

RECORDING REQUESTED BY  
AND  
WHEN RECORDED RETURN TO:

Alameda Unified School District  
2200 Central Avenue  
Alameda CA 94501

Attention: Office of General Counsel

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantor hereby declares this instrument to be exempt from Recording Fees (Govt. Code §27383) and Documentary Transfer Tax (Revenue and Taxation Code §11922).

FIRST AMENDMENT TO  
GROUND LEASE

## FIRST AMENDMENT TO GROUND LEASE AGREEMENT

This First Amendment to Ground Lease Agreement is entered into on \_\_\_\_\_, 2009, by and between the Alameda Unified School District, a public school district of the State of California (“DISTRICT”), and Alameda Boys and Girls Club, a California Non-Profit Corporation (“TENANT”), collectively referred to as the “Parties.”

### RECITALS

**WHEREAS**, on or about April 19, 2005 the Parties entered into that certain Ground Lease Agreement (“Agreement”), attached to this First Amendment as Attachment 1 and fully incorporated herein, to lease a portion of DISTRICT property, as identified in Exhibits “A” and “B” to the Agreement (the “Premises”), to the TENANT on the terms and conditions stated therein; and

**WHEREAS**, the Parties desire to amend certain provisions of the Agreement to clarify the rights and responsibilities of the Parties;

**NOW, THEREFORE**, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree as follows:

**A. ARTICLE 4, Section 4.06 of the Agreement is amended to read in full as follows:**

Section 4.06. Approval of Plans by Governmental Agencies. The term “California Department of Architecture” is deleted from the first sentence and replaced by the term “Division of the State Architect.”

**B. ARTICLE 4, Section 4.11 is added to the Agreement to read in full as follows:**

Section 4.11. California Environmental Quality Act. “The Parties hereto recognize and acknowledge that, prior to undertaking the activities set forth in this Agreement, such activities may require an environmental review and compliance with the California Environmental Quality Act (“CEQA”). TENANT shall be responsible for complying with all requirements of CEQA. TENANT shall implement all mitigation measures required of DISTRICT as a result of the CEQA process. TENANT shall pay any and all costs that are required to achieve CEQA compliance and that might be required as a condition to Project approval. In addition, TENANT shall indemnify, hold harmless, and defend DISTRICT against and from any and all claims arising from any challenges to the mitigated negative declaration associated with the environmental impact study for the Project as a result of the CEQA process under this Section 4.11. If any action or proceeding is brought against DISTRICT by reason of such claim (regardless of whether a claim is filed), TENANT upon notice from DISTRICT shall defend the same at TENANT’S expense. TENANT shall give prompt written notice to DISTRICT’S Risk Manager in case of casualty or accidents in or on the Premises.”

C. **ARTICLE 7: Sections 7.04, 7.05, and 7.06 are added to the Agreement to read in full as follows:**

Section 7.04. Tenant Indemnification. TENANT agrees to indemnify, defend (through counsel reasonably acceptable to DISTRICT), and hold harmless DISTRICT (including its trustees, officers, employees and agents) against any and all claims, causes of action, demands, suits, losses, judgments, obligations, costs, or liabilities arising from any breach or default in the performance of any obligation on TENANT'S part to be performed under the terms of this Agreement, or arising from any act, omission or negligence of the TENANT, or any officer, agent, employee, guest, or invitee of TENANT, including, without limitation, any injury, death or damage to any person or property occurring in, on or about the Premises after DISTRICT delivers possession of the Premises to TENANT arising out of or from the conduct of TENANT'S Program or in any way connected with the condition of the Premises (except conditions that arise out of DISTRICT's sole negligence or breach of this Agreement), or from any activity, work, or other things done, permitted or suffered by TENANT in or about the Premises.

Section 7.05. District Indemnification. DISTRICT agrees to indemnify, defend (through counsel reasonably acceptable to TENANT), and hold harmless TENANT (including its officers, directors, employees and agents) against any and all claims, causes of action, demands, suits, losses, judgments, obligations, costs, or liabilities arising from any breach or default in the performance of any obligation on DISTRICT'S part to be performed under the terms of this Agreement, or arising from any act, omission or negligence of the DISTRICT, or any officer, agent, employee, guest, or invitee of DISTRICT, including, without limitation, any injury, death or damage to any person or property occurring in, on or about the Premises arising out of or in connection with the activities or programs sponsored by DISTRICT on the Premises except those which arise out of TENANT'S sole negligence. This indemnification shall not apply in those instances where TENANT had actual knowledge and failed to inform DISTRICT of a potential or actual hazardous condition of the Premises.

Section 7.06 Costs to Enforce Indemnification. Any reasonable costs incurred (including filing fees, attorneys' fees etc.) after providing written request for indemnification to the indemnifying party for indemnification shall be owed to the requesting party if it is determined the indemnification was owed. In addition the indemnifying party shall pay reasonable attorneys' fees and costs incurred to enforce the indemnity obligations of this agreement to the indemnified party.

D. All other provisions of the Agreement shall remain in full force and effect and are reaffirmed. If there is any conflict between this Amendment and any provision of the Agreement, the provisions of this Amendment shall control.

**IN WITNESS WHEREOF**, the Parties have, by their duly authorized representatives, executed this Amendment on the date first above written.

Signatures on Following Page

**DISTRICT**

ALAMEDA UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
Kirsten Vital, Superintendent

APPROVED AS TO FORM  
BY DISTRICT GENERAL COUNSEL:

By \_\_\_\_\_  
Danielle Houck, General Counsel

**TENANT**

ALAMEDA BOYS AND GIRLS CLUB

By \_\_\_\_\_  
George Phillips, Executive Director

APPROVED AS TO FORM  
BY TENANT COUNSEL:

By \_\_\_\_\_

State of California  
County of Alameda

On \_\_\_\_\_ before me, (here insert name and title of the officer), personally  
appeared \_\_\_\_\_

\_\_\_\_\_, who  
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California  
County of Alameda

On \_\_\_\_\_ before me, (here insert name and title of the officer), personally  
appeared \_\_\_\_\_

\_\_\_\_\_, who  
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)