

PROPERTY LEASE AGREEMENT

BY AND BETWEEN

THE CITY OF CHULA VISTA

AND

CHULA VISTA AMERICAN LEGION POST 434

FOR THE USE OF CITY OWNED REAL PROPERTY

LOCATED AT

47 FIFTH AVENUE

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EXHIBITS

Exhibit "A" - Legal Description of Premises
Exhibit "B" – Sketch of Premises

THIS **LEASE AGREEMENT**, hereinafter called "Agreement", dated as of _____, solely for identification purposes, is executed between the **City of Chula Vista**, a public body corporate and politic, hereinafter called "City", and the **CHULA VISTA AMERICAN POST LEGION POST NO. 434**, hereinafter called "Lessee", to establish terms and conditions of Lessee's use of certain real property owned by City and to provide terms and conditions of Lessee's occupancy and use of City's property. The effective date of this Agreement shall be the date this Agreement is approved by the City ("Effective Date").

RECITALS

WHEREAS, City is the legal and equitable owner of that certain real property located at 47 Fifth Avenue, Chula Vista, currently identified as San Diego County Assessor's Parcel No. 565-120-03 (portion) more fully described herein below;

WHEREAS, Lessee is currently a tenant of City building, surrounding premises and parking area commonly known as American Legion Post No. 434 by virtue of a existing lease dated April 24th, 2012 (City Council Resolution No.2012-064);

WHEREAS, said existing lease will expire on July 31, 2022 and whereas Lessee desires terminate the existing lease, enter into this Lease Agreement, and continue occupancy of the Premises;

WHEREAS, City is willing to enter into a new Lease with Lessee for the continued use of the Premises under the terms, covenants, conditions and provisions contained herein.

AGREEMENT

NOW THEREFORE, THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

SECTION 1: USES

1.01 Premises. City hereby leases to, in accordance with the terms, covenants, conditions and provisions hereof, that certain City owned real property located at 47 Fifth Avenue, Chula Vista, currently identified as San Diego County Assessor's Parcel No. 565-120-03 (portion) and more particularly shown a sketch thereof designated as Exhibit "A" attached hereto and by this reference made part of this Agreement (the "Premises"). In return for this permission, Lessee hereby agrees to act in accordance with and abide by the terms, covenants, conditions and provisions of this Agreement.

1.02 Uses. It is expressly agreed that the Premises shall be used by Lessee solely and exclusively for the purpose of operating Chula Vista American Legion Post No. 434, a veteran's support facility, and for providing and making the Premises available for use by any and all Chula Vista veterans support groups. Other related or incidental purposes as may be required to support said authorized uses are also permitted. Other unrelated activities may also

be allowed at the Premises with prior written approval in writing by the City's Manager, or designee ("Manager").

Lessee covenants and agrees to use the Premises only for the above specified uses and to diligently pursue said uses throughout the term hereof. Lessee shall not use or permit any use of the Premises in any manner which disturbs the use and quiet enjoyment by City or any surrounding tenants or the general public. In the event that Lessee fails to continuously use the Premises for said use, or uses the Premises for purposes not expressly authorized herein, the Lessee shall be deemed in default under this Agreement.

1.03 Reservation of Rights. City shall not unreasonably or substantially interfere with Lessee's use of the Premises while Lessee is in possession of the Premises. However, the City specifically retains the following rights:

a. Subsurface Rights. City hereby reserves all rights, title and interest in any and all subsurface natural gas, oil, minerals and water on or within the Premises.

b. Easements. City reserves the right to grant and use easements or to establish and use rights-of-way over, under, along and across the Premises for utilities, thoroughfares, or access as it deems advisable for the public good.

c. Right to Enter. City has the right to enter the Premises for the purpose of performing maintenance, inspections, repairs or improvements, or developing municipal resources and services.

SECTION 2: COMPENSATION

2.01 Rent for Use of Premises. For purposes of this Agreement, the operation of the Premises as a Veterans support facility together with the maintenance and upkeep of the same as set forth in this Agreement shall be considered "Rent".

