

LEASE AGREEMENT

This LEASE AGREEMENT (the "LEASE") is made and entered into effective this ____ day of _____, 2014 (the "Effective Date"), by and between CITY OF COMMERCE CITY, a Colorado home rule municipality ("LESSOR"), and the COMMERCE CITY HISTORICAL SOCIETY, a Colorado nonprofit corporation ("LESSEE").

LESSEE, for the consideration hereinafter set forth, does hereby LEASE from LESSOR certain premises subject to the terms and conditions as follows:

1. LEASE OF PREMISES; RESERVATION OF RIGHTS.

- a. LEASE. LESSEE does hereby LEASE from LESSOR the Commerce City Heritage and Cultural Center f/k/a Conter Community Center located at 6505 East 60th Avenue, Commerce City, Colorado, including the grounds and parking areas (the "PREMISES").
- b. Reservation of Rights; Access.
 - i. LESSEE agrees and acknowledges that this LEASE, and LESSEE's use of the PREMISES, is non-exclusive and that LESSOR may and *hereby reserves the right* to LEASE the PREMISES to one or more additional persons or entities ("Tenant(s)"), on either short-term or long-term bases, subject to the terms and conditions herein. Any Tenant making use of the PREMISES shall be required by the City to perform its own set up, tear down, and clean up.
 - ii. LESSEE shall permit LESSOR and its agents, representatives and employees to enter the PREMISES at all reasonable times and with reasonable notice for the purpose of inspecting the PREMISES to determine whether LESSEE is complying with the terms of this LEASE and for the purpose of doing other lawful acts that may be necessary to protect LESSOR's interest in the PREMISES under this LEASE or to perform LESSOR's duties hereunder.

2. TERM; TERMINATION.

- a. Initial Term. The term of this LEASE shall commence June 1, 2014 (the "Commencement Date"), and continue for two (2) years therefrom (the "Initial Term"), upon which date the term shall automatically renew for successive one- (1) year terms (each, a "Renewal Term") unless terminated as set forth below.
- b. Holding Over. If LESSEE, with LESSOR's consent, remains in possession of the PREMISES after the effective date of any termination of this LEASE, except for termination by LESSOR for cause as set forth below, such possession by LESSEE shall be deemed to be a month-to-month tenancy terminable upon written notice of not less than thirty (30) days given at any time by either party. All provisions of this LEASE, except those pertaining to term, shall apply to any month-to-month tenancy.
- c. Termination.
 - i. Termination by Non-Renewal. Either party may terminate this LEASE by providing written notice of non-renewal to the other party not less than ninety (90) days before the end of the Initial Term or any Renewal Term, in which event, the final day of any such Term shall constitute the effective date of termination.

- ii. Termination by Lessee. LESSEE may terminate this LEASE by providing written notice of termination to LESSOR, specifying the effective date of termination, not less than thirty (30) calendar days prior to the effective date of termination.
- iii. Termination by Lessor for Cause. LESSOR may terminate this LEASE for any material breach hereof; provided, however, that LESSOR shall provide written notice to LESSEE of any alleged breach and allow LESSEE not less than ten (10) days to cure such alleged breach. LESSEE's failure to cure the alleged breach within the time allotted shall authorize LESSOR to immediately terminate this LEASE.

3. **RENT.**

- a. As consideration for this LEASE, LESSEE agrees to pay to LESSOR an annual rental amount of **One Thousand Two Hundred dollars (\$1,200.00)** (the "Annual Rental Amount") in monthly installments of **One Hundred dollars (\$100.00)** each (the "Monthly Rental Payment").
- b. The Annual Rental Amount shall increase on a yearly basis by one thousand two hundred dollars (\$1,200.00), which shall correspondingly increase the Monthly Rental Payment by one hundred dollars (\$100.00). Such yearly increases shall begin on the first anniversary of the Commencement Date, but in no event shall the Annual Rental amount exceed six thousand dollars (\$6,000.00).
- c. LESSEE shall make the first Monthly Rental Payment to LESSOR upon execution of this LEASE, and subsequent Monthly Rental Payments not later than the first day of each month beginning one month after the Commencement Date and continuing until this LEASE is terminated as provided herein. Any Monthly Rental Payment not made in full by the Due Date shall be subject to a late payment fee of five percent (5%) of the unpaid Monthly Rental Payment, which shall be assessed for each day after the Due Date the full Monthly Rental Payment has not been made.

4. **USE OF PREMISES; NOTICE.** The PREMISES shall be used by LESSEE solely for storage, meeting, exhibit, event and office space as set forth herein.

