

LEASE AGREEMENT

THIS LEASE AGREEMENT (Lease) is made as of the ____ day of _____, 2014, by and between the City of Minneapolis, acting by and through its Park and Recreation Board, a body corporate and politic under the laws of Minnesota (Park Board), and Minneapolis Parks Foundation, a Minnesota nonprofit corporation (Tenant).

RECITALS

1. The Park Board owns the building known as Longfellow House situated at 4800 South Minnehaha Avenue, Minneapolis, Minnesota, in Minnehaha Regional Park (the Building).
2. The Tenant desires to lease a portion of the Building.
3. The Park Board desires to allow the Tenant to lease a portion of the Building.

THEREFORE, IN CONSIDERATION of the above recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1 DEFINITIONS

- 1.1. *Park Board* means the City of Minneapolis, acting by and through its Park and Recreation Board, the owner of Minnehaha Regional Park and the Building.
- 1.2. *Tenant* means Minneapolis Parks Foundation, a Minnesota nonprofit corporation.
- 1.3. *Building* means the Longfellow Building at 4800 Minnehaha Avenue South, Minneapolis, Minnesota.
- 1.4. *Parking Lot* means the parking spaces provided by the Park Board adjacent to the north of the Longfellow House.
- 1.5. *Premises* means the second floor of the Building, consisting of 961 square feet, and a portion of the basement storage room, consisting of 429 square feet, use of the utility lines serving the Building (electrical, water, sewer, gas, etc. as applicable), as well as access to the common areas of the building (lobby, stairs, and restrooms), but excluding the remaining portions of the Building and the adjacent southerly Parking Lot.
- 1.6. *Commencement Date*: January 1, 2015.

SECTION 2
GRANT OF LEASEHOLD

2.1 *Grant of Leasehold Interest.* On the terms and conditions set forth herein, the Park Board does hereby demise and lease unto Tenant and Tenant does hereby lease from the Park Board the Premises.

2.2. *Access to Building.* The Park Board shall provide and maintain access to the Building in the form of an appropriate roadway and sidewalk.

2.4 *Parking.* The Park Board does hereby grant Tenant the non-exclusive right to use the Parking Lot at no additional cost.

SECTION 3
TERM

3.1 *Initial Term.* The initial term of this Lease shall be for a term of one (1) year after the Commencement Date unless terminated earlier under the terms of this Lease.

3.2 *Additional Terms.*

3.2.1. *First Extension Term.* The Tenant shall be permitted to extend this Lease for a first extension term of one (1) year provided: 1) the Tenant notifies the Park Board of such an extension at least ninety (90) days prior to the expiration of the initial term of this Lease; and 2) the Board of Directors of Minneapolis Parks Foundation does not duly adopt a resolution opposing extension at least ninety (90) days prior to the expiration of the initial term of this Lease.

3.2.2 *Second Extension Term.* The Tenant may request to extend this Lease for a second extension term of one (1) years by requesting such an extension at least ninety (90) days prior to the expiration of the first extension term of this Lease. The Park Board shall have the sole discretion whether to allow Tenant to extend this Lease for a second extension term.

3.2.3. This Lease will not be renewed if as of the date of the expiration of the initial term of this Lease, Tenant is in default of any term or condition of the Lease, provided that : (a) notice of the default has been given to the Tenant by the Park Board; (b) any period to cure the default as further provided in this Lease has expired as of the expiration of the then-current Lease term; and (c) the default has not been cured within the cure period.

SECTION 4
RENT

4.1 *Rent.* The Tenant shall pay to the Park Board rent in the amount of Three Hundred Dollars (\$300.00) monthly as rent for 2015, the first year of the Initial Term of this Lease. For each successive year that this Lease is in effect, the base rent shall be as follows:

- First Extension Term - 2016 - \$600 per month
- Second Extension Term - 2017 - \$900 per month

The above increases are reflective of the current market for similar commercial Class B space. In the event the term of the lease is extended beyond the Initial Term, the rental rate shall be negotiated between the parties at that time.

