landlord written notice of Tenant's intent to extend no later than six (6) months prior to the Ending Date, in which event the Ending Date shall be considered to end on November 30, 2026.

1.5 **Acceptance of Premises.** As of the Beginning Date, Landlord is delivering the Premises to Tenant in an "as is, where is" condition, subject to the terms and conditions of this Lease. Tenant's or Tenant's Operator's taking of possession of the Premises and the Personal Property on the Beginning Date shall be conclusive evidence that Tenant has accepted such Premises including Personal Property in such "as is, where is" condition, subject to the terms and conditions of this Lease. On-street or on-Premises parking is not included.

SECTION 2

RENT

2.1 **Rent.** Tenant shall pay to Landlord "Rent" for the lease of the Premises and contents in the amount of Sixteen Thousand Eight Hundred Dollars and Zero Cents (\$16,800.00) for the first full month, and thereafter during the Term in the amount of Fifteen Thousand Dollars

and Zero Cents per month (\$15,000.00/month); partial months shall be prorated based on the Fifteen Thousand Dollars and Zero Cents per month (\$15,000.00/month) rate. Tenant shall pay Landlord the first full month's Rent amount within ten (10) business days after Tenant's execution of this Lease. Thereafter during the Term, Rent shall be paid on a monthly basis and in advance on the first of each month to Landlord at c/o Holly Harness, Treasurer, 10202 Carson Place, Silver Spring, Maryland 20901, or as Landlord may specify in writing to Tenant, pursuant to the notice provisions contained in this Lease. Rent shall serve as gross rent for the Premises and Personal Property, and those services and utilities provided by Landlord under this Lease. If Tenant fails to pay part or all of the Rent within ten (10) days after it is due, Tenant shall also pay interest at six percent (6%) per annum or the maximum then allowed by applicable law, whichever is less, on the remaining unpaid balance, from the tenth (10th) day after Tenant's receipt of notice of its failure to pay until paid in full.

2.2 Payment by Landlord and Reimbursement by Tenant. Landlord, at Landlord's sole cost and expense, shall pay all real estate taxes, stormwater fees and similar assessments applicable to the Premises and Personal Property before delinquency.

2.3 No Escalation. For the avoidance of doubt, the parties acknowledge and agree that the Rent amount charged as set forth in Section 2.1 shall not increase during the Term or any extension of the Term under Section 1.4; provided, however, that this shall not invalidate "Holdover" rent under Section 15.10.

SECTION 3

SECURITY DEPOSIT

3.1 Security Deposit. Within ten (10) business days after Tenant's execution of this Lease, Tenant shall deposit with Landlord a security deposit in the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00) (one month's rent) (the "Security Deposit"). The Security Deposit shall be held by Landlord as security for the faithful payment and performance by Tenant of all the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the Lease Term. If Tenant is in Default (as defined herein) beyond applicable notice and cure periods with respect to any provisions of this Lease, including, but not limited to, the provisions relating to the payment of Rent, Landlord may, but shall not be required to, use, apply or retain all or any part of the Security Deposit to the extent necessary for the payment of any Rent or any other sum in Default, or for the payment of any amount that Landlord may spend or become obligated to spend to cure Tenant's Default (excluding Landlord's attorney's fees). If any portion of the Security Deposit is so used or applied, Tenant shall, within ten (10) business days after written demand therefor, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its original amount, and Tenant's failure to do so shall be subject to Section 10.1(i) of this Lease. Upon the expiration or earlier termination of this Lease, the Security Deposit, or any balance thereof (to the extent properly applied), shall be returned to Tenant, within sixty (60) days following the expiration of the Lease Term and the vacation of the Premises. Tenant shall not be entitled to any interest on the Security Deposit, unless Landlord fails to return the Security Deposit, or any balance thereof not properly used, applied or retained by Landlord as provided herein, within sixty (60) days, in which event Landlord shall pay Tenant interest at a rate of six (6) percent

per annum on the remaining unpaid balance, starting on the 61st day following expiration of the Lease Term.

