

SUBLEASE

FIRST BAPTIST CHURCH HEADSTART

1203 W. 10th Street
Antioch, California

This lease is dated July 1, 2020, and is between the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (“**County**”) and FIRST BAPTIST CHURCH HEAD START, a California non-profit corporation (“**Sublessee**”).

Recitals

- A. The County and the 23rd District Agricultural Association (the “**Master Lessor**”) are parties to a ground lease dated _____, under which the County is leasing from the Master Lessor the real property located at 1203 W. 10th Street in Antioch, California (the “**Property**”).
- B. The County and Sublessee are parties to a service contract dated July 1, 2020, under which Sublessee is operating a Head Start program for the County in three County-owned buildings on the Property, known as Building A, Building B and Building C (together, the “**Premises**”). The July 1, 2020, service contract, as it may be amended or extended from time to time, is the “**Service Contract.**”
- C. The County and Sublessee desire to enter into this sublease in order to allow Sublessee to perform its obligations under the Service Contract at the Premises. If the Service Contract is terminated for any reason, or no reason, this Sublease will terminate on the same date that the Service Contract terminates.

The parties therefore agree as follows:

Agreement

- 1. Lease of Premises. In consideration of the rents and subject to the terms herein set forth, the County hereby leases to the Lessee and the Lessee hereby leases from the County, the Premises, subject to all easements and encumbrances of record.
- 2. Term. The “**Term**” of this lease is (i) subject to the provisions of Section 29 – Termination, and (ii) comprised of an Initial Term and, with the parties’ mutual assent, Renewal Terms, each as defined below.
 - a. Initial Term. The “**Initial Term**” is one year, commencing July 1, 2020 and ending June 30, 2021.

- b. Renewal Terms. Lessee has nine options to renew this Lease for a term of one year for each option (each, a “**Renewal Term**”) upon all the terms and conditions set forth herein.
 - i. Lessee must give County at least ninety days prior written notice to renew the Lease prior to the end of the Term.
 - ii. Upon the commencement of a Renewal Term, all references to the Term of this Lease will be deemed to mean the Term as extended pursuant to this Section.

- 3. Rent. Each month during the Term, Lessee shall pay rent to the County beginning on the commencement date without offset or demand on or before the first day of each month in the amounts set forth below:
 - a. Initial Term. \$3,767.00 per month for the period that begins July 1, 2020 and ends June 30, 2021.
 - b. First Renewal Term. \$3,955.35 per month for the period that begins July 1 2021, and ends June 30, 2022.
 - c. Second Renewal Term. \$4,153.12 per month for the period that begins July 1, 2022, and ends June 30, 2023.
 - d. Third Renewal Term. \$4,360.78 per month for the period that begins July 1, 2023, and ends June 30, 2024.
 - e. Fourth Renewal Term. \$4,578.82 per month for the period that begins July 1, 2024, and ends June 30, 2025.
 - f. Fifth Renewal Term. \$4,807.76 per month for the period that begins July 1, 2025, and ends June 30, 2026.
 - g. Sixth Renewal Term. \$5,048.15 per month for the period that begins July 1, 2026, and ends June 30, 2027.
 - h. Seventh Renewal Term. \$5,300.56 per month for the period that begins July 1, 2027, and ends June 30, 2028.
 - i. Eighth Renewal Term. \$5,565.59 per month for the period that begins July 1, 2028, and ends June 30, 2029.
 - j. Ninth Renewal Term. \$5,843.87 per month for the period that begins July 1, 2029, and ends June 30, 2030.

Rent for any partial month will be prorated at the rate of 1/30 of the applicable monthly rent per day.

