

RESOLUTION NO. 32116

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A LEASE AGREEMENT WITH HIGHLAND PARK NEIGHBORHOOD ASSOCIATION, INC., IN SUBSTANTIALLY THE FORM ATTACHED, FOR THE USE OF PROPERTY AT 1714 DUNCAN AVENUE, IDENTIFIED AS TAX MAP NO. 146J-Q-032, FOR CONDUCTING BUSINESS OF THE HIGHLAND PARK NEIGHBORHOOD ASSOCIATION, INC., WITH A LEASE TERM OF FOUR (4) YEARS AT THE RENT OF ONE DOLLAR (\$1.00) PER YEAR.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Mayor or his designee to enter into a Lease Agreement with Highland Park Neighborhood Association, Inc., in substantially the form attached, for the use of property at 1714 Duncan Avenue, identified as Tax Map No. 146J-Q-032, for conducting business of the Highland Park Neighborhood Association, Inc., with a lease term of four (4) years at the rent of one dollar (\$1.00) per year.

ADOPTED: June 11, 2024

/mem

## LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024 (the “Effective Date”), by and between the Lessor of Chattanooga, Tennessee, a municipal corporation (“Lessor”), and Highland Park Neighborhood Association, Inc., a Tennessee nonprofit corporation, whose address is 1714 Duncan Avenue, Chattanooga, TN 37404 (“Lessee”).

### RECITALS

WHEREAS, Lessee desires to lease facilities from Lessor to be used exclusively for the purpose of conducting Lessee’s business as authorized by the Lessee’s Board of Directors; and

WHEREAS, Lessor has the appropriate authority to, and hereby agrees to, lease to Lessee that certain property located at 1714 Duncan Avenue, Chattanooga, TN 37404, situated in the City of Chattanooga, Hamilton County, Tennessee;

NOW, THEREFORE, in consideration of the faithful performance of the terms, covenants, and conditions and the mutual obligations of the parties as set forth herein, the parties agree as follows:

SECTION 1. Leased Premises. Lessor leases to Lessee certain real property located at 1714 Duncan Avenue, Chattanooga, TN 37404 and identified as Tax Map No. 146J-Q-032, more particularly described on Exhibit “A” attached hereto and incorporated herein by reference (the “Leased Premises”) including all improvements located thereon.

SECTION 2. Use of the Leased Premises. It is expressly agreed to and understood by the parties that the Leased Premises shall be used exclusively for the purpose of conducting Lessee’s business as authorized by the Lessee’s Board of Directors. Lessee shall not utilize the Leased Premises for any other purposes without the express written approval of Lessor, which hereby designates its Mayor as Lessor’s agent for this purpose. Lessee shall neither engage in nor

allow illegal activities on the Leased Premises nor allow alcoholic beverages to be sold or consumed on the Leased Premises.

SECTION 3. Term. The term of this Lease shall commence upon execution by the parties (the “Commencement Date”), and shall be for a period of four (4) years. Either party may terminate this Lease at any time without cause upon giving the other party written notice of its intention to terminate, and such notice shall be received at least thirty (30) days prior to the termination date.

SECTION 4. Lease Payments. Lessee shall, during the term of this Lease, pay to Lessor the net annual rent of One Dollar (\$1.00) per year, with the first annual payment due on the Effective Date of this Lease and subsequent annual payments due on the anniversary date of the Effective Date of this lease. As additional consideration, the Lessee agrees to use the property exclusively for civic league meetings, neighborhood events, and other similar community events authorized by the Lessee’s Board of Directors. All rentals payable by Lessee to Lessor under this Lease shall be paid to Lessor at the address herein designated in SECTION 27.

SECTION 5. Improvements. Lessee agrees that no improvements, additions, or alterations (“Improvements”) shall be made to the Leased Premises without obtaining Lessor’s written approval. If Lessee desires to make Improvements to the Leased Premises, it shall be required to submit a detailed description of the Improvements to be made to Lessor (the “Lessee’s Plan”). The Lessee’s Plan shall be subject to Lessor’s written approval. Lessor’s approval of Lessee’s Plan shall in no event, unless expressly set forth in such approval, be deemed to create any obligations on the part of the Lessor to do any work or make the Improvements or to authorize Lessee to make any further additions, improvements, or alterations to the Leased Premises. In the event Lessor approves Lessee’s Plan, the parties shall execute an amendment to this Lease setting forth the obligations of the Lessee with respect to the

construction of Improvements in accordance with Lessee's Plan, which shall be attached as an exhibit to the lease amendment.

SECTION 6. Quiet Possession. The Lessor covenants to keep the Lessee in quiet possession of the Leased Premises during the term of this Lease.

SECTION 7. Termination and Holding Over. Upon termination of this Lease, at the expiration of the term hereof or any extension thereof, Lessee shall surrender the Leased Premises to Lessor in as good condition as received, ordinary wear and tear and damage by fire or other casualty excepted. Lessee covenants to Lessor that it shall vacate the Leased Premises on or before thirty (30) days following the expiration of the term hereof or any extension thereof including removal of all personal property. Any personal property of Lessee which is not removed from the Leased Premises after termination of this Lease shall be deemed abandoned and may be disposed of by Lessor in any manner without accounting or being liable to Lessee. Lessee shall surrender all keys to the Leased Premises at or before the termination of this Lease.

SECTION 8. Indemnification. Lessee shall indemnify, hold harmless, protect and defend Lessor, and its officials, employees, administrators, successors or assigns (the "Indemnified Parties") for and against any and all demands, claims, suits, damages, losses, liabilities, costs and expenses, including, but not limited to, court costs and attorneys' fees (the "Indemnified Matters"), directly or indirectly, arising out of any property damage or loss, bodily injuries, sickness, disease or death, in connection with the Lessee's use of the Leased Premises or from any violations of all laws, including, without limitation, copyright laws, by every person connected with Lessee's occupancy and use of the Leased Premises covered by this Agreement. Lessee's indemnification obligations under this Section 8 shall apply whether the indemnified matters are due in part to the contributory fault or negligence of the indemnified parties or others; provided, however, that Lessee shall not be obligated to indemnify the indemnified parties for

the indemnified parties' respective primary negligence. Lessee's defense obligations under this Section 8. shall be with attorneys approved by Lessor. Notwithstanding anything in this Agreement to the contrary, the provisions of this Section 8. shall survive any expiration or termination of this Agreement and each party shall remain obligated to the other party under all provisions of this Agreement that expressly or by their nature extend beyond and survive the expiration or termination of this Agreement.

SECTION 9. Insurance. Lessee agrees to obtain and keep in full force and effect general liability insurance with a company licensed to do business in Tennessee with minimum limits for bodily injury of \$1,000,000 per occurrence, combined single limit for bodily injury liability and property damage liability for each occurrence and \$2,000,000 in the general aggregate. Lessee shall furnish the Landlord with a Certificate of Insurance showing the Lessor as an additional insured and certifying that insurance heretofore required is in force and will remain in full force and effect during the Initial Term and any Renewal Term of this Agreement. Such insurance must be on file and approved by Lessor prior to occupancy of the Leased Premises by Lessee. The foregoing general liability insurance policy shall not contain exclusions from coverage relating to participants in any event held by Lessee on the Leased Premises, legal liability activities or issues related to occupancy by Lessee of the Leased Premises.

SECTION 10. Assignment or Sublease. Lessee shall neither assign nor transfer this Lease or any interest herein nor sublease the Leased Premises or any part thereof to anyone during the Initial Term or any Renewal Term of this Lease or any extensions or holdovers.

SECTION 11. Discrimination. Lessee covenants to comply with all federal, county, and city laws and ordinances in regard to discrimination due to handicap, age, race, color, religion, sex, national origin, or any other classification protected by said laws.

SECTION 12. Nonprofit Status. Lessee shall provide evidence of its status as a nonprofit civic organization under Section 501(c)(4) of the Internal Revenue Code prior to the Effective Date and maintain its status as a nonprofit civic organization at all times during the Initial Term or any Renewal Term of this Lease.

SECTION 13. No Warranties. Lessee takes and accepts the Leased Premises from Lessor “**AS IS**”, “**WHERE IS**”, “**WITH ALL FAULTS**” condition as of the Commencement Date of this Lease, upon the terms and conditions herein contained.

SECTION 14. Utility Services and Water Quality Fees. Any applications and connections for necessary utility services on the Leased Premises shall be made in the name of Lessor. Lessor shall be solely liable for utility charges as they become due, including, but not limited to, those for water, gas, and electricity. Lessor shall be responsible for the payment of water quality fees.

SECTION 15. Repairs and Maintenance.

(a) Lessee accepts the Leased Premises in its present “**AS IS**”, “**WHERE IS**”, “**WITH ALL FAULTS**” condition and Lessor shall be under no duty to make structural or cosmetic changes. Notwithstanding the above, Lessor will make necessary repairs to the roof and exterior walls of the building, except such repairs made necessary by any act or negligence of Lessee or its invitees, agents, employees, or contractors. Notwithstanding anything contained in this Lease to the contrary, in no event shall Lessor be required to make repairs exceeding the sum of \$1,000.00 per fiscal year. In the event that repairs required to be made by Lessor exceed the sum of \$1,000.00 in any given fiscal year during the term of this Lease, Lessee shall have the option of making the repairs at its sole expense or terminating this Lease upon thirty (30) days’ written notice to Lessor.

(b) Lessee shall make and pay for any other repairs, maintenance, and replacements to the Leased Premises which are necessary to keep the same in good state of repair and operating order. Lessee shall not suffer or permit any waste or neglect of the Leased Premises and will take such steps as often as may be necessary to keep the buildings, and other improvements on the Leased Premises in a first-class and model condition. Any repairs made by both parties shall be done in a workmanlike manner and within a reasonable period of time.

(c) Lessor shall not be liable for the cost of any repairs made by or through Lessee, unless there is an express written agreement to the contrary between the parties, or unless the repair involves any appliance or fixture which is provided by Lessor and which is covered by a warranty, guaranty, or other similar instrument running to Lessor, and then only to the extent covered by said warranty or guaranty.

(d) On the part of Lessee in making any repairs or replacements required to protect the Leased Premises against waste or deterioration, Lessor may, but shall not be required to, make such repairs and replacements on Lessee's account and the expense of such repairs and replacements shall constitute and be collectable as additional rent.

SECTION 16. Limitation of Lessor's Liability.

(a) Lessor shall not be liable to Lessee in any manner whatsoever for failure to furnish or delay in furnishing any service or services provided for in this Lease and no such failure or delay shall constitute actual or constructive eviction of Lessee nor operate to relieve from prompt and punctual performance of each and all of the covenants to be performed herein by Lessee.

(b) Lessor shall not be liable to Lessee, its invitees, agents, employees, or contractors for damage to person or property caused by defects in the cooling, heating, electric, water or other apparatus or systems located in, on, or about the Leased Premises.

(c) Lessor shall not be liable for any theft or loss of property of Lessee, invitees, agents, employees, or contractors.

SECTION 17. Laws and Ordinances. Lessee covenants to comply with all state, county, and city laws and ordinances, including those regarding nuisances insofar as the Leased Premises are concerned, and that the Lessee will not by any act of its agents or officers render the Lessor liable therefor.

SECTION 18. Possession. If this Lease should at any time become void or forfeited, no demand shall be necessary to a recovery of possession of the Leased Premises, and the Lessor shall be entitled to immediate possession.

SECTION 19. Attorney's Fee for Right to Recover Possession Should the Lessor at any time rightly seek to recover possession of the Leased Premises, and be obstructed or resisted therein, and any litigation thereon ensues, the Lessee shall be bound to pay the Lessor a reasonable attorney's fee.

SECTION 20. Right to Enter. The Lessor shall have the right to enter into and upon said Leased Premises or any part thereof, at all reasonable hours for the purpose of examining the same, or making such repairs, additions, or alterations as may be necessary for the safety, comfort, and preservation thereof.

SECTION 21. Damage or Destruction. In the event the Leased Premises shall be damaged by fire, or other casualty, the Lessee shall give immediate notice thereof to the Lessor. This Lease shall, unless notice is given as set forth below, continue in full force and effect, and the Lessor shall, at its own expense, with reasonable promptness, subject to force majeure as defined in SECTION 27 and delays in making of insurance adjustments by Lessor, repair the Leased Premises. Lessor need not restore fixtures and improvements owned by Lessee or floor coverings, furnishings, personal property, and other decorative features furnished by Lessee. In



the event the Leased Premises shall, before or after the Commencement Date, be so damaged that the Lessor shall decide not to repair the same, or if the Lessor shall decide to demolish or rebuild the Leased Premises for any reason whatsoever, upon notice to Lessee, the term of this Lease shall cease and terminate effective as of the time of the damage, and the accrued rent, if any, shall be paid up to the time of the damage. All proceeds of insurance payable as a result of fire or other casualty shall be the sole property of the Lessor.

SECTION 22. Defaults. The occurrence of any of the following acts shall constitute an immediate, material, non-curable default by Lessee:

A. The occurrence of any of the following acts shall constitute an immediate, material, non-curable default by Lessee:

- (i) Abandonment of the Leased Premises, except for causes of force majeure, as defined in SECTION 26; and
- (ii) Any attempted assignment, transfer, or sublease in violation of SECTION 10 above;

B. Failure to pay rent as provided for herein or failure to perform any term, covenant, or condition of this Lease, other than those set forth in subparagraph A above, shall not constitute a default unless such breach is not cured within the time periods set forth below. Lessor shall give written notice to Lessee of such default and if Lessee does not cure any rent default within five (5) days, or other default within twenty (20) days, after the giving of such notice (or, if such default is of such a nature that it cannot be completely cured within such twenty (20) days), if Lessee does not commence such curing within twenty (20) days and thereafter proceed with reasonable diligence and in good faith to cure such defaults, then Lessor may terminate this Lease on not less than three (3) days' written notice to Lessee, and on the date specified in said notice the term of this Lease shall terminate, and Lessee shall then quit and

surrender the Leased Premises to Lessor. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Leased Premises by any lawful means and remove Lessee or other occupants and their effects.

SECTION 23. Remedies. The parties' remedies hereunder are not exclusive but cumulative to other remedies provided by law or in equity in the event of default.

SECTION 24. Surrender of Leased Premises on Termination. Lessee shall peaceably deliver possession of the Leased Premises to Lessor on the date of expiration or termination of this Lease, whatever the reason for termination. Lessor shall have the right to re-enter and take possession of the Leased Premises on the date termination becomes effective without further notice of any kind and without instituting summary or regular legal proceedings.

SECTION 25. No Waiver. Any waiver by the parties of any default or breach of any one or more of the terms, conditions, or covenants of this Lease shall be in writing and shall not be construed to be a waiver of any subsequent or other breach or default of the same or of any other term, covenant, or condition of this Lease. No delay, failure, or omission of Lessor to re-enter the Leased Premises, to insist on strict enforcement of any term, covenant, or condition, or to exercise any right, privilege or option arising from any breach or default shall impair any such right, privilege or option or be construed as a waiver of or acquiescence in such breach of default.

SECTION 26. Force Majeure. Lessor shall be excused for the period of any delay in the performance of any obligation hereunder when prevented by doing so by cause or causes beyond Lessor's control which shall include, without limitation, all labor disputes, civil commotion, war, war-like operations, invasion, rebellion, hostilities, military or usurped power sabotage, pandemics or epidemics, governmental regulations or controls, fire or other casualty, inability to obtain any material, services, or financing or through acts of God.

SECTION 27. Notices. All notices and other communications given hereunder by the parties shall be in writing and shall be delivered personally or by mail, postage prepaid, and the date of any notice by certified mail shall be deemed the date of certification thereof delivered by or addressed to the parties as follows:

**Lessor:** City of Chattanooga, Tennessee  
Real Property Office  
101 E. 11<sup>th</sup> St., G-18  
Chattanooga, TN 37402

**With a copy to:** City Attorney  
100 E. 11<sup>th</sup> Street, Suite 200  
City Hall Annex  
Chattanooga, TN 37402

**Lessee:** Highland Park Neighborhood Association  
**ATTN:** Association President  
1714 Duncan Avenue  
Chattanooga, Tennessee 37404

**With a copy to:** Emerson Burch  
1908 Chamberlain Avenue  
Chattanooga, TN 37404

SECTION 28. Miscellaneous Provisions.

28.1 Applicable Law. This Lease shall be construed and interpreted pursuant to the laws of the State of Tennessee. Should there be any provision thereof to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforcement of the remaining provisions shall not be affected, but shall continue in full force and effect. Any disputes between the parties and/or default by Lessee may only be submitted to a court of competent jurisdiction in Hamilton County, Tennessee, and the prevailing party shall be entitled to recover all costs, expenses, and legal fees in defending such legal action.

28.2 Entire Agreement. This Lease represents and constitutes the entire understanding between the parties and supersedes all other leases, agreements, and communications between

the parties, whether oral or written, concerning the subject matter herein. Any amendment to this Lease must be in writing and adopted by lawful resolution of the respective governing bodies to be bound thereby.

28.3 Binding Effect. The terms and conditions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

28.4 Headings. Section headings are for convenience of reference only and shall not limit or otherwise affect the meanings of this Lease.

***[Signature Page Follows]***

IN WITNESS WHEREOF, the parties have executed this Lease on the \_\_\_\_ day of \_\_\_\_\_, 2024, at Chattanooga, Hamilton County, Tennessee.

**LESSOR:**

**CITY OF CHATTANOOGA, TENNESSEE**

BY: \_\_\_\_\_  
RICHARD J. BEELAND  
*Administrator of Economic Development*

**LESSEE:**

**HIGHLAND PARK NEIGHBOR  
ASSOCIATION**

BY: \_\_\_\_\_  
EMERSON BURCH, *President*

**EXHIBIT "A"**

1714 Duncan Avenue  
Chattanooga, TN 37404  
Parcel 146J-Q-032

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE:

Lot Eight (8), Block Eighteen (18), Highland Park Addition No. One (1), as shown by Plat recorded in Plat Book 1, Page 23, of the Register's Office of Hamilton County Tennessee.

For prior title see Quitclaim Deed recorded in Book 3813, Page 701, in the Register's Office of Hamilton County, Tennessee and Quitclaim Deed recorded in Book 4500, Page 633, in the Register's Office of Hamilton County, Tennessee.