SECTION 4

AFFIRMATIVE OBLIGATIONS

4.1 Landlord's Warranty, Applicable Laws and Tenant's Compliance. Landlord warrants that as of the Beginning Date, the Premises shall comply with all applicable laws, ordinances, rules, and regulations of governmental authorities and all court orders or decrees as to the Premises (collectively, "Applicable Laws"). During the Term, Tenant, at Tenant's sole cost and expense, shall comply with all Applicable Laws regarding Tenant's use of the Premises (but not the physical condition of the Building or Premises), and Landlord, at Landlord's sole cost and expense, shall comply with all Applicable Laws regarding the Premises, including, without limitation, the Building, which do not relate solely to the Family Shelter use. In the event that improvements, alterations or other construction is required during the Term by Applicable Laws in order for Tenant to operate the Family Shelter, Tenant may either (i) perform such improvements, alterations or other construction at Tenant's sole cost and expense and subject to Landlord's prior written approval, not to be unreasonably withheld, conditioned or delayed; or (ii) terminate this Lease upon written notice to Landlord effective as of the date specified in Tenant's notice, and receive a refund of the Security Deposit or the balance thereof not properly used, applied or retained by Landlord. Further, Tenant shall not use or permit Operator to occupy any area of the Premises for the purpose of operating the Family Shelter without first procuring any required approval from the city of Richmond, Commonwealth of Virginia.

4.2 Use Permit. Tenant acknowledges that Landlord's current use of the Premises as a Hostel is permitted under Special Use Permit (SUP) Ordinance Number 2011-141-144, which does not permit Tenant's intended use of the Premises for a year-round emergency shelter for families. Tenant has advised Landlord that pursuant to Applicable Laws, application to the City of Richmond Council to amend the SUP must be made by Landlord, as owner of the Premises, and cannot be made by Tenant, and Landlord has therefore agreed to make application. Tenant shall use best efforts to assist and support Landlord to apply for amendment of SUP Ord. No. 2011-141-144 to add year-round emergency shelter for families as a permitted use for no less than the Term, and retain hostel use as a permitted use, or if hostel use is not retained during and after the Term, to automatically restore hostel use as a permitted use as of the Ending Date so that Landlord may resume hostel use of the Premises. Landlord acknowledges that Tenant's performance under this Lease Agreement is contingent on City of Richmond Council approval of amendment to SUP Ord. No. 2011-141-1444 as described in this Section 4.2.

4.3 Landlord's Entry into the Premises. Except in the event of an emergency and notwithstanding anything to the contrary contained in this Lease, (i) Landlord shall not enter any sleeping room located within the Premises unless accompanied by a representative of Tenant or Operator; (ii) Landlord shall provide prior written notice of any entry into the Premises for any purpose under this Lease; and (iii) Landlord shall coordinate such entry into the Premises with Tenant or Operator and use reasonable efforts not to disturb Tenant's use and enjoyment of the Premises, including, without limitation, the Family Shelter. Further, Landlord shall have access

to the Premises during regular business hours with advance notice for non-emergency periodic inspection and repairs, and shall have emergency access without advance notice. The parties acknowledge and agree that the Landlord shall retain approximately Five Hundred Square Feet more or less (+/-500 sq. ft.) of storage space for Landlord's passive use in the Building basement. Tenant, in its sole and absolute discretion, agrees to consider any Landlord requests to access non-sleeping, common areas within the Premises in order for Landlord or Landlord's designee to host programs of mutual interest during Term (e.g., "Cooking as a Second Language") for the benefit of the residents of the Family Shelter (but not outside guests). If Tenant agrees to permit any such programming, Tenant may request as a condition to such access, that Landlord, or Landlord's designee, as applicable, shall provide proof of insurance satisfactory to Landlord and shall indemnify the Tenant and the Operator as well as waive claims against the Tenant and the Operator as to such access, all in forms acceptable to the Tenant in its sole and absolute discretion.

SECTION 5

SERVICES AND UTILITIES; PERSONAL PROPERTY.

5.1 Landlord shall provide, and pay for as and when due, subject to reimbursement by Tenant for the cost of the same which is attributable to the Term (partial months shall be prorated), as provided below:

(i) Electric (Dominion Electric), water/gas/fireline (City of Richmond), trash collection (currently Republic), and high-speed internet / Wi-Fi (currently Comcast).

(ii) Each month during the Term, promptly after receipt of all bills from the applicable providers, Landlord shall provide Tenant with an invoice for the foregoing services and utilities ("Invoice"), accompanied by copies of the underlying providers' bills, plus three percent (3%) thereof for Landlord's overhead (which amount shall be specified in the Invoice). Tenant shall pay such Invoice within thirty (30) days after receipt; provided, however, that if Tenant enters into a sublease with an Operator, that Landlord agrees to accept payment directly from such Operator, and Tenant's or Operator's failure to do so shall be subject to Section 10.1(i) of this Lease. Notwithstanding the foregoing, if Tenant or its Operator determine that the high-speed internet / WIFI is insufficient for the Permitted Use, either Tenant or the Operator shall have the right to engage another high-speed internet / WIFI provider for the Premises directly; in which event, Landlord shall not pass through the costs of Comcast to Tenant and Landlord shall have the right to discontinue Comcast's service if Landlord elects to do so.

