

**EXHIBIT A**  
**Ground Lease**  
Lone Star Recreational Facility  
829 Nogalitos, San Antonio, TX 78204

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**Authorizing Ordinance:**

**Sublease** That certain Sublease agreement by and between The City of San Antonio and the Boys and Girls Clubs of San Antonio, Inc. coterminous with this Ground Lease Agreement (“Lease” or “lease”). The Boys and Girls Clubs of San Antonio, Inc. is the Landlord under the Lease and the Subtenant under the Sublease. The City is the Tenant under both the Sublease and Ground Lease agreements.

**Landlord: The Boys and Girls Clubs of San Antonio, Inc.**

**Landlord’s Address:** 600 S.W. 19<sup>th</sup> Street, San Antonio, TX 78207

**Address for Rent Payment:** 600 S.W. 19<sup>th</sup> Street, San Antonio, TX 78207

**Tenant:** City of San Antonio

**Tenant’s Address:** P.O. Box 839966, San Antonio, Texas 78283-3966

**Premises:** A parcel containing approximately 1.979 acres of

gross area located at 829 Nogalitos, San Antonio, Bexar County, Texas, more particularly described on **Exhibit A**, which is incorporated herein for all purposes.

**Permitted Use:** Community recreational facility

**Lease Commencement Date:** The effective date of the Authorizing Ordinance

**Initial Term:** Until the expiration of 20 years from the Lease Commencement Date

**Initial Term Annual Rent:** In consideration of Tenants financial support for the construction of the improvements, there will be no rent.

**Background:**

In 2012, the City of San Antonio (City) held a Bond Election and received voter approval to fund a variety of Parks, Recreation & Open Space Improvements pursuant to such bonds. Among the Parks, Recreation & Open Space Improvements projects approved is the “Lone Star Recreational Facility” project, described in the official bond brochure as “Lone Star Recreational Center LF: Development of a recreation facility in the Lone Star neighborhood that may include land acquisition.” The City must comply with official brochure terms and conditions including fulfillment of a public purpose in accordance with all applicable laws of public funding and authorizing instruments for the public funding. The City identified the The Boys and Girls Clubs of San Antonio, Inc. as the appropriate party to partner with. The City has committed funding for the construction of a recreation facility which will be provided to The Boys and Girls Clubs of San Antonio, Inc. according to the terms of a funding agreement separate from this ground lease. The public benefit to be provided is recreational facilities, operated under non-profit regulations, available to the citizens of San Antonio.

**1. Demise of Premises.**

Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord under the terms of this Lease. Tenant is to have and hold the Premises, together with all rights, privileges, easements, appurtenances, and immunities belonging to or in any way appertaining to them. The foregoing includes easements, rights, and privileges of Landlord, existing now or at any time during the lease term, in, to, or under adjacent streets, sidewalks, alleys, party walls, and property contiguous to the Premises and reversions that may later accrue to Landlord as owner of the Premises by the closing of any street, sidewalk, or alley.

## **2. Lease Term.**

2.01. The Term is as stated above.

2.02. *Termination.* This lease terminates without further notice when the Term expires. Tenant's holding over expiration is not a renewal of the lease and does not give Tenant rights under the Lease in or to the Premises.

## **3. Rent.**

3.01. In consideration of Tenants financial support for the construction of the improvements, there is no rent.

## **4. Taxes.**

### *Payment by Landlord*

4.01. Landlord must pay and discharge all taxes, general and special assessments, and other charges of-any kind levied on or assessed against the Premises and all interests in the Premises and all improvements and other property on them during the lease term, whether belonging to Landlord or to Tenant. Landlord must pay all the taxes, charges, and assessments directly to the public officer charged with their collection not fewer than 15 days before delinquency. Landlord hereby indemnifies Tenant and holds it harmless from all loss, cost, liability, or expense arising from or relating to such taxes, charges, and assessments. Landlord may, in good faith at its own expense, contest taxes, charges, and assessments. However, it must pay the contested amount, plus any penalties and interest imposed, if and when finally determined to be due.