4. Additional Payment Terms.

a. Late Rental Payments: In the event Lessee fails to pay County any amount due under this lease within five (5) days after such amount is due, Lessee shall pay to County a late charge of \$100 per occurrence (the “**Late Charge**”), plus interest on the unpaid balance at a rate of one and one-half percent (1.5%) per month, from the date the payment was due and payable until paid in full. Lessee shall pay all Late Charges as additional rent on or before the date the next installment of rent is due. County and Lessee hereby agree that it is and will be impracticable and extremely difficult to ascertain and fix County’s actual damage from any late payments and, thus, that Lessee shall pay as liquidated damages to County the Late Charge specified in this Section, which is the result of the parties’ reasonable endeavor to estimate fair average compensation for the late payment (other than attorneys’ fees and costs). County’s acceptance of the Late Charge as liquidated damages does not constitute a waiver of Lessee’s default with respect to the overdue amount or prevent County from exercising any of the rights and remedies available to County under this lease.

b. Form and Place of Payment: Lessee shall pay all rents and fees in cash or by personal check, certified check, or money order, payable to the County of Contra Costa, by delivering same on or before due date to Contra Costa County, Public Works Department – Real Estate Division, 255 Glacier Drive, Martinez, California 94553, or at such other place as County may designate from time to time.

c. Returned Checks: If a check written by Lessee is returned for insufficient funds, County may impose a reasonable service charge in addition to any Late Charge and in addition to any charges imposed by the bank. County may require Lessee to pay rent by certified check or money order if Lessee’s bank or banks have returned one or more personal checks within the preceding twelve (12) month period.

d. Definition of Rent: “**Rent**” means all amounts due from Lessee to County under this lease, with the exception of the Security Deposit.

5. Use. Except as otherwise provided herein, the Premises may be used by the Lessee only for the operation and maintenance of a pre-school.

Lessee may not use the Premises for any other purpose without the prior written consent of the County. Any use of the Premises other than as described herein without the County’s prior written consent is a default of this lease.

6. Utility Obligations. The Lessee shall pay utility providers directly for all utilities used or consumed on the Premises by Lessee or its subtenants, including, but not limited to gas,

water, electricity, garbage disposal, storm and sanitary sewer services, janitorial services, landscaping, and telephone services.

7. Condition of Premises.

- a. Commencement Date. Lessee is leasing the Premises in an “as is” physical condition with no warranty, express or implied, on the part of the County as to the condition of the Improvements, the condition of the soil or the geology of the soil.
- b. During Term. The Lessee shall maintain the Premises in accordance with Section 8, Maintenance and Repairs.

8. Maintenance and Repairs.

- a. Structures and Grounds. Lessee shall, at its sole cost and expense throughout the Term of this lease, maintain the Premises and the Improvements in a first-class condition. Maintenance of the Improvements includes exterior painting and roof repairs. Grounds maintenance includes repairs to cracks, sealing, and other infrastructure repairs. All maintenance, repairs, and replacements must be of a quality substantially equal to the original material and workmanship. The Director of Public Works, or his or her designee, is the sole judge of the quality of maintenance.

Any changes in exterior paint colors are subject to the prior written approval of the Director of Public Works. Lessee shall maintain all painted exterior surfaces and surfaces requiring treatment of any kind in first-class condition and repaint or treat as often as reasonably required in the sole discretion of the County, in order to preserve the structure and to maintain high standards of appearance.

Upon written notice by the County, Lessee shall perform whatever reasonable maintenance the County deems necessary. If said maintenance is not undertaken by Lessee within thirty (30) days after receipt of written notice, the County has the right to enter upon the Premises and perform such necessary maintenance, the cost of which shall be reimbursed by Lessee to the County as additional rent, without offset, upon Lessee’s receipt of the County’s request for said reimbursement.

- b. Lessee shall provide or cause to be provided adequate enclosures, screened areas and/or suitable covered metal receptacles within the Premises for the short-term accumulation and storage of solid waste, such as rubbish, trash, and garbage. Such enclosures and/or screened areas must be designed in such a way as to prevent, to the extent possible, odors, fumes, attraction of pests and dispersal of wastes due to wind or water runoff and must be serviced regularly by qualified waste removal and disposal services.
- c. Utilities. The Lessee shall repair and maintain the electrical, lighting, water and plumbing systems in good order, condition and repair. The County is responsible for maintaining the plumbing system beyond the perimeter of the Premises.