5.2 **Landlord shall provide, at Landlord's expense:**

- (i) beds and mattresses;
- (ii) basic furnishings now found on the Premises; and

(iii) all existing kitchen utensils/supply items in Building as of the date Tenant/Tenant's Operator takes possession of the Premises; Tenant shall return/replace utensils/supply items in as-good or better condition at End Date, an inventory of which personal property described in the foregoing items (i) through (iii) shall be approved by the parties, in their mutual, reasonable discretion, promptly after the Beginning Date and attached hereto as **Exhibit A**, which shall by this reference be incorporated herein (collectively, the "Personal Property"). Landlord hereby represents and warrants that the Personal Property is in good, working order and condition, free of material flaws and is not subject to any liens. Tenant shall surrender the foregoing items (i) and (ii) to Landlord at the expiration or earlier termination of the Term in similar condition as existed as of the Beginning Date, ordinary wear and tear excepted.

(iv) HVAC service/maintenance (currently Harris), roof system maintenance (currently Versico), fire system inspection and service (currently Fire Defense Services), fire alarm panel monitoring (currently Fire Defense Alarm), washer/dryer rental (currently Caldwell & Gregory), pest control (currently Loyal Termite & Pest). For the avoidance of doubt, Tenant shall not be obligated to reimburse Landlord for these services and vendors.

5.3 Landlord shall donate to Tenant/Tenant's Operator:

(i) all existing bed liners, blankets (excepting duvets), pillows, towels, cleaning supplies, and paper products in building as of the date Tenant/Tenant's Operator takes possession of the Premises. Tenant shall be under no obligation to return these items at the expiration or earlier termination of this Lease; provided, however, that Tenant may do so to the extent the same are still in usable condition.

SECTION 6

REPAIRS AND MAINTENANCE

6.1 **Maintenance and Repairs.** Throughout the Term, Landlord, at Landlord's sole cost and expense, shall maintain the Premises, including, without limitation, the Building and the Structural Elements (as defined below) thereof, and the appliances and equipment, in good repair and condition and shall provide usual and customary maintenance for, and repair and replace as necessary, all of the foregoing, as well as electrical, plumbing, heating and air conditioning service and fixtures. For purposes hereof, "**Structural Elements**" of the Building shall mean the foundation, roof, exterior and interior walls, exterior and interior doors, windows, central mechanical, electrical and plumbing systems, wheelchair lift, Landlord's security system existing as of the date hereof (but not any Tenant installed security measures), the sprinkler system and any other Building system and structural Building component along such lines. Tenant shall be responsible for regular, non-structural maintenance and repair (but not replacements) of the Premises (for which Landlord is not responsible in accordance with the foregoing), and for damage to the Premises caused by Tenant/Operator/guests/residents (including damage to Structural Elements). The parties acknowledge and agree that the elevator formerly serving the Premises has been decommissioned; neither Tenant nor any Operator shall use the elevator, and Landlord shall be under no obligation to maintain the elevator. Landlord represents and warrants to Tenant as of the Beginning Date that all major appliances located on the Premises are in good condition and working order. Tenant will keep the Premises in good order, repair and condition at all times during the Term, including light or minor maintenance, regular janitorial service, and shall surrender the Premises in good order, repair and condition appropriate for the resumption by Landlord of normal hostel operations as provided in Section 6.2 below. Any and all the costs of maintenance resulting from Tenant's gross negligence or willful misconduct and the costs of any damage of Landlord's equipment or property located on the Premises shall be, at Tenant's option, either paid by Tenant and Tenant shall promptly pay Landlord the current value thereof (i.e., original value minus any depreciation for age or prior use), including three percent (3%) of the costs thereof sufficient to reimburse Landlord for overhead, general conditions, fees and other costs or expenses arising from Landlord's involvement with such repairs and replacements, or repaired or replaced by Tenant promptly. Landlord shall have the right to enter the Premises upon reasonable prior notice to Tenant, for the purpose of identifying any damage to the Premises requiring repair, as well as for general monitoring of Tenant's use of the Premises, all as provided herein. Landlord may enter the Premises at all reasonable times for general monitoring and to make such repairs, alterations, improvements and additions to the Premises or to the Building or to any equipment located in the Building as are necessary to fulfill Landlord's obligations under this Lease, or as any governmental authority or court order or decree shall require. Landlord may also enter the Premises at any time during a perceived emergency.

