

Tulare County Office of Education

Committed to Students, Support & Service

Tim A. Hire
County
Superintendent
of Schools

P.O. Box 5091
Visalia, California
93278-5091

(559) 733-6300
tcoe.org

Administration
(559) 733-6301
fax (559) 627-5219

Business Services
(559) 733-6474
fax (559) 737-4378

Human Resources
(559) 733-6306
fax (559) 627-4670

Instructional Services
(559) 302-3633
fax (559) 739-0310

Special Services
(559) 730-2910
fax (559) 730-2511

Main Locations

**Administration
Building & Conference
Center**
6200 S. Mooney Blvd.
Visalia

Doe Avenue Complex
7000 Doe Ave.
Visalia

**Liberty Center/
Planetarium &
Science Center**
11535 Ave. 264
Visalia

August 7, 2024

City of Visalia
220 N. Santa Fe Street
Visalia, CA 93292

Mr. Alvin Dias

Attached is your Lease Agreement for the Manuel F. Hernandez Community Center on 247 W. Ferguson Ave., Visalia, CA 93291.

Please sign and return either by e-mail or by mail to:

E-mail: karla.doyer@tcoe.org

OR

Mail: Tulare County Office of Education
Attn: Karla Doyer, Purchasing & Agreements Manager
P.O. Box 5091
Visalia, CA 93278-5091

Please feel free to contact me if you have any questions. Thank you.

Sincerely,

Karla Doyer

Karla Doyer

Purchasing & Agreements Manager | 559-302-3729 | karla.doyer@tcoe.org

**LEASE AGREEMENT BETWEEN
THE CITY OF VISALIA (CITY) AND
TULARE COUNTY OFFICE OF EDUCATION
Manuel F. Hernandez Community Center**

This LEASE AGREEMENT made and entered into this ____ day of _____, 2024, by and between the CITY OF VISALIA, a Municipal Corporation and charter law city of the State of California (hereinafter "CITY" or "LESSOR"), and TULARE COUNTY OFFICE OF EDUCATION for its Child Care Educational Program, (hereinafter referred to as the "LESSEE"). CITY and LESSEE may be individually referred to herein as a "Party" and may be collectively referred to herein as the "Parties."

For and in consideration of the payment of rent, taxes, and other charges and of performance of the covenants and conditions hereinafter set forth, LESSOR hereby Leases to LESSEE a portion of the real property located at 247 W. Ferguson, and situated in the City of Visalia, County of Tulare, State of California, more particularly and legally described as set forth in Paragraph IB. below.

1. DEMISED PREMISES

- A. **Definition** - Except as expressly provided to the contrary in this Agreement, reference to "Demised Premises" is to the described land plus any described appurtenances, including any improvements (including LESSEE's improvements), now or hereafter located on the Demised Premises, without regard to whether ownership of the improvements is in the LESSOR or in the LESSEE.
- B. **Description** - Portions of the real property located at 247 W. Ferguson, and situated in the City of Visalia, County of Tulare, State of California, including specifically: the classroom known as 'Room 2' and attached fenced in outdoor area, the kitchen facility, pantry space adjacent to kitchen facility, and use of parking lot.

2. TERM

The term of this Agreement shall be for a period of one (1) year commencing on the 1st day of July 2024 and ending on the 30th day of June 2025, with an additional one (1) year extension for a maximum end date on the 30th of June 2026, unless sooner terminated as provided for herein.

3. EARLY TERMINATION

This Agreement may be terminated prior to the date specified in section 2 of this Lease Agreement under any of the following circumstances. In the event of termination of this Agreement as provided herein, the LESSOR and LESSEE shall be under no further obligation or liability to each other by reason of the Agreement, and any prior rental payments will be prorated accordingly. Any rents due to LESSOR will be paid through the effective date of termination of this Agreement.

- A. **Loss of Funding:** It is understood that LESSEE is dependent upon funds from other Governmental and private sources. If a reduction in such funding renders LESSEE unable to maintain its program, LESSEE shall have the right to terminate this Agreement by providing LESSOR with ninety (90) days prior written notice. The determination as to whether sufficient funds are available to operate shall be within the sole discretion of LESSEE.
- B. **Expansion of Program:** If an increase in available funding allows LESSEE to expand its program to such an extent that the premises are no longer adequate to house the program activities, LESSEE shall have the right to terminate this Agreement by providing LESSOR with ninety (90) days prior written notice. The determination as to whether the premises provide adequate space to house the program shall be within the sole discretion of LESSEE.
- C. **Mutual Consent:** Both parties may terminate this lease Agreement at any time by written mutual consent.