- d. HVAC. The Lessee shall maintain and repair the heating, ventilating, and air-conditioning (HVAC) systems. The Lessee shall obtain and keep in effect, at its sole cost and expense, a service contract acceptable to the County for the maintenance and repair of the HVAC systems. The contract must provide for maintenance of the HVAC units and components, including motors, belts, damper, drainage systems, and air filters, to occur quarterly.
 - e. Parking; Exterior Lighting. The Lessee shall maintain the parking lot and exterior lighting system in good order, condition and repair.
 - f. Fire Extinguishers. The County is providing fire extinguishers for the Premises in accordance with the direction received from the fire marshal. Lessee shall maintain, repair, and replace the fire extinguishers.
 - g. Code Violations. The County is responsible for correcting any code building violations that may exist in the Premises, provided the County is not responsible for correcting building code violations that arise out of a change in Lessee's use or occupancy of the Premises.
9. Covenant against Liens. Neither Lessee nor Lessor may permit any mechanic's, material man's, or other lien against the Premises, or the property of which the Premises forms a part, in connection with any labor, materials, or services furnished or claimed to have been furnished. If any such lien is filed against the Premises, or property of which the Premises forms a part, the party charged with causing the lien will cause the same to be discharged, provided however, that either party may contest any such lien, so long as the enforcement thereof is stayed.
10. Taxes. Lessee agrees to pay before delinquency all taxes (including, but not limited to, possessory interest tax), assessments, license fees, and other charges that are levied and assessed upon Lessee's interest in the Premises, or upon Lessee's personal property installed or located in or on the Premises, by Contra Costa County or other legally authorized government authority. Lessee may pay any taxes and assessments under protest, without liability, cost or expense to the Lessor, to contest the amount in good faith.
- Payment of taxes, assessments, license fees, or other charges levied and assessed upon Lessee's interest, (i) does not reduce the Rent due to the County under this lease, and (ii) is the liability of the Lessee.
11. Quiet Enjoyment. Provided the Lessee is in compliance with the terms of this lease, the County covenants that the Lessee will peaceably and quietly have, hold, and enjoy the Premises during the Term.
12. Assignment and Sublease. The Lessee may not assign this lease or sublease the Premises or any part thereof at any time during the Term.

13. Alterations and Additions. Lessee may not make any alterations, erect any additional structures, or make any improvements on the Premises without the prior written consent of the Director of Public Works or his or her designee. In the event Lessee makes alterations or constructs additions that violate the conditions contained in this lease (an “**Unauthorized Addition**”), at the County’s sole discretion, Lessee shall remove any Unauthorized Addition at Lessee’s sole cost and expense. If Lessee is required to remove any Unauthorized Addition, Lessee, at its sole cost and expense, shall restore the Premises to the conditions existing immediately prior to the existence of the Unauthorized Addition, or such other condition designated by the County in its election. If Lessee is not required to remove any Unauthorized Addition, such Unauthorized Additions shall remain on and be surrendered with the Premises on expiration or termination of this lease.

If Lessee wishes to make any alterations, erect any additional structures, or make any additional improvements to the Premises as provided in this Section, Lessee may not commence construction until Lessee has the prior written consent of the County. In addition, a Notice of Lessor Non-Responsibility must be posted and recorded by Lessee during construction in accordance with Civil Code Section 3094. Lessee shall mail a copy of such Notice of Lessor Non-Responsibility to Lessor upon filing it with the County Recorder.

