

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2015-053

Declaring a Portion of the Property Located at 1401 NE 68th Avenue, Portland, Oregon to be Temporarily Surplus and Approving a Real Property Lease with the CASA for Children, Inc.

The Multnomah County Board of Commissioners Finds:

- a. Approximately 1,724 square feet of space within County owned Juvenile Justice Complex ("JJC") located at 1401 NE 68th Avenue, Portland, Oregon; is not needed for any County use and is presently being used by CASA for Children, Inc. an Oregon non-profit public benefit corporation ("CASA").
- b. The County's Department of Community Justice ("DCJ") operates programs at the JJC and does not at this time anticipate needing the 1,724 square foot space in the next several years, potentially as late as 2023; as the space is not needed for County uses during this time period, it is surplus.
- c. CASA desires to lease the approximate 1,724 square foot space (the "Premises") at JJC for its youth program for a three year term until 2018, with a right to renew for up to five additional one year terms which would extend the lease until 2023.
- d. The lease of the Premises will allow CASA close proximity to State Courts Offices and Multnomah County programs provided at this facility. DCJ believes this is a productive and appropriate co-tenancy and has program benefits.
- e. A copy of the lease for the Premises attached and identified as Exhibit 1, has been negotiated with CASA, (the "Lease").
- f. This lease use of the Premises is exempt from compliance with the process set forth in Resolution 04-185.
- g. It is in the best interest of the County to lease the Premises on the terms and conditions set forth in the Lease.

The Multnomah County Board of Commissioners Resolves:

1. The Premises are declared surplus for the term of the Lease, and as it may be extended by any authorized fully executed option to renew, as provided at Subsection 1.3 of the Lease.
2. The Lease is approved and the County Chair is authorized to execute same, provided it is in substantial conformance with the attached Exhibit 1.

3. The County Chair is further authorized to execute amendments to the Lease, including options to renew.

ADOPTED this 4th day of June, 2015.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Matthew O. Ryan*
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY: Sherry Swackhamer, Director, Dept of County Assets.

LEASE

Commencement Date: _____

Between: Multnomah County, Oregon ("Landlord")
Facilities and Property Management
Attn: Asset Management-Leases
401 N. Dixon Street
Portland, OR 97227

And: CASA For Children ("Tenant")
Court Appointed Special Advocates
1401 NE 68th Avenue
Salem, OR 97313

Landlord leases to Tenant and Tenant leases from Landlord the property described in Sub-Section 1.4 (the "Premises") on the terms and conditions stated below:

Section 1. Occupancy

- 1.1 Original Term.** The term of this lease shall commence upon the last signature of the parties to the Lease (the "Commencement Date") and shall continue through **June 30, 2018** unless sooner terminated as hereinafter provided.
- 1.2 Delivery of Possession.** Landlord will deliver the Premises to Tenant on the Commencement Date.
- 1.3 Renewal Option.** If Tenant is not in default at the time the option is exercised or at the time the renewal term is to commence, Tenant shall have the option to renew this Lease for **FIVE (5)** successive terms of one (1) year each, as follows:
- (1) The renewal term shall commence on the day following expiration of the preceding term.
 - (2) The option may be exercised by written notice to Landlord given not less than ninety (90) days prior to the last day of the expiring term. The giving of such notice shall be sufficient to make the Lease binding for the renewal term without further act of the parties.
 - (3) The terms and conditions of the Lease for each renewal term shall be identical with the original term except for rent and except that Tenant will no longer have any option to renew this Lease beyond the successive terms authorized in this Subsection.
- 1.4 The Premises.** Approximately 1,724 square feet of office space within the building commonly known as the "Juvenile Justice Complex", which is located at 1401 NE 68th Avenue, Portland, Oregon 97213 (the "Building") as more particularly shown in Exhibit A attached hereto; the Building is located on certain real property in Portland, Oregon (the "Land"), which real property is more particularly shown in Exhibit B attached hereto as all that property bordered by I-84 Freeway, NE 65th Ave, NE 68th Ave. and NE Hasslo Street.
- 1.5 Common Areas:** The common areas in the Building outside the Premises, as more particularly shown in Exhibit A, are made available for the non-exclusive use of Tenant.
- 1.6 Condition of the Premises and Common Areas.** The Parties stipulate that the Premises and Common Areas are provided under this Lease "AS IS, WHERE IS"; with no representations, warranties, guarantees of any kind (express or otherwise) that the Premises and Common Areas are

useable, suitable or appropriate for any use or specifically for any of the proposed uses under this Lease. Tenant or its authorized representatives have examined the Premises and Common Areas and are satisfied and accept same "AS IS, WHERE IS" and assume full responsibility for the use of the Premises and Common Areas.

