



AUTHORIZATION FOR AGREEMENTS, MOUs, OR OTHER DOCUMENTS OBLIGATING THE CITY

All contracts, agreements, grant agreements, memoranda of understanding, or any document obligating the city (with the exception of purchase orders), requires the completion of this form. The City Manager will sign these documents after all other required information and signatures are obtained.

Document: Rec Center Childcare Agreement Date: 7-25-24

Statement of Purpose: Lease for childcare services at Recreation Center

Department Head Signature: *[Handwritten Signature]* 7-25-24

Remarks, if any: none

City Attorney Review and Signature: _____ Date: _____

Other Signatures as Requested by the City Attorney: _____

Name/Position
Date: _____

Budget Confirmed: Signature Yes No N/A

Certificate of Insurance Attached: Yes No N/A

City Council Approval Needed: Yes No Date: 7-15-24

After all the above requested information is complete and signatures obtained, return this form, along with the original document to the City Manager for signature. No documents should be executed prior to the City Manager's approval as evidenced by signature of this document.

City Manager Signature: *[Handwritten Signature]* Date: 7/30/24

Once all signatures and certificates of insurance have been obtained, return this document, along with the original, fully-executed agreement, MOU, or other document to the City Recorder. A copy of grant agreement and all project funding documents, must be forwarded to the Finance Department for tracking and audit purposes.

City Recorder Signature: _____ Date: _____

Date posted on website: _____

**LEASE AGREEMENT BETWEEN THE CITY OF NEWPORT AND
THE YOUTH DEVELOPMENT COALITION OF LINCOLN COUNTY**

THIS LEASE AGREEMENT ("Lease") is made and entered into as of the date of the final signature below ("Effective Date"), by and between the CITY OF NEWPORT, an Oregon municipal corporation ("City"), and the YOUTH DEVELOPMENT COALITION OF LINCOLN COUNTY, an Oregon nonprofit corporation ("Lessee").

RECITALS

- A. City owns and operates the Newport Recreation Center ("Rec. Center").**

- B. Subject to all of the terms, conditions, and provisions of this Lease, Lessee wishes to lease from City, and City is willing to lease to Lessee, a portion of the Rec. Center ("Premises"), which is more particularly described in Exhibit A attached to this Lease and made a part hereof. Lessee accepts the Premises in its current "AS IS" condition, except as specifically provided elsewhere in this Lease.**

I. TERMS OF AGREEMENT

- A. The RECITALS above are hereby incorporated into the TERMS OF AGREEMENT.**

- B. The term of this Lease and other terms/conditions and agreed-upon items are set forth in attached Exhibit A, which is incorporated by reference herein.**

- C. This Lease may be modified only by mutual agreement set forth in a written amendment to this Lease, signed by both parties.**

II. HOLDOVER

If Lessee does not vacate the Premises at the time the Lease expires or is otherwise terminated, City shall have the option to treat Lessee as a tenant month-to-month, subject to all of the provisions of the Lease (except the provisions for Term and Renewal Term) or to eject Lessee from the Premises and recover actual damages caused by the holdover. Failure of Lessee to remove fixtures that Lessee is required to remove under this Lease shall constitute a failure to vacate to which this section shall apply. City, at its option, may remove any and all property that Lessee fails to timely remove from the Premises and may charge reasonable storage fees to Lessee. If Lessee fails to redeem said property by timely payment of such fees, City may dispose of said property in the manner provided by law.

If a month-to-month tenancy results from a holdover by Lessee under this section, the tenancy shall be terminable by either party at the end of any monthly rental period, which termination shall be effected by written notice from the terminating party to the other party given not less than thirty (30) days prior to the termination date which shall be specified in the notice. In the event City terminates the holdover tenancy, Lessee waives any notice that

would otherwise be provided by law with respect to a month-to-month tenancy.

