

Memorandum of Understanding
between
City of Fullerton
and
California State University, Fullerton
For the Use of the Richman Neighborhood Center and Don Castro Center
for the
CSUF Center for Healthy Neighborhoods

This Memorandum of Understanding (MOU) is entered into this 17th day of December, 2019 ("Effective Date"), by and between the City of Fullerton, a California municipal corporation (hereinafter referred to as "City"), and California State University, Fullerton (hereinafter referred to as "CSUF").

WITNESSETH

WHEREAS, City is the owner of that certain real property known as Richman Neighborhood Center ("Center"), located in Richman Park in the City of Fullerton, California; and

WHEREAS, CSUF is a major regional university that has more than 40,000 students and approximately 1,800 full-time and part-time faculty members, and offers 107 degree programs in eight colleges; and

WHEREAS, CSUF is operating the CSUF Center for Healthy Neighborhoods (the "CHN") to provide on-site access to comprehensive prevention and treatment services, including social, educational, health, and supportive services for families (hereinafter referred to as "Program") with funding from University grants and other funding sources; and

WHEREAS, City has agreed to allow CSUF to use a portion of the space in the Richman Neighborhood Center to provide the "Program" services to families within the community; and

WHEREAS, it is in the best interests of City and CSUF that this MOU be consummated between City and CSUF on the terms and conditions herein contained.

NOW, THEREFORE, in consideration of the promises and the respective and mutual agreements contained herein, said parties hereby agree as follows:

I. PURPOSE

CSUF's use of the offices and rooms at the Center shall be solely for the purpose of operating the CHN and other uses directly related to providing Program services.

II. USE OF CENTER

City hereby allows CSUF use of certain rooms located at the Richman Neighborhood Center

and Don Castro Center shown on Attachment A and Attachment A-1 and incorporated herein. CSUF acknowledges that the use of these rooms will be shared with City. The Parties have prepared a Use Schedule which sets forth the shared use which is attached hereto as Attachment B and Attachment B-1 and incorporated herein. The Parties agree that Attachment B and Attachment B-1 may be modified from time to time by mutual written agreement of the Parties without having to amend this MOU.

When the community rooms are not in use by CSUF or City pursuant to this MOU, CSUF acknowledges that the community rooms may be scheduled by City for private events by the general public through the Fullerton Parks and Recreation Department.

CSUF may reserve Fullerton Community Center Grand Hall once a year, any day Monday through Thursday, so long as that day has not already been reserved, for purposes of fundraising, and shall not be required to pay the fee for a rental permit. CSUF understands and agrees that payment of direct costs of the rental, including, but not limited to, staffing and security fees, will apply as a condition of the rental permit. All funds raised by this venture shall be restricted for use by CSUF for the Program.

A. CSUF's Operating Hours

The hours of use pursuant to this MOU shall be limited to the Use Schedule shown on Attachment B and Attachment B-1.

The Director of Parks and Recreation reserves the right to modify the hours of operation for the Center. However, the Director of Parks and Recreation or his designee will coordinate with CSUF prior to any such modification.

B. Personal Property

CSUF shall provide all necessary personal property and supplies needed to operate the CHN. CSUF shall be responsible for maintaining and replacing all personal property not affixed to the Center including those items located in CSUF's offices which were provided by City.

C. CSUF shall provide all phone service and computer service at its sole cost.

D. Communication/Reporting

During the term of this MOU, CSUF's Program Coordinator shall meet at least once each month with City's Parks and Recreation Supervisor or designee to discuss issues affecting program scheduling and the overall operations of the facility and its programs. Both agencies will maintain a master calendar of events which shall include the event name, day and time, room/s to be used and expected attendance. Master calendars shall be provided to each agency and discussed at the monthly meeting.

CSUF shall maintain and provide daily attendance reports. Reports shall be submitted to the Parks and Recreation Supervisor or designee by the 5th (fifth) of each month.

E. Emergency Procedures

CSUF shall prepare and maintain current an Emergency Procedures Manual which shall include the following and which shall be in compliance with all applicable laws and regulations:

- A Current Emergency Contact List
- Fire Procedures
- Earthquake Procedures
- Evacuation Procedures
- Medical Emergency Procedures
- Bomb Threat/Terrorism Procedures
- Fire Prevention
- Fire/Emergency Drill Log
- Floor Warden Duties

III. LIMITATION OF AGREEMENT

This MOU and the rights and privileges granted CSUF in and to the Center are subject to all covenants, conditions, restrictions, and exceptions of record or apparent. Nothing contained in this MOU or in any document related hereto shall be construed to imply the granting to either party, rights which exceed those granted in this MOU.

IV. TERM

A. Initial Term

The term of this MOU shall commence on the Effective Date and remain in effect for a period of two (2) years, unless terminated sooner pursuant to Section V of this MOU.

B. Option to Extend

The term of this MOU may be extended for four (4) additional one (1) year terms at the conclusion of the initial term. Each one-year term will be automatic, unless one of the following occurs: 1) Either party submits in writing otherwise to the other party at least three (3) months prior to the end of the previous term or 2) at any time, City sends to CSUF written notice that it is in default of the terms of this MOU and the City does not want to extend the MOU. The terms and conditions of this MOU shall remain in effect throughout the duration of the initial term and any extension unless amended in writing by the City and CSUF.

V. TERMINATION

This MOU may be terminated by either party with sixty (60) days written notice to the other party, without cause and for any reason.

VI. SUBLEASE OR ASSIGNMENT

Any sublease or assignment of CSUF's interest in the Center or any part or portion thereof is prohibited without City's prior written consent. Any attempted sublease or assignment without City's prior written consent shall be null and void and shall be cause for immediate termination of this MOU without notice and shall confer no right, title, or interest in or to this MOU.

VII. MAINTENANCE OF CENTER

City will provide building maintenance and facility capital repair. Building maintenance includes general maintenance to the buildings and fixtures and does not include maintenance of equipment, data and telephone lines or personal property. Facility capital repair includes scheduled replacement of the roof, flooring, exterior and interior painting and the HVAC system.

CSUF shall inform City's Parks and Recreation Supervisor or designee in writing of any need for building maintenance, facility capital repair, The Supervisor or designee will forward such requests to the Maintenance Services Department and follow-up as he or she deems necessary.

VIII. JANITORIAL SERVICES

City shall provide janitorial services as scheduled by the City's Building Maintenance Department.

IX. ALTERATIONS AND IMPROVEMENTS

CSUF shall not make or cause any alterations or improvements to be made in or at the Center without first obtaining the written approval of City, which consent will not be unreasonably withheld. CSUF shall obtain all applicable Federal, State and local permits and approvals before any alterations or improvements are made to the Center. All improvements affixed to the Center by CSUF shall become the property of City.

X. PERMITS AND LICENSES

CSUF shall be required to obtain any and all approvals, permits and/or licenses which may be required in connection with its operations at the Center, or in connection with any improvements it may construct at the Center, pursuant to this MOU. No permit approval or consent given hereunder by City in its governmental capacity shall affect or limit CSUF's obligations hereunder, nor shall any approvals or consents given by City, as a party to this MOU, be deemed approval as to compliance or conformance with applicable governmental codes, laws,

ordinances, rules, or regulations.

XI. NONDISCRIMINATION

CSUF shall not deny benefits, harass or allow harassment, to any person on the basis of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, sexual orientation, age or sex, nor shall it discriminate unlawfully, harass or allow harassment against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, sexual orientation, age or sex.

XII. CITY'S RIGHT TO ENTER

City, through its employees/agents, reserves the right of entry to enter in and upon the Center, including those areas designated for CSUF exclusive use under this MOU, at all reasonable times during the term of this MOU for the purpose of the inspection, protection and maintenance of the Center, to determine if CSUF is in compliance with the provisions of this MOU, or for any other reasonable purpose. City further reserves the right of entry and immediate possession of the Center, including those areas designated for CSUF exclusive use under this MOU, in the case of an emergency. For purposes of this paragraph, "emergency" shall mean an imminent threat of damage or harm to property or persons necessitating possession by City.

XIII. INSURANCE REQUIREMENTS

CSUF shall procure and maintain throughout the duration of this MOU, insurance against claims for injuries to persons or damages to the Center which may arise from or in connection with CSUF's operations, occupancy of and use of the Center. CSUF shall provide current evidence of the required insurance in a form acceptable to the City and shall provide replacement evidence for any required insurance which expires prior to the completion, expiration or termination of this MOU.

Nothing in this section shall be construed as limiting in any way the Indemnification provisions contained herein in Sections XIV and XV, or the extent to which CSUF may be held responsible for payments of damages to persons or the Center.

A. Minimum Scope and Limits of Insurance

1. Commercial General Liability Insurance. CSUF shall maintain commercial general liability insurance coverage in a form at least as broad as ISO Form #CG 001 ED. 11/88, with a limit of not less than \$2,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the MOU or shall be twice the required occurrence limit.
2. Business Automobile Liability Insurance. CSUF shall maintain business automobile liability insurance coverage in a form at least as broad as ISO Form# CA 000 TED. 6/92, with a limit of not less than \$1,000,000 each accident. Such insurance shall

include coverage for owned, hired and non-owned automobiles.

3. **Workers' Compensation and Employers' Liability Insurance.** CSUF shall maintain workers' compensation insurance as required by the State of California and employers' liability insurance with limits of not less than \$1,000,000 each accident.

B. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City.

C. Other Insurance Provisions

The required insurance policies shall contain or be endorsed to contain the following provisions:

1. Commercial General Liability and Business Automobile Liability

City, its elected or appointed officials, officers, employees and volunteers are to be covered as insureds with respect to liability arising out of CSUF's operation or the ownership, occupancy, maintenance or use of the Center; or with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the CSUF. The coverage shall contain no special limitations on the scope of its protection afforded to the City, its officials, officers, employees and volunteers.

2. Commercial General Liability and Business Automobile Liability

This insurance shall be primary insurance as respects City, its officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by City, its officers, employees and volunteers shall be excess of this insurance and shall not contribute with it.

3. Workers' Compensation and Employers' Liability Insurance

Insurer shall waive their right of subrogation against City, its officers, employees and volunteers for work done on behalf of City.

4. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to City.

D. Acceptability of Insurers

All required insurance shall be placed with insurers acceptable to City with current BEST'S

ratings of no less than B+, Class X. Workers' compensation insurance may be placed with the California State Compensation Insurance Fund. All insurers shall be licensed by or hold admitted status in the State of California. At the sole discretion of City, insurance provided by non-admitted or surplus carriers with a minimum BEST'S rating of no less than A- Class X may be accepted if CSUF evidences the requisite need to the sole satisfaction of City.

E. Verification of Coverage

CSUF shall furnish City with certificates of insurance which bear original signatures of authorized agents and which reflect insurers names and addresses, policy numbers, coverage, limits, deductibles and self-insured retentions. Additionally, CSUF shall furnish certified copies of all policy endorsements required herein. All certificates and endorsements must be received and approved by City before CSUF occupies the Center. City reserves the right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

XIV. INDEMNIFICATION

CSUF shall indemnify, defend, and hold harmless City, and its officials, officers, employees, agents, and volunteers ("City Indemnitees"), from and against any and all causes of actions, claims, liabilities, obligations, judgments, or damages, including reasonable attorneys' fees and costs of litigation ("Claims"), arising out of CSUF's occupation of the Center, except for such loss of damage arising out of the sole negligence or willful misconduct of City. If CSUF's indemnity obligations arise and in the event City Indemnitees are made a party to an action, lawsuit, or other adversarial proceeding arising from CSUF's occupation of the Center, CSUF shall provide a defense to the City Indemnitees, with City's approval of counsel, or at City's option reimburse the City Indemnitees their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims.

The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by CSUF, its officers, employees, agents, volunteers or subcontractors, but shall be required whenever any claim, demands, suits, actions or proceedings of any kind or nature asserts liability against the City Indemnitees related to CSUF's occupancy and use of the Center or to this MOU, whether or not CSUF, its officers, employees, agents, volunteers or subcontractors are specifically named or otherwise asserted to be liable.

XV. HAZARDOUS MATERIALS

As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or shall become regulated by any governmental entity, including, without limitation, City acting in its governmental capacity, the State of California or the United States Government.

A. CSUF shall not cause or permit any Hazardous Material to be brought upon, kept or

used in or about the Center, except as may be specifically authorized by City in writing. Any such authorization by City shall not alter or reduce CSUF's obligations under this section, including, but not limited to, its duty to indemnify and defend City, for any contaminations which may occur as a result of CSUF's use of the authorized material.

B. If CSUF breaches the obligations stated herein, or if contamination at the Center by Hazardous Materials otherwise occurs for which CSUF is legally liable to City for damage resulting therefrom, then CSUF shall indemnify, defend and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or any amenity at the Center, damages arising from any adverse impact on marketing of space at the Center, and sums paid in settlement of claims, attorney's fees, consultant fees and expert witness fees) which arise during or after the term as a result of such contamination.

C. This indemnification includes, without limitation, costs incurred by City in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental entity because of Hazardous Material being present in the soil or ground water or under the Center. CSUF shall promptly take all actions at its sole cost and expense as are necessary to clean, remove and restore the Center to its condition prior to the introduction of such Hazardous Material by CSUF, provided CSUF shall first have obtained City's approval and the approval of any necessary governmental entities.

D. Pre-Existing Contamination

City hereby agrees to indemnify, defend and hold CSUF harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, known or unknown, arising from any pre-existing soil contamination or other pre-existence of any Hazardous Material at the Center prior to the date CSUF originally began to occupy the Center, including, but not limited to, any sums paid in settlement of claims, attorney's fees, consultant fees and expert witness fees which arise during or after the MOU term and arising solely from such pre-existing contamination, if any.

XVI. PUBLIC RECORDS

Any and all written information submitted to and/or obtained by City from CSUF or any other person or entity having to do with or related to this MOU and/or the Center, either pursuant to this MOU or otherwise, may be a public record open to inspection by the public pursuant to the California Public Records Act (Government Code Section 6250 *et seq.*) as now in force or hereafter amended, or any Act in substitution thereof, or otherwise made available to the public. CSUF hereby waives, for itself, its agents, employees, subcontractors and any person claiming by, through or under CSUF, any right or claim that such information is not a public record or that the same is a trade secret, or confidential, or not subject to inspection by the public, including, without limitation, reasonable attorneys' fees and costs, unless any trade secret or protected confidential information of CSUF is clearly marked as such.

XVII. DEFAULT

In the event there is a default by either party with respect to any of the provisions of this MOU or any obligations under it, the defaulting party shall be given written notice of such default by the non-defaulting party. After receipt of such written notice, the defaulting party shall have thirty days in which to cure any non-monetary default, however the defaulting party shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the defaulting party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion.

If the defaulting party does not provide evidence to the non-defaulting party of the complete cure of the default within the applicable cure period, the non-defaulting party may do any of the following:

- A. Terminate this MOU. All rights of defaulting party and those who claim under the defaulting party, stemming from this MOU, shall end at the time of such termination; or
- B. At non-defaulting party's sole option, correct any such default by performance of any act, including payment of money, and bill the defaulting party for the cost thereof plus reasonable administrative costs, which bill shall be paid by the defaulting party within thirty (30) days.
- C. In addition to the above, pursue any other remedies available at law or inequity.

This section shall not apply to extend the time period within which either party may exercise any options or extend the time for any notices as to any options specified in Section IV ("Term") herein.

XVIII. RESERVATION TO CITY

Once the Center is occupied by CSUF, the Center is accepted in an "as is" condition. CSUF is subject to any and all existing easements and encumbrances. In addition, City reserves the right to install, lay, construct, maintain, repair and operate such sewer lines, drain lines, laterals, manholes and utilities (water, oil, gas, telephone and power) and all appliances and appurtenances necessary or convenient in connection with, in, over, upon, through, across, under and along the Center footprint or any part thereof, and to enter the Center for any and all such purposes. No right reserved by City in this Section shall be so exercised as to interfere unreasonably with CSUF's operations. Except in the event of an emergency, City shall provide thirty (30) days advanced written notice of City's exercise of its reservation of rights. For purposes of this Section, unreasonable interference is defined as the inability to operate due to noise, noxious odor or physical access to the Center during regular business hours.

XIX. HOLDING OVER

In the event CSUF shall continue occupying the Center after the term of this MOU without the exercise of an option pursuant to Section IV, such occupation shall not be considered a renewal of this MOU, but a tenancy from month to month and shall be governed by the conditions and covenants contained in this MOU or provided by law.

XX. CITY'S RIGHT TO RE-ENTER

CSUF agrees to yield and peaceably deliver full possession of the Center to City on the date of termination of this MOU, whatsoever the reason for such termination. Upon giving written notice of termination to CSUF, City shall have the right to re-enter and take full possession of the Center on the date such termination becomes effective without further notice of any kind and without institution of summary or regular legal proceedings. Termination of the MOU and full possession of the Center by City shall in no way alter or diminish any obligation of CSUF under terms of this MOU and shall not constitute an acceptance or surrender.

CSUF waives any and all right of redemption under any existing or future law or statute in the event of eviction from or dispossession of the Center for any lawful reason or in the event City re-enters and takes full possession of the Center in a lawful manner.

XXI. ATTACHMENTS

This MOU includes the following, which are attached hereto and made a part hereof:

- Attachment A: Richman Neighborhood Center Floor Plan
- Attachment A-1: Don Castro Center Floor Plan
- Attachment B: CSUF Tenant Use Schedule for Richman Neighborhood Center
- Attachment B-1: CSUF Tenant Use Schedule for Don Castro Center

XXII. AUTHORITY TO EXECUTE MOU

Each individual executing this MOU on behalf of the parties represents and warrants that he or she is duly authorized to execute and deliver this MOU on behalf of the respective party and that this MOU is binding upon said party.

XXIII. RELATIONSHIP OF PARTIES

It is expressly understood and agreed that by executing this MOU and allowing CSUF use of the Center, City does not in any way or for any purpose become a partner of CSUF, or otherwise establish a joint venture between City and CSUF.

XXIV. NOTICES

All notices to this MOU shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be sent through the United States mail.

CITY

Director of Parks and Recreation
303 W. Commonwealth Avenue
Fullerton, CA 92832
(714) 738-6582

CSUF

Dean, College of Health and Human Dev.
800 N. State College Boulevard
Fullerton, CA 92831
(657) 278-2620

And

Interim Director, Contracts and Procurement
2600 Nutwood Avenue, Suite 300
Fullerton, CA 92831
(657) 278-4503

IN WITNESS WHEREOF, the parties have executed this MOU the day and year first
above written.

CITY OF FULLERTON
A Municipal Corporation

CALIFORNIA STATE UNIVERSITY,
FULLERTON

Hugo Curiel
Director of Parks and Recreation

Nelson Nagal, Director
Contracts and Procurement

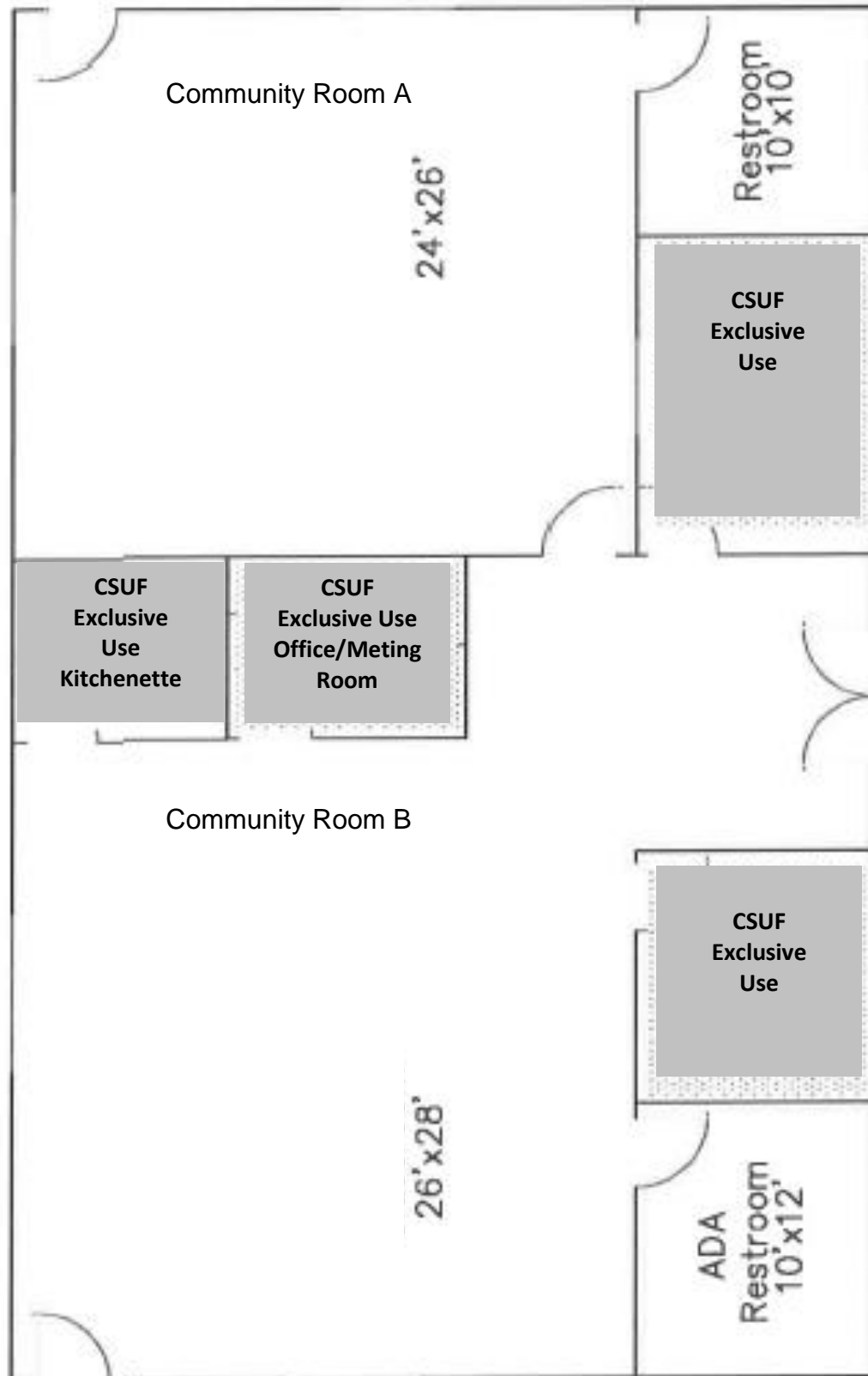
ATTEST

Lucinda Williams, City Clerk

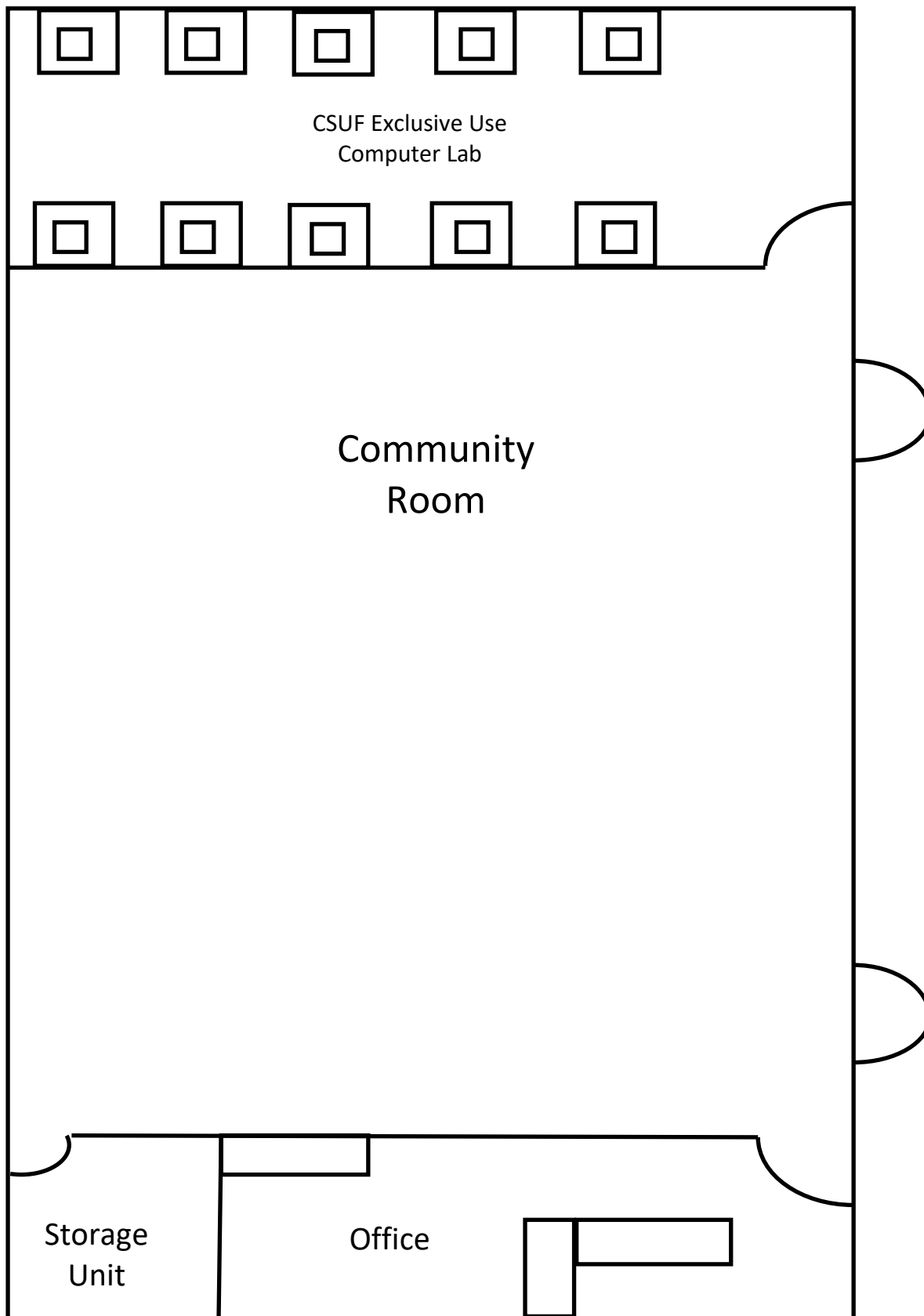
APPROVED AS TO FORM

Richard D. Jones, City Attorney
Jones & Mayer

Attachment A – Richman Neighborhood Center Floor Plan



Attachment A-1 – Don Castro Center Floorplan



**Attachment B
Richman Center**

Area / Room	School Year			Summer		
	Days	Time	Hours	Days	Time	Hours
Offices	Daily	Exclusive Use	N/A	Daily	Exclusive Use	N/A
MP Room A (North)	MTRF	8am - 2pm	6	Weekdays	8am - Noon	4
	Wed	8am - Noon	4			
	Sat	8am-6:30pm	10	Sat	8am-6:30pm	10
Restroom A (North)	MTRF	8am - 2pm	6	Weekdays	8am - Noon	4
	Wed	8am - Noon	4			
MP Room B (South)	Mon-Sat	8am – 6:30pm	10	Mon-Sat	8am – 6:30pm	10
Restroom B (South)	Mon-Sat	8am – 6:30pm	10	Mon-Sat	8am – 6:30pm	10
Kitchenette	Daily	Exclusive Use	N/A	Daily	Exclusive Use	N/A
Office/Meeting Room	Daily	Exclusive Use	N/A	Daily	Exclusive Use	N/A
Storage Unit	Daily	Shared Space	N/A	Daily	Shared Space	N/A

**Attachment B-1
Don Castro Center**

Area / Room	School Year		
	Days	Time	Hours
MP Room	MTR	8a–2:30p, 4:30-	8
	Wed	8a-12:30p,3:30-	7
Computer Lab	Daily	Exclusive Use	N/A
Storage Unit	MTR	8a–2:30p, 4:30-	8
	Wed	8a-12:30p,3:30-	7
Office	MTR	8a–2:30p, 4:30-	8
	Wed	8a-12:30p,3:30-	7

Area / Room	Summer (6/1/19-7/24/19)			Summer (7/24/19-8/7/19)		
	Days	Time	Hours	Days	Time	Hours
MP Room	M-F	8am-11am	3	M-F	8am-4pm	8
Computer Lab	Daily	Exclusive Use	N/A	Daily	Exclusive Use	N/A
Storage Unit	M-F	8am-11am	3	M-F	8am-4pm	8
Office	M-F	8am-11am	3	M-F	8am-4pm	8