Section 2. Rent.

- 2.1 **Base Rent.** During the original term, Tenant shall pay to Landlord shall be GRATIS.
- 2.2 **Additional Rent.** Any other sum that Tenant is required to pay to Landlord shall be considered additional rent.
- 2.3 **Operating Expenses.** For purposes of this Lease, the term *Operating Expenses* means all expenses paid or incurred by Landlord (or on Landlord's behalf) as reasonably determined by Landlord as necessary or appropriate for the operation, maintenance, and repair of, and to insure the Land, Common Areas, Building, and Premises. Operating Expenses for the Base Year: 2015.
- 2.4 **Taxes.** The term *Taxes* includes (i) all ad valorem and other real property taxes and assessments and personal property taxes, charges, rates, user fees, duties, and assessments rated, levied, or imposed by any governmental authority with respect to the Land, the Building, and any improvements, fixtures, and equipment located therein or thereon, and with respect to all other property of Landlord, real or personal, located in or on the Land or the Building and used in connection with the operation of the Building; (ii) any tax in lieu of a real property tax; (iii) any tax or excise levied or assessed by any governmental authority on the Rentals payable under this Lease or rentals accruing from the use of the Land or the Building; and (iv) any tax or excise imposed or assessed by or against Landlord that is measured or based in whole or in part on the capital employed by Landlord to improve the Land and construct the Building. Taxes do not include federal or state, corporate or personal income taxes. In addition to the foregoing, Tenant will pay before delinquency all taxes, assessments, licenses, fees, and charges assessed, imposed, or levied on (a) Tenant's business operations, (b) all trade fixtures, (c) leasehold improvements, (d) merchandise, and (e) other personal property in or about the Premises.
- 2.5 **Operating Year.** The term *Operating Year* means each calendar year of the Term. In the event the Lease Commencement Date or the Expiration Date occurs on any date other than the first day of the calendar year, the calculations, costs, and payments referred to herein will be prorated for that calendar year.
- 2.6 **Tenant's Proportionate Share.** During the Term, Tenant will pay, as Additional Rent, Tenant's Proportionate Share of the increase in Operating Expenses and the increase in Taxes of the Property and Building, if any, over the Base Year. The Base Year for determining Operating Expense increases and Tax increases is set forth in Section 2.3. Tenant's Proportionate Share of the increase in Operating Expenses of the Building for each Operating Year will be calculated as follows: the Operating Expenses for each Operating Year less the Operating Expenses for the Base Year will be multiplied by the Tenant's Proportionate Share.

Section 3. Use of the Premises.

- 3.1 **Permitted Use.** The Premises shall be used for office and administrative functions associated with court appointed special advocates for children in foster care. The Premises shall be used for no other purpose without the consent of Landlord, subject to Landlord's sole discretion.
- 3.2 **Equipment.** Tenant will install only such equipment in the Premises as is customary for the Permitted Use and will not overload the floors or electrical circuits of the Premises or Building or change the wiring or plumbing of the Building or Premises. Any equipment, cables, wiring, conduit, additional dedicated circuits, and any additional air conditioning required because of any such equipment installed by Tenant will be installed, maintained, and operated at Tenant's sole expense and in accordance with Landlord's requirement.

3.3 **Compliance with Laws.** Both parties will give prompt notice to the other of any notice it receives of the violation of any law or requirement of any public authority with respect to the Premises or the use or occupancy thereof. Tenant will, at Tenant's expense, comply with all laws and requirements of any public authorities ("Laws") that, in respect of the Premises or the use and occupancy thereof, or the abatement of any nuisance in, on, or about the Premises, imposes any violation, order, or duty on Landlord or Tenant, arising from (a) Tenant's use of the Premises; (b) the manner of conduct of Tenant's business or operation of its installations, equipment, or other property therein; (c) any cause or condition created by or at the instance of Tenant; or (d) breach of any of Tenant's obligations hereunder.

3.3.1 **Environmental Law Compliance.** For purposes of this Section, the term *Hazardous Substances* means and includes all hazardous and toxic substances, waste, or materials, any pollutant or contaminant, including, without limitation, PCBs, asbestos, asbestos-containing materials, and raw materials that are included under or regulated by any Environmental Laws. For purposes of this Lease, the term *Environmental Laws* means and includes all federal, state, and local statutes, ordinances, regulations, and rules presently in force or hereafter enacted relating to environmental quality, contamination, and clean-up of Hazardous Substances. References in this Lease to *Laws* are deemed to include Environmental Laws. Landlord represents that to the best of its current actual knowledge, the Building is in compliance with all Environmental Laws respecting Hazardous Substances, and that Landlord has received no notice of any pending or threatened lien, action, or proceeding respecting any alleged violation of Environmental Laws affecting the Building.