III. TAXES

Lessee shall pay all taxes, real or personal, attributed to the Premises and to any items of Lessee's personal property located upon the Premises during the Term of this Lease. Lessee shall hold City harmless, defend, and indemnify City from any and all tax obligations as a result of Lessee's use of the Premises.

IV. SUBLEASE OR ASSIGNMENT

Lessee shall not sublease, assign, or transfer any interest in the Premises or obligation under this Lease without the prior written consent of the City, which consent may be withheld at the sole discretion of the City. Further, in the event that City has given its prior written consent, no such assignment or sublease shall be effective until City has received a copy of the sublease or assignment, subscribed by the sublessee or assignee acknowledging the obligation of the sublessee or assignee to assume and comply with the terms, requirements, and obligations of this Lease that are applicable to Lessee, whereupon the sublessee, or assignee, shall be deemed to have assumed the obligations of the Lessee hereunder. Notwithstanding the foregoing to the contrary, Lessee may, however, assign all or any part of its rights, or delegate its duties, under this Lease or sublet any party of the Premises to an entity that controls, is controlled by, or is under common control with, Lessee, to the surviving corporation in a merger, consolidation or other reorganization involving Lessee, or to the purchaser of all or substantially all of Lessee's assets, without Lessor's consent. No subletting, assignment of rights or delegation of duties that Lessee may make without first obtaining Lessor's consent will relieve Lessee from liability for the performance of the obligations Lessee undertakes under the terms of this Lease.

V. LIABILITY, INSURANCE, LIENS

A. Lessee agrees to release, hold harmless, indemnify, and defend City, its officers, agents, and employees, from all liability resulting from or related to Lessee's use of the Premises or arising out of any condition of the Premises that is Lessee's maintenance responsibility pursuant to the terms of this Lease. Lessee shall specifically save and hold harmless, indemnify, and defend City, its officers, agents, and employees, from and against all liability arising out of or in connection with acts or omissions to act by Lessee, Lessee's agents, employees, or invitees on or about the Premises. This indemnification, defense, and hold harmless provision shall extend to all claims, losses, damages, causes of action, or suits, in which the City, its officers, agents, and/or employees is a named party in whole or in part for acts arising out of Lessee's or Lessee's agents, employees, or invitees acts or omissions to act, whether or not occurring on the Premises, except and to the extent caused or contributed to by the negligence of City, its employees, officers, or agents. The defense and indemnification obligations of this paragraph shall survive the termination of this Lease.

B. Lessee shall continuously carry comprehensive general liability insurance covering the public liability and property damage risks associated with Lessee's use of the Premises in the minimum amount of \$3,000,000 Combined Single Limit (CS) with an insurance carrier with an AM Best rating of no less than an A minus and shall provide bodily injury, death and property damage coverage. All insurance shall be carried with a responsible company, and the City shall be named as an additional insured. Lessee will provide the City with a current insurance certificate upon execution of this Lease, and update the insurance certificate for any renewal or material change thereto. Lessee, at its own expense, may insure its personal property, equipment and trade fixtures located on the Premises.

C. If fire or other casualty causes damage to any improvements on the Property, Lessee may, but shall not be required to, repair or replace the damaged improvements. Lessor shall not have any obligation to repair or replace any such property. Repair, replacement, or restoration of any fixtures, equipment and personal property owned by Lessee and any Lessee improvements shall be the responsibility of Lessee. Lessee shall pay all costs of moving its property when required in connection with the repairs of the Property. If Lessee elects not to rebuild or restore the damaged Premises, Lessee may terminate this Lease, whereupon Lessor shall be entitled to the insurance proceeds payable under Lessee's property damage insurance policy. Lessee's termination of this Lease shall be effected by written notice to Lessor given within sixty (60) days following the date of casualty and this Lease shall terminate and Lessee shall vacate the Premises and Licensed Property within thirty (30) days thereafter.