6.2 **Surrendering the Premises.** Upon the expiration of the Term or earlier termination of this Lease, Tenant shall surrender the Premises to Landlord professionally cleaned and in substantially the same condition that the Premises were in on the Beginning Date, except for:

- (i) ordinary wear and tear (which shall be understood for the purposes of this Lease to mean the ordinary wear and tear of a normally operating hostel);
- (ii) damage by the elements, fire, and other casualty, unless Tenant was responsible for the damages, in which case the Tenant shall be responsible for their repair;
- (iii) condemnation; and
- (iv) damage arising from any cause not required to be repaired or replaced by Tenant.

Upon the expiration of the Term or earlier termination of this Lease, Tenant shall remove all items of Tenant's movable property on the Premises, including, without limitation, Tenant's furniture and office equipment, and restore the Premises to the condition required above. If Tenant does not so restore the Premises, Tenant shall pay to Landlord upon written demand the cost of repairing any damage to the Premises and to the Building caused by any removal. If Tenant shall fail or refuse to remove any property which Tenant is required to remove from the Premises and after fifteen (15) days' notice to Tenant, Tenant shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to Landlord without any cost either by set-off, credit, allowance or otherwise, and Landlord may at its option accept the title to such property, or, at Tenant's expense, may: (i) remove the same or any part in any manner that Landlord shall choose, repairing any damage to the Premises caused by such removal; and (ii) store, destroy or otherwise dispose of the same without incurring liability to Tenant or any other person.

SECTION 7

NEGATIVE OBLIGATIONS

7.1 Alterations. Tenant shall not make any structural or non-structural alterations, improvements or additions to the interior or exterior of the Building or Premises without Landlord's prior written permission.

7.2 Assignment and Subleasing. Tenant shall not transfer, mortgage, encumber, assign, or license all or part of the Premises without Landlord's prior written consent; provided, however, and notwithstanding the foregoing, that Landlord hereby consents to any and all current or future subleases and licensees to, and occupancy agreements with, any Operator which will operate the Family Shelter at the Premises, and as a result of such pre-approval of Landlord, Tenant shall not be required to seek any additional consent of Landlord in connection with any such action as to an Operator of the Family Shelter; provided, that Tenant shall have provided Landlord prior written notice of any such action.

SECTION 8
INSURANCE

8.1 **Tenant Property Insurance.** Tenant shall keep its personal property and trade fixtures in the Building insured with "all risks" insurance in an amount to cover one hundred percent (100%) of the replacement cost of the property and fixtures.

8.2 **Tenant Liability Insurance.** Tenant shall maintain contractual and comprehensive general liability insurance, including public liability and property damage, with a minimum combined single limit of liability of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate for personal injuries or deaths of persons occurring in or about the Building and Premises. Such policy shall provide that it shall not be cancelable or reduced without at least thirty (30) days prior notice to Landlord. Any Operator pursuant to a sublease shall name the Landlord as an additional insured party under its general liability insurance policies; provided, however, that Tenant shall not be obligated to do so under this Lease.

8.3 **Certificates of Insurance.** Tenant shall, prior to commencement of the Term, furnish to Landlord certificates evidencing the insurance coverage which Tenant is required to carry hereunder.

8.4 **Avoid Action Increasing Rates.** Tenant, including all Tenant guests shall comply with all Applicable Laws and shall not, directly or indirectly, make any use of the Premises which may thereby be prohibited or dangerous to person or property or which may jeopardize any insurance coverage or may increase the cost of insurance or require additional insurance coverage. If by reason of the willful misconduct or gross negligence of Tenant or Tenant's Operator to comply with the provisions of this Section, any insurance premium on any insurance carried by Landlord is increased or results in Landlord being required to carry additional insurance by either Landlord's insurance carrier or any lender to Landlord with a security interest in the Building, Tenant shall make immediate payment to Landlord in the amount of any such additional insurance premiums upon written demand by Landlord during the period of the Lease Term.

8.5 **Waiver of Subrogation.** The parties waive all claims against each other for any damage or loss either party may suffer which is covered by an insurance policy carried (or required to be carried under this Lease), any plan or program of self-insurance in which Tenant participates to satisfy any of the insurance requirements of this Lease, and any plan or program of self-insurance and any insurance policy carried by Landlord or Tenant covering the Building or the Premises, its contents, or any part thereof, shall contain an express waiver of any right of subrogation by the issuer of such policy; provided, however, that so long as the Operator is in possession and maintaining the insurance of the "Tenant" hereunder, Landlord agrees that the waiver of subrogation endorsement will be in favor of the Tenant and the Operator.