4. LEASE RENT

- A. LESSEE shall pay without abatement, deduction or affect, a net minimum annual rent of twenty thousand two hundred and forty-seven dollars and eighty-five cents (\$20,247.85), all due and payable in equal quarterly installments of five thousand sixty-one dollars and ninety-six cents (\$5,061.96) beginning on the 1st day of July 2024. Should this Agreement be extended for any reason beyond the annual term, lease amount shall be adjusted annually by using the Consumer Price Index for All Urban Consumers as published by the U.S. Bureau of Labor Statistics.
- B. All payments are due thirty (30) days from the invoice by City. Rent will be considered delinquent if CITY does not receive payment within sixty (60) days of invoice. In the event LESSEE is delinquent in remitting rent, then the rent not paid when due shall bear interest at the rate of eighteen percent (18%) per annum from the date due until paid.

5. USE OF DEMISED PREMISES

- A. **Defined** - LESSEE shall have the right and obligation to use said premises for the purpose of operating a child care center and for the purpose of carrying out the needs of the program, and for no other business or purpose whatsoever without the written consent of LESSOR. Leased space is defined as the Demised Premises as identified in paragraph 1.B., playground, and grounds. LESSEE shall not have the right or obligation to use the Demised Premises for any other purpose, nor shall LESSEE provide any other service without express written consent of the LESSOR.
- B. **Use Obligation** - LESSEE shall actively and continuously use and operate the Demised Premises for the limited and particular exclusive use as expressly provided for above, except for failure to so use caused by reason of wars, strikes, riots, civil commotion, acts of public enemies, and acts of God. LESSEE, however, shall not and is expressly prohibited from using the Demised Premises for any other purpose or use whatsoever whether it is purported to be in addition to or in lieu of the particular exclusive use set forth above.

6. UTILITIES AND TAXES

LESSEE will pay promptly, when and as the same shall become due and payable, all rates, tolls and charges for utilities that shall be used by said LESSEE on said premises. LESSEE understands and agrees that they will pay, in addition to the quarterly rental charge, a proportional share of all utility and landscape maintenance charges based on total square footage. LESSEE shall pay all taxes levied or assessed upon all personal property and fixtures owned by LESSEE and located in said premises. LESSOR will pay all real property taxes and assessments levied upon the premises by whatever governmental entity during the term hereof.

7. BUSINESS LICENSE

LESSEE shall obtain a business license as paid by all people in similar circumstances, within the City of Visalia.

8. ASSIGNMENT

The LESSEE shall not assign or transfer the whole or any part of this Agreement or any interest herein, nor the whole or any part of the Demised Premises, nor contract for the management or operation of the whole or any part of the Demised Premises, nor permit the occupancy of any part thereof by any other person, nor permit transfer of the Lease or possession of the Demised Premises by merger, consolidation or dissolution, nor permit sale of a controlling interest in the voting stock in said corporation. Nothing herein contained shall be construed to prevent the occupancy of said Demised Premises by any employee or business invitee of LESSEE.

9. REPAIRS AND MAINTENANCE

- A. LESSEE'S Responsibility for Maintenance and Repair - Except as otherwise provided in section B below, throughout the term of this Agreement, at LESSEE's sole cost and expense, LESSEE shall be responsible for operating and maintaining the condition, repair and maintenance of the Premises and any permitted Improvements or Alterations, including but not limited to the irrigation system, parking lots, building interiors, building improvements (except as noted in Section B below), perimeter fencing, trees, and landscape from and after the Commencement Date. In addition, if any portion of the Premises or any of the City's property located on or about the Premises is damaged by any of the activities conducted by LESSEE or its Agents or Invitees hereunder, LESSEE shall repair any and all such damage and restore the Premises or City's property to its previous condition. LESSEE must comply with State of California required regular playground inspections. LESSEE must maintain daily health and safety checklist inspections leading to monthly summaries, assuring that all equipment is safe and secure. The LESSEE must document all repairs in a playground inspection report available upon request by the LESSOR.
- B. City's Responsibility for Maintenance and Repair - City shall be responsible for the "Major Maintenance" of the Premises, which shall be defined as, but not be limited to, maintenance, repair, and replacement of main systems on the Premises; which shall include, but not be limited to, the HVAC system, electrical and plumbing systems, or any other systems, consisting of work valued at over \$2,500.00; and all other items determined by the Parties to be "Major Maintenance" of the Premises. LESSEE shall be responsible for all other costs of maintaining and operating the Premises. All Major Maintenance repairs by City must be conducted solely by City, in a timely fashion, and approved by City and LESSEE, so as not to disturb primary operations of LESSEE, in writing in advance of any work being conducted on the Premises.
- C. LESSOR, or LESSORs agents, shall have the right of ingress and egress from the leased premises upon written notice to the LESSEE for the purpose of inspecting the same. LESSOR and its agents shall comply with the requirements of Education Code section 45125 et seq.