Lessee hereby agrees and acknowledges that they are not paying "market rent" and that City is leasing the Premises in exchange for other considerations as set forth in this Agreement.

2.02 Park Clean Up. Lessee agrees to participate in a minimum of three Premises clean-up events each year over the course of this Agreement.

2.03 Utilities. Lessee agrees to pay for all utilities used at the Premises when the bills for each become due and payable. Lessee hereby indemnifies City for all such cost.

SECTION 3: TERM

3.01 Term. Except as otherwise provided for herein, the term of this Agreement shall be **ten years** commencing on November 1, 2020 and terminating on October 31, 2030. This Lease may be extended for up to two (2) additional five (5) year increments upon mutual agreement of the parties.

3.02 Termination. After five years of occupancy in full accordance with the terms and conditions contained herein, Lessee may, at its sole discretion, terminate this Agreement upon six-months written notice given in accordance with the Notice provisions set forth in Section 7.01 herein.

3.03 Surrender of Premises. At the expiration or earlier termination of this Agreement, Lessee shall surrender the Premises to City free and clear of all liens and encumbrances, except those liens and encumbrances which existed on the date of the execution of this Agreement by City. The Premises, when surrendered by Lessee, shall be in a safe and sanitary condition and shall be in as good or better condition as the condition at the commencement of this Agreement, absent normal wear and tear.

SECTION 4: INSURANCE RISKS/SECURITY

4.01 Indemnity.

- a. Lessee hereby agrees to defend, indemnify, and hold the City, its directors, officers, employees, and agents, harmless from and against any and all liability or claim of liability, loss or expense, including defense costs and legal fees and claims for damages of whatever character, nature and kind, whether directly or indirectly arising from or connected with, or related to this Agreement or an act or omission of Lessee, or any employee, agent, invitee, or contractor of Lessee, or other person acting by or on behalf of Lessee on or about the Premises, including, but not limited to, liability, expense, or claims for bodily injury, death, personal injury, or property damage. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys fees) arising from the sole negligence or sole willful misconduct of the City, its officers, employees, or agents. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Lessee, its employees, agents or officers
- b. Costs of Defense and Award. Included in the obligations in Section 4.01(a), above, is the Lessee's obligation to defend, at Lessee's own cost, expense and risk, any and all aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the City, its directors, officials, officers, employees, agents and/or volunteers. Lessee shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expense and cost incurred by each of them in connection therewith.
- c. Insurance Proceeds. Lessee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials, officers, employees, agents, and/or volunteers.

- d. **Declarations.** Lessee's obligations under Section 4 shall not be limited by any prior or subsequent declaration by the Lessee.
- e. **Enforcement Costs.** Lessee agrees to pay any and all costs City incurs enforcing the indemnity and defense provisions set forth in Section 4.
- f. **Survival.** Lessee's obligations under Section 4 shall survive the termination of this Agreement.

4.02 Insurance. Lessee shall take out and maintain at all times during the term of this Agreement the following insurance at its sole expense:

- a. Lessee shall maintain the following minimum limits:

General Liability Insurance, including Liquor Liability

Commercial General Liability Insurance covering liability of the Lessee with respect to all operations to be performed and all obligations assumed by the Lessee under the terms of this Agreement. Coverage for commercial general liability shall be at least as broad as Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). Limits shall be no less than **one million dollars (\$1,000,000)** per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply to the Premises (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to City) or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability Insurance

Automotive Liability Insurance covering the liability of Lessee arising out of the use of all owned, non-owned, and hired vehicles which bear, or are required to bear, license plates according to the laws of California and which are not covered under the Lessee Commercial General Liability insurance. Coverage under this policy shall have limits of liability of not less than **one million dollars (\$1,000,000)** per occurrence, combined single limit, for bodily injury and property damage (including loss of use) liability. Coverage shall be at least as broad as Insurance Services Office Automobile Liability Coverage (Form CA 0001), covering Symbol 1 (any auto).