8.6 **Right to Self-Insure.** Notwithstanding anything to the contrary contained in this Lease, Landlord agrees that Tenant may self-insure to satisfy any of the insurance requirements of this Lease through any plan or program of self-insurance in which Tenant participates so long as

Tenant provides Landlord with a certificate of insurance confirming it can provide the coverages required by this Section 8.

8.7 **Landlord's Insurance.** Landlord, at its sole cost and expense, agrees to obtain and maintain in effect throughout the Term the following insurance policies as to the Premises:

(i) a broad form commercial general liability insurance policy on an occurrence basis with coverages and limits of liability not less than a \$1,000,000 combined single limit with a \$2,000,000 general aggregate limit (which general aggregate limit may be satisfied by an umbrella liability policy) for bodily injury or property damage. Such policy shall provide that it shall not be cancelable or reduced without at least thirty (30) days prior notice to Tenant. Landlord shall also ensure that any party entering the Premises in accordance with Landlord's right of entry under this Lease possesses insurance coverage that meets or exceeds the insurance coverage requirements described in this paragraph, and Landlord shall provide proof of such coverage upon Tenant's written request.

(ii) A policy insuring against loss or damage to the Premises covering at least the full insurable replacement cost without a coinsurance feature. Landlord shall insure against all risks of direct physical loss or damage, including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any Applicable Laws regulating the reconstruction or replacement of any undamaged sections of the improvements required to be demolished or removed by reason of the enforcement of any Applicable Laws as a result of a covered loss.

(iii) Such additional insurance, including rent loss coverage, as Landlord may reasonably deem appropriate or as any lender of Landlord secured by the Building may require.

SECTION 9

REPAIR OF DAMAGE AND CONDEMNATION

9.1 **Repair of Damage.** If the Building or Premises is damaged in part or whole from any cause and, in the parties' reasonable, mutual opinion, neither can be substantially repaired and restored within sixty (60) days from the date of the damage (the "**Restoration Period**") using standard working methods and procedures, then either party may, within ten (10) days after determining that the repairs and restoration cannot be made within said Restoration Period, cancel the Lease by giving notice to the other party.

9.2 **Abatement.** If the parties determine that the relevant space can be substantially repaired and restored within the Restoration Period, Landlord, at its sole cost and expense, shall restore the damage and Rent shall abate in proportion to that part of the Premises that is unfit for use as the Family Shelter, unless the damage is caused by Tenant's gross negligence or willful misconduct. If the damage is caused by Tenant's gross negligence or willful misconduct, Tenant,

at Tenant's sole option, shall either (i) restore the damage or (ii) pay to Landlord an amount equal to all costs incurred to repair the damage (upon receipt of insurance proceeds, if applicable, provided that Tenant or Operator, as applicable, has made prompt application for insurance). The abatement shall consider the nature and extent of interference to Tenant's ability to operate the Family Shelter in the Premises and the need for access and essential services. The abatement shall continue from the date the damage occurred until ten (10) business days after Landlord completes the repairs and restoration to the relevant space or the part rendered unusable and notice to Tenant that the repairs and restoration are completed, or until Tenant again uses the Premises.

9.3 **Cancellation.** If Landlord cancels this Lease as permitted by this Section, then this Lease shall end on the day specified in the cancellation notice. The Rent and other charges and expenses shall be payable up to the cancellation date and shall account for any abatement and expenses as provided herein. Landlord shall promptly refund to Tenant any prepaid, unaccrued Rent, plus Security Deposit, less any sum then owing by Tenant to Landlord. Tenant shall pay all expenses to Landlord if the damage is caused by Tenant's gross negligence or willful misconduct within ten (10) days of Landlord's written demand for payment.

Condemnation.

9.4 **Definitions.** The terms "eminent domain," "taken," and the like in this Section include takings for public or quasi-public use and private purchases in place of condemnation by any authority authorized to exercise the power of eminent domain.

9.5 If all or any portion of the Premises required for reasonable access to, or the reasonable use of, the Premises are taken by eminent domain, this Lease shall automatically end on the earlier of:

- (i) the date title vests; or
- (ii) the date Tenant is dispossessed by the condemning authority.

SECTION 10

DEFAULT

Tenant's Default.