10. MODIFICATIONS

It is understood and agreed by and between the parties hereto that any alterations, modifications, or additions to the structural improvements, including landscaping and the paint colors, on the leasehold Demised Premises by the LESSEE can only be instituted by first obtaining written approval of the LESSOR of the plans, locations and specifications of said structural changes. Alterations, modifications, or additions to the interiors of the improvements shall not be considered structural, provided LESSEE receives permission prior to commencement of construction and agrees to provide LESSOR one set of "as built" plans for said changes within 60 days of completion. All such improvements and alterations shall conform to building codes and zoning regulations now or hereafter legally effective and promulgated by appropriate governmental authority. Modifications must also comply with all local, State and Federal requirements applicable to improvements on City of Visalia property and any funding sources used.

- 11. OWNERSHIP OF IMPROVEMENTS** - Throughout the term of this Agreement, all improvements identified above, shall be owned by LESSOR. LESSEE shall not remove any improvements from the Demised Premises nor waste, destroy, or modify any improvements on the Demised Premises, except as permitted by this Agreement. All such improvements or alterations shall, at the expiration of the term hereof, be and remain in the leased premises and become the property of said LESSOR; provided, however, that LESSEE shall have the right to remove all trade fixtures which LESSEE may own or place in the leased premises during the Agreement term, provided that LESSEE shall not then be in default in the performance of any of the terms of this Agreement, that any such removal shall be effected before the expiration of the Agreement term, and that all damage caused to the leased premises by such removal shall be repaired by LESSEE on or before the expiration of the term hereof. The parties covenant for themselves and all persons claiming under them that the improvements are personal property.

12. APPEARANCE

LESSEE shall maintain the Demised Premises to the reasonable satisfaction of the LESSOR, and in such a manner that said Premises will be neat and well-kept in appearance.

13. WARRANTIES - GUARANTEES - COVENANTS

LESSOR makes no warranty, guarantee, covenant, including but not limited to covenants of title and quiet enjoyment, or averment of any nature whatsoever concerning the condition of the Demised Premises, including the physical condition thereof, or any condition which may affect the Demised Premises, and it is agreed that LESSOR will not be responsible for any loss, damage or cost which may be incurred by LESSEE by reason of any such condition or conditions.

14. INSURANCE - FIRE - Throughout the term of this Agreement, at LESSEE's sole cost and expense, LESSEE shall keep or cause to be kept insured for the mutual benefit of the LESSOR, the LESSEE and the holder of any security interest therein, all improvements to the Demised Premises erected thereupon by the LESSEE, against loss or damage by fire and such other risks as are now or hereafter included in extending coverage endorsements in common use for commercial structures, including vandalism or malicious mischief. The amount of the insurance shall be sufficient to prevent either LESSOR or LESSEE from becoming a coinsurer under the provisions of the policies, but in no event shall the amount be less than the "Full Actual Replacement Value". Full Actual Replacement Value, as used herein, means the cost of repairing, replacing, or reinstating, including demolishing, any item or property with materials of like kind and quality in compliance with any law or ordinance regulating repair or construction at the time of loss, without deduction for physical, accounting, or any other depreciation. LESSOR shall not carry any insurance the effect of which, would be to reduce the protection or payment to LESSEE under any insurance that this Agreement obligates LESSEE to carry. If any dispute, whether the amount of insurance complies with the above, cannot be resolved by agreement, LESSOR may, not more often than once every 12 months, request the carrier of the insurance then in force to determine the full insurable value as defined in this provision, and the resulting determination shall be conclusive between the parties for the purpose of this paragraph. LESSEE may include the holder of any mortgage on the leasehold or on the fee or both as a loss payee; on the LESSOR's notice of demand LESSEE shall include the holder of any mortgage on the fee as a loss payee to the extent of that mortgage interest. LESSOR shall, at LESSEE's cost and expense, cooperate fully with LESSEE to obtain the largest possible recovery, and all policies of fire extended coverage insurance required by LESSOR shall provide that the proceeds shall be paid to LESSEE as follows:

