

TO: James L. App, City Manager
FROM: Ann Robb, Director, Library and Recreation Services
SUBJECT: Lease Agreement – City Library Study Center
DATE: September 7, 2010

Needs: For the City Council to consider a lease with the San Luis Obispo County Office of Education for use of a building to house the City Library Study Center.

Facts:

1. The City Library Study Center provides after school and summer services for children in the Uptown neighborhood. The Center offers limited library services, homework help, Raising a Reader program, Library Summer Reading Program and other scholastic and enrichment activities for children and families. The Library Study Center currently rents space in the Youth Arts Center building.
2. The Library Study Center has been a partner in First 5 School Readiness efforts since April, 2002, working with the First 5 Commission, the County Office of Education and the Paso Robles Joint Unified School District to increase success at school.
3. The new site for First 5 services will open in September, 2010. The center is adjacent to Georgia Brown School, and will provide a “one stop” location for families to access an array of preschool, family support and City Library services.
4. The property is owned by the County Office of Education. The term of the lease is 10 years, with options for 5 year renewals. The lease fee is \$1 per year; the City will be responsible for a proportional share of utilities and routine maintenance. The County Office of Education is responsible all exterior building areas and common areas such as the entry and parking lot. The lease may be terminated by the City without cause by providing 6 months notice.
5. Moving the Library Study Center to the new location will save \$2600 per month (\$31,200 annually) gross that is currently paid for rent. The savings will be partially offset by a proportional share of utility payments and routine maintenance, but is anticipated to yield \$20,000 net savings per year.

Analysis &

Conclusion: The City Library Study Center can move to the new First 5 campus in September, 2010. The move has been anticipated for a number of years. City Council has supported the establishment of the First 5 Center through contributions of CDBG and Redevelopment

funds. The property is owned by the San Luis Obispo County Office of Education. A lease agreement outlines the terms of occupancy.

Policy

Reference:

City Council Goals – Live Within Our Means

Economic Strategy – Promote and support a full continuum of education opportunities; Forge closer working relations with local schools for increased/improved educational opportunities.

Uptown Specific Plan (draft)

Fiscal

Impact:

Lease is \$1 per year, plus proportional share of utilities, resulting in an estimated net savings of \$20,000 per year.

Options:

- a. Authorize the City Manager to enter into a lease with the San Luis Obispo County Office of Education for the new location of the City Library Study Center.
- b. Amend, modify, or reject the above option.

San Luis Obispo County Office of Education

3350 EDUCATION DRIVE, SAN LUIS OBISPO, CA 93405 DISTRICT

OFFICE (805) 543-7732 • FAX (805) 541-2605

FACILITIES LEASE AGREEMENT September 7, 2010

Paso Robles First 5 Early Education Center

This Lease Agreement ("Agreement") is made and executed by and between the San Luis Obispo County Office of Education, hereinafter referred to as "Lessor"; and the **City of El Paso de Robles**, hereinafter referred to as "Lessee." Lessee hereby offers to rent from Lessor the "Leased Premises" situated in the City of Paso Robles, County of San Luis Obispo, State of California, described as:

DSA-approved relocatable structure, 1,920 sq. ft, located at 3600 Oak Street, #101,
Paso Robles, CA 93446

upon the following terms and conditions:

1. TERM:

Term of this Agreement shall be for an initial period of ten (10) years, commencing on _____, 2010 and terminating on _____, 2020. If this Agreement has not been previously terminated, then Lessee shall have the option, at its sole discretion, to extend the term on all the same provisions contained in this Agreement for up to six (6) additional five (5) year periods following expiration of the initial term, for a total possible term of forty (40) years. Lessee may exercise its option to extend the term of this Agreement by providing written notice to Lessor not later than one (1) year prior to the termination date of the initial term or extended term, as applicable. The term may be further extended by the mutual agreement of Lessor and Lessee.