10.1 **Defaults.** Each of the following constitutes a default ("Default"):

- (i) Tenant shall fail to pay Rent or an Invoice within five (5) business days after the date such Rent or Invoice is due, and such failure shall continue for a period of five (5) business days after written notice to Tenant thereof.
- (ii) Tenant shall breach any representation or warranty or fail to perform or observe any other obligation of Tenant under this Lease, other than the obligation to pay Rent, and such period shall continue for thirty (30) days after written notice to Tenant thereof, provided, however, that if such failure shall not be susceptible to cure within the initial thirty (30) day

period, then Tenant shall not be in Default hereunder if Tenant shall have commenced to cure within the initial thirty (30) day period and thereafter shall have diligently pursued such cure to completion.

Landlord's Remedies.

10.2 **Remedies.** Landlord, in addition to the remedies given in this Lease or under the law, may do the following if Tenant commits a Default under Section 10.1 hereof: Landlord may terminate this Lease and the Term created hereby, in which event Landlord may repossess the Premises and be entitled to retain or recover, in addition to any other sums or damages for which Tenant may be liable to Landlord under the Terms of this Lease, the full amount of the Security Deposit.

10.3 **Landlord's Default & Tenant's Remedies.** It shall be a "Default" of Landlord hereunder if Landlord shall breach any representation or warranty or fail to perform or observe any of its Lease obligations after a period of thirty (30) days or such additional time, if any, that is reasonably necessary to promptly and diligently cure the failure (provided Landlord has commenced to cure during the initial thirty (30) day period), after receiving written notice from Tenant is a "Default". If Landlord commits a Default, in addition to the remedies given in this Lease, Tenant may terminate this Lease upon written notice to Landlord and receive a full and prompt refund of the Deposit less any portion thereof properly retained by Landlord for Tenant's Default. The written notice shall give in reasonable detail the nature and extent of the failure and identify the Lease provision(s) containing the obligation(s). If Landlord shall habitually fail to adequately and timely perform maintenance, repairs and replacements required of Landlord under this Lease, in addition to the foregoing, Tenant may, but shall not be obligated to, correct such Default and invoice Landlord for the full cost of such correction, accompanied by reasonably supporting documentation; in such event, Landlord shall have thirty (30) days to pay such correction costs, and if Landlord does not timely pay such correction costs, Tenant may offset Rent to the extent of the correction costs.

10.4 **Survival.** The remedies permitted by this Section 10 hereof shall survive the expiration or termination of this Lease.

SECTION 11

NON-DISTURBANCE

11.1 **Quiet Possession.** Landlord covenants that Tenant, on paying the Rent, charges for services and other payments herein reserved and on keeping, observing and performing all the other terms, covenants, conditions, provisions and agreements herein contained on the part of Tenant to be kept, observed and performed, shall, during the Term, peaceably and quietly have, hold and enjoy the Premises subject to the terms, covenants, conditions, provisions and agreements hereof.

SECTION 12

CERTAIN RIGHTS RESERVED TO LANDLORD

12.1 Powers Reserved to Landlord. Landlord shall have the following rights, each of which Landlord may exercise without notice to Tenant (except as otherwise provided herein) and without liability to Tenant for damage or injury to property, person or business on account of the exercise thereof, and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Tenant's use or possession of the Premises and shall not give rise to any claim for set-off or abatement of rent or any other claim so long as Landlord shall use good faith, reasonable efforts not to disturb the Family Shelter and to minimize interference with Tenant's use and enjoyment of the Premises:

- (i) To change the name entrance or street address of the Building.
- (ii) To approve or refuse to approve all signs on the exterior of the Building and to install, affix and maintain all such signs, provided that Landlord shall not unreasonably withhold, condition or delay approval for reasonable signage that complies with Applicable Laws. Landlord shall permit Tenant to maintain on the exterior of the Building appropriate signage to identify Tenant, the Operator, the Family Shelter, or any or all of the foregoing; provided, however, that such signage shall be subject to such reasonable rules and requirements as Landlord shall impose in Landlord's reasonable discretion. Tenant shall be responsible for obtaining any exterior signage permits and/or approvals required by the city of Richmond, Virginia.
- (iii) To furnish door keys or RFID cards for the door(s) in the Premises at the commencement of the Lease and to retain at all times, and to use in appropriate instances in accordance with the terms and conditions of this Lease, keys to all doors within and into the Premises. Tenant agrees not to affix locks on doors without the prior written consent of the Landlord, not to be unreasonably withheld, conditioned or delayed. Upon the expiration of the Term or earlier termination of this Lease, Tenant shall return all keys to Landlord.
- (iv) To approve any and all window coverings Tenant proposes to use in the Building, provided, however, that such approval shall not be unreasonably withheld, conditioned or delayed.
- (v) To approve the weight, size and location of any heavy equipment in and about the Premises and the Building so as not to exceed the legal live load per square foot designated by the structural engineers for the Building. Tenant shall not install or operate heavy machinery, or install any mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises for the Family Shelter, without the prior written consent of Landlord, not to be unreasonably withheld, conditioned or delayed. Movements of Tenant's personal property into or out of the Building or Premises and within the Building are entirely at the risk and responsibility of Tenant.
- (vi) With at least 24 hours prior written notice, to show the Premises to prospective tenants at reasonable times during the last six (6) months of the Term.
- (vii) To enter the Premises at any reasonable time to inspect the Premises, subject to the restrictions provided herein (notwithstanding anything to the contrary contained in this

