

INTRODUCED: October 10, 2023

AN ORDINANCE No. 2023-299

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Lease between the City of Richmond as lessee and Potomac Area Hostels, Inc., as lessor, for the purpose of leasing the property located at 7 North 2nd Street for the operation of a 50-bed, year-round emergency shelter.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

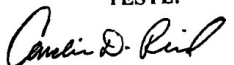
PUBLIC HEARING: NOV 13 2023 AT 6 P.M.

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 Lease between the City of Richmond and Potomac Area Hostels, Inc. for the purpose of leasing the property located at 7 North 2nd Street for the operation of a 50-bed, year-round emergency shelter. The Lease shall be approved as to form by the City Attorney and shall be substantially in the form of the document attached to this ordinance.

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

A TRUE COPY:
TESTE:


City Clerk

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: NOV 13 2023 REJECTED: _____ STRICKEN: _____



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

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Reference:

In Control: City Clerk Waiting Room

Department:

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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

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

Lindsey D. Chase

Senior Assistant City Attorney

APPROVED AS TO TERMS:

EXHIBIT A

PERSONAL PROPERTY

To be attached as provided in the Lease.