4.2 *Payment.* Tenant shall automatically pay the base rent in twelve equal monthly installments due on the first day of each month that this Lease is in effect.

SECTION 5
USE

5.1 *Permitted Uses.* The Tenant shall use the Building only for the following purposes:

- 5.1.1. Administrative offices and staff facilities; and
- 5.1.2. Providing fundraising and social, educational, and community outreach programming to support the mission of Tenant and Park Board.

5.2 *Non-discrimination.* The Tenant shall not engage in or permit discrimination against any employee, applicant for employment, volunteer worker or person seeking access to the Building or the programming on the basis of age, gender, race, color, ancestry, national origin, religion, creed, disability, affectional preference, marital status, public assistance status, or veteran status.

5.3 *Prohibited Uses.* The Tenant shall not use or occupy the Premises, or knowingly permit the Building to be used or occupied contrary to any statute, rule, order, ordinance, requirement or regulation applicable thereto; in any manner which would violate any certificate of occupancy affect the same; which could be reasonably anticipated to cause structural injury to the improvements; cause the value or usefulness of the Building or any part thereof substantially to diminish (reasonable wear and tear excepted); or which would constitute a public or private nuisance or waste. Tenant shall promptly upon discovery of any such use take all necessary steps to compel the discontinuance of such use.

5.4 *Signage.* Other than the signs on the Building or the Premises on the Commencement Date of this Lease, Tenant shall not place or permit any additional signs on the exterior of the Building, except as otherwise approved in writing by the Park Board. Such approval shall not be unreasonably withheld.

5.5. *Limitations on Hours of Use.* Tenant shall not permit the use of the Building by the public outside the following hours of operation: 7:00 a.m. to 10 p.m. daily. Special events shall not be subject to these limits.

5.6 *Special Events.* The Tenant may hold special events at the Building subject to the approval of the Park Board, which approval shall not be withheld unreasonably, and on such terms and conditions consistent with the Park Board's ordinances, policies and regulations. Special events are uses of the Building outside the hours specified in Section 5.5. Special events by the Tenant shall be subject to the following requirements:

5.6.1 *Notice to Park Board.* Tenant shall give not less than ten (10) days advance written notice to the Park Board in the event that Tenant intends to host a special event in the Building. Such notice shall include the proposed date, beginning and ending time, and anticipated attendance for the event.

5.6.2 *Expenses.* Tenant shall be solely responsible for all costs and expenses associated with the event including, but not limited to, set-up and cleanup, catering, additional security, and special equipment.

5.6.3 *Permits and Licenses.* To the extent that activities associated with a proposed special event require permits or license from any governmental body or agency, Tenant shall obtain all such permits and licenses at its sole cost and expense prior to such event. Upon the Park Board's request, the Tenant shall produce copies of such licenses or permits.

SECTION 6 CONDITION OF PREMISES

6.1. *Building.* Tenant hereby agrees to accept the Premises in the condition it is in at the commencement of this Lease and agrees to maintain the Premises as provided in Section 6.2 and to make good to the Park Board, immediately upon demand any damage caused by any act or neglect of the Tenant, its employees or invitees except as provided in Section 7.

6.2 *Repairs and Maintenance Interior of Building.* The Tenant shall keep the Premises and all equipment therein in the same condition as they were on the Commencement Date, ordinary wear and tear excepted. The Tenant shall be solely responsible for the maintenance and repair of any Improvements to the Premises and shall keep such Improvements in the same conditions as they were on the completion date of the Improvements, ordinary wear and tear excepted. Notwithstanding the forgoing, the

Tenant shall not be required to make any repairs or replacements to the interior of the Building, or equipment therein or Improvements thereto: (1) to remedy or repair a condition that existed on the Commencement Date; (2) to the extent such repairs or replacements would have a useful life that extends beyond the expiration of the current term of the Lease or are otherwise considered a capital expense; or (3) are the Park Board's responsibility under this lease or are necessitated by any act, negligence or breach by the Park Board of any of its obligations under this Lease.

