

## **RESOLUTION NO. 2016-0021**

Adopted by the Housing Authority of the City of Sacramento

October 13, 2016

### **INTERIM LEASE APPROVAL OF HOUSING AUTHORITY OWNED PROPERTY FOR USE BY THE FORTUNE CHARTER SCHOOL**

#### **BACKGROUND**

- A. The Redevelopment Agency of the City of Sacramento acquired the Donner Field Site (4501 9<sup>th</sup> Ave) as a future housing site on March 21, 1986. The property was transferred to the Housing Authority in 2012 when the redevelopment agency was dissolved.
- B. The Fortune School of Education has been operating the William Lee College Prep School, authorized by the Sacramento Board of Education, in the buildings located at 3300 Stockton Blvd and 4545 9<sup>th</sup> Ave. since September 5<sup>th</sup>, 2012.
- C. The Fortune School of Education has been leasing the Donner Field Site owned by the Housing Authority under an interim lease authorized by Housing Authority Resolution Number 2012-003 which was executed on September 1<sup>st</sup>, 2012. This lease allows the school and its students to use the field for play activities and physical education and the Housing Authority desires to continue this interim use. The lot is adjacent to the structure leased by the school for classroom instruction.
- D. As an interim use, staff recommends issuing a new lease for the lot at 4501 9<sup>th</sup> Avenue to Fortune Charter School, which serves low income families in the area. In exchange, Fortune Charter School will continue to secure, maintain and insure the parcel for the duration of the interim lease thereby preserving and maintaining this asset until such time as it is feasible to dispose of the property. No structures will be constructed on the parcel by Fortune School.
- E. California Environmental Quality Act (CEQA): The interim lease agreement associated with 4501 9th Avenue is not considered a project under CEQA and therefore not subject to CEQA pursuant to Guidelines Section 15061(b)(3).
- F. National Environmental Policy Act (NEPA): The interim lease agreement associated with 4501 9th Avenue does not involve the use of federal funds, and therefore NEPA is not applicable.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE HOUSING AUTHORITY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:**

- Section 1. All recitals, including but not limited to the environmental findings, are found to be true and correct and are hereby adopted.
- Section 2. The Executive Director, or her designee, is authorized to enter into an interim lease for one year. The Housing Authority shall have the ability to terminate the interim lease without penalty after 30 days from notification.

**Table of Contents:**

Exhibit A-Lease Agreement

Adopted by the Housing Authority of the City of Sacramento on October 13, 2016, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Schenirer, and Warren

Noes: None

Abstain: None

Absent: Member Jennings and Mayor Johnson

Attest:

**Shirley Concolino** Digitally signed by Shirley Concolino  
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City  
Clerk, email=sconcolino@cityofsacramento.org, c=US  
Date: 2016.10.25 16:45:19 -07'00'

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Shirley Concolino, Secretary

**Exhibit A**

**LEASE AGREEMENT**

THIS LEASE (Lease), dated **September \_\_, 2016** is between the **HOUSING AUTHORITY OF THE CITY OF SACRAMENTO** (LESSOR), and the **FORTUNE SCHOOL OF EDUCATION** (LESSEE).

**RECITALS**

A. LESSOR is the owner of real property known as 4501 9<sup>th</sup> Avenue, Sacramento, California in the County of Sacramento, State of California, (the Premises), more particularly described in the Property Description, Exhibit A, attached hereto and incorporated herein (the Premises).

B. The Redevelopment Agency of the City of Sacramento acquired the property for housing on March 21, 1986.

C. In 2011 the California Legislature enacted AB 1x 26, which coupled with a subsequent decision of the State Supreme Court, resulted in the dissolution of redevelopment agencies as of February 1, 2012.

D. The City of Sacramento, by Resolution Number 2012-018 (adopted on January 31, 2012), designated the Housing Authority of the City of Sacramento as the local authority to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Sacramento.

E. The Redevelopment Agency of the City of Sacramento, by resolution Number 2013-001 (adopted on January 31, 2012) transferred its housing assets and housing functions to the Housing Authority of the City of Sacramento.

F. The Housing Authority of the City of Sacramento, by Resolution Number 2012-001 (adopted on January 31, 2012), accepted the housing assets and housing functions previously performed by the Redevelopment Agency of the City of Sacramento.

G. LESSEE is entering into an interim lease for the buildings located at 3300 Stockton Boulevard and 4545 9<sup>th</sup> Ave. in Sacramento to open William Lee College Prep as authorized by the Sacramento County Board of Education.

H. LESSEE desires this Interim Lease to allow students to use the field for play activities and physical education. The lot owned by the Housing Authority is adjacent to the structure leased by the Fortune school for classroom instruction.

I. No structures will be constructed on the parcel and Fortune School of Education is willing to participate in its maintenance and upkeep.

J. LESSEE acknowledges that LESSEE is leasing the Premises from the Housing Authority which is a Housing Authority formed pursuant to California State Law (California Health & Safety Code Sections 34200 *et seq.*) and that this document is governed by that law. This INTERIM LEASE (hereinafter LEASE) is consistent with, and furthers, the goals and needs of the Housing Authority. Such LEASE will assist in the maintenance and preservation of this asset while LESSOR evaluates the Premises future redevelopment and use, which will be addressed as soon as feasible.

IT IS AGREED:

**1. LEASE TERM:**

A. LESSOR grants to LESSEE a tenancy of the Premises for one year commencing on November 1, 2016, according to the Schedule in Section 2, below.

B. LESSEE understands and acknowledges that LESSOR intends to develop housing on the Premises, as soon as development becomes feasible. This LEASE and the use contemplated by this LEASE are, therefore, temporary in nature. LESSEE shall not by this LEASE or otherwise be entitled to relocation benefits or replacement property or premises resulting from expiration or termination of this LEASE.

C. There shall be no holdover beyond the Lease Term.

**2. SCHEDULE:**

A. The LEASE term shall commence on November 1, 2016 and expire on October 31, 2017.

**3. RENTAL RATE:**

Consideration for this LEASE shall be the securing, maintenance of and insuring of the Property. There will be no monetary charge.

LESSEE shall at all times during this LEASE be responsible for and maintain and clean the Premises. This includes but is not limited keeping the Premises free of debris and mowing the grasses on the Premises once a week except for the months of November, December, January and February when mowing will be subject to the weather but in no case less than once every three weeks.

**4. USE:**

A. LESSEE accepts the Premises in its present "as is" condition and LESSOR is under no obligation to undertake any improvements to make the Premises suitable for

LESSEE's intended use. LESSEE, at its sole cost, shall maintain the Premises in good condition and keep them free of garbage and debris.

B. The Premises shall be used by LESSEE only for customary school yard activities, including play activities and physical education, but for no other uses without LESSOR's written consent.

**5. ALTERATIONS BY LESSEE:**

LESSEE may make no alterations to the leased premises without the prior written consent of LESSOR. No building or structures shall be constructed on the Premises.

**6. UTILITY SERVICE PAYMENT:**

The LESSEE is responsible for any and all utilities, if any, that may be required in LESSEE's use of the Premises including but not limited to water, electricity and drainage.

**7. INDEMNIFICATION:**

LESSEE agrees to indemnify, defend and hold LESSOR and LESSOR'S governing boards, employees, agents and contractors harmless from all liability, penalties, losses, damages, costs, expenses, causes of action, claims, or judgments arising by reason of any death, bodily injury, personal injury, or property damage resulting from any cause occurring in or about or resulting from an occurrence in or about Premises during the Lease Term; the negligence or willful misconduct of LESSEE or LESSEE's agents, employees, and contractors wherever it occurs; or, an Event of LESSEE's Default.

The provisions of this Section 7 shall survive the expiration or sooner termination of this Lease.

**8. INSURANCE:**

During the Lease Term, LESSEE must maintain the following insurance coverage from insurance providers licensed to do business in California and having an industry rating that is reasonably acceptable to LESSOR. Failure to maintain the required insurance is a material breach of this Lease. Before beginning any work under this Lease, LESSEE must provide LESSOR with certificates of insurance or copies of the insurance policies demonstrating the required coverage, and the required endorsements naming LESSOR as an additional insured. LESSEE must assure that such certificates and endorsements are in a form reasonably acceptable to the LESSOR and reflect fulfillment of all of the requirements of this Lease. LESSEE must assure that the

coverage afforded under the policies can only be canceled after thirty (30) days prior written notice to the LESSOR of the pending cancellation. LESSEE must mark such notice to the attention of the LESSOR's Procurement Services Office at the following address:

The Housing Authority of the City of Sacramento  
801 12<sup>th</sup> Street  
Sacramento, California 95814  
Attn: Risk Management

a) The required insurance coverage is the following: (i) Two Million Dollars (\$2,000,000) or more of commercial general liability coverage including, without limitation, coverage for liability, public liability and property damage. The liability shall be endorsed to name the LESSOR as an additional insured.

b) Cancellation: LESSEE will provide the LESSOR with the cancellation clause and/or any amendatory endorsements that modify or change the policy cancellation clause of the insurance policies in force. It is the LESSEE's responsibility to notify the LESSOR of any notice of cancellation, non-renewal or non-payment of premium in accordance with your policy provisions. In the event insurance is cancelled or not renewed, the LESSEE shall notify the LESSOR within forty eight (48) hours of such cancellation or non-renewal.

\_\_\_\_\_**LESSEE's Initials**

LESSEE is in material breach of this Lease for so long as LESSEE fails to maintain all of the required insurance. LESSOR has the right, but not the obligation, to pay any delinquent insurance premiums and any other charges to reinstate or maintain the required insurance policies and coverage. Upon LESSOR's demand, LESSEE must immediately reimburse LESSOR for any and all costs incurred by LESSOR in so obtaining or maintaining insurance.

**9. REPAIR CONTRACT:**

LESSOR shall designate sources to be called when repairs to the leased premises are required. Said sources shall be called in the event LESSEE is unable to contact LESSOR within a reasonable time.

**10. RISK OF HAZARDS:**

LESSEE shall not do anything on the Premises, nor bring or keep anything thereon which will in any way increase the risk of fire or the rate of insurance, or which shall conflict with the regulations of any fire district having jurisdiction.

LESSEE shall not do anything on the Premises, nor bring or keep anything thereon or use or apply chemical or hazardous materials on the Premises.

**11. LESSEE OWNED ITEMS:**

All permanent fixtures, partitions or other improvements made or installed under the requirements of this Lease, by either LESSOR or LESSEE, shall remain the property of the LESSOR. LESSEE shall repair any damage to the leased premises resulting from removal of any fixture, partition or other improvement installed by LESSEE.

**12. GOOD NEIGHBOR:**

LESSEE's use of the Premises shall be in a manner consistent with the general use of school yards located in residential neighborhoods.

**13. WRITTEN COMMUNICATIONS:**

A. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party pursuant to this Lease shall be in writing and either served personally or sent by prepaid, first class, certified mail.

Such matters shall be addressed to the other party at the following address or such other address as a party may designate to the other by notice:

<b><u>To LESSOR at:</u></b>	<b><u>To LESSEE at:</u></b>
Housing Authority of the City of Sacramento 801 12 <sup>th</sup> Street Sacramento, CA 95814	Fortune Charter School Margaret Fortune 2890 Gateway Oaks Drive, Suite 100 Sacramento, CA 95833

B. Any matter mailed pursuant to this paragraph shall be deemed communicated within forty-eight (48) hours from the time of mailing.

**14. RIGHT AND REMEDY:**

No delay or omission in the exercise of any right or remedy of either party on any default of the other party shall impair such a right or remedy or be construed as a waiver of such default. Any waiver by either party of any default of the other party shall be in writing and shall not be a waiver of any other default concerning the same or any other provisions of the Lease.

**15. RULES AND REGULATIONS:**

LESSEE'S occupancy and use of the Premises shall at all times be conducted in manner that is in compliance with applicable statutes, regulations and ordinances. Violation of these Rules and Regulations will be a default by LESSEE, in which case LESSOR may terminate this Lease on 48 hours written notice.

**16. GOVERNING LAW:**

This Lease shall be governed by and construed in accordance with the laws and regulations of the State of California.

**LESSOR:**  
HOUSING AUTHORITY OF  
THE CITY OF SACRAMENTO

**LESSEE:**  
FORTUNE CHARTER SCHOOL

By: \_\_\_\_\_  
LA SHELLE DOZIER,  
Executive Director

By: \_\_\_\_\_  
MARGARET FORTUNE,  
President/CEO

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

DATE: \_\_\_\_\_

\_\_\_\_\_  
AGENCY COUNSEL



## **EXHIBIT A**

### **Legal Description**

**THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:**

**Parcel 3, as shown on the Parcel Map entitled Lots 1-26 Inclusive as shown on the Plat of Tresch Tract, according to the official plat thereof, filed in the office of the Recorder of Sacramento County, California, on March 3, 1914 in Book 14 of Maps, Map No. 58.**

**APN: 014-0223-004-0000**