PHAC #2

DEC 12 2011

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**MEMORANDUM Housing & Redevelopment - Council Memo No. HD11-13**

**DATE:** DECEMBER 1, 2011

**TO:** PUBLIC HOUSING AUTHORITY COMMISSION

**THRU:** RICH DLUGAS, CITY MANAGER RD
JEFF CLARK, FIRE CHIEF
JENNIFER MORRISON, NEIGHBORHOOD RESOURCES DIRECTOR JM

**FROM:** KURT KNUTSON, HOUSING AND REDEVELOPMENT MANAGER KK

**SUBJECT:** RESOLUTION NO. H0093 AUTHORIZING A ONE YEAR LEASE EXTENSION BETWEEN THE CITY OF CHANDLER HOUSING AUTHORITY (HOUSING DIVISION) AND MARICOPA COUNTY FOR SPACE IN THE RECREATION BUILDING AT 660 S. PALM LANE, CHANDLER, ARIZONA, FOR USE AS A HEAD START FACILITY.

RECOMMENDATION:

Staff advises the Housing and Human Service Commission members recommend to the Public Housing Authority Commission (PHAC) adoption of Resolution No. H0093 authorizing an option for one additional year lease extension, between the City of Chandler, Housing Authority and Maricopa County, for space in the Recreation Building at 660 S. Palm Lane, a Head Start facility.

BACKGROUND/DISCUSSION:

The Maricopa County Head Start organization has operated a Head Start pre-school program in the Recreation Building at the 660 S. Palm Lane site since 1993. In 1993, the County contributed $60,000 towards the remodeling of the existing Public Housing Recreation Building to better accommodate Head Start's licensing needs.

The first term of the lease with Maricopa County Head Start ends January 28, 2012. The current lease is for $4,000.00 per year. The rent charged to the Head Start Program is used to pay the cost of utilities for the building. The existing lease includes an option to automatically extend the lease for one additional year at an annual rate of $4,000.00 per year. Maricopa County is requesting to exercise the option for a one year lease

extension under the same terms and conditions outlined in the current lease.

The Head Start Program serves both the Public Housing residents' children and neighborhood children. Head Start is a valuable resource that better prepares low-income and disadvantaged children to integrate into a school environment.

FINANCIAL IMPLICATIONS:

All costs associated with the lease and the Head Start program is paid for by Maricopa County Head Start or by the United States Department of Housing and Urban Development through the Public Housing Operating budget.

PROPOSED MOTION:

Move to recommend approval of Resolution No. H0093 and authorize the PHAC Chairman/Mayor to sign a one year lease extension with Maricopa County for space in the Recreation Building at 660 S. Palm Lane, Chandler, Arizona for use as a Head Start facility.

Attachments: Resolution No. H0093
Lease
Receipt of Option to Renew Notification

RESOLUTION NO. H0093

A RESOLUTION OF THE PUBLIC HOUSING AUTHORITY COMMISSION OF THE CITY OF CHANDLER ARIZONA, AUTHORIZING A ONE YEAR LEASE EXTENSION BETWEEN THE CITY OF CHANDLER HOUSING AUTHORITY (HOUSING DIVISION) AND MARICOPA COUNTY FOR SPACE IN THE RECREATION BUILDING AT 660 S. PALM LANE, CHANDLER, ARIZONA, FOR USE AS A HEAD START FACILITY.

WHEREAS, the existing phase of the lease, between the Public Housing Authority and Maricopa County for the Head Start facility will expire on January 28, 2012; and

WHEREAS, the lease contains an option for an additional year at a rental rate of $4,000.00 per year, payable in monthly amounts of $333.33, under the same terms and conditions; and

WHEREAS, in 1993 Maricopa County facilitated specific tenant improvements in the building at 660 South Palm Lane in the amount of $60,000 to service low-income preschool children;

NOW, THEREFORE, BE IT RESOLVED by the Public Housing Authority Commission of the City of Chandler, Arizona, as follows:

Section 1. THAT the lease extension between the City of Chandler PHA and Maricopa County for the Head Start Program space at 660 S. Palm Lane, Chandler, Arizona is approved as outlined in the Receipt of Option to Renew, attached as Exhibit "A" for the portion of the Recreation Building to be used as a pre-school/educational facility. This is an execution of a one year extension as provided for by the option clause in the lease. This action affirms the notice to renew the lease as requested by Maricopa County.

PASSED AND ADOPTED by the Public Housing Authority Commission of the City of Chandler, Arizona, this ___ day of _____, 2011.