D. Lessee shall pay as due all claims for work contracted by Lessee for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens or encumbrances. If the filing of a lien occurs in contravention of the foregoing, Lessee shall cause the lien to be discharged of record by payment, by the posting of a bond, by order of a court of competent jurisdiction, or by other lawful means within thirty (30) days after Lessee receives notice of the filing from City. If Lessee fails to discharge a lien within the time set forth above, City may discharge the lien in any lawful manner without investigating the validity of the lien claim and, in such event, Lessee shall, as additional rent, reimburse City for all reasonable costs City incurs in connection with the discharge of the lien, including, without limitation, reasonable attorneys' fees, within thirty (30) days after receipt of City's invoice. Any amount owed by Lessee to City and not timely remitted as provided herein shall bear interest at the then-current rate allowed by law from the date funds were expended by City until reimbursed by Lessee. Such action by City shall not constitute a waiver of any right or remedy which City may have on account of Lessee's default.

E. Neither City nor Lessee shall be liable to the other for loss arising out of damage to or destruction of the Premises, or the building or improvements of which the Premises are a part or with which they are connected, or to the contents thereof, when such loss is caused by any of the perils which are typically or traditionally included within or insured against by property insurance with special causes of loss coverage. All such claims for any and all loss, however caused, hereby are waived. Such absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either Lessor or Lessee or by any of their respective agents, officers, or employees. Each party shall fully provide its own insurance protection at its own expense, and each party shall look to its respective insurance carriers for reimbursement of any such loss, and the insurance carriers shall not be entitled to subrogation under any circumstance against any party to this Lease. Because this Section V(E) will preclude the assignment of any claim mentioned in it by way of subrogation or otherwise to an insurance company or any other person, each party agrees to immediately give written notice to each insurance company that has issued such party's policies of insurance covering risks of direct physical loss, which notice shall set forth the terms of the mutual waivers contained in this Section V(E). The parties further agree to have their respective insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the mutual waivers contained in this Section V(E), and to secure from their respective insurers waivers of the insurers' subrogation rights. Neither City nor Lessee shall have any interest or claim in the other's insurance policy, or the proceeds thereof, unless specifically covered therein as an additional insured and expressly provided for in the provisions of this Lease.

VI. TERMINATION

A. This Lease may be terminated for the following material breaches by Lessee:

1. Failure to pay Monthly Rent by the 1st of any month and such failure continues for five (5) days after Lessee's receipt of City's written notice of such failure to pay when past due;
2. The making by Lessee of any general assignment or general arrangement for the benefit of its creditors; the filing by or against Lessee of a petition seeking relief under any law relating to bankruptcy (unless, in the case of a petition filed against Lessee, Lessee causes the petition to be dismissed within sixty (60) days after the date of its filing); the appointment of a trustee or a receiver to take possession of substantially all of Lessee's assets located in the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within sixty (60) days after the date of the appointment; or the attachment, execution or other judicial seizure of substantially all of Lessee's assets located in the Premises or of Lessee's interest in this Lease unless Lessee causes the seizure to be discharged within sixty (60) days after the date of the initiation of the seizure;

3. Except as otherwise expressly provided in Section IV, a sublease, transfer, or assignment of the Lease, or any part thereof, without City having first provided consent in writing to such sublease, transfer, or assignment.

4. Any other material breach of the Lease that is not cured within thirty (30) days after Lessee's receipt of City's written notice of the breach or such longer period as may reasonably be necessary in the circumstances so long as Lessee commences the cure of such breach within thirty (30) days after receipt of City's notice and continuously and diligently thereafter prosecutes the cure to completion; provided, however, City may terminate the extended cure period if at any time Lessee fails to diligently attempt to cure the breach.

B. Lessee's liability to City for Monthly Rent and damages shall survive termination of this Lease due to a material breach by Lessee that is not timely cured. In the event of such termination, Lessee shall vacate the Premises immediately, remove Lessee's personal property, and leave the Premises in the condition they were in as of the start of this Lease, excepting ordinary wear and tear and damage by casualty that is covered by Lessee's insurance proceeds, which insurance proceeds shall, in this circumstance, belong to City. As an additional cumulative remedy, City may reenter, take possession of the Premises, and remove any person or property by legal action or by self-help with the use of legal force and without being deemed guilty of trespass or other wrongful act. In the event of termination for material breach of this Lease that is not timely cured, City shall be entitled to recover immediately, without waiting for the due date for payment of any future monthly fee or until the date fixed for expiration of the Lease Term, the following amounts as damages:

1. The loss of rental income from the date of the material breach until a new lease has been or could have been secured with City's reasonable effort or until the end of the Term, whichever is first.

2. The reasonable costs of reentry and reletting, including any cleanup or any other expense occasioned by Lessee's failure to quit the Premises upon termination and to leave it in the condition in which Lessee acquired it, less ordinary wear and tear and any casualty damage to the extent that Lessee makes the proceeds of its insurance coverage payable to City. Costs of reletting may include attorneys' fees, court costs, broker commissions, and advertising costs.

C. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to City under applicable Oregon law.

D. Upon expiration of the Lease Term or earlier termination of the Lease:

1. Lessee shall surrender the Premises in the same or better condition as when received. Alterations constructed by Lessee with permission from City shall not be removed or restored to the original condition unless the terms of permission for the alteration so require. Depreciation and wear from ordinary use for the purpose for which the Premises is leased, as well as damage to the

Premises caused by casualty, shall be excepted, but repairs for which Lessee is responsible shall be completed prior to such surrender of the Premises.

2. All fixtures placed upon the Premises during the Term, other than Lessee's trade fixtures, shall, at City's option, become the property of City. If City so elects, Lessee shall remove any or all fixtures that would otherwise remain as the property of City, and shall repair any physical damage resulting from the removal. If Lessee fails to remove such fixtures, the City may do so and charge the actual and reasonable cost to Lessee with interest at the legal rate from the date of expenditure.

3. Prior to expiration or other termination of the Lease term, Lessee shall remove all fixtures that remain its property. If Lessee fails to do so, this shall be an abandonment of the property, and City may retain the property and all rights of Lessee with respect to the property shall cease, or, by notice in writing given to Lessee within thirty (30) days after removal was required, City may elect to hold Lessee to its obligation to remove the property. If City elects to require Lessee to remove the property and Lessee fails to do so within fifteen (15) days after receipt of City's notice, City may effect a removal and place the property in public storage for Lessee's account. Lessee shall be liable to City for the actual and reasonable costs of removal, transportation to storage, and the costs of storage, with interest at the legal rate on each such expense from the date of expenditure by City.

VII. JURISDICTION, JURY TRIAL WAIVER, AND ATTORNEYS' FEES

This Lease will be governed by and interpreted in accordance with the laws of the State of Oregon and the parties submit to the jurisdiction of any appropriate Lincoln County court within that State for adjudication of disputes arising from this Lease. The foregoing choice of jurisdiction is mandatory and not permissive in nature and precludes the possibility of litigation or trial in any jurisdiction other than as specified above. Each party waives trial by jury in any action, proceeding or counterclaim that the other party brings with respect to any matter arising out of, or in any way connected with, this Lease or the use and occupancy of the Premises. If any suit, action, or proceeding is initiated in connection with any controversy arising out of or in connection with this Lease, the prevailing party shall be entitled to recover, in addition to its costs, such sum as the court may adjudge reasonable as attorneys' fees, whether at trial or on appeal. The provisions of this Section VII will survive the expiration of the Term or any earlier termination of this Lease.

VIII. NO THIRD-PARTY BENEFICIARIES

This Lease is for the benefit of City and Lessee only and not for the benefit of any third party. City shall incur no liability to any third party by reason of any failure to enforce compliance with any provision of this Lease.

IX. NOTICE

Notices required or permitted under this Lease shall be sent by U.S.P.S. certified mail with return receipt requested and postage prepaid or by

nationally recognized overnight courier service and shall be deemed given or delivered when received or when the recipient first refuses proper delivery as evidenced by the return receipt or courier's delivery manifest. All such notices shall be addressed as follows:

To Lessee:

Executive Director
Youth Development Coalition
of Lincoln County



To City:

City Manager
City of Newport
169 SW Coast Highway
Newport, Oregon 97365

Either party may specify a different address at any time and from time-to-time by giving written notice of such change of address to the other party in accordance with the terms of this Section IX, which notice shall be deemed effective as of the tenth 10th day after the other party receives such notice.

X. COMPLIANCE WITH LAW

Lessee will conform to all applicable laws and regulations of any public authority affecting the Premises and the use thereof, and shall correct, at Lessee's own expense, any failure of compliance created through Lessee's fault or by reason of Lessee's use, but Lessee shall not be required to make any structural changes to improvements on the Premises to effect such compliance.

XI. INTEGRATION

This Lease constitutes the full agreement between the parties related to the subject matter hereto and supersedes any and all other written and oral agreements.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date last set forth below, which Lease shall be deemed effective as of the Effective Date.

CITY OF NEWPORT

A handwritten signature in black ink, appearing to be 'Nina Vetter'.

Nina Vetter, City Manager

YOUTH DEVELOPMENT COALITION
OF LINCOLN COUNTY

A handwritten signature in blue ink, appearing to be 'Debra Jones'.

Debra Jones, Executive Director

Date: _____

Date: 7/22/24

EXHIBIT A

Childcare Services

1. Purpose

- a. To award a lease to the Youth Development Coalition of Lincoln County ("Tenant") to provide professional services for childcare at Newport Recreation Center. The goal of leasing the space to the childcare facility at the Newport Recreation Center is to create a year-round, welcoming, multi-use environment that provides high-quality, affordable, care options for children. The City seeks a long-term relationship with a childcare service provider who cares for and educates children from the age of five (5) to twelve (12) years old of parents/guardians who live and/or work in Newport.

2. Description of the Property

- a. The childcare space ("Premises") is a purpose-built space that is approximately 970 square feet and is located in the recreation center's west wing (Facility Layout attached). The childcare space has access to the west wing's hallway and has its own external entry through a fenced play area.

3. Term

- a. This Agreement ("Lease") shall commence on the date of the execution of this Agreement and shall expire on June 30, 2025. The Lease will include a six (6) month opt-out clause for either party and an annual review with an option for a four-year renewal (through June 30, 2029). An additional option for a five-year extension at the City's sole discretion may be considered six months before June 30, 2029, ending June 30, 2034. This is a potential for a 10-year Lease.

4. Notice of Termination

- a. This Agreement may be terminated by the City or Tenant for any reason, or for no reason, upon one hundred twenty (120) days advance written notice.

5. Lease Payments

- a. The rent for the Premises within the Newport Recreation Center shall be as follows:
 - i. Rate: Monthly rate will be determined by the below sliding rent scale based on weekly program enrollment:

30 youth or 100% capacity	\$346.16 per week or \$1500/month
24 youth or 80% capacity	\$276.93 per week or \$1200/month
17 youth or 70% capacity	\$242.31 per week or \$1050/month
15 youth or 50% capacity	\$173.08 per week or \$ 750/month
 - ii. Rent shall be due on the first of each month for the previous month's usage, and will be considered past due if not paid by the tenth (10th) of the month. A late fee of \$25.00 shall accrue every five days thereafter.
 - iii. Lease is subject to annual cost of living adjustments beginning July 1, 2025 and will occur July 1 each year thereafter.

6. Use of Premises

- a. The Premises shall be used only for childcare services and directly related purposes. Tenant is responsible for implementing appropriate risk management and loss controls related to care giving, including controls for the safety of children, providers, and staff members.