Workers' Compensation and Employer's Liability Insurance

Workers' Compensation and Employer's Liability Insurance complying will the requirements of all applicable laws relating to workers' compensation insurance, covering or insuring all of the Lessee employees working on or about the Premises. Limits shall be no less than **statutory limits** per accident for bodily injury and disease. By his/her signature hereunder, Lessee certifies that it is aware of the provisions of Section 3700 of the California Labor Code which

require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and it will comply with such provisions in connection with any work performed on or about the Premises. Any persons providing services with or on behalf of Lessee shall be covered by workers' compensation (or qualified self-insurance)

- b. All insurance companies affording coverage to the Lessee shall be required to add the City of Chula Vista, its officials, officers, employees, and agents as "additional insured(s)" under the insurance policy(s) required in accordance with this Agreement. Lessee shall furnish (or cause to be furnished) a certificate of insurance countersigned by an authorized agent of the insurance carrier on a form of the insurance carrier setting forth the general provisions of the insurance coverage. This countersigned certificate (and endorsement) shall name the City and the City, their officers, agents, employees, and authorized volunteers as additional insured under the policy. Coverage provided hereunder to the City and City as additional insured by Lessee shall be primary insurance and other insurance maintained by the City, its officials, officers, agents and/or employees, shall be excess only and not contributing with insurance provided pursuant this Section 4.02, and shall contain such provision in the policy(ies), certificate(s) and/or endorsement(s). The insurance policy or the certificate of insurance shall contain a waiver of subrogation for the benefit of the City, its officials, officers, employees, and agents.
- c. All insurance companies affording coverage to the Lessee shall be insurance organizations acceptable to the City, and authorized by the Insurance Commissioner of the State Department of Insurance to transact business of insurance in the State of California. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-, VII or equivalent or as otherwise approved by City.
- d. All insurance companies affording coverage shall provide **thirty (30) days** written notice to the City should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- e. Lessee shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the General Counsel (City Attorney), concurrently with the submittal of this Agreement.
- f. Lessee shall provide a substitute certificate of insurance no later than **thirty (30) days** prior to the policy expiration date. Failure by the Lessee to provide such a substitution and extend the policy expiration date shall be considered a default by Lessee and may subject the Lessee to a termination of this Agreement.
- g. Maintenance of insurance by the Lessee as specified in this Agreement shall in no way be interpreted as relieving the Lessee of any responsibility whatever and the Lessee may carry, at its own expense, such additional insurance as it deems necessary.

- h. If Lessee fails or refuses to take out and maintain the required insurance, or fails to provide the proof of coverage, City has the right to obtain the insurance. Lessee shall reimburse City for the premiums paid with interest at the maximum allowable legal rate then in effect in California. City shall give notice of the payment of premiums within **thirty (30) days** of payment stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by Lessee on the **first (1st) day** of the month following the notice of payment by City.
- i. City, at its discretion, may require the revision of amounts and coverage at anytime during the term of this Agreement by giving Lessee **sixty (60) days** prior written notice. City's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. Lessee also agrees to obtain any additional insurance required by City for new improvements, in order to meet the requirements of this Agreement.
- j. Notwithstanding the preceding provisions of this Section 4.02, any failure or refusal by Lessee to take out or maintain insurance as required in this Agreement, or failure to provide the proof of insurance, shall be deemed a default under this Agreement and in such event, City may terminate this Agreement upon **three (3) days** written notice to Lessee. For the purposes of this Agreement, the condition to provide the insurance coverage required under this Section 4.02 shall be in addition to rent.

4.03 Accident Reports. Lessee shall promptly report to City any accident causing any property damage or any serious injury to persons on or about the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.

SECTION 5: TERMS AND CONDITIONS OF OCCUPANCY

5.01 Form of Agreement. This Agreement is a limited lease for the use of the Premises for those particular purposes/uses identified in Section 1.02. Nothing in this Agreement shall be interpreted to grant any interest in the Premises other than that specified in this Agreement. At no time shall the Lessee's limited interest in the Premises ripen into a leasehold or fee interest with a claim or right to exclusive possession thereof.