Lease, Landlord shall not enter the Premises more than is reasonably necessary to inspect the Premises and ensure compliance with this Lease).

(viii) To grant to any person or to reserve unto itself the exclusive right to render any service in the Building required to be provided by Landlord under the terms and conditions of this Lease, which does not conflict with the terms of this Lease or Applicable Laws.

(ix) To prohibit or regulate smoking of tobacco or other products in the Premises and Building and to impose reasonable fines, not to exceed \$150 per incident, on Tenant or its guests who violate such prohibition or regulations. Landlord shall not, by reason of such right to prohibit or regulate smoking in the Building, have any obligation to do so.

SECTION 13

INTENTIONALLY OMITTED

SECTION 14

TENANT'S RIGHT OF FIRST NEGOTIATION

14.1 **First Negotiation.** During the Term or any extension of the Term under Section 1.4, Landlord shall give Tenant notice of Landlord's intent to sell the Premises prior to Landlord marketing the Premises or offering the Premises to a third party, or of Landlord's intent to sell in response to an unsolicited third-party offer to buy the Premises, in any of which events Tenant shall have first right to negotiate with Landlord to buy the Premises for use for year-round emergency shelter for families ("ROFN"). Tenant may exercise its ROFN within 30 days of notice from Landlord; provided, however, that the ROFN shall automatically expire if Tenant shall not provide written notice to Landlord of its desire to exercise the ROFN within said 30 day period. If Tenant exercises its ROFN, but the parties cannot mutually agree on price and terms within a three (3) month good-faith negotiation period, Tenant's ROFN ends and Landlord may then market, offer and/or sell the Premises to a third party.

14.2 **Tenant's Assignment of Right of First Negotiation.** Tenant may, with notice to Landlord, assign the ROFN granted hereunder solely to an Operator; provided, that Operator may not assign, reassign or otherwise transfer that right.

SECTION 15

MISCELLANEOUS

15.1 **Brokerage Warranty.** Each party warrants to the other that the warranting party was not represented by a broker or other party entitled to a fee or a commission for this Lease.

15.2 **Notices.** Unless a Lease provision expressly authorizes verbal notice, all notices under this Lease shall be in writing and sent by (a) U.S. certified mail, return receipt requested, (b) personal delivery, or (c) by a nationally recognized overnight carrier, as follows:

To Tenant: City of Richmond, Virginia
City Hall
900 E. Broad Street, 5th Floor
Richmond, Virginia 23219
Attention: Traci J. Deshazor

With a copy to: City Attorney's Office
900 E. Broad Street, Suite 400
Richmond, VA 23219
Attn: Lindsey D. Chase, Esq.

To Landlord: Potomac Area Hostels, Inc.
c/o Holly Harness, Treasurer
10202 Carson Place
Silver Spring, Maryland 20901

With a copy to: Potomac Area Hostels, Inc.
c/o Henry Wixon, Secretary
10701 Marietta Street
Glenn Dale, Maryland 20769

If notice is: (a) U.S. certified mail, return receipt requested, it shall be deemed to be delivered three (3) days after posting, or (b) transmitted by personal delivery or by a nationally recognized overnight carrier, it shall be deemed to be delivered upon its receipt by the addressee.

Either party may change these persons or addresses by giving notice as provided above. Tenant shall also give required notices to Landlord's mortgagee after receiving notice from Landlord of the mortgagee's name and address.

15.3 Partial Invalidity. If any Lease provision is invalid or unenforceable to any extent, then that provision and the remainder of this Lease shall continue in effect and be enforceable to the fullest extent permitted by law.