## **5. Utilities.**

Landlord must pay or cause to be paid all charges for water, heat, gas, electricity, sewers, and all other utilities used on the Premises throughout the lease term, including any connection fees. Landlord understands and agrees that this provision applies to any existing as well as contemplated facilities.

## **6. Use of Premises.**

### *Permitted Use of Premises*

6.01. Following final completion of the improvements, Tenant shall have the right to use the Premises for City activities and events for up to ten (10) days in any calendar year during the term of this **Agreement ("City Days")**. Tenant's right to City Days shall be subject to the availability of the Premises based on Landlord's use for its own practices, games, tournaments, maintenance, and other related uses, as well as previously scheduled use by other amateur sports groups

as outlined in the Funding Agreement. Tenant shall not be charged additional rent or fees for City Days. Tenant shall use its best efforts to avoid any damage to the Premises, and any damage caused as a result of Tenant's use shall be promptly repaired by Tenant, at Tenant's expense. Tenant may use the Premises only for the Permitted Use, unless Landlord otherwise consents in writing. Tenant must not use or store, or permit to be used or stored, on the Premises any hazardous or toxic substances or materials.

*Prohibited Use*

6.02. Tenant must not use or permit the Premises to be used for any activity violating any applicable local, state, or federal law, rule, or regulation.

## **7. Construction by Tenant.**

7.01. Tenant shall have the right to make improvements to the Premises with the prior written approval of Landlord.

7.02. Any buildings, improvements, additions, alterations, and fixtures (except furniture and trade fixtures) constructed, placed, or maintained on any part of the Premises during the lease term become part of the real property of the Premises and must remain on the Premises and become Landlord's property when the lease terminates.

## **8. Repairs, Maintenance, and Restoration.**

*Landlord's Duty to Maintain and Repair*

8.01. Landlord must keep and maintain all buildings and improvements erected on the Premises in a good state of appearance and repair (except for reasonable wear and tear) at Landlord's own expense.

*Damage or Destruction*

8.02. If any building or improvement constructed on the Premises is damaged or destroyed by fire or any other casualty, regardless of the extent of the damage or destruction, Landlord must, within one year from the date of the damage or destruction, begin to repair, reconstruct, or replace the damaged or destroyed building or improvement at its own cost. Landlord must pursue the repair, reconstruction, or replacement with reasonable diligence and restore the building to substantially the condition it was in before the casualty. However, if beginning or completing this restoration is prevented or delayed by war, civil commotion, acts of God, strikes, fire or other casualty, or any other reason beyond Landlord's control, the time for beginning or completing the restoration (or both) will automatically be extended for the period of each such delay.

## **9. Mechanic's Liens.**

Tenant must not cause or permit any mechanic's or other liens to be filed against the fee of the Premises or against Tenant's leasehold interest (excluding any leasehold mortgage). If such a lien is recorded, Tenant must either cause it to be removed, or if Tenant in good faith wishes to contest the lien, take timely action

to do so at Tenant's sole expense. If Tenant contests the lien, Tenant must indemnify Landlord and hold it harmless from all loss, cost, liability, or expense arising from the lien contest. If Tenant loses the contest, Tenant must cause the lien to be discharged and removed before any judgment is executed.

## **10. Condemnation.**

### *Parties' Interests*

10.01. If the Premises or any part of them are taken by condemnation as a result of any action or proceeding in eminent domain, or are transferred in lieu of condemnation to any authority entitled to condemn, this article governs Landlord's and Tenant's interests in the award or consideration for the transfer and the effect of the taking or transfer on this lease.

### *Total Taking—Termination*

10.02. If the entire Premises are taken or so transferred, this lease and all of the rights, titles, and interests under it ceases on the date that title to the Premises vests in the condemning authority. Tenant shall receive a portion of the proceeds of the condemnation award sufficient to repay the pro rate share of the bond funds provided by Tenant for construction of the improvements.