5.02 Right to Occupy. Lessee right to occupy the Premises may be terminated by City at any time if Lessee fails to satisfactorily perform the improvement, maintenance, and upkeep duties or responsibilities of Lessee set forth hereunder. City reserves the right to terminate this Agreement as may be provided for elsewhere herein.

5.03 Taxes. Lessee shall pay, before delinquency, all taxes, assessments, and fees assessed or levied upon Lessee or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever

erected, installed, or maintained by Lessee or levied by reason of the business or other Lessee activities related to the Premises, including any licenses or permits.

Lessee recognizes and agrees that this Agreement may create a possessory interest subject to property taxation, and that Lessee may be subject to the payment of taxes levied on such interest, and that Lessee shall pay all such possessory interest taxes prior to their delinquency.

SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

6.01 Acceptance of Premises. The Premises is being offered to Lessee in an As-Is and Where-Is condition without any warranty, expressed or implied. Lessee represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises and all improvement appurtenant thereto. Lessee acknowledges it is relying solely on such independent inspection, tests, investigations, and observations in making this Agreement. Lessee further acknowledges that the Premises are in the condition called for by this Agreement, and that Lessee does not hold City responsible for any defects in the Premises.

6.02 Waste, Damage, or Destruction. Lessee shall give notice to City of any fire or other damage that occurs on the Premises within **forty-eight (48) hours** of such fire or damage. Lessee shall not commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the Premises, adjoining sidewalks, and other public areas, clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to City. If the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy and sanitary, Lessee agrees to make or cause to be made full repair of said damage and to restore the Premises to the condition which existed prior to said damage; or, at City's option, and upon receipt of written demand thereof, Lessee agrees to clear and remove from the Premises all debris resulting from said damage and repair the Premises in accordance with plans and specifications previously submitted to City and approved in writing in order to replace in kind and scope the improvements which existed prior to such damage. Lessee shall be responsible for all costs incurred in the repair and restoration, or rebuilding of the Premises.

Lessee shall not cause or permit any hazardous material to be used, stored, transported, generated, or disposed in or about the Premises by Lessee, Lessee's agents, employees, contractors, Lessees, or invitees. "Hazardous Material" means any hazardous, toxic, or infectious substance, material, or waste, which is or becomes regulated by any local governmental entity, the State of California, or the United States government under any law, regulation or ordinance.

6.03 Maintenance. Lessee agrees to assume full responsibility and cost for the operation and maintenance of the Premises throughout the term of this Agreement. Lessee will make customary and usual maintenance necessary to maintain and preserve the Premises, all improvements, including fencing, adjoining sidewalks, and other public areas, in a decent, safe, healthy, and sanitary condition satisfactory to City and in compliance with all applicable laws. Lessee shall remove and lawfully and properly dispose of all garbage, litter, trash, debris, and rubbish from or about the Premises, adjoining sidewalks, and other public areas, on a daily basis. All components of the fencing, including but not limited to posts and rails, shall be

mended/replaced on an as-needed, when-needed basis, using material of similar type and style. Lessee shall maintain surface on the Premises in a good, neat and orderly manner. Weeds, tree or shrub branches, leaves, twigs, and other similar debris shall be removed from the Premises as needed to maintain a neat appearance at all times. Lessee shall provide access control to the Premises to prevent access and parking of unauthorized vehicles. All maintenance and other Lessee duties set forth herein shall, during the term hereof, be done at Lessee sole cost and expense and City shall not be called upon for any outlay or expense related thereto.

If at any time during the term of this Agreement, City reasonably determines that the Premises are not in a decent, safe, healthy, and sanitary condition, City may, at its sole discretion and option, terminate this Agreement upon written notice to Lessee and regain possession of the Premises from Lessee. In the event of such termination, or if City elects not to terminate, City may, upon written notice to Lessee, have any necessary maintenance work done in order to place the Premises back to a decent, safe, healthy, and sanitary condition at the expense of Lessee. In such event, City shall provide Lessee written notice and itemized billing showing the work performed and Lessee shall make payment to City no later than **thirty (30) days** after receipt of said notice and billing. The rights reserved in this Section 6.03 shall not create any obligations on City or increase obligations elsewhere in this Agreement imposed on City. The provisions of this Section 6.03 shall survive the expiration or earlier termination of this Agreement.