6.3 *Repairs and Maintenance of Exterior of Building.* The Park Board shall be solely responsible and pay all costs for the maintenance and repair of the exterior of the Building. The Park Board shall keep the exterior of the Building in the same condition it was in on the Commencement Date, except that the Park Board shall keep any exterior Improvements in the same condition they were upon their completion, ordinary wear and tear excepted. The Park Board shall make all repairs, improvements, changes, alterations and additions to the Building which may be required by any laws, ordinances, and regulation of any public authorities having jurisdiction over the Building, and the requirement of any board of underwriters, rating bureau or similar organizations except that Tenant shall make all such repairs, improvements, changes, alterations, and additions required because of any use made of the Building by Tenant other than the proper and lawful conduct of Tenant's business.

6.4 *Premises.* The Park Board, in accordance with its general practices, shall maintain and keep in good condition and repair the Premises and the Parking Lot. "Good condition and repair" includes snow removal, mowing and maintenance of utilities.

6.5 *Inspection.* Each year, the Tenant and the Park Board shall jointly schedule and conduct one inspection of the Building. Any deficiency in the Premises identified by the Park Board which is the Tenant's obligation to remedy under Section 6.2 shall be reported to the Tenant and shall be corrected by the Tenant within thirty (30) days. Any deficiency identified by the Tenant which is the Park Board's obligation to remedy under Section 6.3 shall be reported to the Park Board and shall be corrected by the Park Board within thirty (30) days. Failure by a party to correct such a deficiency within thirty (30) days shall constitute a default of this Lease.

6.6 *Security.* The Park Board, in accordance with its general practices, is responsible for and shall pay the costs of all security on or about the Premises and Parking Lot.

SECTION 7 ORDINANCE, BUILDING RESTRICTIONS AND REGULATIONS

7.1 *Tenant.* The Tenant, during the initial term or any additional term of the Lease, shall at its sole expense comply with all valid applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting the interior of the Building or use thereof by the Tenant. The Tenant shall indemnify and hold the Park Board harmless from the consequences of any violation of any such law,

ordinance or regulation by the Tenant that is the Tenant's responsibility hereunder. The Tenant shall not permit any unlawful occupation, business or trade to be conducted at the Building or any use to be made thereof contrary to any law, ordinance or regulation with respect thereto.

7.2 *Park Board.* The Park Board, during the initial term or any additional term of the Lease, shall at its sole expense comply with all valid applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in any manner affecting the exterior of the Building, the Premises or the Parking Lot or use thereof by the Park Board. The Park Board shall indemnify and hold the Tenant harmless from the consequences of any violation of any such law, ordinance or regulation by the Park Board that is the Park Board's responsibility hereunder.

SECTION 8 INSURANCE

8.1 *Property Insurance.* The Tenant shall, from and after the date of the execution of the Lease, keep the Building, including any improvements and betterments which may be made by the Tenant, insured against loss or damage by fire, windstorm and any of the casualties included in a standard form of extended coverage insurance, in an amount sufficient to meet the co-insurance requirements of the policies, but not less than 80% of the full insurable value thereof, exclusive of the foundations. Any such policy of insurance shall name the Park Board as an additional insured.

In case the whole or any part of the Building is destroyed or damaged by fire or other cause during the term of this Lease and such damage or destruction is not the result of Tenant's negligence, then in every such case, if the Building is not usable for the normal conduct of Tenant's business, in whole or in part, then the base rent and other rent reserved under the Lease, and other charges, if any, shall be suspended to the extent and during the period when the Building is not usable for the normal conduct of Tenant's business and until the Building shall have been put in the condition it was immediately prior to such destruction or damage to the extent of the recovery of proceeds of insurance required under this Section 8.1.