- a. **Hours of Operation.** LESSEE is entitled to make use of the PREMISES during business hours as identified on the Calendar described in section 4c below ("Normal Operating Hours") and at such other times LESSEE's staff and/or volunteers may require to conduct work for or on behalf of LESSEE, but in no event prior to 5am or after 11pm, with the exception of Events approved by Lessor as set forth herein. LESSEE may revise the Normal Operating Hours at its discretion, subject to the limitations set forth herein.
- b. **Use of Space.** LESSEE shall make use of the PREMISES only for the following purposes and in accordance with the following conditions:
 - i. **Storage Space.** LESSEE shall be entitled to make use to the area designated as "Room 1" on the Premises Diagram attached hereto and incorporated herein as **Exhibit A** (the "Premises Diagram"), for storage of LESSEE's contents and personal property not on display. Such use shall be non-exclusive and may be required to be shared with a Tenant.
 - ii. **Meeting Space.** Subject to subsection "c" below, LESSEE shall be entitled to use the PREMISES, and in particular, "Room 2" identified in the Premises Diagram, for

meetings of LESSEE's Board of Directors ("Board Meetings") and other business-related meetings.

iii. Exhibit and Event Space. Subject to subsections "c" and "d" below LESSEE shall be entitled to make use of the "Multipurpose Room" identified in the Premises Diagram for exhibit and event space. LESSEE may make use of the "Lobby" identified in the Premises Diagram for Exhibit space so long as such Exhibits do not impede ingress or egress to or from the PREMISES or room-to-room within the PREMISES.

(a) "Exhibit(s)" shall be defined herein as the display of objects, which may include video or audio presentations, for viewing by the public during Normal Operating Hours.

(b) "Events" shall be defined herein as occasional usage of the PREMISES at a specific time, other than during Normal Operating Hours, for a specific purpose, such as fundraising events, to which LESSEE has invited or advertised for participation from members of the public and/or private interests.

iv. Office Space. LESSEE shall be entitled to make use of "Room 3" identified in the Premises Diagram for office space. Notwithstanding anything herein to the contrary, LESSEE's use of Room 3 shall be exclusive, and no Tenant shall be authorized to make use of Room 3. Additionally, LESSEE may make use of the entryway/reception area for the purpose of greeting the public and similar functions.

c. Limitations on Use; Notice.

i. Notice – Meetings.

(a) LESSEE shall establish and provide to LESSOR a regular meeting schedule for Board Meetings. Unless authorized by LESSEE in writing, no Tenant will be allowed to reserve or use the PREMISES during LESSEE's established Board Meeting times. In the event LESSEE must change a scheduled meeting date or time, LESSEE shall notify LESSOR as soon as reasonably possible to ensure meeting space will be available at the PREMISES. LESSEE is not authorized to use the PREMISES in conflict with any previously scheduled Event or meeting.

(b) LESSOR shall establish and provide to LESSEE a calendar of all regular and periodic meetings scheduled for the PREMISES (the "Calendar"). LESSOR shall update such calendar from time to time when additional meetings or Events are scheduled and provide such updates to LESSEE as appropriate.

ii. Notice – Exhibits. LESSEE acknowledges and agrees that Tenants may desire to make use of the PREMISES for exhibit space. In such event, LESSOR shall provide written notice thereof to LESSEE not less than thirty (30) days prior to the date use of the PREMISES for Exhibit space is required. LESSOR and LESSEE shall discuss the best manner in which to accommodate additional exhibits, and use of the Premises for any such additional exhibit(s) shall be identified on the Calendar.

iii. Notice – Events.

(a) LESSEE shall notify LESSOR in writing not less than sixty (60) days prior to any Event desired to be held at the PREMISES. Such notice shall include the

nature of the Event, the number of individuals anticipated to attend, the time and date of the Event and whether alcohol will be served. LESSEE shall neither hold nor host any Event without the prior, written approval of LESSOR, and no Event shall be scheduled for any time during which any other Event was previously scheduled. Approved Events shall be identified on the Calendar.

- (b) LESSOR shall notify LESSEE in writing not less than sixty (60) days prior to any Event to be held at the PREMISES by another Tenant. Such notice shall include the nature of the Event and the time and date of the Event. LESSEE shall make arrangements to remove, secure and/or protect any Exhibits on the PREMISES. LESSOR shall not be liable for any damage or theft resulting from LESSEE's failure to adequately protect its Exhibits.