7. Tenant Improvements

- a. The Premises are being leased to Tenant in its current "AS IS" condition. Any additional interior finish or furnishings desired by the Tenant, and any exterior door or window signs, must be approved in advance by the City in writing and are the responsibility of the Tenant, with no allowance made for the costs of the Tenant improvements unless agreed to by the City in writing. The Tenant may, with the prior written consent of the City, but at its own cost and expense, in a good workmanlike manner, make such alterations and repairs to the Premises as Tenant may require for the conduct of its business; provided, however, Tenant may not materially alter the basic character of the building or fixtures or weaken the structure on the leased Premises. Any permanent alterations or improvements to the Premises shall become the property of the City upon expiration or termination of this Agreement.

8. Maintenance

- a. The City shall be responsible for all janitorial service in areas used by the Tenant, all interior maintenance, including, but not limited to, mechanical and electrical fixtures, all structural maintenance of the Premises, including, but not limited to, the roof, foundation, structural members, and exterior wall surfaces. Tenant shall be responsible for interior glass maintenance (in the event of damage from an inside source) which is within the leased Premises.

9. Building Security

- a. The Tenant is entitled to put locks on the doors to its space, provided the City is given keys for reasonable access and building maintenance. Both parties will attempt to keep the exterior doors locked after their use of the building is completed for the day, and the Tenant shall have the obligation of checking all exterior doors and setting of alarm at the conclusion of each day to make sure that they are locked, and that windows in the rooms used by the Tenant are secured. Lights should be turned off at the conclusion of the use each day. City shall have the right to inspect the Premises without prior notice in the case of urgency or emergency, and in other cases as is reasonable under the circumstances.

10. Party Responsibilities

a. City of Newport:

- i. Shall include one-time furnishings and equipment that will become the childcare service provider's property upon execution of the Lease (Furnishings/Equipment List attached).
- ii. Shall allow non-exclusive use of recreation center gym space and activity rooms, when available based on recreation center operations, for routine childcare programming (Facility Layout attached).
- iii. Shall include two free rentals of gym space and two free rentals of classrooms per year for other specialty childhood functions such as parent-teacher conferences.
- iv. All Aquatic Center use will be handled as a paid rental.

b. Youth Development Coalition of Lincoln County:

i. Performance of Services:

- a. Example Summer Schedule: Monday - Friday, 7:30AM - 5:30PM, No Legal Holidays or Weekends
- b. Example After-school Schedule: Monday - Friday, 2:30PM - 5:30PM, No Legal Holidays or Weekends

Open during non-school days (adjusted fee to full-time registration fee)
Open during school seasonal breaks (see summer weekly schedule)

- c. Example Daily summer schedule includes:
- | | | | | |
|---------------------|--------------|--|-----------------|-------------|
| Free time/breakfast | 7:30 - 8:30 | <u>After-school schedule includes:</u> | Free time/snack | 2:45 - 3:15 |
| Activity | 8:30 - 9:30 | Activity | | 3:15 - 4:00 |
| Brain Break | 9:30 -10:00 | Groups (A & B) | | 4:00 - 5:30 |
| Snack | 10:00 -10:15 | | | |
| Activity | 10:15 -12:00 | | | |
| LUNCH | 12:00 -1:00 | | | |
| Rest or quiet | 1:00 - 2:00 | | | |
| Activity | 2:00 - 3:00 | | | |
| Brain Break | 3:00 - 3:30 | | | |
| Activity | 3:30 - 4:30 | | | |
| Free time/snack | 4:30 - 5:30 | | | |

ii. Program Fees:

- a. Thirty (30) Youth in K-5th grades will be served in both sessions. Minimum capacity is 80% or 24 youth.
- i. Summer: Full-time registration is \$45/day or \$225/week or \$945/month
Adjustments to be made for legal holidays weekly.
Drop-in or daily fee is based on availability only.
 - ii. After-school: Full-time registration is \$25/day or \$125/week or \$525/month
Adjustments to be made for legal holidays/non-school days weekly.
 - iii. All program fees are for the Youth Development Coalition's business operation for childcare services at the Newport Recreation Center.