3.3.2 **Indemnity Regarding Legal Violations.** Tenant will indemnify and hold harmless Landlord against any and all claims arising from or in connection with the violation of Laws including but not limited to the ADA and Environmental Laws, occurring in, at, or about the Premises, Building and the Land due to the acts or omissions of Tenant or its, officers, agents, and employees, together with all costs, expenses, and liabilities incurred or in connection with each such claim, action, proceeding, or appeal, including, without limitation, all attorney fees and expenses.

3.4 **Restrictions on Use.** In connection with the use of the Premises, Tenant shall:

- (1) Refrain from any activity that would make it impossible to insure the Premises against casualty, would increase the insurance rate, or would prevent Landlord from taking advantage of any ruling of the Oregon Insurance Rating Bureau, or its successor, allowing Landlord to obtain reduced premium rates for long-term fire insurance policies, unless Tenant pays the additional cost of the insurance.
- (2) Refrain from any use that would be reasonably offensive to other tenants or owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the Premises.
- (3) Refrain from loading the electrical system or floors beyond the point considered safe by a competent engineer or architect.
- (4) Refrain from making any marks on or attaching any sign, insignia, antenna, aerial, or other device to the exterior or interior walls, windows, or roof of the Premises without the written consent of Landlord, which shall not be unreasonably withheld.

3.5 Hazardous Substances. This Subsection shall have application to the Premises, Common Areas, the Building and the Land.

- 3.5.1 Tenant shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of, or otherwise released on or under the Premises, Building or Land. Tenant may use or otherwise handle on the Premises, Building or Land only those Hazardous Substances typically used or sold in the prudent and safe operation of the permitted use specified in Section 3.1. Tenant may store such Hazardous Substances on the Premises only in quantities necessary to satisfy Tenant's reasonably anticipated needs.
- 3.5.2 Tenant shall comply with all Environmental Laws and exercise the highest degree of care in the use, handling, and storage of Hazardous Substances and shall take all practicable measures to minimize the quantity and toxicity of Hazardous Substances used, handled, or stored on the Premises.
- 3.5.3 Upon the expiration or sooner termination of this Lease, and at Tenant's sole cost and expense, Tenant shall remove any and all Hazardous Substances brought, stored, used, generated, or released on, in, or into the environment by Tenant, its agents, employees, or invitees during the term of this Lease. To the fullest extent permitted by law, Tenant hereby agrees to indemnify, defend, protect, and hold harmless Landlord, its officers and employees, and their respective successors and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses that arise during or after the term directly or indirectly from the use, storage, disposal, release, or presence of Hazardous Substances by Tenant, its agents, employees, or invitees on, in, or about the Premises, the Building, the Land, or the Common Areas that occurs during the term of this Lease.
- 3.5.4 The term *Environmental Law* shall mean any federal, state, or local statute, regulation, or ordinance or any judicial or other governmental order pertaining to the protection of health, safety or the environment. The term *Hazardous Substance* shall mean any hazardous, toxic, infectious or radioactive substance, waste, and material as defined or listed by any Environmental Law and shall include, without limitation, petroleum oil and its fractions.

3.6 Rules and Regulations. Landlord may make and Tenant will comply with all rules and regulations of the Building and the Property (the "Rules") as Landlord may revise and enforce the Rules from time to time. The Rules are in addition to and will not be construed to modify or amend this Lease in any way, and in the event of any conflict between the terms of this Lease and any Rule, the terms of the Lease will govern.

Section 4. Repairs and Maintenance

- 4.1 **Landlord Repairs.** Landlord will repair, maintain, and/or replace, where necessary, the Common Areas and the roof, foundation, exterior walls, interior structural walls, all structural components, and all systems such as mechanical, electrical, HVAC, and plumbing systems of or in the Building and the Premises. Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the right to make repairs at Landlord's expense and deduct that cost from Rent owing to Landlord.
- 4.2 **Tenant's Repairs.** Except for Landlord Repairs set forth in Section 4.1 above, Tenant will:
- (a) Maintain all portions of the Premises and fixtures situated within the Premises in good order and repair;
 - (b) Maintain, repair, and replace, if necessary, all special equipment and decorative treatments installed by or at Tenant's request and that serve the Premises only;

- (c) Make all necessary repairs and replacements to all portions of the Premises and pay Landlord for the repairs or replacements to the Building if any such repairs or replacements are needed because of Tenant's misuse or primary negligence; and
- (d) Not commit waste to the Premises, Building or Common Areas. If Tenant fails to perform Tenant's obligations under this Section or under any other Section of this Lease, after ten (10) business days' prior written notice to Tenant, except in an emergency when no notice will be required, Landlord may enter the Premises, perform the obligations on Tenant's behalf, and recover the cost of performance, together with interest at the rate of twelve percent (12%) per year, as Additional Rent payable by Tenant with the next installment of Base Rent, as long as that rate does not exceed the maximum rate then allowed by Law.