- A. The proceeds shall be deemed to be held in trust by the recipient to the uses and purposes prescribed by this Agreement.
- B. Payments of the proceeds for repair, restoration, or reconstruction of improvements shall be made monthly on LESSOR's certificates until the work is completed and accepted.
- C. Any insurance proceeds remaining after complying with the provisions of this Agreement relating to maintenance, repair, and reconstruction of improvements shall be the LESSEE's sole property.

15. INSURANCE - LIABILITY

Throughout the term of this Agreement, at LESSEE's sole cost and expense, LESSEE shall keep or cause to be kept in force, for the mutual benefit of LESSOR and LESSEE, comprehensive broad form general liability insurance against any and all claims and liability for personal injury, death, or property damage arising out of the use, occupancy, disuse or condition of the Demised Premises, personal property thereon, improvements or adjoining areas of ways, providing combined single limit of at least One Million Dollars (\$1,000,000.00), for any one accident or occurrence, for bodily injury or death to one or more persons, and at least Five Hundred Thousand Dollars (\$500,000.00) for Property damage.

16. INSURANCE - WORKERS COMPENSATION

LESSEE shall maintain Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) per accident or occurrence.

17. INSURANCE - GENERAL REQUIREMENTS

All insurance required by express provisions of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that:

- A. Any loss shall be payable notwithstanding any act or negligence of LESSOR that might otherwise result in a forfeiture of the insurance.
- B. The insurer waives the right of subrogation against LESSOR and against LESSOR's agents and representatives.
- C. The policies are primary and noncontributing with any insurance that may be carried by LESSOR.
- D. The Policies cannot be canceled or materially changed except after 30 days written notice by the insurer to LESSOR or LESSOR'S designated representative.
- E. LESSEE shall furnish LESSOR with copies of all such policies promptly on receipt of them, or with certificates evidencing the insurance. Before commencement of the Agreement, LESSEE shall furnish LESSOR with binders representing all insurance requirements by this Agreement. LESSEE may effect for its own account any insurance not required under this Agreement. LESSEE may provide by blanket insurance covering the Demised Premises and any other location or locations any insurance required or permitted under this Agreement provided it is acceptable to all mortgagees. LESSEE shall deliver to LESSOR, in the manner required for notices, copies of certificates of all insurance policies required by this Agreement, together with evidence satisfactory to LESSOR of payment required for procurement and maintenance of the policy, within the following time limits:
 - i. For insurance required at the commencement of this Agreement, within 30 days after execution of this Agreement;
 - ii. For insurance becoming required at a later date, at least 15 days before the requirements takes effect, or as soon thereafter as the requirement, if new, takes effect;
 - iii. For any renewal or replacement of a policy already in existence, at least 30 days before expiration or other termination of the existing policy.
- F. LESSOR, and LESSOR's elected and appointed officials, agents, representatives, and employees are to be named as additional insureds under the policy(ies).

If LESSEE fails or refuses to procure or to maintain insurance as required by this Agreement or fails to furnish LESSOR with required proof that the insurance has been procured and is in force and paid for, LESSOR shall have the right, at LESSOR's election and on five (5) days' notice to LESSEE, to procure and maintain such insurance. The premiums paid by LESSOR shall be treated as added rent due from LESSEE with interest at the rate of 18% per year, to be paid on the first day of the month following the date on which the premiums were paid. LESSOR shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the date of the notice.

18. INDEMNIFICATION

LESSEE agrees to and shall defend and indemnify LESSOR and LESSOR's elected and appointed officials, agents, representatives and employees against all claims, liability, loss and expense caused or incurred by reason of injury to person or property, or both, including without limitation, injury to the person or property of LESSEE, its agents, officers and employees, arising out of the condition of the Demised Premises or any operations thereof conducted thereupon or therefrom caused by any act or omission or commission by LESSEE, its agents, officers, employees, or invitees, or any other cause

whatsoever, or caused by LESSOR, its agents, officers, employees, or invitees, or any other cause whatsoever, specifically to include the sole active negligence of LESSOR, its agents or employees.