### *Partial Taking—Termination*

10.03. If only part of the Premises is taken or transferred, this lease terminates if, in Tenant's opinion, the remainder of the Premises is in such a location, or is in such form, shape, or reduced size, that Landlord's business cannot be effectively and practicably operated on it. In such case, this lease and all rights, title, and interest under it cease on the date that title vests in the condemning authority. Tenant shall receive a portion of the proceeds of the condemnation award sufficient to repay the pro rate share of the bond funds provided by Tenant for construction of the improvements.

### *Partial Taking*

10.04. If part of the Premises is taken or transferred and, in Landlord's opinion, the remainder of the Premises is in such that Landlord's business can be effectively and practicably operated on the remaining Premises, this Lease terminates only as to the portion of the Premises taken or transferred. The termination is as of the date title vests in the condemning authority. The Lease continues as to the portion not taken or transferred All proceeds of condemnation are Landlord's.

## **11. Insurance**

Tenant is a self insured. Landlord shall maintain the insurance policies required under the Sublease.

## **12. Default and Remedies.**

### *Termination on Default*

12.01. If Tenant defaults in performing any obligation arising out of this lease and does not correct the default within 60 days after receipt of written notice to Tenant, Landlord may terminate this lease, provided however, Landlord may not terminate this lease during any period in which there is outstanding debt owed by Tenant for bonds issued for the financing of the construction of improvements on the Premises.

12.02. If Landlord defaults in performing any obligation arising out of this lease and does not correct the default within 60 days after receipt of written notice to Landlord, Tenant may terminate this lease. Any such termination for Landlord default during any period in which there is outstanding debt owed by Tenant for bonds issued for the financing of the construction of improvements on the Premises shall result in Landlord owing Tenant an amount equal to the such outstanding debt.

12.03. Termination of this lease does not relieve either party from paying (A) money owing under the lease at the time of termination, or (B) any claim for damages against under this lease. Either party may pursue any or all such remedies or any other remedy or relief provided by law, whether or not stated in this lease. No waiver by either party of a breach of any covenant or condition of this lease is a waiver of any succeeding or preceding breach of the same or any other covenant or condition of this lease.

*Subleases Not Affected*

12.04. Landlord's exercising any remedy does not affect the existence of subleases entered into according to this lease.

### **13. General Protective Provisions.**

*Right of Entry and Inspection*

13.01. Tenant must permit Landlord or its agents, representatives, or employees to enter the Premises to (A) inspect, (B) determine whether Tenant is complying with this lease, (C) maintain, repair, or alter the Premises, or (D) show the Premises to prospective tenants, purchasers, mortgagees, or beneficiaries under trust deeds.

*No Partnership or Joint Venture*

13.02. The relationship between Landlord and Tenant is at all times solely that of landlord and tenant, not that of partners or a joint venturers.

*Force Majeure*

13.03. If constructing the building, curing any default (other than failure to pay rent, insurance premiums, or taxes), or performing any other obligation is delayed by war; civil commotion; act of God; fire or other casualty; or any other circumstance beyond the control of the party obligated to perform, each party so delayed is excused from performance during the delay period.

*Release of Landlord*

13.04. If Landlord sells or transfers all or part of the Premises and as a part of the transaction assigns its interest in this lease, of the effective date of the assignment, Landlord has no further liability under this lease, except with respect to matters that have accrued and are unsatisfied as of that date. Landlord's covenants and obligations under this lease will bind Landlord and its successors and assigns only during their respective, successive periods of ownership of the fee.

*Joint and Several Liability*

13.05. If the Lease names more than one Tenant or Landlord; the obligations of all Tenants and Landlords are joint and several.

## **14. Prohibited Interests in Contracts**

*Prohibited Interest*

14.01. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;
- (ii) his parent, child or spouse;
- (iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;
- (iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

*Tenant's Warranties*

14.02. Tenant warrants and certifies as follows:

- (i) Tenant and its officers, employees and agents are neither officers nor employees of the City.
- (ii) Tenant has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

*City's Reliance is Reasonable*

14.03. Tenant acknowledges that City's reliance on the above warranties and certifications is reasonable.

## 15. Miscellaneous.

### *Rights and Remedies Cumulative*

15.01. The rights and remedies under this Lease are cumulative, and either party's using any right or remedy does not preclude or waive its right to use any other remedy. The rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

### *Time of Essence*

15.02. Time is of the essence under this Lease.

### *Yielding Up*

15.03. Tenant will, upon expiration or termination, yield up the Premises peacefully to Landlord, in good order, condition, and repair, reasonable use and wear excepted.