14. Insurance.

- a. Liability Insurance. Throughout the Term, the Lessee shall maintain in full force and effect, at its sole expense, a comprehensive general liability or commercial general liability insurance program covering bodily injury (including death), personal injury, and property damage. The limits must be not less than one million dollars per occurrence and two million dollars aggregate. The policy must name the County, its officers, agents and employees, individually and collectively, as additional insureds. The liability insurance maintained by the Lessee must be primary.
- b. Property Insurance. The County will maintain property insurance coverage on its real property. The Lessee has no interest in the proceeds of insurance on the County’s real property, improvements, equipment, or fixtures. The Lessee shall sign all documents necessary or proper in connection with the settlement of any claim or loss by the County. The Lessee shall maintain in full force and effect, at its sole expense, a standard All Risk policy, which may exclude earthquake and flood, to insure its own personal property, contents, improvements and betterments within or on the Premises. The coverage must be for not less than 90% of the actual cash value of the personal property. The Lessee shall name the County as an additional insured and loss payee with respect to the improvements and betterments.
- c. Worker’s Compensation and Employer’s Liability Insurance. The Lessee shall maintain in full force and effect, at its sole expense, (i) statutory California Workers’ Compensation coverage including a broad form all-states endorsement, and (ii)

employer's liability coverage for not less than one million dollars per occurrence for all employees engaged in services or operations at the Premises.

- d. Evidence of Insurance. Within thirty days of execution of this lease, the Lessee shall provide to the County, on a form approved by the County, an original copy of a Certificate of Insurance. The Certificate of Insurance must certify that the coverage required by this lease has been obtained and remains in force for the period required by this lease.
 - e. Notice of Cancellation or Reduction of Coverage. The Lessee shall cause all policies it is required to obtain under the terms of this lease to contain a provision that the County is to receive written notification of any cancellation or reduction in coverage at least thirty days prior to the effective date of such cancellation or reduction. Any such notification is to be sent to the County in accordance with Section __ - Notices.
 - f. Waiver of Subrogation. Except as may be specifically provided elsewhere in this lease, the County and the Lessee hereby each mutually waive any and all rights of recovery from the other in the event of damage to the Premises or any personal property that is caused by acts of God, perils of fire, lightning, and the extended coverage perils, as defined in insurance policies and forms approved for use in the State of California. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with this waiver.
15. Surrender of Premises. On the last day of the Term, or sooner termination of this lease, the Lessee shall peaceably and quietly leave and surrender to the County the Premises, along with their appurtenances and fixtures, all in good condition, ordinary wear and tear, damage by casualty, acts of God and circumstances over which the Lessee has no control excepted.
 16. Abandonment. The Lessee may not vacate or abandon the Premises at any time during the Term. If the Lessee abandons, vacates, or surrenders the Premises, or is dispossessed by process of law, or otherwise, the County may deem any personal property belonging to the Lessee that remains on the Premises to be abandoned.
 17. Waste, Nuisance. The Lessee may not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing that may disturb the quiet enjoyment of any other occupant of the neighborhood in which the Premises is located.
 18. Inspection. The County may enter the Premises at any time in an emergency and with 24-hours notice in a non-emergency to determine that (i) the Premises is being reasonably cared for, (ii) no waste is being made and that all actions affecting the Premises are done in the manner best calculated to preserve the Premises, and (iii) the Lessee is in compliance with the terms and conditions of this lease.
 19. Destruction. If damage occurs that causes a partial destruction of the Premises during the Term from any cause, the County may, at its option, make repairs within a reasonable

time. Partial destruction does not void this lease, except that the Lessee is entitled to a proportionate reduction in Rent while such repairs are being made. The proportionate reduction in Rent is to be calculated by multiplying Rent by a fraction, the numerator of which is the number of square feet that are unusable by the Lessee and the denominator of which is the total number of square feet in the Premises.

If the County does not elect to make repairs, this lease may be terminated by either party, without cost, obligation or liability to the other party, except as described herein.

This lease will terminate in the event of a total destruction of the Premises.

20. Indemnification. The Lessee shall indemnify, defend and hold County, its officers, agents and employees harmless from any and all claims, costs and liability, for any damage, injury or death, including without limitation, all consequential damages from any cause whatsoever, to any person or the property of any person arising directly or indirectly from or connected with this lease, the Lessee's operations, or the Lessee's use or possession of the Premises, save and except claims or litigation arising through the sole negligence or sole willful misconduct of County, its officers or employees, and shall make good to and reimburse County for any expenditures, including reasonable attorneys fees, County may make by reason of such matters.