2. RENT:

For and in consideration of the provisions of this Agreement, including the length of term, Lessee agrees to pay, and Lessor agrees to accept, the sum of **One Dollar (\$1.00)** per year as the annual rental amount. The first payment of annual rent shall be due and payable in advance on or before the commencement of this Agreement, and thereafter annual rent shall be due and payable each year on or before each anniversary date of this Agreement. The payments during each year shall constitute the total rental for the Leased Premises for such year, and shall be paid by Lessee in each year for and in consideration of the right of the use and occupancy of and the continued quiet use and enjoyment of the Leased Premises

during each year.

3. UTILITIES:

Lessee will pay to Lessor a proportionate share of utilities. Utility costs will be based on building square footage and days of operation. Lessor shall provide to Lessee an invoice and evidence satisfactory to Lessee of the costs of such utilities, including the calculation used to determine Lessee's proportionate share. Lessee shall pay its proportionate share of the utilities costs within thirty (30) days after receipt by Lessee of the invoice and evidence of such costs.

4. USE:

The above described Leased Premises are to be used for the purpose of providing a study center for youth or for other similar type of educational or community program that may be conducted or sponsored by City from time to time.

5. USES PROHIBITED:

Lessee shall not use any portion of the Leased Premises for purposes other than those specified hereinabove, and no use shall be made or permitted to be made upon the Leased Premises, nor acts done, which will increase the existing rate of insurance upon the Leased Premises, or cause cancellation of insurance policies covering said Leased Premises. Lessee shall not conduct or permit any sale by auction on the Leased Premises.

6. ASSIGNMENT AND SUBLETTING:

Lessee shall not assign this Agreement or sublet any portion of the Leased Premises without the prior written consent of the Lessor, which shall not be unreasonably withheld. Any such assignment or subletting without consent shall be void and at the option of the Lessor, may terminate this Agreement.

7. ORDINANCES AND STATUTES:

Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Leased Premises, occasioned by or affecting the use thereof by Lessee. The commencement or pendency of any State or Federal court abatement proceeding affecting the use of the Leased Premises shall, at the option of the Lessor, be deemed a breach hereof.

8. MAINTENANCE, CUSTODIAL, REPAIRS, ALTERATIONS:

A. Lessee acknowledges that the Leased Premises are clean and in good order and repair, unless otherwise indicated herein. Lessee shall, at his own expense and at all times during the term of this

Agreement, maintain the Leased Premises in clean, good and safe condition. Lessee is specifically responsible to maintain glass, accessible wiring and lighting fixtures and bulbs, accessible plumbing, appliances, wall coverings, white boards, carpets and floor tiles, and heating units reasonably accessible to Lessee, in operating condition. In order to maintain Lessor's quality standards, Lessee shall consult with or have contracting service workers consult with Lessor before repairing or replacing any glass, accessible wiring or lighting fixtures, accessible plumbing, appliances, wall coverings, white boards, carpets or floor tiles, or heating units reasonably accessible to Lessee.

B. Lessor shall be responsible for all maintenance and repairs to all areas and improvements outside the Leased Premises, including building exteriors, roof, utility lines and hookups and piping and plumbing which provide utilities and water to the Leased Premises, entry and other common areas, lobbies, parking lots, and providing accessibility to the Leased Premises in compliance with the Americans with Disabilities Act. Lessor will respond to problems reported by Lessee to the Lessor's Director of Operational Services at phone number 805-782-7257, for maintenance problems. Lessee will be responsible for Lessor's costs related to repair of sewer stoppages to the extent such stoppages have been determined by Lessor to have been caused by Lessee. Any proposed structural or exterior modifications must first be submitted in writing to Lessor for review and written approval, and such approval will not be unreasonably withheld. Except for modifications determined at the time of termination of this Agreement to be retained for the benefit of Lessor, Lessee shall surrender the Leased Premises at the termination hereof in good clean condition as received, normal wear and tear excepted.