6.04 Improvements/Alterations. No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by Lessee without prior written approval by the City. This provision shall not relieve Lessee of any obligation under this Agreement to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. City shall not be called upon to or be obligated by this Agreement to make or assume any expense for any existing improvements or alterations.

6.05 Liens. Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to all or any portion of the Premises without the prior written consent of the City Manager or designee. Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim on or with respect to all or any portion of the Premises for which Lessee does not have the prior written consent of the City Manager or designee.

6.06 Signs. Lessee shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising on or about the Premises without the prior written consent of the City Manager or designee. If any such unauthorized item is found on the Premises, Lessee shall remove the item at its expense within **twenty-four (24) hours** of written notice thereof by City, or City may thereupon remove the item at Lessee's cost.

6.07 Ownership of Improvements. Any and all improvements, structures, and installations or additions to the Premises now existing or constructed on the Premises by Lessee shall at Agreement expiration or termination be deemed to be part of the Premises and shall become, at City's option, City's property, free of all liens and claims except as otherwise

provided in this Agreement. If the City chooses not to accept improvements made by Lessee, during the term of this Lease, and prefers to have such improvements removed, Lessee shall do so at its sole cost and expense.

6.08 Breach by Lessee. Lessee's refusal or failure to meet its obligations under this Section 6 shall be deemed a default and breach of this Agreement, and in such event, City may terminate this Agreement pursuant to the provision of Section 7.10 or elsewhere herein.

SECTION 7: GENERAL PROVISIONS

7.01 Notices. All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed, postage prepaid, to the respective party as follows:

To **City**:

Rick Ryals
Real Property Manager
City of Chula Vista
Department of Public Works
276 Fourth Avenue
Chula Vista, CA 91910

To **Lessee**:

Chula Vista American Legion Post No. 434
47 Fifth Avenue
Chula Vista, CA 91910

With Copy to:

City of Chula Vista
City Attorney
276 Fourth Avenue
Chula Vista, CA 91910

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur of: (i) actual receipt at the offices of the party to whom the communication is to be sent, as designated above; or (ii) three working days following the deposit in the United States Mail of certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above, or (iii) actual receipt if made by recognized reliable carrier service who maintains a receipt of delivery.

7.02 City Approval. The City's =City Manager or designee shall be the City's authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The City Manager may delegate authority in connection with this Agreement to the City's Property Manager or other designee(s).

7.03 Nondiscrimination. Lessee agrees not to discriminate in any manner against or segregation of any person or persons, on account of race, color, religion, sex, familial status, national origin, ancestry, age, disability or sexual orientation in the use, occupancy, tenure or enjoyment of the Premises, nor shall Lessee itself, or any person claiming under or through it, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Premises.

7.04 Equal Opportunity. Lessee shall assure applicants are employed and that employees are treated during employment without regard to race, familial status, color, religion, sex or national origin. Lessee hereby certify to City that Lessee is in compliance and throughout the term of this Agreement will comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable Federal, State and Local law, regulation and policy (including without limitation those adopted by City) related to equal employment opportunity and affirmative action programs, including any such law, regulation, and policy hereinafter enacted.

a. Compliance and performance by Lessee of the equal employment opportunity and affirmative action program provision of this Agreement is an express condition hereof and any failure by Lessee to so comply and perform shall be a default of this Agreement and City may exercise any right as provided herein and as otherwise provided by law.

7.05 Entire Agreement. This Agreement comprises the entire integrated understanding between City and Lessee concerning the use and occupation of the Premises and supersedes all prior negotiations, representations, or agreements. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Agreement itself.