Notwithstanding the foregoing, if the Building shall be destroyed or damaged by fire or other cause and such destruction or damage shall amount to 50% or more of the sound insurable value of the Building (exclusive of the foundations) the Lease may be terminated at the election of either the Park Board or the Tenant, provided that notice in writing of such election shall be given by the party so electing to the other party within 30 days after such destruction or damage.

8.2 *Liability Insurance.* Tenant shall, at its sole cost and expense obtain and maintain general public liability insurance against claims for personal injury, death or property damage occurring on or about the Building, such insurance to afford protection to the limit of not less than One Million Dollars (\$1,000,000) with respect to injury or death to a single person, and to the limit of not less than One Million Dollars (\$1,000,000) with

respect to any one accident, and to the limit of not less than One Million Dollars (\$1,000,000) with respect to any property damage, naming both the Park Board and the Tenant as insureds.

8.3 *Insurance Companies.* Such policies of insurance to be obtained by Tenant shall be written in companies reasonably satisfactory to the Park Board and shall be written in such form and shall be distributed in such companies as shall be reasonably acceptable to the other party. Such policies shall be delivered to the Park Board endorsed “premium paid” or with a receipt for payment of the premium issued by the company or agency issuing the policy or accompanied by other evidence satisfactory to the other party that the premiums thereon have been paid, not less than ten (10) days prior to the occupancy of the Building and the expiration of any then current policy.

SECTION 9 ASSUMPTION OF RISK; INDEMNITY

9.1 *Assumption of Risks.* The Tenant assumes all risk of loss or damage of the Tenant’s property at the Building including any loss or damage caused by water leakage, fire, windstorm, explosion, theft, or other cause. The Park Board shall not be liable to the Tenant, or those claiming through Tenant, for injury, death, or property damage occurring on, in, or about the Building, except as may be caused by the willful misconduct or negligence of the Park Board. Nothing herein shall be deemed to be a waiver of any limits of liability granted the Park Board under statutory or common laws.

9.2 *Indemnification.*

9.2.1 The Park Board shall defend, indemnify, and hold harmless the Tenant, and its employees, agents, contractors, and invitees against all claims, demands, damages, liabilities, actions, and all related costs and expenses (including reasonable attorney fees) for injury, death, disability, or illness to/of any person, or damage to property: (a) occurring on or about the Premises or Parking Lot; (b) arising out or related to the of the use of the Premises, Parking Lot or Building by the Park Board or any of the Park Board’s employees, agents, contractors or invitees, or members of the general public who are not employees, agents contractors or invitees of the Tenant; or (c) arising out of or related to any other act or negligence by the Park Board or its employees, agents, contractors, or invitees. However, the foregoing shall not apply to any injury death, disability, or illness to/of any person or damage to property to the extent caused by the negligence or willful misconduct of the Tenant its employees, agents, contractors or invitees. Nothing herein shall be deemed to be a waiver of any limits of liability granted the Park Board under statutory or common laws.

9.2.2. The Tenant shall defend, indemnify and hold harmless the Park Board, and its employees, agents, contractors, and invitees against all claims, demands, actions, and all related costs and expenses (including reasonable attorney fees) for injury, death, disability, or illness to/of any person, or damage to property: (a)

occurring within the Building; (b) arising out of or related to the use thereof by the Tenant or any of the Tenant's employees, agents, contractors or invitees; or (c) arising out of or related to any other act or negligence by the Tenant or its employees, agents, contractors or invitees. However, the foregoing shall not apply to any injury, death, disability or illness to/of any person or damage to any property to the extent caused by the negligence or willful misconduct of the Park Board or its employees, agents, contractors or invitees.

9.3 *Waiver of Subrogation.* Each party ("Releasing Party) hereby releases the other party ("Released Party") with respect to any claim which the Releasing Party might otherwise have against the Released Party for personal injury, death or illness to/of persons or damage to property to the extent to which the Released Party is insured under a policy of insurance which provides coverage which is not negated by this waiver of subrogation.