### *Applicable Law*

15.04. This Agreement is entered into in San Antonio, Bexar County, State of Texas. **The Construction Of This Lease And The Rights, Remedies, And Obligations Arising Thereunder Are Governed By The Laws Of The State Of Texas.** But the Texas conflicts of law rules must not cause the application of the laws of a jurisdiction other than Texas. The obligations performable hereunder by both parties are performable in San Antonio, Bexar County, Texas.

### *Severability*

15.05. If any portion hereof is determined to be invalid or unenforceable, the determination does not affect the remainder hereof.

### *Successors*

15.06. This Lease inures to the benefit of and binds the heirs, representatives, successors, and permitted assigns of each party. This clause does not authorize any assignment not otherwise authorized.

### *Integration*

15.07. **This Written Lease Represents The Final Agreement Between The Parties And May Not Be Contradicted By Evidence Of Prior, Contemporaneous, Or Subsequent Oral Agreements Of The Parties. There Are No Oral Agreements Between The Parties.**

### *Modification*

15.08. This Lease may not be changed orally but only by a written agreement, signed by the party against whom enforcement of any modification is sought. No such modification, express or implied, affects the right of the modifying party to require observance of either (i) any other term or (ii) the same term or condition as it applies on a subsequent or previous occasion.

### *Third Party Beneficiaries*

15.09. This Lease benefits only the parties hereto and their successors and permitted assigns. There are no third party beneficiaries.



*Notices*

15.10. Any notice provided for or permitted hereunder must be in writing and by certified mail, return receipt requested, addressed to the parties at their respective addresses set forth in the preamble. If the addressee is a corporation, notices must be addressed to the attention of its CEO. Notice is complete three days after deposit, properly addressed and postage prepaid, with the United States Postal Service. Failure to use certified mail does not defeat the effectiveness of notice actually received, but such notice is effective only on actual receipt. Address for notice may be changed by giving notice hereunder.

*Captions*

15.11. Paragraph captions in this Lease are for ease of reference only and do not affect the interpretation hereof.

*Counterparts*

15.12. This Lease may be executed in multiple counterparts, each of which is an original, whether or not all parties sign the same document. Regardless of the number of counterparts, they constitute only one agreement. In making proof of this Lease, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties.

*Further Assurances*

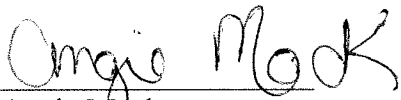
15.13. The parties must execute and deliver such additional documents and instruments as may be required to effect fully the provisions hereof. No such additional document(s), however, may alter the rights or obligations of the parties as contained in this Lease

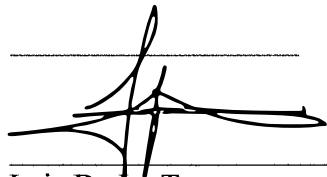
**In Witness Whereof, the parties have hereunto caused their representatives to set their hands.**

**EXECUTED IN DUPLICATE ORIGINALS**, each of which shall have the full force and effect of an original this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**In Witness whereof, the parties have hereunto caused their representatives to set their hands.**

By: \_\_\_\_\_  
Mike Frisbie, P.E.,  
City Engineer/ Director, TCI

By:   
Angie Mock  
CEO

Date: \_\_\_\_\_  
  
By: \_\_\_\_\_  
Luis De La Torre  
Board Chairman

Date: 3/7/15

Date: 03/04/15

**APPROVED AS TO FORM**

\_\_\_\_\_  
CITY ATTORNEY

Date: \_\_\_\_\_

**Attest:**

\_\_\_\_\_  
City Clerk