9. ENTRY AND INSPECTION:

Lessee shall permit Lessor or Lessor's agents to enter upon the Leased Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

10. INDEMNIFICATION OF LESSOR:

Lessee agrees to defend, indemnify and save harmless, Lessor and its officers, agents, and employees from and against any and all claims, demands, liability, costs, expenses, damages, causes of action and judgments which arise out of Lessee's use of the Leased Premises, or the performance or attempted performance of the provisions of this Agreement by Lessee, including but not limited to any act or omission to act by Lessee or its agents, employees, invitees, students or independent contractors directly responsible to Lessee.

11. POSSESSION:

If Lessor is unable to deliver possession of the Leased Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this Agreement be void or voidable, but

Lessee shall not be liable for any rent until possession is delivered. Lessee may terminate this Agreement if possession is not delivered within 30 days the commencement of the term hereof.

12. INSURANCE:

A. Lessee shall take out and maintain during the entire term hereof, public liability and property damage insurance in the single limit amount of at least Two Million Dollars (\$2,000,000), provided that all such insurance shall contain the following provisions:

1. It shall name Lessor as a named insured.
2. It shall cover complete contractual liability.
3. It shall cover personal injury as well as bodily injury.
4. It shall be on an occurrence basis rather than accident basis.
5. It shall require the insurance carrier to give to Lessor at least 30 days prior written notice of any cancellation thereof, any reduction in coverage, or any other major change therein.
6. It shall cover owned, non-owned, and hired cars and trucks.

B. Lessee shall maintain Workers' Compensation insurance for its employees.

C. Lessee shall do no act pursuant to this Agreement until Lessee has filed with Lessor certificates of insurance certifying Lessee has all the insurance required by this Agreement.

D. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

13. SIGNS:

Lessee shall not construct any sign or awning without the prior written consent of Lessor, and which consent by Lessor shall not be unreasonably withheld.

14. ABANDONMENT OF PREMISES:

Lessee shall not vacate or abandon the Leased Premises at any time during the term hereof, and if Lessee shall abandon or vacate the Leased Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to Lessee left upon the Leased Premises shall be deemed to be abandoned, at the option of Lessor.

15. TRADE FIXTURES:

Any and all improvements made to the Leased Premises during the term hereof shall belong to the Lessor, except trade fixtures of the Lessee. Lessee may, upon termination hereof, remove all its trade fixtures, but shall repair or pay for all repairs necessary for damages to the Leased Premises occasioned

by such removal of any trade fixtures by Lessee, normal wear and tear excepted.

16. REMEDIES OF LESSOR ON DEFAULT:

In the event of any breach of this Agreement by Lessee, Lessor, besides other rights and remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the Leased Premises. Such property may be moved and stored in a public warehouse or elsewhere at the cost of, and for the account of, Lessee. Should Lessor elect to re-enter, or should Lessor take possession pursuant to legal proceedings or any notice provided by law, Lessor may either terminate this Agreement or may from time to time, without terminating this Agreement, re-let the Leased Premises, or any part thereof, for such term or terms (which may be for a term extending beyond the term of this Agreement) and at such rental or rentals and upon which other terms and conditions the Lessor, in its sole discretion, may deem advisable with the right to alter or repair the Leased Premises upon such re-letting. In such event, Lessee shall be immediately liable to pay to Lessor, in addition to any other amounts due hereunder: (a) the cost and expense of such re-letting and such alterations or repairs, and any amount by which the rent reserved herein for the period of such re-letting, but not beyond the term hereof, exceeds the amount agreed to be paid as rent for such period; or (b) at the option of the Lessor, rents received by Lessor from such re-letting shall be applied first to the repayment of indebtedness other than rent due hereunder, second to costs and expenses of re-letting and alterations or repairs, and third to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable. Lessee shall be credited only with rent actually received by Lessor. Lessee shall, in such event, pay any deficiency between the amount due from Lessee to Lessor and the amount credited. No such re-entry or taking possession by Lessor shall be construed as an election to terminate this Agreement unless written notice of such intention is given, or unless termination is decreed by a court of competent jurisdiction. Notwithstanding any such re-letting without account of such previous breach, should Lessor at any time terminate this Agreement for any breach, in addition to any other remedy he may have, he may recover from Lessee all damages he may incur by reason of such breach, including the cost of recovering the Leased Premises, and including the worth at the time of such termination, or at the time of an award if suit be instituted to enforce this provision, of the amount by which the unpaid rent for the balance of the term exceeds the amount of the rental loss for the balance of the term which the Lessee proves could be reasonably avoided.