7.06 Interpretation of the Agreement. The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to City.

a. The Lessee shall be responsible for complying with all Local, State, and Federal laws whether or not said laws are expressly stated or referred to herein.

b. Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

c. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

7.07 Agreement Modification. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

7.08 Attorney's Fees. In the event a suit is commenced by City against Lessee to enforce payment of amounts due, or to enforce any of the terms and conditions hereof, or in case City shall commence summary action under the laws of the State of California relating to the unlawful detention of Premises, for forfeit of this Agreement, and the possession of the

Premises, provided City effects a recovery, Lessee shall pay City all reasonable costs expended in any action, together with a reasonable attorney's fee to be fixed by the court. Venue for any such suit or action shall be California Superior Court, San Diego County, North County Branch.

7.09 Assignment and Subletting-No Encumbrance. This Agreement and any portion thereof shall not be assigned, transferred, or sublet, nor shall any of the Lessee's duties be delegated, without the express written consent of City. Any attempt to assign or delegate this Agreement without the express written consent of City shall be void and of no force or effect. A consent by City to one assignment, transfer, sublease, or delegation shall not be deemed to be a consent to any subsequent assignment, transfer, sublease, or delegation.

7.10 Defaults and Termination. If City has a good faith belief that Lessee is not complying with the terms of this Agreement, City shall give written notice of the default (with reasonable specificity) to Lessee and demand the default to be cured within **fifteen (15) days** of the notice. If Lessee is actually in default of this Agreement and fails to cure the default within **fifteen (15) days** of the notice, or, if more than **fifteen (15) days** are reasonably required to cure the default and Lessee fails to give adequate assurance of due performance within **ten (10) days** of the notice, City may terminate this Agreement upon written notice to Lessee.

City may also terminate this Agreement upon written notice to Lessee in the event that:

a. Lessee has previously been notified by City of Lessee's default under this Agreement and Lessee, after beginning to cure the default, fails to diligently pursue the cure of the default to completion; or

b. Lessee shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or

c. Lessee shall be adjudicated a bankruptcy; or

d. Lessee shall make a general assignment for the benefit of creditors.

Upon termination, City may immediately enter and take possession of the Premises.

7.11 No Waiver. The failure to require the remedy of a breach or enforce the terms and conditions of this Agreement in one instance or several instances shall not be interpreted to be a waiver of the right to enforce the terms and conditions of this Agreement for any subsequent breach.

7.12 Other Regulations. All uses and occupancy of the Premises by Lessee under this Agreement shall be in accordance with the laws of the United States of America, the State of California, the County of San Diego, and in accordance with all applicative rules and regulations and ordinances of the City of Chula Vista now in force, or hereinafter prescribed or promulgated by resolution or ordinance or by Local, State or Federal law.

7.13 Time is of Essence; Provisions Binding on Successors. Time is of the essence of all of the terms, covenants and conditions of this Agreement and, except as otherwise provided herein, all of the terms, covenants and conditions of this Agreement shall

apply to, benefit and bind the successors and assigns of the respective parties, jointly and individually.

7.14 Section Headings. The Table of Contents and the section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision thereof.

7.15 Gender/Singular/Plural. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, partnership, or other legal entity when the context so requires. The singular number includes the plural whenever the context so requires.

7.16 Non-liability of Officials. No member, official or employee of the City shall be personally liable to Lessee, its assigns or successors in interest, in the event of any default or breach by the City, for any amount which may become due to Lessee is assigns or successors, or in any obligations under the terms of this Agreement.

7.17 Relationship between City and Lessee. It is hereby acknowledged that the relationship between City and Lessee is that of landowner and tenant at will and not that of a partnership or joint venture and that City and Lessee shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein, the City shall have no duties or obligations with respect to the improvement, maintenance or upkeep of the Premises.

***REMAINDER OF PAGE LEFT BLANK INTENTIONALLY
[Signatures on Following Page]***

SECTION 8: SIGNATURES

8.01 Signatories. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Lessee and the City.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Property Use Permit to be executed as of, but not necessarily on, the Effective Date by setting hereunto their signatures herein below.

CITY:
City of Chula Vista

By: _____
Mary Casillas Salas, Mayor

ATTEST:

By: _____
Kerry K. Bigelow, MMC, City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

By: _____

LESSEE:
Chula Vista American Legion Post No. 434

By:  _____

Dated: 10/7/20