LESSOR shall hold harmless and defend and indemnify LESSEE and its officers, governing board, employees and agents from any claims, damages or expenses, including attorneys' fees, arising out of or relating to or in any way connected to LESSOR's gross negligence or willful misconduct on the Property or in connection with this Agreement.

19. DEFINITION OF DEFAULT BY LESSEE

Each of the following events shall be a default by LESSEE and a material breach of this Agreement.

- A. Abandonment or surrender of the Demised Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Agreement to be paid by LESSEE, or to perform as required or conditioned by any other covenant or condition of this Agreement.
- B. The subjection of any right or interest of LESSEE to attachment, execution, or other levy, or to seizure under legal process, if not released within 10 days provided that the foreclosure of any mortgage permitted by provisions of this Agreement relating to purchase or construction of improvements shall not be construed as a default within the meaning of this paragraph.
- C. The encumbrance of the Agreement, leasehold estate and improvements thereon without the express consent of LESSOR.
- D. The appointment of a receiver to take possession of the Demised Premises, or improvements or of LESSEE's interest in the leasehold estate, or of LESSEE's operation on the Demised Premises for any reason, including but not limited to, assignment for benefit of creditors or voluntary or involuntary bankruptcy proceedings, but not including receivership (1) pursuant to administration of the estate of any deceased or incompetent LESSEE, or (2) instituted by LESSOR, the event of default being not the appointment of a receiver at LESSOR's insistence, but the event justifying the receivership, if any.
- E. An assignment by LESSEE for the benefit of creditors or the filing of a voluntary or involuntary petition by or against LESSEE under any law for the purpose of adjudication of LESSEE's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudications, custodies, and supervisions are dismissed, vacated, or otherwise permanently stayed or terminated within 30 days after the assignment, filing or other initial event.
- F. Failure to maintain said Demised Premises as required pursuant to the terms of this Agreement.

20. NOTICE OF DEFAULT

As a precondition to pursuing any remedy for an alleged default by LESSEE, LESSOR shall, before pursuing any remedy, give notice of default to LESSEE and to all qualifying subtenants whose names and addresses were previously given to LESSOR in a notice or notices from LESSEE. A qualifying subtenant is a subtenant in possession under an existing sublease which is proper under this Agreement.

If the alleged default is nonpayment of rent, taxes, or other sums to be paid by LESSEE as provided in the paragraph on rent, or elsewhere in this Agreement directed to be paid as rent, LESSEE shall have 10 days after notice is given to cure the default. For the cure of any other default, LESSEE shall promptly and diligently after the notice commence to cure the default and shall have 10 days after notice is given to complete the cure plus any additional period that is reasonably required for the curing of the default. After expiration of the applicable time for curing a particular default, or before the expiration of that time in the event of emergency, LESSOR may at LESSOR's election, but is not obligated to, make any payment required of LESSEE under this Agreement or perform or comply with any covenant or condition imposed on LESSEE under this Agreement and the amount so paid plus the reasonable cost of any such performance or compliance, plus interest on such sum at the rate of 10% per year from the date of payment, performance, or compliance (herein called "Act"), shall be deemed

to be additional rent payable by LESSEE with the next succeeding installment of rent. No such Act shall constitute a waiver of default or of any remedy for default or render LESSOR liable for any loss or damage resulting from any such Act.

21. REMEDIES IN THE EVENT OF DEFAULT

If any default by LESSEE shall continue uncured, following notice of default as required by this Agreement, for the period applicable to the default under the applicable provision of this Agreement, LESSOR has the following remedies in addition to all other rights and remedies provided by law or equity, to which LESSOR may resort cumulatively or in the alternative:

- A. LESSOR may, at LESSOR's election, terminate this Agreement by giving LESSEE notice of termination. On the giving of the notice, all LESSEE's right in the Demised Premises and in all improvements shall terminate. Promptly after notice of termination, LESSEE shall surrender and vacate the Demised Premises and all improvements in broom-clean condition, and LESSOR may re-enter and take possession of the Demised Premises and all remaining improvements and eject all parties in possession or eject some and not others or eject none; provided that no subtenant qualifying under non-disturbance provisions of this Agreement shall be ejected. Termination under this paragraph shall not relieve LESSEE from the payment of any sum then due to LESSOR or from any claim for damages previously accrued or then accruing against LESSEE.
- B. LESSOR shall be entitled, at LESSOR's election, to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of 10 percent per year from the due date of each installment. LESSOR shall make reasonable efforts to mitigate LESSEE's liability under this provision. LESSOR shall be entitled at LESSOR 's election to damages in the following sums: (1) all amounts that would have fallen due as rent between the time of termination of this Agreement and the time of the claim, judgment, or other award, less all amounts by which LESSOR shall reasonably have mitigated those rental losses, plus interest on the balance at the rate of 10 percent per year, and (2) the "worth" at the time of the claim, judgment, or other award, of the amount by which the unpaid rent for the balance of the term exceeds the then fair rental value of the Demised Premises, or the higher/lower of the fair rental value unencumbered by the Agreement and improvements. "Worth", as used in this provision, is computed by discounting the total at the discount rate of the Federal Reserve Bank of San Francisco at the time of the claim, judgment, or award, plus one percent.

LESSOR shall not be considered to be in default under this Agreement unless (1) LESSEE has given notice specifying the default and (2) LESSOR has failed for 10 days to cure the default, if it is curable, or to institute and diligently pursue reasonable corrective or ameliorative acts for noncurable defaults.

22. WAIVER OF DEFAULT

No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to this Agreement shall not constitute a waiver of any preceding default by LESSEE other than that default in the payment of the particular rental payment.

23. LEASE ENCUMBRANCE

LESSEE understands and agrees that it cannot encumber the Lease, leasehold estate and the improvements thereon by a deed of trust, mortgage or other security instrument to assure payment of any promissory note of LESSEE without the prior express written consent of the LESSOR in each instance, which consent shall be at the sole and exclusive discretion of the LESSOR. If any deed of trust, mortgage or other security instrument that encumbers the Agreement, leasehold estate and the improvements thereon is entered into by LESSEE without LESSOR's prior express written consent, LESSOR shall have the right to declare this Agreement in default.

LESSOR will agree to the subordination of its ownership interest to a construction loan, if any, that LESSEE may need to obtain to finance the costs of the construction of the improvements proposed for the property as set forth in the Lease agreement.

24. EMINENT DOMAIN

If the whole or a substantial part of the Demised Premises hereby leased shall be taken by any public authority under the power of eminent domain, the term of this Agreement shall cease as to the part taken, from the day the possession of that part shall be taken for any public purpose, and the rent shall be paid up to that day, and from that day LESSEE shall have the right either to cancel this Agreement and declare the same null and void or to continue in possession of the remainder of the same under the terms herein provided, except that the rent shall be reduced in proportion to the amount of the Demised Premises taken. All damages awarded for such taking shall belong to and be the property of the LESSOR whether such damages shall be awarded as compensation for diminution in value to the leasehold or to the fee of the Demised Premises herein leased, LESSEE's only remedies being the election of cancellation or reduction in rent; provided, however, that LESSOR shall not be entitled to any award made for the taking of any installation or improvements on the Demised Premises belonging to LESSEE.

25. ATTORNEYS' FEES

If either party brings any action or proceeding to enforce, protect, or establish any right or remedy, the prevailing party shall be entitled to recover reasonable attorneys' fees. Arbitration is not an action or proceeding for the purpose of this provision.

26. NOTICES

As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provision giving the election or option expressly requires notice. Unless the provision of this Agreement on rent direct otherwise, rent shall be sent in the manner provided for giving notice.

- A. Writing. All Notices must be in writing, provided that no writing other than the check or other instruments representing the rent payment itself need accompany the payment of rent.
- B. Delivery. Notice is considered given either (a) when delivered in person to the recipient named as below, or (b) on the date shown on the return receipt after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage

and postal charges prepaid, addressed by name and address to the party or persons intended as follows:

Notice to LESSOR: City of Visalia
City Clerk
220 N. Santa Fe St.
Visalia, CA 93292

Copy to: City of Visalia
Leases
707 W. Acequia
Visalia, CA 93291

Notice to LESSEE: Tulare County Office of Education
P.O. Box 5091
Visalia, CA 93278-5091

Copy to: Tulare County Office of Education - Early Childhood Education
7000 Doe Ave, Suite C
Visalia, CA 93291

- C. Change of recipient or address. Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.
- D. Recipient named. Each recipient named must be an individual person. If more than one recipient is named, delivery of notice to any one such recipient is sufficient. If none of the recipients named in the latest designation of recipient is available for delivery in person, and if the notice addressed by mail to each recipient named in the latest designation of recipient is returned to the sender undelivered, notice shall be sufficient if sent by mail as above to the party as named in this Agreement, unless the name or identity of the party has changed as permitted in this Agreement and proper notice of the change has been given, in which event the notice shall be sufficient if sent by mail as above to the party named in the latest designating party, and the notice is considered given when the first attempt to give notice was properly made.

