

LEASE

**35535**

THIS LEASE is made and entered, in duplicate, as of March 24, 2020 pursuant to a minute order of the City Council of the City of Long Beach adopted at its meeting held on March 24, 2020, by and between the CITY OF LONG BEACH, a municipal corporation, whose address is 411 W. Ocean Boulevard, 10th Floor, Long Beach, California 90802, Attention: Department of Economic and Property Development ("Landlord"), and the UNITED STATES VETERANS INITIATIVE, a California nonprofit corporation, whose address is 2001 River Avenue, Long Beach, CA 90810 ("Tenant").

Landlord and Tenant, in consideration of the mutual terms, covenants, and conditions herein, agree as follows:

1. Premises. Landlord hereby leases to Tenant and Tenant hereby accepts and leases from Landlord those certain premises containing approximately 7,318 rentable square feet (the "Premises") located within the building located at 5571 Orange Avenue, Long Beach, California (the "Building"), such premises being more particularly depicted in Exhibit "A" attached hereto. The Premises shall be leased in "as is" condition.

2. Term. The term of this Lease shall commence on April 1, 2020, and shall terminate at midnight on June 30, 2020.

3. [RESERVED].

4. Use. The Premises shall be used as a temporary winter homeless shelter.

5. Tenant's Maintenance Obligations. Tenant shall keep the Premises in a neat, safe and sanitary condition, and otherwise perform all "day-to-day" and operational maintenance at its own cost and expense. All other maintenance and repairs not specifically described immediately above shall be the responsibility of Landlord pursuant to Section 6.

6. Landlord's Maintenance Obligations. Landlord shall manage and maintain the Building and make necessary repairs to the Premises, including without

1 limitation all surface and structural elements of the roof, bearing walls and foundations of  
2 the Building, all electrical, plumbing, HVAC systems and all other elements of the Building.  
3 Tenant shall notify Landlord of necessary repairs in writing, and Landlord shall thereafter  
4 promptly complete such repairs. Notwithstanding the foregoing, if Landlord determines  
5 that the costs of such repairs are more than Landlord is willing to pay, then Landlord shall  
6 not be obligated to complete such repairs, such failure by Landlord to complete repairs  
7 shall not constitute a default under Section 13, and Tenant's sole remedy for such failure  
8 shall be to promptly terminate this Lease without further obligation by either party to the  
9 other.

10 7. [RESERVED].

11 8. Taxes. Landlord shall be responsible for payment of all real property  
12 taxes.

13 9. Hazardous Materials.

14 A. In the event any Hazardous Materials are detected during the  
15 Lease term, such materials shall be removed promptly in accordance with applicable  
16 law at the sole cost and expense of Landlord. In the event Landlord determines it  
17 is cost prohibitive to remove such materials, Tenant shall have the option of  
18 terminating this Lease by giving written notice.

19 B. No goods, merchandise, supplies, personal property, materials,  
20 or items of any kind shall be kept, stored, or sold in or on the Premises which are in  
21 any way explosive or hazardous. Tenant shall comply with California Health and  
22 Safety Code Section 25359.7 or its successor statute regarding notice to Landlord  
23 on discovery by Tenant of the presence or suspected presence of any hazardous  
24 material on the Premises. "Hazardous Materials" means any hazardous or toxic  
25 substance, material or waste which is or becomes regulated by the City of Long  
26 Beach ("City"), the County of Los Angeles, the State of California or the United  
27 States government.

28 10. Insurance. Concurrent with the execution of this Lease and as a

1 condition of obtaining occupancy of the Premises, Tenant shall procure and maintain the  
2 following types of insurance at Tenant's sole expense for the duration of this Lease,  
3 including any extensions, renewals, or holding over thereof, from insurance companies that  
4 are admitted to write insurance in the State of California or from authorized non-admitted  
5 insurers that have ratings of or equivalent to an A:VIII by A.M. Best Company:

6           A.     Commercial general liability insurance equivalent in coverage  
7 scope to ISO form CG 00 01 10 93 in an amount not less than One Million Dollars  
8 (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual  
9 aggregate. Such coverage shall include but is not limited to broad form contractual  
10 liability coverage, cross liability protection, and products and completed operations.  
11 The City of Long Beach, and its officials, employees, and agents shall be added as  
12 additional insureds by endorsement equivalent in coverage scope to ISO form CG  
13 20 26 11 85 and such endorsement shall protect the City, and its officials,  
14 employees, and agents from and against claims, demands, causes of action,  
15 expenses, costs, or liability for injury to or death of persons, or damage to or loss of  
16 property arising out activities performed by or on behalf of Tenant or from  
17 maintenance or use of the Premises. The coverage shall contain no special  
18 limitations on the scope of protection afforded to the City, and its officials,  
19 employees, and agents, and Tenant agrees to obtain and furnish evidence to City  
20 of the waiver of Tenant's liability insurance carrier of any right of subrogation against  
21 the City.

22           B.     If applicable, All Risk property insurance with the exception of  
23 earthquake and flood insurance, in an amount sufficient to cover the full replacement  
24 value of all buildings and structural improvements erected on the Premises. City  
25 shall be named as an additional insured under a standard loss payable  
26 endorsement.

27           C.     All Risk property insurance, with the exception of earthquake  
28 and flood insurance, in an amount sufficient to cover the full replacement value of

1 Tenant's personal property, improvements and equipment on the Premises.

2 D. Workers' compensation insurance required by the State of  
3 California and employer's liability insurance in an amount not less than One Million  
4 Dollars (\$1,000,000) per accident or occupational illness.

5 E. With respect to damage to property, Landlord and Tenant  
6 hereby waive all rights of subrogation, one against the other, but only to the extent  
7 that collectible commercial insurance is available for said damage.

8 F. Any self-insurance program or self-insured retention must be  
9 approved separately in writing by Landlord and shall protect Landlord, and its  
10 officials, employees, and agents in the same manner and to the same extent as they  
11 would have been protected had the policy or policies not contained retention  
12 provisions.

13 G. Each insurance policy shall be endorsed to state that coverage  
14 shall not be cancelled, nonrenewed or changed by either party except after thirty  
15 (30) days prior written notice to Landlord and shall be primary to Landlord. Any  
16 insurance or self-insurance maintained by Landlord shall be excess to and shall not  
17 contribute to insurance or self-insurance maintained by Tenant.

18 H. Tenant shall deliver to Landlord certificates of insurance and  
19 the required endorsements for approval as to sufficiency and form prior to  
20 commencement of this Lease. The certificates and endorsements for each  
21 insurance policy shall contain the original signature of a person authorized by that  
22 insurer to bind coverage on its behalf. Tenant shall, at least thirty (30) days prior to  
23 expiration of such policies, furnish Landlord with evidence of renewals. Landlord  
24 reserves the right to require complete certified copies of all said policies at any time.

25 I. Such insurance as required herein shall not be deemed to limit  
26 Tenant's liability relating to performance under this Lease. The procuring of  
27 insurance shall not be construed as a limitation on liability or as full performance of  
28 the indemnification and hold harmless provisions of this Lease. Tenant understands

1 and agrees that, notwithstanding any insurance, Tenant's obligation to defend,  
2 indemnify, and hold Landlord, and its officials, agents, and employees harmless  
3 hereunder is for the full and total amount of any damage, injuries, loss, expense,  
4 costs, or liabilities caused by the condition of the Premises or in any manner  
5 connected with or attributed to the acts or omissions of Tenant, its officers, agents  
6 contractors, employees, licensees, vendors, patrons, or visitors, or the operations  
7 conducted by or on behalf of Tenant, or Tenant's use, misuse, or neglect of the  
8 Premises.

9 J. Any modification or waiver of the insurance requirements  
10 herein shall be made only with the written approval of Landlord's Risk Manager or  
11 designee.

12 11. Indemnification.

13 A. Tenant shall indemnify, protect and hold harmless Landlord, its  
14 Boards, Commissions, and their officials, employees and agents ("Indemnified  
15 Parties"), from and against any and all liability, claims, demands, damage, loss,  
16 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
17 costs and expenses, including attorneys' fees, court costs, expert and witness fees,  
18 and other costs and fees of litigation, arising or alleged to have arisen, in whole or  
19 in part, out of or in connection with (1) the use of the Premises by Tenant, its officers,  
20 employees, agents, subcontractors, or anyone under Tenant's control, or (2)  
21 Tenant's breach or failure to comply with any of its obligations contained in this  
22 Lease (collectively "Claims" or individually "Claim").

23 B. In addition to Tenant's duty to indemnify, Tenant shall have a  
24 separate and wholly independent duty to defend Indemnified Parties at Tenant's  
25 expense, from and against all Claims, and shall continue this defense until the  
26 Claims are resolved, whether by settlement, judgment or otherwise. No finding or  
27 judgment of negligence, fault, breach, or the like on the part of Tenant shall be  
28 required for the duty to defend to arise. Landlord shall notify Tenant of any Claim,

1 shall tender the defense of the Claim to Tenant, and shall assist Tenant, as may be  
2 reasonably requested, in the defense.

3 C. If a court of competent jurisdiction determines that a Claim was  
4 caused by the sole negligence or willful misconduct of Indemnified Parties, Tenant's  
5 costs of defense and indemnity shall be (1) reimbursed in full if the court determines  
6 sole negligence by the Indemnified Parties, or (2) reduced by the percentage of  
7 willful misconduct attributed by the court to the Indemnified Parties.

8 D. The provisions of this Section 11 shall survive the expiration or  
9 termination of this Lease, up to and through the date of any applicable statute(s) of  
10 limitation.

11 12. Default by Tenant.

12 A. The occurrence of any of the following acts shall constitute a  
13 default by Tenant:

14 i. Failure to pay rent or any other amounts payable  
15 hereunder when due after ten (10) days written notice;

16 ii. Failure to perform any of the terms, covenants, or  
17 conditions of this Lease if said failure is not cured within thirty (30) days after  
18 written notice of said failure; or

19 iii. Any attempted assignment, transfer, or sublease except  
20 as approved by Landlord.

21 B. If Tenant does not comply with each provision of this Lease or  
22 if a default occurs, then Landlord may terminate this Lease and Landlord may enter  
23 the Premises and take possession thereof provided, however, that these remedies  
24 are not exclusive but cumulative to other remedies provided by law in the event of  
25 Tenant's default, and the exercise by Landlord of one or more rights and remedies  
26 shall not preclude Landlord's exercise of additional or different remedies for the  
27 same or any other default by Tenant.

28 13. Default by Landlord.

1                   A.     The occurrence of any of the following acts shall constitute a  
2     default by Landlord:

3                   i.     Failure to perform any of the terms, covenants, or  
4     conditions of this Lease if said failure is not cured within thirty (30) days after  
5     written notice of said failure.

6                   B.     If Landlord does not comply with each provision of this Lease  
7     or if a default occurs, then Tenant may terminate this Lease, provided, however,  
8     that this remedy is not exclusive but cumulative to other remedies provided by law  
9     in the event of Landlord's default, and the exercise by Tenant of one or more rights  
10    and remedies shall not preclude Tenant's exercise of additional or different  
11    remedies for the same or any other default by Landlord.

12                14.   Right of Entry. Landlord shall have the right of access to the Premises  
13    during normal business hours and with reasonable advance notice to inspect the Premises,  
14    to determine whether or not Tenant is complying with the terms, covenants, and conditions  
15    of this Lease, to serve, post, or keep posted any notice, and for any other legal purpose.  
16    Landlord shall also have the right to enter in case of emergencies.

17                15.   Condemnation. If the whole or any part of the Premises shall be taken  
18    by any public or quasi-public authority under the power of eminent domain, then this Lease  
19    shall terminate as to the part taken or as to the whole, if taken, as of the day possession of  
20    that part or the whole is required for any public purpose, and on or before the day of the  
21    taking Tenant shall elect in writing either to terminate this Lease or to continue in  
22    possession of the remainder of the Premises, if any. All damages awarded for such taking  
23    shall belong to Landlord, whether such damages be awarded as compensation for  
24    diminution in value to the leasehold or to the fee provided, however, that Landlord shall not  
25    be entitled to any portion of the award made for loss of Tenant's business.

26                16.   Assignment. Tenant shall not assign or transfer this Lease or any  
27    interest herein, nor sublease the Premises or any part thereof (collectively referred to as  
28    "transfer") without the prior written approval of Landlord.

1           17.   Signs. Tenant may, at its own cost, install exterior signage on the  
2 Premises subject to Landlord's reasonable approval as to design, size and location.

3           18.   Access. Tenant shall have access to the Premises twenty-four (24)  
4 hours per day, seven (7) days per week.

5           19.   Holding Over. If Tenant holds over and remains in possession of the  
6 Premises or any part thereof after the expiration of this Lease with the express or implied  
7 consent of Landlord, then such holding over shall be construed as a tenancy from month  
8 to month at the monthly rent then in effect and otherwise on the same terms, covenants,  
9 and conditions contained in this Lease.

10          20.   Surrender of Premises. On the expiration or sooner termination of this  
11 Lease, Tenant shall deliver to Landlord possession of the Premises in substantially the  
12 same condition that existed immediately prior to the date of execution hereof, reasonable  
13 wear and tear excepted.

14          21.   Notice. Any notice required hereunder shall be in writing and  
15 personally served or deposited in the U.S. Postal Service, first class, postage prepaid to  
16 Landlord and Tenant at the respective addresses first stated above. Notice shall be  
17 deemed effective on the date of mailing or on the date personal service is obtained,  
18 whichever first occurs. Change of address shall be given as provided herein for notice.

19          22.   Waiver of Rights. The failure or delay of Landlord to insist on strict  
20 enforcement of any term, covenant, or condition herein shall not be deemed a waiver of  
21 any right or remedy that Landlord may have and shall not be deemed a waiver of any  
22 subsequent or other breach of any term, covenant, or condition herein. The receipt of and  
23 acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default  
24 but shall only constitute a waiver of timely payment of rent. Any waiver by Landlord of any  
25 default or breach shall be in writing. Landlord's approval of any act by Tenant requiring  
26 Landlord's approval shall not be deemed to waive Landlord's approval of any subsequent  
27 act of Tenant.

28          23.   Successors in Interest. This Lease shall be binding on and inure to

1 the benefit of the parties and their successors, heirs, personal representatives, transferees,  
2 and assignees, and all of the parties hereto shall be jointly and severally liable hereunder.

3           24. Force Majeure. Except as to the payment of rent, in any case where  
4 either party is required to do any act, the inability of that party to perform or delay in  
5 performance of that act caused by or resulting from fire, flood, earthquake, explosion, acts  
6 of God, war, strikes, lockouts, or any other cause whether similar or dissimilar to the  
7 foregoing which is beyond the control of that party and not due to that party's fault or neglect  
8 shall be excused and such failure to perform or such delay in performance shall not be a  
9 default or breach hereunder. Financial inability to perform shall not be considered cause  
10 beyond the reasonable control of the party.

11           25. Partial Invalidity. If any term, covenant, or condition of this Lease is  
12 held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder  
13 of the provisions hereof shall remain in full force and effect and shall in no way be affected,  
14 impaired or invalidated thereby.

15           26. Time. Time is of the essence in this Lease, and every provision  
16 hereof.

17           27. Governing Law. This Lease shall be governed by and construed in  
18 accordance with the laws of the State of California.

19           28. Integration and Amendments. This Lease represents and constitutes  
20 the entire understanding between the parties and supersedes all other agreements and  
21 communications between the parties, oral or written, concerning the subject matter herein.  
22 This Lease shall not be modified except in writing signed by the parties and referring to this  
23 Lease.

24           29. Joint Effort. This Lease is created as a joint effort between the parties  
25 and fully negotiated as to its terms and conditions and nothing contained herein shall be  
26 construed against either party as the drafter.

27           30. No Recordation. This Lease shall not be recorded.

28           31. Attorney's Fees. In any action or proceeding relating to this Lease,

1 the prevailing party shall be entitled to its costs, including a reasonable attorney's fee.

2 32. Captions and Organization. The various headings and numbers  
3 herein and the grouping of the provisions of this Lease into separate sections, paragraphs  
4 and clauses are for convenience only and shall not be considered a part hereof, and shall  
5 have no effect on the construction or interpretation of this Lease.

6 33. Relationship of Parties. The relationship of the parties hereto is that  
7 of Landlord and Tenant, and the parties agree that nothing contained in this Lease shall be  
8 deemed or construed as creating a partnership, joint venture, association, principal-agent  
9 or employer-employee relationship between them or between Landlord or any third person  
10 or entity.

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney 411 West  
Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4664

1 IN WITNESS WHEREOF, the parties have executed this Lease with all of the  
2 formalities required by law as of the date first above written.

3 UNITED STATES VETERANS INITIATIVE, a  
4 California nonprofit corporation

5 March 30, 2020

By Larry Williams  
Name Larry Williams  
Title Acting Executive Director

7 \_\_\_\_\_, 2020 By \_\_\_\_\_  
8 Name \_\_\_\_\_  
9 Title \_\_\_\_\_

10 "Tenant"

11 CITY OF LONG BEACH, a municipal  
12 corporation

13 March 30, 2020

By Rebecca G. Garner  
Thomas B. Modica  
City Manager

15 "Landlord"

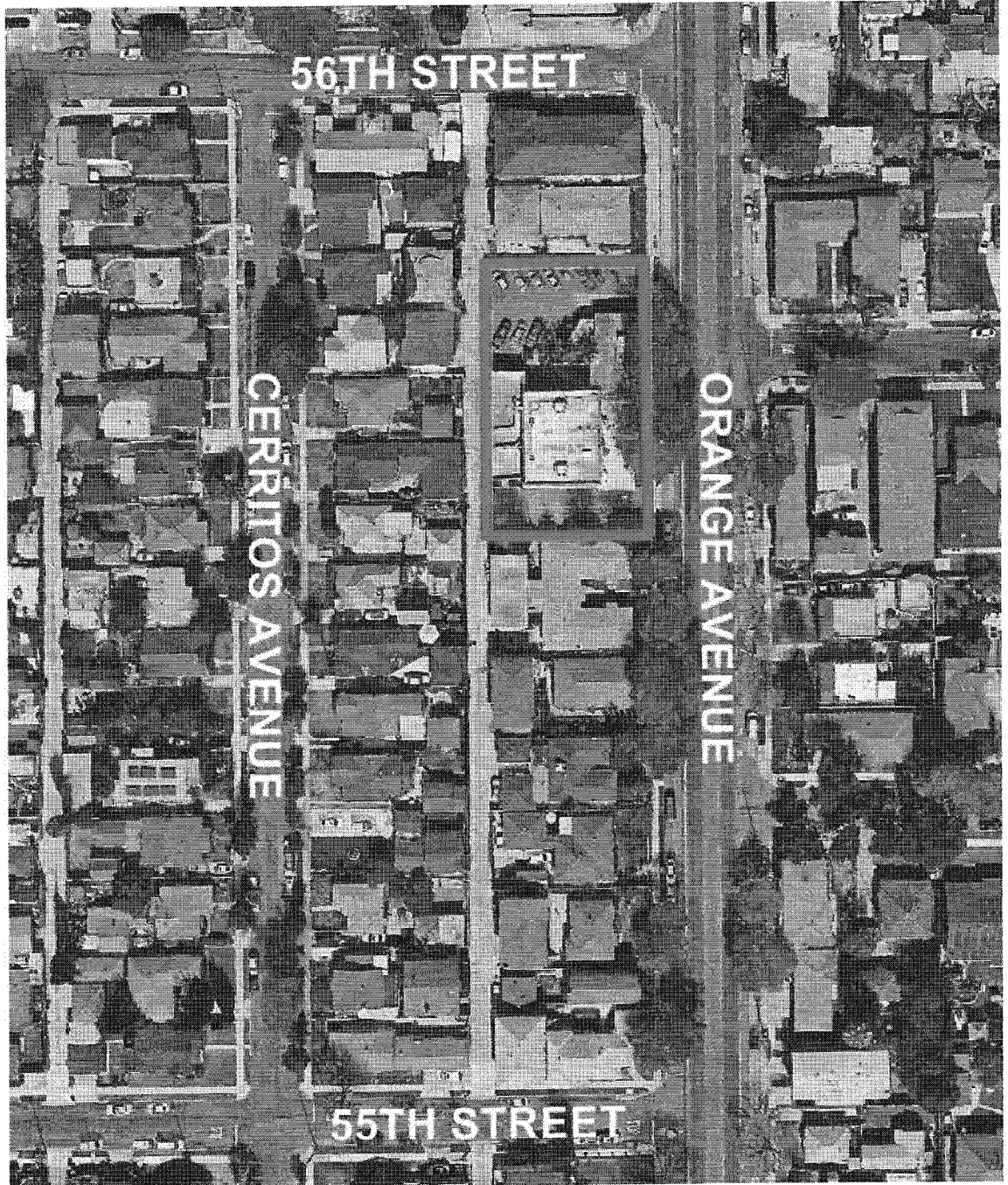
14 EXECUTED PURSUANT  
15 TO SECTION 301 OF  
16 THE CITY CHARTER

17 This Lease is hereby approved as to form on March 30, 2020.

18 CHARLES PARKIN, City Attorney

19 By [Signature]  
20 Deputy  
21  
22  
23  
24  
25  
26  
27  
28

EXHIBIT "A"  
PREMISES



OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney 411 West  
Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4664

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