4.3 Costs of Repair. All costs of repair and maintenance incurred by Landlord under Section 4.1 will be considered Operating Expenses for purposes of this Lease, except that Tenant will reimburse Landlord upon demand for the cost of repair incurred by Landlord for damage caused by the negligent or intentional acts or any breach of this Lease by Tenant, its employees, contractors, agents, or invitees

4.4 Landlord's Interference with Tenant. In performing any repairs, replacements, alterations, or other work performed on or around the Premises, Landlord shall not cause unreasonable interference with use of the Premises by Tenant. Tenant shall have neither right to an abatement of rent nor any claim against Landlord for any inconvenience or disturbance resulting from Landlord's activities performed in conformance with the requirement of this provision.

4.5 Inspection of Premises. Landlord shall have the right to inspect the Premises at any reasonable time or times to determine the necessity of repair. Whether or not such inspection is made, the duty of Landlord to make repairs shall not mature until a reasonable time after Landlord has received from Tenant written notice of the repairs that are required.

Section 5. Alterations

- 5.1 No Alterations Required.** Tenant has inspected the Premises to its satisfaction and accepts the Premises 'AS-IS, WHERE IS' and has determined no improvements or alterations are necessary prior to Tenant's occupancy.
- 5.2 Future Alterations.** Tenant shall make no improvements or alterations on the Premises of any kind without first obtaining Landlord's written consent. If Landlord in its sole discretion approves any proposed alterations, all such approved alterations shall be made in a good and workmanlike manner, and in compliance with all applicable laws and building codes. Landlord reserves the right to perform work associated under this section and Tenant shall reimburse Landlord for such work within thirty (30) days of invoice from the Landlord. All alterations will be performed in a manner so as to minimize any interference with the quiet enjoyment of other occupants of the Building. Except for removable machinery and unattached movable trade fixtures, all improvements, alterations, wiring, cables, or conduit installed by Tenant will immediately become part of the Premises, with title vested in Landlord. Landlord may require that Tenant remove any such improvements, alterations, wiring, cables, or conduit installed by or for Tenant and restore the Premises to good condition and repair upon expiration or earlier termination of this Lease. Any contractor used by Tenant for any work in the Premises will be subject to review and approval by Landlord and Landlord may post notices of non-responsibility in connection with any work being performed in the Premises by or at the request of Tenant. Tenant will not permit any liens to attach to the Building or Tenant's interest in the Premises as a result of any work performed by or at Tenant's request
- 5.3 Ownership and Removal of Alterations.** All improvements and alterations performed on the Premises by either Landlord or Tenant shall be the property of Landlord when installed unless the applicable Landlord's consent or work sheet specifically provides otherwise. Improvements and alterations installed

by Tenant shall, at Landlord's option, be removed by Tenant and the Premises restored unless the applicable Landlord's consent or work sheet specifically provides otherwise.

- 5.4 **Alterations by Landlord.** As long as the modification, alteration, or change does not materially interfere with the operation by Tenant of its business in the Premises, Landlord may modify, alter, or change any improvements in the Building, the parking area, and other Common Areas.
- 5.1 **Signs and Other Installations.** No signs, awnings, or other apparatus will be painted on or attached to the Building or anything placed on any glass or woodwork of the Premises or positioned so as to be visible from outside the Premises, including any window covering (e.g., shades, blinds, curtains, drapes, screens, or tinting materials) without Landlord's written consent, and Landlord's approval of design, size, location, and color. All signs installed by Tenant will comply with Landlord's standards for signs and all applicable codes. All signs and sign hardware will be removed by Tenant, at Tenant's sole cost and expense, upon termination of this Lease, with the sign location restored to its former state unless Landlord elects to retain all or any portion thereof. Landlord will provide Tenant with Building-standard signage located adjacent to the entry doorway of the Premises and on the Building directory.

Section 6. Insurance

- 6.1 **Fire Insurance.** Tenant shall bear the expense of any insurance insuring the property of Tenant on the Premises against fire and other risks covered by standard fire insurance policy with an endorsement for extended coverage.
- 6.2 **Liability Insurance.** Before going into possession of the Premises, Tenant shall procure and thereafter during the term of the Lease shall continue to carry the following insurance at Tenant's cost: commercial general liability policy (occurrence version) in a responsible company with coverage for bodily injury and property damage liability, personal and advertising injury liability, and medical payment with a general aggregate limit of not less than \$4,000,000 and a per occurrence limit of not less than \$2,000,000. Such insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the Premises whether or not related to an occurrence caused or contributed to by Landlord's negligence. Such insurance shall protect Tenant against the claims of Landlord on account of the obligations assumed by Tenant under Section 10.2, and shall name Landlord as an additional insured.
- 6.3 **Insurance Documentation.** A certificate evidencing such insurance and bearing endorsements requiring thirty (30) days' written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to Tenant's occupancy of the property.
- 6.4 **Waiver of Subrogation.** Both parties will secure an appropriate clause in, or an endorsement on, each property insurance policy obtained by it and covering or applicable to the Premises or the personal property, fixtures, and equipment located therein or thereon, under which the insurance company waives subrogation or permits the insured, before any loss, to agree with a third party to waive any claim it might have against the third party without invalidating the coverage under the insurance policy. The waiver of subrogation or permission for waiver of any claim will extend to the parties and their respective agents and employees. Each party releases the other and its agents and employees in respect of any claim (including a claim for negligence) that it might otherwise have against the other party or its agents or employees for loss, damage, or other casualty (including rental value or business interest, as the case may be) occurring during the Term of this Lease and normally covered under a special form property insurance policy in the form normally used in respect of similar property in Portland, Oregon.

Section 7. Taxes.

- 7.1 **Property Taxes.** Tenant shall pay as due all taxes on its personal property located on the Premises. Tenant shall, upon invoice from Landlord, reimburse Landlord for all real property taxes levied against the Premises. As used herein, real property taxes include any fee or charge relating to the ownership, use or rental of the Premises, other than taxes on net income of Landlord.

- 7.1 **Special Assessments.** If an assessment for a public improvement is made against the Premises, Landlord may elect to cause such assessment to be paid in the maximum number of installments allowed by law, in which case all of the installments payable with respect to the lease term shall be treated the same as general real property taxes for purposes of Section 7.1.
- 7.2 **Contest of Taxes.** Tenant shall be permitted to contest the amount of any tax of assessment as long as such contest is conducted in a manner that does not cause any risk that Landlord's interest in the Premises will be foreclosed for nonpayment. Landlord shall cooperate in any reasonable manner with such contest by Tenant.
- 7.3 **Proration of Taxes.** Tenant's share of real property taxes and assessments for the years in which this Lease commences or terminates shall be prorated based on the portion of the tax year that this Lease is in effect.

Section 8. Services and Utilities.

- 8.1 **Landlord and Tenant Responsibilities.** Landlord will cause the following utilities and services to be furnished to the Premises: Water; Sewer; Electricity; Gas; Janitorial Services; Window Washing (exterior); Window Washing (interior); in accordance with Landlord's standard for such utilities and services furnished to the Building. When there are any additional charges for electricity, gas, heat, janitorial services within the leased Premises, telephone, or other utilities of any kind furnished to Premises, Tenant shall pay promptly when due. If Landlord receives and pays bills for any such additional utilities consumed by Tenant, its agents, employees or invitees to the Premises, Tenant shall reimburse Landlord upon demand. In no event shall Tenant overload the electrical circuits from which Tenant obtains currently.
- 8.2 **Recycling Materials.** Landlord shall support the policy for recycling materials as provided in ORS 227.450 to the extent possible by providing adequate collection areas and storage facilities for office recycling programs when recycling services are available.
- 8.3 **Security.** Landlord may, but will have no obligation to, provide security service or adopt any security measure concerning the Premises and the Building, and Tenant will abide by all reasonable security measures adopted by Landlord

Section 9. Damage and Eminent Domain

- 9.1 **Damage.** If the Premises are partly or wholly damaged, the decision to repair or restore the Premises is at the Landlord's sole discretion. If the Landlord elects not to repair or restore, the Lease will terminate as of the date of the damage or destruction by notice given by the Landlord given to the Tenant in writing no more than forty-five (45) days following the date of damage. In such event all rights and obligations of the parties shall cease as of the date of termination, and Tenant shall be entitled to the reimbursement of any prepaid amounts paid by Tenant and attributable to the anticipated term. If Landlord decides not to terminate the Lease, Landlord will promptly restore the Premises to as good as condition existing immediately before the damage, and this Lease will continue in full force and effect. In the event of any damage to the Building or Premises from a fire or other casualty, Tenant will promptly repair and restore all tenant improvements or alterations installed or paid for by Tenant or pay the cost of the restoration to Landlord if Landlord performs the restoration.
- 9.2 **Rent Abatement.** In the event the Premises are damaged by any casualty, rent will be reduced in proportion to the unusable portion of the Premises from the date of damage until the date restoration work to the Premises is substantially complete; except that there shall be no rent abatement where the damage occurred as the result of the fault of Tenant.
- 9.3 **Eminent Domain.** If the entire Building or any portion of the Premises is permanently taken under any right of eminent domain, or any transfer in lieu thereof, and the taking renders the Premises unsuitable for Tenant's use, then either party may terminate this Lease by giving thirty (30) days' prior written notice to

the other party, and the termination will be effective on the date possession of the Building or Premises is delivered to the condemning authority. If this Lease is not so terminated, Landlord will repair and restore the Premises, and this Lease will continue, but, commencing with the date on which Tenant is deprived of the use of any portion of the Premises or of any rights under this Lease, Base Rent will be proportionately abated or reduced, based on the extent to which Tenant's use of the Premises is impaired. Any and all awards payable by the condemning authority in connection with a taking will be the sole property of Landlord; however, nothing contained herein will prevent Tenant from prosecuting a separate claim for the value of its interest, as long as that award does not diminish the award that Landlord would otherwise be entitled to as a result of the taking

Section 10. Liens and Indemnity

10.1 Liens

10.1.1 Except with respect to activities for which Landlord is responsible, Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens. If Tenant fails to pay any such claims or to discharge any lien, Landlord may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of eight percent (8%) per annum from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default.

10.1.2 Tenant may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, as long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall, within ten (10) days after knowledge of the filing, secure the discharge of the lien or deposit with Landlord cash or sufficient corporate surety bond or other surety satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney fees, and other charges that could accrue as a result of a foreclosure or sale under the lien.

10.2 Indemnification. Tenant shall hold harmless, defend and indemnify Landlord from any claim, loss, expense, action or liability arising out of or related to any activity or omission of Tenant on the Premises or any condition of the Premises in the possession or under the control of Tenant. Landlord shall have no liability to Tenant for any injury, loss, or damage, caused by third parties, or by any condition of the Premises except to the extent caused by Landlord's negligence under this Lease.

Section 11. Quiet Enjoyment Landlord warrants that as long as Tenant complies with all terms of this Lease, Tenant will have quiet and peaceful possession of the Premises free of disturbance by Landlord or others claiming by or through Landlord.

Section 12. Assignment and Subletting. No part of the Premises may be assigned, mortgaged, or subleased, nor may a right of use of any portion of the property be conferred on any third person by any other means, without the prior written consent of Landlord subject to Landlord's sole discretion. This provision shall apply to all transfers by operation of law. No consent in one instance shall prevent the provision from applying to a subsequent instance. In determining whether to consent to assignment Landlord may consider the following factors: financial ability of assignee; use of Premises to be similar to the use permitted under Section 3.1 of this Lease.

Section 13. Default. The following shall be events of default:

13.1 Default in Rent. Failure of Tenant to pay rent or any other charge within ten (10) days after written notice that it is due.

13.2 Default in Other Covenants. Failure of Tenant to comply with any term or condition or fulfill any obligation of Lease (other than the payment of rent or other charges) within twenty (20) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the

default is of such a nature that it cannot be completely remedied within the twenty (20) day period, this provision shall be complied with if Tenant begins correction of the default within the twenty (20) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

- 13.3 **Insolvency.** Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; an adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of any involuntary petition of bankruptcy and failure of Tenant to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of Tenant to secure discharge of the attachment or release of the levy of execution within ten (10) days shall constitute a default. If the Lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Tenant under the Lease.
- 13.4 **Abandonment.** Tenant's abandonment of the Premises or failure by Tenant to occupy the Premises within twenty (20) days after notice from Landlord

Section 14. Remedies on Default.

- 14.1 In the event of default by Tenant, the Lease may be terminated at the option of Landlord by written notice to Tenant. Whether or not the Lease is terminated by the election of Landlord, Landlord shall be entitled to pursue any remedies available to Landlord under applicable law, including but not limited to:
- 14.1.1 Landlord may terminate this Lease, reserving all rights to damages resulting from Tenant's breach. Whether or not Landlord terminates this Lease, Landlord may retake possession of the Premises by any legal means including self-help and any relet or use of the Premises by Landlord will not be deemed a surrender or waiver of Landlord's right to damages. If Landlord retakes possession of the Premises, Landlord's mitigation efforts will be deemed sufficient if Landlord follows standard procedures otherwise used by Landlord for locating tenants for the Building and otherwise complies with Law.
- 14.1.2 Tenant will be liable to Landlord for all damages caused by Tenant's default, including, but not limited to, an amount equal to all unpaid and future Rent, lease commissions incurred for this Lease, and the unamortized cost of all improvements to the Premises installed or paid for by Landlord. Landlord may periodically sue Tenant to recover damages as they accrue, and no action therefore will bar a later action for damages accruing thereafter. Landlord may elect in any one action to recover both accrued damages as well as damages attributable to the remaining term of the Lease. Any damages attributable to the remaining term of the Lease will be equal to the difference between the Rent under this Lease and reasonable rental value of the Premises (including Additional Rent) for the remainder of the term, discounted at the prevailing interest rate on judgments to the date of the judgment.
- 14.2 **Landlord's Right to Cure Default.** Landlord may, but will not be obligated to, make any payment or perform any obligation under this Lease that Tenant has failed to perform, as and when required hereunder. Tenant will pay Landlord for all expenditures and costs incurred by Landlord in performing any obligation of Tenant, upon demand, with interest thereon at the rate of EIGHTEEN percent (18%) per annum, but in no event at a rate in excess of that allowed by Law. Landlord's right to cure any Tenant default is for the sole protection of Landlord and in no event will Tenant be released from any obligation to perform all of Tenant's obligations and covenants under this Lease, and the contents of this Section will not be deemed a waiver by Landlord of any other right that Landlord may have arising from any default of this Lease by Tenant, whether or not Landlord exercises its rights under this Section.
- 14.3 **Landlord's Default.** Landlord will not be deemed to be in default of the performance of any obligation required to be performed by Landlord hereunder unless and until Landlord fails to perform the obligation within twenty (20) days after written notice by Tenant to Landlord specifying the nature of Landlord's alleged default; however, if the nature of Landlord's alleged default is such that more than

twenty (20) days are required for its cure, then Landlord will not be deemed to be in default if Landlord commences performance within the twenty (20)-day period and thereafter diligently prosecutes the same to completion. In the event of any default by Landlord, Tenant may exercise any and all rights and remedies available at law or in equity

Section 15. Surrender; Holdover

15.1 Surrender. Upon expiration or earlier termination of this Lease, Tenant will surrender the Premises and, at Landlord's option, all improvements and alterations therein, vacuumed, swept, and free of debris and in good and serviceable condition, subject to ordinary wear and tear. Tenant will remove all of its personal property and any conduits, wiring, cables, or alterations if required by this Lease and will repair all damage to the Premises and the Building resulting from that removal. If Tenant fails to remove any such personal property or alterations, those items will be deemed abandoned, and Landlord may remove or dispose of the items without liability to Tenant or others. Upon demand, Tenant will reimburse Landlord for the cost of such removal.

15.1.1 All fixtures placed upon the Premises during the term, other than Tenant's trade fixtures, shall, at Landlord's option, become the property of Landlord. If Landlord so elects, Tenant shall remove any or all fixtures that would otherwise remain the property of Landlord; in addition Tenant shall repair any physical damage resulting from the removal of said fixtures. If Tenant fails to remove such fixtures, Landlord may do so and charge the cost to Tenant with interest at the legal rate from the date of expenditure. Tenant shall be allowed to use furnishings and fixtures within the leased space at the time the Lease is executed. Landlord shall not be responsible for the repair and/or replacement of any of the items Tenant chooses to use. Landlord's furnishings and fixtures shall remain Landlord's property at the expiration of the Lease.

15.1.2 Prior to expiration or other termination of the lease term Tenant shall remove all furnishings, furniture and trade fixtures that remain its property. If Tenant fails to do so, this shall be an abandonment of the property, and Landlord may retain the property and all rights of Tenant with respect to it shall cease or, by notice in writing given to Tenant within twenty (20) days after removal was required, Landlord may elect to hold Tenant to its obligation of removal. If Landlord elects to require Tenant to remove, Landlord may effect a removal and place the property in public storage for Tenant's account. Tenant shall be liable to Landlord for the cost of removal, transportation to storage, and storage, with interest at the legal rate on all such expenses from the date of expenditure by Landlord.

15.2 Holdover.

15.2.1 If Tenant fails to surrender the Premises and remove all its personal property as set forth herein, Landlord may either: (i) recognize Tenant as a month-to-month tenant at sufferance, and such tenancy will be subject to all terms of this Lease, except that Rent will be **ZERO** percent (-0-%) of the total Rent for the last month being charged, and all options or other rights regarding extension of the term or expansion of the Premises will automatically terminate; or (ii) evict Tenant from the Premises and recover all damages resulting from Tenant's wrongful holdover.

15.2.2 If a month to month tenancy results from a holdover by Tenant under this Section 15.3, the tenancy shall be terminable at the end of any monthly rental period on written notice from Landlord given not less than ten (10) days prior to the termination which shall be specified in the notice. Tenant waives any notice that would otherwise be provided by law with respect to a month to month tenancy.

Section 16. Miscellaneous

- 16.1 **Nonwaiver.** Waiver by either party of strict performance of any provision of this Lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 16.2 **Notices.** Any notice required or permitted under this Lease shall be given when actually delivered or forty-eight (48) hours after deposited in United States mail as certified mail addressed to the address first given in this Lease or to such other address as may be specified from time to time by either of the parties in writing.
- 16.3 **Succession.** Subject to the above-stated limitations on transfer of Tenant's interest, this Lease shall be binding on and inure to the benefit of the parties and their respective successors and assigns.
- 16.4 **Entry for Inspection.** Landlord shall, subject to the provisions of Section 4.5, have the right to enter upon the Premises at any time to determine Tenant's compliance with this Lease, to make necessary repairs to the building or to the Premises or to show the Premises to any prospective tenant or purchaser, and in addition shall have the right, at any time during the last two (2) months of the term of this Lease, to place and maintain upon the Premises notices for leasing or selling of the Premises.
- 16.5 **Interest on Rent and Other Charges.** Any rent or other payment required of Tenant by this Lease shall, if not paid within ten (10) days after it is due, bear interest at the rate of eight percent (8%) per annum (but not in any event at a rate greater than the maximum rate of interest permitted by law) from the due date until paid.
- 16.6 **Proration of Rent.** In the event of commencement or termination of this Lease at a time other than the beginning or end of one of the specified rental periods, then the rent shall be prorated as of the date of commencement or termination and in the event of termination for reasons other than default, all prepaid rent shall be refunded to Tenant or paid on its account.
- 16.7 **Time of Essence and Holidays.** Time is of the essence of the performance of each of Tenant's obligations under this Lease. If the final date of any period of time set forth herein occurs on a Saturday, Sunday, or legal holiday, then the expiration of the period of time will be postponed to the next day that is not a Saturday, Sunday, or legal holiday.
- 16.8 **Early Termination.** Landlord or Tenant may terminate this Lease for any reason with minimum ninety (90) day written notice to the other party.
- 16.9 **Governing Law.** This Lease will be construed and interpreted and the rights of the parties determined in accordance with the laws of the state of Oregon. Venue shall be in Multnomah County Circuit Court.
- 16.10 **Captions.** The Section headings of this Lease are for descriptive purposes only and in no way define, limit, or describe the scope, intent, or meaning of this Lease.
- 16.11 **Complete Agreement; No Implied Covenants.** This Lease and the attached Exhibits and schedules, if any, contain the entire agreement of the Landlord and Tenant concerning the Premises, Building, Common Areas, and Land, and all prior written and oral agreements and representations between the parties are void. Landlord and Tenant agree that there are no implied covenants or other agreements between the parties except as expressly set forth in this Lease. Neither Landlord nor Tenant is relying on any representations of the other party except those expressly set forth herein.
- 16.12 **Estoppel.** At any time and from time to time upon not less than ten (10) day's prior notice from either party, the other party will execute, acknowledge, and deliver to the requesting party a certificate certifying that this Lease is in full force and effect and unmodified or, if there are any modifications, that the Lease is in full force and effect as modified; that Tenant is in possession of the Premises; the

dates to which Rent has been paid in advance and the amount of any Security Deposit or prepaid Rent; and such other matters as may be reasonably requested.

16.13 Successors. This Lease will bind and inure to the benefit of the parties, their respective heirs, successors, and permitted assigns.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Lease as of the day and year first written above.

LANDLORD
Multnomah County, Oregon

By: _____
Deborah Kafoury, Chair

Date: _____

TENANT
CASA For Children

By: _____
Betsy Stark Miller
Executive Director

Date: _____

Reviewed By:

Matthew O. Ryan
Assistant County Attorney

Date: _____

Lease Information

① Premises
1724 SqFt



② Non-Exclusive Common Area
4837 SqFt



Juvenile Justice Complex - 311

1401 NE 68th Avenue

Portland, Oregon 97213-4957

Exhibit A



Second Floor - Lease Area 

Lease Information

① Non-Exclusive Common Area
7144 SqFt

Juvenile Justice Complex - 311

1401 NE 68th Avenue
Portland, Oregon 97213-4957

Exhibit A



First Floor - Lease Area

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Aerial Photo

2013 / '12 / '11 / '10 / '09 / '08 / '07 / '06 / '05 / '04 / '03 / '02 / '01 6" / 2' / 4' / 10' / 20' Streets: **On** Lots: **On** Dot: **On**



City of Portland, Corporate GIS

4/17/2015

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EXHIBIT B