27. SIGNS

LESSEE agrees that no signs will be painted or erected on the subject Demised Premises unless such signage is first approved in writing by LESSOR and is also approved by the City of Visalia in its governmental capacity. All signage painted or erected on the subject Demised Premises or off-site signage for the benefit or use of LESSEE, shall be in compliance with the City of Visalia ordinance related to signs, zoning and building regulations.

28. AFFECT OF ILLEGALITY

The invalidity or illegality of any provision shall not affect the remainder of the Agreement.

29. TERMINATION RIGHTS

The LESSEE shall have the right to terminate this AGREEMENT upon thirty (30) days written notice to LESSOR in the event the LESSOR defaults on its obligations under this Agreement.

30. SURRENDER ON TERMINATION

At the expiration or earlier termination of the term, LESSEE shall surrender to LESSOR the possession of the Demised Premises. Surrender or removal of improvements, fixtures, and trade fixtures shall be as directed in above provisions of this Agreement on ownership of improvements at termination. LESSEE shall leave the surrendered Demised Premises and any other property in good and broom- clean condition except as provided to the contrary in provisions of this Agreement on maintenance and repair of improvements. All property that LESSEE is required to surrender shall become LESSOR's property at the termination of the Agreement. All property that LESSEE is not required to surrender but that LESSEE does abandon shall, at LESSOR's election, become LESSOR's property at termination. If LESSEE fails to surrender the Demised Premises at the expiration or sooner termination of this Agreement, LESSEE shall defend and indemnify LESSOR from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from LESSEE's failure to surrender.

31. HOLDOVER

This Agreement shall terminate without further notice at expiration of the Agreement term. Any holding over by LESSEE after either expiration or termination shall not constitute a renewal or extension, or give LESSEE any rights in and to the Demised Premises. If LESSEE, with LESSOR's consent, remains in possession of the Demised Premises after expiration or termination of the term or after the date in any notice given by LESSOR to LESSEE terminating this Agreement, such possession by LESSEE shall be deemed to be a month-to-month tenancy terminable on thirty (30) days' notice given at any time by either party. During any such month-to-month tenancy, LESSEE shall continue to pay all rent required by this Agreement. All other provisions of this Agreement, except those pertaining to term, shall apply to the month-to-month tenancy.

32. TIME IS OF THE ESSENCE

Time is of the essence of each and all of the terms and provisions of this Agreement and this Agreement shall inure to the benefit of and be binding upon the parties hereto and any successors of LESSEE as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this Agreement shall extend to and bind any successors and sublessees of LESSEE.

33. ACCEPTANCE OF DEMISED PREMISES

By signing this Agreement, LESSEE represents and warrants that LESSEE has independently inspected the Demised Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Demised Premises. LESSEE agrees it is relying solely on such independent inspection, tests, investigations, and observations in making this Agreement. LESSEE further acknowledges that the Demised Premises are in the condition called for by this Agreement, and that LESSEE does not hold LESSOR responsible for any defects in the Demised Premises.

34. ENTIRE AGREEMENT

This Agreement contains the entire Agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by either party. Each

party has relied on his own examination of this Agreement, counsel of his own advisors and the warranties, representations, and covenants if any, in the Agreement itself. The failure or refusal of either party to inspect the Demised Premises or improvements, to read the Agreement or other documents, or to obtain legal or other advise relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection or advise.

For good and adequate consideration, LESSOR leases the Demised Premises to LESSEE, and LESSEE hires from LESSOR, for the term and on the provisions contained in the Agreement including, without limitation, provisions prohibiting assignment, subleasing, and encumbering said Agreement without the express written consent of LESSOR in each instance.

35. VENUE

This contract is to be construed by the laws of the State of California with venue only in Tulare County, or the United States District Court for the Eastern District of California.

TULARE COUNTY OFFICE OF EDUCATION, LESSEE

CITY OF VISALIA, LESSOR



Tim A. Hire, County Superintendent of Schools

Leslie Caviglia, City Manager

Dated: 8/7/, 2024

Dated: _____, 2024

APPROVED AS TO FORM:

Ken Richardson, City Attorney

Dated: _____, 2024

Andrew Guzman, Risk Management

Dated: _____, 2024