- d. Alcohol. LESSEE shall apply for and obtain from the City of Commerce City a Special Event Permit for any Event at which alcohol will be served by either LESSEE or any third party or otherwise allowed on the PREMISES. Failure to comply with the requirements of this subsection "d" shall constitute a material breach of this LEASE.
- e. Alterations. Except the installation of any equipment necessary to provide internet or telephone access to the PREMISES, no alterations may be made by LESSEE without LESSOR's prior, written consent.

5. **CARE, MAINTENANCE AND REPAIR.**

- d. General. LESSOR, at its cost, shall provide usual and customary care to the PREMISES including custodial and maintenance. With the exception of existing kitchen appliances, LESSEE shall be responsible for and shall pay for any repairs or replacements occasioned or made necessary by reason of the use of the PREMISES by LESSEE or its agents, employees or visitors.
- e. Appliances. Notwithstanding the foregoing, existing kitchen appliances on the PREMISES are provided "as-is". LESSOR makes no representations as to the fitness for a particular purpose of any such appliances, and hereby reserves the right, but is not obligated, to maintain, repair or replace any such appliances.

6. **UTILITIES.**

- a. LESSOR shall obtain, maintain and pay the costs associated with the following utilities and services throughout the term of this LEASE: (i) garbage and recycling services; (ii) gas and electricity utilities; (iii) water and sanitary sewer utilities; (iv) security/alarm services for the PREMISES; (v) custodial and maintenance; (vi) landscape maintenance; and (vii) snow removal. Subject to subsection 3b below, LESSEE shall have no obligation to pay the costs of any such services or utilities.
- b. LESSEE is solely responsible to for acquiring and paying for any additional utilities and services, including, but not limited to, telephone and internet service.

7. **MAIL SERVICE.** LESSEE shall be responsible for establishing mail service to the PREMISES.

- 8. **SIGNAGE.** LESSOR shall provide new signage for the PREMISES, as generally depicted on Exhibit B (the "New Sign"), to replace the existing, freestanding sign. The New Sign shall be substantially the same design and color palette as such existing sign, with the words "Commerce

City Heritage and Cultural Center” identifying the PREMISES. A hanging panel of appropriate size identifying the “Commerce City Historical Society” shall be attached immediately below the main body of the New Sign.

9. **HOLD HARMLESS.** LESSEE shall hold harmless LESSOR and its officers, agents and employees, from and against any liability, claim, action, cost, or demand, including reasonable costs and attorney fees, for injury, including death, to any person or damage to any property whatsoever and to whomever belonging (including LESSEE and its agents, employees, servants, subcontractors or invitees) that arises out of or in connection with this LEASE excluding liability due to the sole negligence or willful misconduct of LESSOR. This obligation shall continue beyond the term of this LEASE as to any act or omission which occurred during or under this LEASE.
10. **INSURANCE.** LESSOR shall procure and maintain such insurance as is necessary, in LESSOR’s sole discretion, to insure the structure and exterior improvements on the PREMISES and to insure LESSOR against damages for personal injury liability; provided, however, that LESSOR shall neither procure nor maintain any insurance related to LESSEE’s personal property or other contents stored or used on or within the PREMISES.
11. **COMPLIANCE WITH RULES AND REGULATIONS.** Any rules and regulations which are adopted by LESSOR for the safety, care and cleanliness of the PREMISES and the preservation of good order on the PREMISES, are expressly made a part of this LEASE, and LESSEE agrees to obey all such rules and regulations. With the exception of safety rules and regulations, LESSEE shall be given written notice thirty (30) days prior to LESSOR’s adoption of any change in the rules and regulations regarding the PREMISES.
12. **COMPLIANCE WITH APPLICABLE LAW.** LESSEE shall not use the PREMISES or permit anything to be done in or about the PREMISES which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated.
13. **NOTICE.** All notices must be in writing. Notice is considered given either (a) when delivered in person to the recipient named as below, or (b) when deposited in the United States mail in a sealed envelope or container, postage prepaid, addressed by name and address to the party or person intended as follows:

LESSOR:

City Manager
City of Commerce City
7887 E. 60th Ave.
Commerce City CO 80022

LESSEE:

Board of Directors
Commerce City Historical Society
10671 Nucla Ct.
Commerce City, CO 80022

14. **CONDITION AT TERMINATION.** During the term of this LEASE, and upon termination of this LEASE, LESSEE shall at all times maintain the PREMISES in a good, clean and safe condition. LESSEE shall leave the PREMISES in as good order and condition as the PREMISES were in at the beginning of the term of this LEASE, ordinary wear and tear thereof and damage by the elements, fire, earthquake, flood, act of God or public calamity excepted.
15. **GENERAL PROVISIONS.**
 - a. **Assignment.** This LEASE, or any interest of LESSEE therein, shall not be assignable either by LESSEE or by operation of law. Any attempt to so assign shall be null and void.