ATTEST:

_____ _____

CITY CLERK CHAIRMAN

**CERTIFICATION**

I HEREBY CERTIFY that the above and foregoing Resolution No. H0093 was duly passed and adopted by the Public Housing Authority Commission of the City of Chandler, Arizona, at a regular meeting held on ____ day of _____, 2011 and that a quorum was present thereat.

APPROVED AS TO FORM:

_____ _____

CITY ATTORNEY GAB CITY CLERK

**EXHIBIT A**

# Maricopa County

**Department of Finance**

**Ken Johnson**
Property Management
301 West Jefferson Street
Suite 960
Phoenix, AZ 85003-2278
Phone: 602.506-1344
Fax: 602.506-4451
www.kenneth.johnson@mail.maricopa.gov

Lease No. L-7178 / Head Start Classroom / 660 S. Palm Lane, Chandler, AZ
C-22-05-115-4-03

## Receipt of Option to Renew Notification

City of Chandler, an Arizona municipal corporation

Mayor Date

Attest:

City Clerk Date

Approved as to form:

City Attorney Date
GAB

Maricopa County Board of Supervisors, a political subdivision of the State of Arizona

Chairman of the Board Date

Attest:

Clerk of the Board Date

Approved as to form:

Deputy County Attorney Date

COPY

**AMENDED AND RESTATED LEASE**

C-22-05-115-4-02

THIS LEASE made and entered into this 11th day of, February 2010, by and between the City of Chandler, an Arizona municipal corporation, hereinafter referred to as "Lessor", and Maricopa County, a political subdivision of the State of Arizona, hereinafter called "Lessee";

WITNESSETH

1. Leased Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, approximately 1000 square feet of the recreation building located at **660 South Palm Lane, Chandler, Arizona** to include the covered patio and playground area.

2. Term. The term of this Lease shall be for two (2) years, commencing on January 28, 2010 and terminating on January 28, 2012, with an automatic option to extend this Lease for one (1) successive one-year term at the rental rate of 4,000.00 per year through January 28, 2013, unless otherwise notified by either party to decline the option in writing. This agreement is subject to termination pursuant to the provision of A.R.S. 38-511.

3. Rent. Lessee shall pay to Lessor as rent for the Leased Premises the sum of $4,000.00 per year, payable in monthly installments of $333.33 plus any applicable rental tax. The first payment shall be payable in advance on the first day of the term of this Lease, and subsequent payments shall be payable in advance on the same day of each consecutive month thereafter during the term of this Lease. The rent shall be paid without notice, demand, deduction or any set-off whatsoever, at the address of Lessor at P.O. Box 4008, Mail Stop 101, Chandler, Arizona 85244, or to any other place designated by Lessor in writing.

4. Use. Lessee shall use the Leased Premises only for the purposes of operating a Head Start Program. The Leased Premises shall not be used for any purpose in violation of any zoning or other laws or of any regulation of any governmental body having jurisdiction over the Leased Premises. Lessee is hereby granted a non-exclusive right to use in common with Lessor, other tenants and occupants and other parties authorized by Lessor, their respective employees, agents, contractors, customers and invitees, such sidewalks, hallways, stairways, toilets, elevators and other

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common areas and facilities as Lessor shall from time to time designate fro common use ("Common Areas").

5. Lessee Responsibilities. Leasee will provide Head Start/Preschool services to eligible City of Chandler Public Housing residents and surrounding eligible area residents. Lessee shall provide a semi-annual report to the City of Chandler, Housing and redevelopment Division that denotes the number of Public Housing residents that the programs has served in the previous six month period.

6. Modification of Agreement. No amendment or modification of this Contract shall be valid or binding unless reduced to writing and executed by the parties hereto in the same manner as this agreement is executed.

7. No Assignment. No party may assign or transfer its rights or obligations under this agreement without the prior written consent of the other party hereto.

8. Taxes.

(a) Lessee shall pay before delinquent, as additional rent, all personal property taxes and assessments levied or assessed by any governmental authority against any personal property, or fixtures of Lessee in, on or about the Leased Premises.

b) Lessor shall pay any real property taxes and assessments levied or assessed against the Leased Premises if not otherwise exempted.

9. Utilities. Lessor shall pay all utilities, including water, sewer, electric and gas.

10. Insurance.

(a) On all policies of insurance the City of Chandler shall be named as an additional named insured as it's interest may appear. If a government agency is self-insured, the above portion of this section is not applicable as long as that agency provides to Lessor, along with the signed Lease, a copy of the certificate verifying such self-insurance.

