**DRAFT Proposed Terms  
Lease of Property in Santa Clara Community Park**

**Version 6.2.2021**

This outline proposes non-binding terms on which the City would be willing to pursue negotiation for a lease with the owner of certain improvements awarded through an RFP process described in in City Contracting Rule Exemption E-16 (B)(1).

Lease: Lessee and Lessor shall enter into a formal Lease Agreement consistent with approved terms.

Lease Cost: $1.00 per year.

Term of Lease: 20 years, renewable with agreement by both parties in increments of up to 5 years, not to exceed a total of 99 years (ORS 271.310).

Purpose: Leasee shall improve approximately 960 square feet of interior space to provide community center services to the general community. Exterior amenities such as an outdoor gathering space and storage shed may also be constructed as ancillary features. Both Lessee and Lessor acknowledge that this agreement is of mutual benefit in providing recreational activities, health and wellness services, and education to the community, and pledge cooperation in providing access to these services to all community members.

Property & Improvements: The area to be leased contains x square feet or x acres and is depicted in Exhibit A to this Outline of Terms. The land shall continue to be owned by Lessor; Lessee will retain title to all facilities built or improved by Lessee within the lease area, for as long as the lease is in effect. If the lease is terminated or allowed to expire following construction, Lessee will have one year to relocate the building from the property at Lessee’s expense or all facilities will transfer to Lessor at no cost to Lessor.

Deposit: No deposit shall be required.

Environmental Condition: Prior to award of lease, prospective Lessee will be able to perform environmental investigation to satisfy itself of the environmental condition of the property. The investigations must be scheduled with the Lessor and the results provided to the Lessor for review.

Condition of the Property: Lessee is leasing the Property “as is” in its current condition. Lessee’s expectations concerning the Property are to be based solely on the basis of Lessee’s own inspection and investigation of the Property. Lessee shall be responsible for determining that the land and infrastructure is adequate for the development of its proposed facility in regard to sewer service, water, electricity, street access, adequate parking, permits, zoning, and related traffic control costs.

Timing of Construction: If Lessee’s facility is not operational within 3 years of execution of lease, City retains the right to terminate the lease.

Financing: Prior to commencement of construction/renovation of Lessee’s proposed facilities, Lessee shall demonstrate to Lessor’s approval that financing for the first phase of construction necessary for the project has been secured. Each subsequent phase will be preceded by demonstrating necessary resource procurement prior to construction. Land owned by Lessor shall not be used as security for any financing of structures within the lease area. (proposed phasing of work attached)(

Permit and Land Use Approvals: Lessee is responsible for complying with all applicable laws and permit requirements pertaining to the development, construction and use of the proposed facilities. Lessee will cover all costs of all permit application preparation and fees. This agreement is separate from and outside the City’s permit review process and in no way implies City approval of necessary permits. If Lessee is unable to obtain permit or land use approvals required to construct/renovate Lessee’s planned facilities, Lessor reserves the right to terminate the lease.

Facility Design and Construction/Renovation:

* Lessee will be responsible for the capital funding of all phases of the facility within the leased area. Such construction/renovation costs will not be subject to BOLI public improvement wage standards.
* Lessee will determine facility components**,** both contiguous and detached, and design of all phases in compliance with land-use regulations, subject to approval by Lessor.
* Lessor will review and approve proposed facility components and design for compatibility with use of the surrounding property as a park and recreation area. Written approval from lessor will be required prior to any construction activities. Any changes or modifications to the approved plans will require Lessor’s prior written approval.
* Lessor retains the right to inspect the improvements under construction and shall be furnished with copies of all plans and specifications.
* Lessee will consider and/or support additional improvements to the proposed facility should Lessor propose and fund such improvements.
* Any additional improvements, after initial construction, are subject to review and approval by Lessor.

Parking: Lessor agrees to incorporate required parking into the general parking areas to be provided for Santa Clara Community Park. Lessor will cover all costs related to construction and maintenance of parking that is required under City Code for the construction of the Lessee’s facilities. A maximum of X spaces will be attributed to Community Building use. Additional use of parking spaces related to programmed activities must receive prior approval from Lessor.

Utilities: Construction/renovation of Lessee’s facility may require connections to underground utilities that are outside the lease area. Lessor and Lessee will execute a limited duration construction lease and a utility easement to address such situations. Cost of construction for utility main lines is the responsibility of the lessor and lessee is responsible for the stub lines as far as the agreed upon leased property boundary unless otherwise agreed to with the Lessor.

Naming and Signage: Facility naming and signage subject to approval by both parties (Lessor and Lessee). City reserves the right to erect signs and to lease, license, and otherwise grant to others the right to erect exterior signs on the lease area subject to approval by both parties (Lessor and Lessee). Lessee reserves the right to paint a mural on the facility. All signs erected by either party shall comply with applicable provisions of City's ordinances, including, but not limited to, the Sign Code**.**

Lease Area Usage:

* Lessee will maintain exclusive operating rights and financial responsibility for all programs and services housed in the facility, excepting any specific agreements made with the City.
* Lessee will obtain Lessor’s approval before entering into any third-party program or service delivery contracts at this site.(Clarity- **BC suggests clarity about the definition of third party contracts too**
* Lessee will ensure that people of all ages, abilities, gender, sexual orientation, race, ethnicity, and economic levels will be provided access to the programs and services offered at the facility.
* Lessee will ensure ongoing access to meeting rooms for community use, insofar as such use is compatible with the Lessee’s mission and service.
* Lessee will be responsible for operating consistent with all applicable laws, regulations, and rules.

Operations and Maintenance:

* Lessee shall at its own cost be responsible for the upkeep and maintenance of all facilities owned by Lessee and within grounds of designated lease area.
* Lessee will keep facility and property in safe condition and good repair. Lessee specifically acknowledges and agrees that the condition and repair includes appearance of the Property and improvements, including but not limited to, the condition of paint or exterior finish. Lessee shall not store parts, equipment, or other materials on the Property except as such is integral to the operation of the facility. Lessee shall not permit any refuse or debris to be deposited or to accumulate on the Property or otherwise allow to be committed any type of waste on the Property.
* Lessor will have right to inspect facility conditions with one week notice of inspectionand require repairs as needed. Within 60 days of receiving written notice of required repairs lessee will show material progress toward remediation. If after 60 days there has been no progress, Lessor may undertake to make required repairs, at Lessee’s expense.
* Lessee will be responsible for all utility and operating costs associated with facility and lease area, including but not limited to water, gas, electricity, storm water, garbage, sewage disposal and telephone.
* Any events with more than x attendees are subject to review and approval by Lessor.

Insurance Public Liability Insurance: Lessee shall immediately obtain and continuously maintain during this Lease comprehensive general liability insurance in a form and with an insurer satisfactory to City, naming City as an additional insured against all liability for damages to persons and property arising out of Lessee's activities on, or any condition of, the leased premises. Liability limits shall be at least $1,000,000 combined single-limit or the equivalent. The policy shall contain a clause that the insurer will not cancel or change the insurance without giving City thirty (30) days' prior notice. Lessee shall deliver to City a certificate of insurance within ten days of the execution of this Lease and thereafter within ten (10) days prior to each policy renewal.

Indemnification: Lessee shall defend, indemnify and hold City harmless from and against any and all claims, actions, damages, liability, and expense in connection with loss of life, personal injury, or damage to property arising from or out of any occurrence in, upon, or at the leased premises, or the occupancy or use by Lessee of the leased premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, officers, contractors, employees, or servants. In case City shall, without fault on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall protect and hold City harmless there­from and shall pay all costs, expenses, and reasonable attorney fees incurred or paid by City in connection with such litigation. Lessee shall also pay all costs, expenses, and reasonable attorney fees that may be incurred or paid by City in enforcing the covenants and agreements in this paragraph.

Taxes: Lessee shall be responsible for any taxes due related to its activities upon the leased premises and lessor shall be responsible for all real property taxes.

Liens and Encumbrances: Lessee shall keep the leasehold and the leased premises free and clear of any and all liens or encumbrances imposed or threatened to be imposed on the leased premises by reason of any contract, act, or omission of Lessee.

Termination: Notwithstanding any other provision hereof to the contrary, Lease may be terminated as follows:

* City may terminate the Lease by written notice from City to Lessee upon the commencement of future **community center/pool** facility operation, the determination of such commencement shall be in the City’s sole discretion.
* City may terminate the Lease by written notice from City to **Lessee** after providing 30 days written notice upon the occurrence of any event of material default
* City may terminate this Lease after providing 30 days written notice upon Lessee's failure to have in force any insurance required by this Lease.
* Lessee may terminate this Lease for any reason with thirty (30) days written notice to City.
* By mutual written agreement of the parties at any time.

Condition of Property Upon Expiration or Termination: Upon expiration or earlier termination of this Lease, Lessee shall surrender the Property in good condition. Lessee may remove, surrender, or destroy any improvements on the leased premises upon the expiration or earlier termination of this Lease.

—ADDENDUM—

Eugene Contracting Rules (mentioned in the lease proposal)

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E-16 Surplus Personal Property, Disposition of

B. Disposal of Surplus Residential Structures  
  
(1) Immediate Removal Not Required. Upon a determination that a building located on Contracting Agency-owned property that has been acquired for a public project or park is determined as surplus, is suitable for use as a residence, and there is no immediate need for its removal from the property, Contracting Agency shall issue a request for formal Proposals from nonprofit organizations organized under §501(c)(3) of the Internal Revenue Code (Nonprofit Organizations) interested in purchasing the building, with the building to remain temporarily on the Contracting Agency-owned real property. Proposals submitted under this subsection must meet the following criteria:  
  
(a) The proposed use must be compatible with that of abutting properties or Contracting Agency programs operating in proximity to the property;  
  
(b) The proposed use must comply with all applicable federal, state and local laws and regulations, and where necessary, receive approval of federal or state agencies;  
  
(c) The Proposers must include a cost estimate from a licensed architect or licensed structural engineer itemizing the building modifications needed to meet applicable federal, state and local laws and regulations for the proposed use of the building;  
  
(d) The Proposers must demonstrate that it has the current financial ability to perform the required building modifications identified under B.1(c) of this Rule E-19;  
  
(e) Preference will be given to Proposals which minimize the time the structure will remain on Contracting Agency-owned land;  
  
(f) The Proposers must agree to lease the land on which the building is located at its fair market value for the period of time negotiated in the Agreement, and to remove the building from the Contracting Agency-owned land at the end of the lease term at its own expense; and  
  
Exhibit A to Admin Order 44-14-08  
  
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(g) The Awardee must provide to Contract Agency a performance bond in an amount sufficient to accomplish the demolition of the building at the end of the lease term in the event the Awardee does not voluntarily remove the building.  
  
Contracting Agency shall evaluate the Proposals based on the above criteria and make an award. If no Proposals are submitted, or if none of the Proposals meet the required criteria, the building shall be offered under the provisions of subsection A of this Rule E-19.

END of Rule Exemption E-16 (B)(1)