- b. **No Third-Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this LEASE and all rights of action relating to such enforcement shall be strictly reserved to the parties hereto. It is the express intention of the parties that any person other than LESSOR and LESSEE shall be deemed to be only an incidental beneficiary under this LEASE.
- c. **No Waiver.** The waiver of any breach of a term, provision or requirement of this LEASE shall not be construed as or deemed a waiver of any subsequent breach of such term, provision or requirement or of any other term, provision or requirement of this LEASE.
- d. **Governing Law and Venue; Recovery of Costs.** This LEASE shall be governed by the laws of the State of Colorado. Venue for state court actions shall be in the 17th Judicial District in Adams County, Colorado, and venue for federal court actions shall be in the United States District Court for the District of Colorado. In the event legal action is brought to resolve any dispute among the parties related to this LEASE, the prevailing party in such action shall be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.
- e. **Governmental Immunity.** No term or condition of this LEASE shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*
- f. **Entire Agreement; Binding Effect.** This LEASE contains the entire agreement of the parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by written agreement of the parties. This LEASE shall be binding upon, and shall inure to the benefit of, the parties and their respective heirs, personal representatives, successors and assigns.
- g. **Authority.** The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this LEASE on behalf of the parties and to bind the parties to its terms.
- h. **Counterparts.** This LEASE may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.
- i. **Headings.** Paragraph headings used in this LEASE are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this LEASE.
- j. **Severability.** The invalidity or illegality of any provision shall not affect the remainder of the LEASE.

[Remainder of this page intentionally left blank – signature page(s) follow(s).]

IN WITNESS WHEREOF, the parties hereto have caused this LEASE to be executed as of the Effective Date.


LESSOR: CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

Approved as to form:




Gregory D. Graham, Assistant City Attorney

Recommended for Approval:

Brian K. McBroom, City Manager

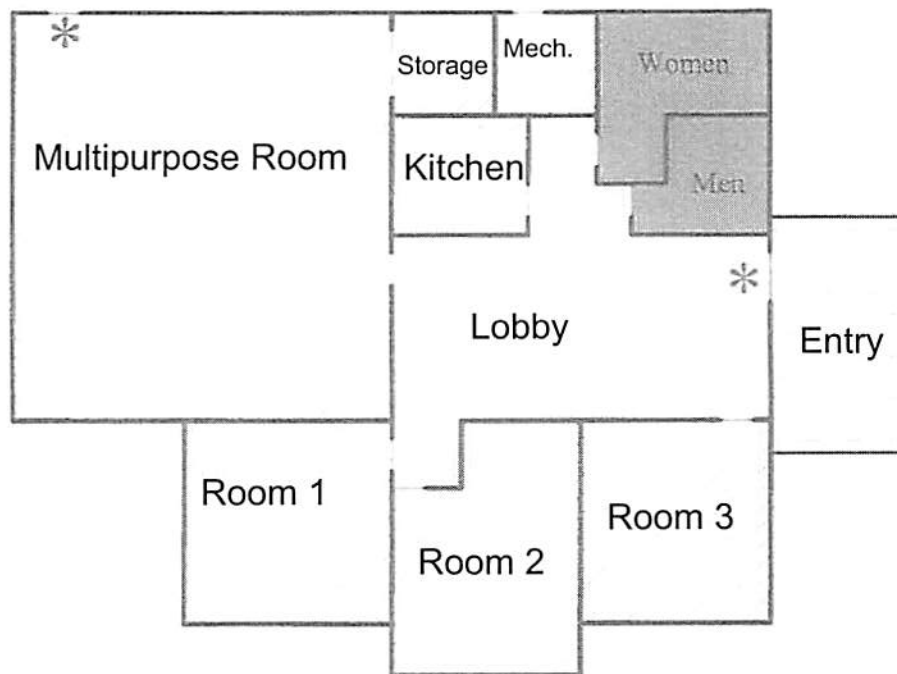
LESSEE: COMMERCE CITY HISTORICAL SOCIETY





JoAnn Stevenson, President
Board of Directors
Commerce City Historical Society



 Parking Area



Conter Community Center
6505 East 60th Avenue

* Emergency Exits
 Storm Shelter Locations
 Outside Meeting Locations