(b) Lessee shall not commit or permit any acts or failure to act in or about the Leased Premises which may in any way impair or invalidate such policy or policies of insurance for

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the building. Lessee shall cooperate with Lessor in connection with the collection of any insurance monies that may be due in the event of loss and shall execute and deliver to Lessor such proofs of loss and other instruments as may be required for the purpose of facilitating the recovery of any such insurance monies.

(c) Lessee shall be responsible for obtaining any fire, flood or extended coverage (self)insurance for personal property improvements of Lessee and for all goods, commodities and materials stored by Lessee in, on or about the Leased Premises.

11. Casualty. If the Leased Premises are wholly or partially destroyed by fire or other casualty insured against by Lessor, Lessee shall give immediate notice thereof in writing to Lessor, and shall fully cooperate with Lessor in filing all necessary proofs of claim with insurance companies. The proceeds of such insurance applicable to the Leased Premises shall be paid to Lessor, and Lessor shall rebuild, repair or restore the Leased Premises to their condition at the time immediately preceding the loss or damage; provided, however, that Lessor may elect to retain such insurance proceeds other than proceeds relating to Lessee's personal property and shall not be required to rebuild, repair or restore the Leased Premises. This lease shall be terminated if such damage or destruction occurs within the last twelve (12) months of the term of this lease, or if more than one-third (1/3) of the Leased Premises is damaged or destroyed. In the event of total destruction of the Leased Premises, the rent shall abate during the period of rebuilding, repair or restoration by Lessor or, in the event of partial destruction of the Leased Premises, the rent shall abate pro rata based upon the portion of the Leased Premises rendered unusable during the period of rebuilding, repair or restoration by Lessor.

12. Liability Insurance. During the term of this Lease, Lessee at Lessee's expense shall maintain comprehensive general liability (self) insurance to cover claims for injury, wrongful death or property damage occurring upon, in or about the Leased Premises and the appurtenances thereto in companies and in form acceptable to Lessor. Both Lessor and Lessee shall be adequately covered under limits of liability in an amount not less than One Million Dollars ($1,000,000.00) in the event of one accident, and in an amount not less than One Million Dollars ($1,000,000.00) in respect to property damage. Such (self) insurance will be obtained and evidence thereof delivered to Lessor prior to any occupancy of the Leased Premises by Lessee or upon the commencement of the Lease term, whichever shall first occur, and Lessee shall pay the renewal premiums on such insurance not less than ten (10) days

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prior to expiration of such insurance and shall deliver evidence of such renewal to Lessor and any mortgagee of the Leased Premises. The City of Chandler shall be named as an additional named insured as its interest may appear on the insurance policy.

13. Liability. Each party (as "indemnitor") agrees to indemnify, defend and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims are caused by the act, omission, gross negligence, misconduct, or other fault of the indemnitor its officers, official, agents, employees, or volunteers.

14. Repairs.

(a) Lessor shall make all necessary repairs to the exterior walls, roof and doors of the building of which the Leased Premises are a part. Lessor shall also maintain and keep in good repair the exterior lighting, parking areas, play areas, sidewalks, shrubs and plants appurtenant to the building of which the Leased Premises are a part. Exterior litter and trash caused or permitted by Lessee or its agents are to be removed by the Lessee. Associated cleaning and operational supplies for the maintenance of the building will be at Lessee expense.

(b) Lessor shall maintain and make all necessary repairs to the Leased Premises, all plumbing, electrical wiring, windows, and air refrigeration units in or about the Leased Premises. Any damage or excessive wear caused or permitted by Lessee or Lessee's employees, agent, members, licensees, subtenants, or invitees to the Leased Premises shall be repaired by Lessee or, at Lessor's election, Lessor may repair such damage at the expense of Lessee and Lessee shall reimburse Lessor for such expense upon Lessor's demand.