SECTION 10 PARK BOARD'S ACCESS TO BUILDING AND EXCLUSIVE CONTROL

10.1 *Access to Building.* The Tenant shall permit the Park Board and the authorized representatives of the Park Board to enter the Building and the Premises at all times during the Park Board's usual business hours, 5 a.m. to 10 p.m. daily for the purpose of: 1) accessing the mechanical control room to maintain the electricity on the Premises and to perform any and all functions related to the common areas, and 2) inspecting the same and making any necessary repairs to comply with any laws, ordinances, rules, regulations or requirements of any public authority or any similar body. Nothing in this Lease, however, shall be construed so as to impose any obligation on the Park Board to make any such repairs, alterations or improvements.

10.2 *Exclusive Control.*

10.2.1 *Common Areas.* The Park Board shall have exclusive control over the common areas of the Building, including but not limited to restrooms, hallways and stairways, and shall have sole responsibility for their maintenance and operation.

10.2.2 *Storage.* Tenant shall have exclusive control over its exclusive portion of the storage area in the basement, and shall have sole responsibility for its maintenance and operation.

SECTION 11 ALTERATIONS

The Tenant shall make no changes or alterations to the Premises that constitute a capital improvement without the Park Board's prior written approval. The Park Board shall not unreasonably withhold consent to such alterations. The Tenant may, at its

expense, make changes or alterations to the Premises for which the Park Board has given its consent or for which no consent by the Park Board is necessary.

SECTION 12 TAXES AND UTILITIES

12.1 *Taxes.* The Tenant is responsible for and shall pay the pro rata portion of any real estate taxes falling due during the term of this Lease applicable to the Premises and to prorate portion of any special assessments falling due during the term of this Lease applicable to the Premises in the event that the Premises ever becomes subject thereto. Landlord agrees to provide reasonable support to the Tenant before any taxing authority in asserting the position, to the extent consistent with applicable laws and regulations that the Premises should not be subject to real estate taxes or special assessments.

12.2 *Utilities.* The Park Board shall pay or cause to be paid, when due, all charges for cleaning services, gas, water (including water and sewer for the wading pool), steam, electricity, light (including exterior lighting on the Premises), heat, air conditioning, power, telephone or other service or utility used, rendered or supplied upon, or in connection with, the Building during the initial term or any additional term hereof.

SECTION 13 ASSIGNMENT OR SUBLETTING

The Tenant may not transfer, assign or sublet any interest of Tenant under this Lease Agreement.

SECTION 14 DEFAULT

If the Tenant shall vacate or abandon the Premises, shall allow the Premises to be appropriated or used for any other purpose or use than those set forth in this Lease; or if any waste shall be made thereon; or if any term, condition or covenant of this Lease shall be violated by Tenant; then and in any of said cases Tenant shall be in default of this agreement. If such default is not cured by Tenant within thirty (30) days after mailing by the Park Board of written notice of the conditions of default (or if such default cannot be cured within thirty (30) days, then within a reasonable time, provided Tenant commences cure within such thirty (30) days), Tenant does hereby authorize and fully empower the Park Board to cancel and annul this agreement and to reenter and take possession of the Building by force if necessary, and to remove all persons and their property therefrom, and to use such force and assistance in effecting and perfecting such removal as the Park Board may deem advisable to recover at once full and exclusive possession of all the Building, whether in possession of the Tenant or a third person, or vacant. The Park Board's failure to give immediate notice of default or agreement to allow more than thirty (30) days to cure a default, shall in no way constitute a waiver of any remedy available to the Park Board upon default by Tenant.

SECTION 15
EMINENT DOMAIN

If the Building or any portion thereof is taken by any public authority under the power of eminent domain, then the term of this Lease shall cease as of the day possession shall be taken by such public authority. All damages awarded for such taking under the power of eminent domain shall belong to and be the property of the Park Board, irrespective of the basis upon which they are awarded; except that the Tenant shall be entitled to any relocation allowance separately awarded to the Tenant.