15.4 Binding on Successors. This Lease shall bind the parties' successors and permitted assigns.

15.5 Governing Law. This Lease shall be governed by the laws of the Commonwealth of Virginia.

15.6 Authority of Parties. Landlord warrants that it is authorized to enter the Lease, that the person signing on its behalf is duly authorized to execute the Lease, and that no other signatures are necessary. As of the Effective Date, Tenant represents and warrants to Landlord that the person signing this Lease is duly authorized to execute and deliver this Lease on behalf of Tenant. The Chief Administrative Office of the city of Richmond, Virginia or a designee thereof is authorized to act on behalf of Tenant under this Lease, including exercise of Tenant's option to extend the Term.

15.7 Limitations on Liability. It is expressly understood and agreed by Tenant that any liability for damage or breach or nonperformance by Landlord shall be collectible only out of Landlord's interest in the Building, including, without limitation, sale proceeds, rent revenue and insurance proceeds. No director, officer, employee, contractor or agent of either party shall be personally liable to another party to this Lease or successor in interest in the event of any Default under this Lease or on any obligation incurred under the terms of this Lease.

15.8 Nonwaiver. No waiver of any provision of this Lease shall be implied by any failure of either party to enforce any remedy on account of the violation of such provisions, even if such violation be continued or repeated subsequently, and no express waiver shall affect any provision other than the one specified in such waiver and that one only for the time and in the manner specifically stated. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Term or of Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the payment of said Rent shall not waive or affect said notice, suit or judgment.

15.9 Entire Agreement. This Lease contains the entire agreement between the parties about the Premises and Building. This Lease shall be modified only by a writing executed by all parties.

15.10 Holdover. If requested by Tenant in writing, the parties agree that they will meet at least one (1) month prior to the expiration of the Term and discuss extending the terms and conditions of this lease on a week to week basis. If the Tenant holds over with the permission of the Landlord, then either party may terminate this lease upon thirty (30) days-notice to the other party. If Tenant holds over in occupancy of the Premises after the expiration of the Term without the Landlord's approval Tenant shall become a month to month tenant, at a rental rate equal to one hundred and fifty (150%) percent of the Rent in effect at the end of the Term, and otherwise subject to the terms and conditions herein specified, so far as applicable. This Section shall not operate as a waiver of any right of reentry provided in this Lease, and Landlord's acceptance of rent after expiration of the Term or earlier termination of this Lease shall not constitute consent to a holdover or result in a renewal. If Tenant fails to surrender the Premises upon the expiration of the Term or earlier termination despite demand by Landlord to do so, Landlord shall be entitled to retain or recover, in addition to any other sums or damages for which Tenant may be liable to Landlord under the Terms of this Lease, the full amount of the Security Deposit

15.11 Survival of Remedies. The parties' remedies shall survive the ending of this Lease when the ending is caused by the Default of the other party.

15.12 Availability of Funds for Tenant's Performance. All payments and other performances by Tenant under this Lease are subject to annual appropriations by the City Council of the city of Richmond, Virginia. It is understood and agreed between the parties that Tenant will be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this Lease. Under no circumstances shall Tenant's total liability under this Lease exceed the total amount of funds appropriated by said City Council for the payments hereunder or the performance of Tenant.

15.13 Sovereign Immunity. Nothing in this Lease may be construed as a waiver of the sovereign immunity granted Tenant by the Commonwealth of Virginia Constitution, statutes and applicable case law, nor may anything in this Lease be construed as an agreement by Tenant to indemnify.

15.14 Attorney's Fees. Notwithstanding anything to the contrary contained herein, (i) in no event shall either party hereunder be deemed responsible to reimburse the other party for its attorney's fees relating to or arising out of this Lease; and (ii) each party acknowledges and agrees that it shall be responsible for its own attorney's fees in connection with this Lease, including in connection with any disputes as to this Lease.

[Remainder of page intentionally left blank; signatures to follow on next page(s).]

IN WITNESS WHEREOF, the parties have executed this Lease effective as of the date first above written.

LANDLORD:

POTOMAC AREA HOSTELS, INC.

By: _____
Name: _____
Title: _____
Date: _____

TENANT:

CITY OF RICHMOND, VIRGINIA, a
municipal corporation and political subdivision
of the Commonwealth of Virginia

By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

Lindsey D. Chase
Senior Assistant City Attorney

APPROVED AS TO TERMS:

EXHIBIT A

PERSONAL PROPERTY

To be attached as provided in the Lease.

Exhibit B

PERSONAL PROPERTY

To be attached when attached to the Prime Lease per the Prime Lease.