21. Default.

The occurrence of any of the following events is a default under this lease:

a. The Lessee.

i. The Lessee's failure to pay Rent within five business days after the due date.

ii. The Lessee's failure to comply with any other material term or provision of this lease if such failure is not remedied within thirty days after receipt of a written notice from the County to the Lessee specifying the nature of the breach in reasonably sufficient detail (a "**Notice of Default**"). If the required cure of the noticed failure cannot be completed within thirty days, the failure to cure will not be deemed to be a default of this lease if the Lessee has attempted to cure the failure within the thirty-day period and has diligently and continuously attempted to complete the cure as soon as reasonably possible. In no event will the cure period extend beyond the sixty-day period after Lessee's receipt of the Notice of Default.

b. The County. The County's failure to perform any obligation under this lease if the failure is not remedied within thirty days after receipt of a written notice from the Lessee to the County specifying the nature of the breach in reasonably sufficient detail. If the required cure of the noticed failure cannot reasonably be completed within thirty days, a default will not be deemed to occur if the County has attempted

to cure the failure within the thirty-day period and has diligently and continuously attempted to complete the cure as soon as reasonably possible.

22. Remedies.

- a. The County. Upon the occurrence of a default by the Lessee, the County may reenter and repossess the Premises and remove all persons and property from the Premises, after giving the Lessee written Notice of Default and in accordance with due process of law.
- b. The Lessee. Upon the occurrence of a default by the County, the Lessee may (i) terminate this lease by giving written notice to the County and quit the Premises without further cost or obligation to the County.

23. Notices. Any notice required or permitted under this lease shall be in writing and sent by overnight delivery service or registered or certified mail, postage prepaid and directed as follows:

To Lessor: First Baptist Church Head Start
3890 Railroad Avenue
Pittsburg, CA 94565

To County: Contra Costa County
Public Works Department
Attn: Principal Real Property Agent
255 Glacier Drive
Martinez, CA 94553

Either party may at any time designate in writing a substitute address for that set forth above and thereafter notices are to be directed to such substituted address. If sent in accordance with this Section, all notices will be deemed effective (i) the next business day, if sent by overnight courier, or (ii) three days after being deposited in the United States Postal system.

24. Successors and Assigns. This lease binds and inures to the benefit of the heirs, successors, and assigns of the parties hereto.

25. Holding Over. In the event Lessee remains in possession of the Premises after the expiration of the Term, such holding over does not constitute a renewal or extension of this lease, but will be construed to be a tenancy from month to month on the same terms and conditions set forth in this lease.

26. Time is of the Essence. In fulfilling all terms and conditions of this lease, time is of the essence.

27. Governing Law. The laws of the State of California govern all matters arising out of this lease.
28. Severability. In the event that any provision herein contained is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions of this lease will not in any way be affected or impaired.
29. Termination. If the County terminates the Service Contract for any reason, or for no reason, the Term of this Lease will end on the same date that the Service Contract terminates. Upon such termination, Lessee shall surrender the Premises in accordance with Section – 15 Surrender of Premises.

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30. Entire Agreement; Construction; Modification. Neither party has relied on any promise or representation not contained in this lease. All previous conversations, negotiations, and understandings are of no further force or effect. This lease is not to be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. This lease may be modified only by a writing signed by both parties.

The parties are executing this lease on the date set forth in the introductory paragraph.

COUNTY OF CONTRA COSTA, a
political subdivision of the State of
California

First Baptist

By: _____
Brian M. Balbas
Public Works Director

By: _____
Brenda Battle
Interim Executive Director

RECOMMENDED FOR APPROVAL:

By: _____
Jessica L. Dillingham
Principal Real Property Agent

By: _____
Stacey Sinclair
Senior Real Property Agent

APPROVED AS TO FORM
SHARON L. ANDERSON, COUNTY COUNSEL

By: _____
Kathleen M. Andrus
Deputy County Counsel

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EXHIBIT A