SECTION 16
SURRENDER

On the last day of the term of this Lease or on the sooner termination thereof, the Tenant shall peaceably surrender the Building in the condition required under the terms of this Lease. On or before the last day of the term of the Lease or the sooner termination thereof, Tenant shall at its sole expense remove all of its personal property from the Building, and any property not removed shall be deemed abandoned. The Tenant's obligations under this section shall be subject to (1) ordinary wear and tear; (2) damages or other conditions in existence on the Commencement date; (3) damages or other conditions which Tenant is not required to remedy or repair under Section 7.2 of this Lease; and (4) damages or other conditions which are the Park Board's obligation to repair, replace or maintain under Section 6.3 of this Lease. All alterations, additions and Improvements which have been made or installed by the Tenant in the Building shall remain as the Park Board's property and shall be surrendered with the Building as part thereof. If the Building be not surrendered at the end of the term or sooner termination thereof, the Tenant shall indemnify the Park Board against loss or liability resulting from delay in so surrendering the Building, including, without limitation, claim made by any succeeding Tenant founded on such delay.

SECTION 17
NOTICES

Any notice required or permitted to be given under this agreement shall be sufficient if in writing and sent by registered or certified mail to the addresses of the parties set forth below. Either party hereto may change the address to which notices may be sent by giving written notice of such change of address to the other party.

As to the Park Board: Minneapolis Park and Recreation Board
 2117 West River Road
 Minneapolis, MN 55411
 Attention: Superintendent

As to TENANT: Minneapolis Parks Foundation

4800 South Minnehaha Avenue
Minneapolis, MN 55409
Attn: Executive Director

SECTION 18
QUIET ENJOYMENT

The Park Board covenants and agrees with the Tenant that upon Tenant observing and performing all the terms, covenants and conditions on Tenant's part to be observed and performed, Tenant may peaceably and quietly enjoy the Building and all of Tenant's rights under this Lease during the Initial Term or any Additional Term hereof.

SECTION 19
ENTIRE AGREEMENT

This agreement and any document incorporated by reference herein contains the entire agreement between the parties and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise, of any kind whatsoever. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this agreement in whole or in part unless such agreement is in writing and signed by the parties against whom enforcement of the change, modification, discharge or abandonment is sought. The Tenant acknowledges and agrees that the Park Board shall be under no obligation to provide any additional or future consideration, concessions or subsidies to support the Tenant's operations in the Building, other than consideration provided by the Park Board herein.

SECTION 20
HOLDOVER

If Tenant shall hold over possession of the Premises after expiration of the Term hereof, the Park Board may, at its sole discretion and election, either treat the Tenant as a trespasser and eject Tenant therefrom, or recognize Tenant as a Tenant at will on a month to month basis, but upon all of the conditions and covenants herein contained. In no event, however, shall Tenant's holding over enlarge Tenant's rights or status beyond those of a month to month lease at will under the laws of Minnesota.

SECTION 21
HEADINGS

The headings incorporated in this agreement are for convenience and reference only and are not a part of this agreement and do not in any way limit or add to the terms or provisions hereof.

SECTION 22
GOVERNING LAW; SEVERABILITY

This agreement shall be constructed under and governed by the laws of the State of Minnesota. If any provision of this agreement is determined to be illegal or unenforceable, it shall be severable from the agreement and all other provisions shall remain in force as though the severable provision had never been included.

SECTION 23
BINDING EFFECT

All of the covenants, conditions and agreements herein contained shall extend to, be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns. All obligations of the parties shall survive the expiration or termination of this Lease for any reason.

SIGNATURE PAGE FOLLOWS.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date first above written.

CITY OF MINNEAPOLIS, Acting by and
Through its Park and Recreation Board

MINNEAPOLIS PARKS
FOUNDATION

By: _____
Its: President

By: _____
Its: _____

By: _____
Its: Secretary

By: _____
Its: _____

Approved as to form:

Park and Recreation Board Attorney