15. Lessee's Improvements. Lessee at Lessee's expense may make such alterations and improvements to the interior of the Leased Premises as may be necessary or desirable for the conduct of business of Lessee; provided, however, that Lessee shall make no alterations or improvements which may impair the structural strength of the building of which the Leased Premises are a part on or against the Leased Premises; and provided, further, that Lessee shall first obtain Lessor's written consent for such alterations and improvements, which consent shall not be

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unreasonably withheld. Lessor may require, as a condition to consenting to such alterations or improvements, that the work therefor be done by Lessor's own employees or under Lessor's direction, but at the expense of the Lessee. Lessor also may require that Lessee give security that the work will be completed free and clear of liens and in a manner satisfactory to Lessor. Any alteration or improvement made by Lessee shall be completed expeditiously, subject to any delays beyond the control of Lessee, and in compliance with all laws and ordinances and all rules and regulations of any and all governmental authorities having jurisdiction of or over the Leased Premises. All such alterations and improvements shall be and remain the property of Lessor and shall be removed by Lessee at the option of Lessor at the termination of this Lease. Lessee at its expense shall repair all damages to the Leased Premises which shall have been occasioned by the installation or removal of Lessee's improvements or alterations. Lessor shall not be responsible or liable for any loss of or damage to Lessee's improvements or alterations.

16. Liens. If the Leased Premises or any part thereof, or Lessee's leasehold interest therein, shall at any time during the term of this Lease become subject to any vendor's, mechanic's, laborer's, or materialmen's lien based upon the furnishing of material or labor to Lessee, Lessee shall cause the same, at Lessee's expense, to be discharged within one hundred and twenty (120) days after notice thereof, unless the lien and the claim occasioning it is litigated in good faith by Lessee.

17. Nuisance. Notwithstanding anything in this Lease to the contrary, including without limitation the use by Lessee of the Leased Premises in accordance with Article 4 hereunder, Lessee shall not commit or permit any nuisance or other act, whether noise, odor, smoke, sewage, chemical wastes or otherwise, which may disturb the quiet enjoyment of any other tenants of Lessor in the building of which the Leased Premises are a part. Lessee shall not obstruct or cause to be obstructed any public or private roadways, sidewalks or common areas appurtenant to the building of which the Leased Premises are a part, or any parking areas or docking areas of other tenants of Lessor in the building of which the Leased Premises are a part. In the event Lessee commits or permits any nuisance or act set forth in this Article, the same shall be a material breach of this Lease.

18. Condition of Premises. Lessee shall take the Leased Premises "as is" and in such physical condition as they are upon the commencement of the term of this Lease.

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19. Assignment and Subletting. Lessee shall not assign this Lease or sublet the Leased Premises, or any part thereof, for a period of more than thirty (30) days without the prior written consent of Lessor. Any assignment or subletting shall not release Lessee hereunder, and any assignee or subtenant shall expressly assume all of Lessee's obligations hereunder.

20. Termination Before End of Term; Non-appropriation. Lessor and Lessee each reserve the right to terminate this Lease at any time by giving Ninety (90) days written notice to the other. Specifically, the Lessee may terminate this Lease at the end of any fiscal year during the term of the lease provided that funds are not available from the governing legislature or funding body for the continuation of this Lease. Lessee's fiscal year ends on June 30 of each year. Further, this Lease is subject to A.R.S. 38-511 and may be cancelled pursuant thereto. In the event Lessor or Lessee terminates this Lease during the term hereof, the rent payment heretofore made by Lessee shall be pro rated on the number of days remaining in the final month of occupancy. Lessor shall refund the pro rated amount to Lessee within Thirty (30) days after termination.

21. Legal Expenses. In the event of any suit instituted by either Lessor or Lessee against the other in any way connected with this Lease, or for the recovery of rent or possession of the Leased Premises, the successful party to any such action shall recover from the other party reasonable attorneys' fees and court costs in connection with said suit.

22. Lessor's Right. In the event that Lessee does not pay before delinquent any increase in taxes, assessments or any other charges to be paid hereunder by Lessee, Lessor shall have the right to make such payment and to thereupon charge Lessee for the amount of such payment, together with interest thereon from the due date of such payment to the date of repayment by Lessee to Lessor at the highest rate of which then may be contracted for in writing.

23. Subordination and Attornment. Upon written request of Lessor, or any first mortgage or first deed of trust beneficiary of Lessor, or ground lessor of Lessor, Lessee shall, in writing, subordinate its rights under this lease to the lien of any first mortgage or first deed of trust, or to the interest of any ground lease in which the Lessor is the lessee, and to all advances made or hereafter to be made thereunder. However, before signing any subordination agreement Lessee shall have the right to obtain from any lender or ground lessor requesting such subordination,

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an agreement in writing providing that, as long as Lessee is not in default hereunder, this Lease shall remain in effect for the full term. The holder of any security interest may, upon written notice to Lessee, elect to have this Lease prior to its security interest regardless of the time of the granting or recording of such security interest. In the event of any foreclosure sale, transfer in lieu of foreclosure or termination of ground lease in which Lessor is the lessee, Lessee shall attorn to the purchaser of the transferee of Lessor as the case may be, and recognize that party as Lessor under this Lease, providing such party acquires and accepts the premises subject to this Lease.

24. Signs. No signs, advertisements or notice shall be placed by Lessee on any part of the outside of the building of which the Leased Premises are a part, whether walls, roofs, windows, doors or otherwise, except such as shall be approved by Lessor. If such approval by Lessor is given, such signs, advertisements or notices shall be installed and maintained at Lessee's expense and shall conform to all applicable governmental laws, rules and regulations.

25. Public Housing Rules. Lessee shall abide by all City of Chandler, Housing and Redevelopment Division Public Housing rules and regulations of the project imposed by Lessor for the good order and reasonable use of the Leased Premises and contiguous real estate and buildings by all tenants of Lessor and clients, customers and employees.

26. Right of Entry. Lessor may, during the term of this Lease, at all reasonable times and during usual business hours, enter upon the Leased Premises for the purpose of inspecting the same, and in addition may, at any time within the last six (6) months of the term of this Lease, show the Leased Premises to prospective lessees or prospective purchasers after 48 hours notice to Lessee.

27. Surrender. Upon the expiration of the term of this Lease, or upon the earlier termination of this Lease, Lessee shall surrender peaceable possession of the Leased Premises in the same condition as the Leased Premises were at the commencement of this Lease, reasonable wear and tear and acts of God excepted.

28. Notices. Any notice required or permitted to be given or served by either to this Lease shall be deemed to have been given or served when made in writing, by certified or registered mail, addressed as follows:

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Lessor: City of Chandler
Attn: Housing & Redevelopment Division
P.O. Box 4008, Mail Stop 101
Chandler, Arizona 85244

Lessee: Maricopa County Department of Finance
Real Estate Services Manager
301 W. Jefferson Street, Suite 960
Phoenix, AZ 85003

Copies: Human Services Department
Head Start Services
234 N. Central Avenue, Suite 3201
Phoenix, AZ 85004

All rental payments shall be made to Lessor at the above address. Either party may change its address from time to time by serving notice on the other party as provided above.

29. Nondiscrimination. Lessee shall not discriminate against any individual in any way on account of such individual's race, color, religion, sex, age, handicap or national origin. Executive Order Number 75.5 of the State of Arizona is hereby incorporated into this Lease by reference, as if set forth in full herein when and where applicable.

30. Broker. Lessor and Lessee each represent to the other that there are no broker's commissions in connection with this Lease.

31. No Waiver. Any waiver by any of the parties hereto of any breach of this Lease or of any right of any party shall not constitute a waiver of any other breach or of any other right.

32. Entire Agreement. This Lease contains the entire agreement between the parties hereto, and no term or provision hereof may be changed, waived, discharged or terminated unless the same be in writing executed by both parties hereto.

33. Applicable Law. The laws of Arizona shall govern the construction, performance and enforcement of this Lease.

34. Time of Essence. Time shall be of the essence in the performance of every term, covenant and condition of this Lease.

35. Headings. The Article headings contained herein are inserted only for convenience of reference and are in no way to be

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construed as a part of this Lease or as a limitation of the scope of the particular Articles to which they refer.

36. Benefit. This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

37. Parking and Common Areas. Lessee shall have the nonexclusive right to use the parking and common areas around the Leased Premises during the term of this Lease.

38. Quiet Enjoyment. So long as Lessee is not in default under the terms of this Lease, Lessee shall be entitled to the quiet enjoyment and use of the Leased Premises according to the terms of this Lease.

36. Partial Invalidity. If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

IN WITNESS WHEREOF, the parties hereto have executed this Lease this 11th day of February, 2010.

| | |
|---|---|
| **LESSOR:** CITY OF CHANDLER, an Arizona municipal corporation<br><br>By:<br>Its: Mayor<br>Date: 2/3/10 | **LESSEE:** MARICOPA COUNTY BOARD OF SUPERVISORS, a political subdivision of the State of Arizona<br><br>By:<br>Its: Chairman of the Board<br>Date: FEB 11 2010 |
| ATTEST:<br><br>City Clerk<br>Date: 2/4/2010 | ATTEST:<br><br>Clerk of the Board<br>Date: ~~FEB 11 2010~~ 011210 |
| APPROVED AS TO FORM:<br><br>City Attorney<br>Date: | APPROVED AS TO FORM<br><br>Attorney<br>Date: 2/10/10 |

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