17. ATTORNEYS' FEES:

In case suit should be brought for recovery of the Leased Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Leased Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney fee.

18. WAIVER:

No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

19. NOTICES:

Any notice which either party may be required to give, shall be given by mailing the same, postage prepaid, to Lessee at 1000 Spring Street, Paso Robles, CA 93446, or Lessor at 3350 Education Drive, San Luis Obispo, CA 93405, or at such other places as may be designated by the parties from time to time.

20. HOLDING OVER:

Any holding over after the expiration of this Agreement, with the consent of Lessor, shall be construed as a year-to-year tenancy at a rental of \$1.00 per year, in accordance with the terms hereof, as applicable.

21. POSSESSORY INTEREST TAX:

In the event property rented by Lessee is assessed a possessory interest tax by the San Luis Obispo County Assessor, it is agreed that Lessee shall pay such tax.

22. HEIRS, ASSIGNS, SUCCESSORS:

This Agreement is binding upon and insures to the benefit of the heirs, assigns and successors in interest to the parties.

23. AMENDMENTS AND MODIFICATIONS:

Any changes to this Agreement requested either by the Lessor or Lessee may only be effected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such a writing.

24. SEVERABILITY:

In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

25. GOVERNING LAW:

The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed in all respects by the laws of the State of California.

26. TERMINATION:

This Agreement shall terminate on the expiration date of the initial term or extended term, whichever is applicable, without the necessity of notice from either party. Lessee shall have the right to terminate this Agreement at any time during the term of this Agreement, for any reason, without liability or expense; provided Lessee shall deliver to Lessor written notice of its election to terminate this Agreement at least six (6) months prior to such termination.

LESSEE: City of El Paso de Robles

BY: _____

NAME: _____

TITLE: _____

DATE: _____

LESSOR: San Luis Obispo County Office of Education

BY: _____

NAME: Mary Jarvis

TITLE: Assistant Superintendent for Business Services

DATE: _____

RESOLUTION NO. 10-xxx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
EL PASO DE ROBLES AUTHORIZING THE CITY MANAGER TO ENTER INTO A
LEASE WITH THE SAN LUIS OBISPO COUNTY OFFICE OF EDUCATION**

- WHEREAS the City Library Study Center provides after school and summer services for children and their families; AND
- WHEREAS the Library Study Center has been a partner in First 5 School Readiness efforts since April, 2002, working with the First 5 Commission, the County Office of Education, and the Paso Robles Joint Unified School District to increase success at school; AND
- WHEREAS the Library Study Center will move to the new First 5 site which will provide a location for families to access an array of services; AND
- WHEREAS the property is owned by the San Luis Obispo County Office of Education; AND
- WHEREAS a lease agreement specifies terms of occupancy; AND
- WHEREAS moving the Library Study Center to the new location under the terms of the lease will save approximately \$24,000 per year;

THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES AS FOLLOWS:

SECTION 1. The City Council of the City of El Paso de Robles does hereby authorize the City Manager to enter into a lease with the San Luis Obispo County Office of Education regarding occupancy of facilities at 3600 Oak Street #101, Paso Robles, California.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 7th day of September, 2010, by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk