

7/17/2019

71-O-19

AN ORDINANCE

Authorizing the City Manager to Execute a Lease of City-Owned Real Property Located at 1823 Church Street with Litehouse Evanston, LLC

WHEREAS, the City of Evanston owns certain real property located at 1823 Church Street, Evanston, Illinois 60201, which is improved with a single story building commonly known as the “Gibbs Morrison Cultural Center” (the “Property”); and

WHEREAS, the Property is equipped with a commercial kitchen and café space and available to be leased; and

WHEREAS, Litehouse Evanston, LLC, d/b/a “Mikkey’s Retro Grill” has five existing locations in Chicago and seeks to expand its restaurant business into Evanston; and

WHEREAS, the City Council has determined that the kitchen and storage space is not necessary to City operations at the Property and it’s in the City’s best interests to lease the spaces to Evanston Litehouse, LLC for the operation of a restaurant,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.

SECTION 2: Pursuant to Subsection 1-17-4-1 of the Evanston City Code of 2012, as amended (the “City Code”), the City Manager is hereby authorized and directed to execute, on behalf of the City of Evanston, the Lease Agreement for the

commercial kitchen and storage space at the Property, by and between the City of Evanston, as landlord, and Evanston Litehouse, LLC, as tenant. The Lease Agreement shall be in substantial conformity with the Lease Agreement attached hereto as Exhibit "1" and incorporated herein by reference.

SECTION 3: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Ayes: 7

Nays: 0

Introduced: July 22, 2019

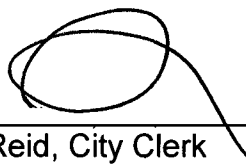
Adopted: July 22, 2019

Approved:

July 31, 2019


Stephen H. Hagerty, Mayor

Attest:


Devon Reid, City Clerk

Approved as to form:



Michelle Masoncup, Corporation Counsel

EXHIBIT 1
LEASE AGREEMENT

LEASE AGREEMENT

This Lease Agreement (the “**Agreement**” or “**Lease**”) shall take effect as of the date of execution of the Agreement by the City (the “**Effective Date**”). This Lease is by and between **The City of Evanston**, an Illinois home rule municipality and owner of subject Property (“**Landlord**”), whose main business office is located at 2100 Ridge Avenue, Evanston, Cook County, Illinois, “**Landlord**”, and **Lighthouse Evanston, LLC**, an Illinois limited liability company d/b/a “**Mikkey’s Retro Grill**” (“**Tenant**”). Landlord and Tenant may be referred to collectively as the “**Parties**”.

SECTION 1. DESCRIPTION OF PREMISES

A. TENANT PREMISES. Landlord leases to Tenant and for its exclusive use the commercial kitchen and storage space located at 1823 Church Street, Evanston, Illinois 60201 (the “**Premises**”), which is approximately 383 square feet (207 sq feet – kitchen; and 176 sq feet – storage space and an office) and located within the building commonly known as the Gibbs Morrison Cultural Center (“**Property**” or “**GM Center**”). The Landlord and other tenants or Premises users at the Property will not have access to utilize the kitchen and the office/storage space for the Tenant.

B. COMMON FACILITIES. The Property has various uses including a music studio, community programming for the Parks, Recreation and Community Services Department of the City of Evanston, and many other uses. The term “**Common Facilities**” as used in this Agreement will include those areas and facilities within the Property (outside of the Premises) for the nonexclusive use of Tenants in common with other authorized users, and includes, but is not limited to, café seating, patio seating, sidewalks, planted areas, common area restrooms and open means of ingress and egress. Tenants will have the non-exclusive right to use the Common Facilities, including the washrooms referenced above.

C. CAFÉ SEATING AREA: The seating area inside the Property and on the patio will be shared by Tenant patrons and community members utilizing the Property. The Parties will evaluate the seating to address demand needs to ensure that Tenant has adequate seating for its patrons. Tenant will be allocated seating on first come first serve basis on the patio area for its patrons. Landlord is owner of all furniture for the seating area. Tenant responsible for clearing tables after patron use.

D. IMPROVEMENTS TO PREMISES: Tenant accepts the Premises in an “As-Is” Condition. The Premises is an existing café with a commercial kitchen space and equipment necessary to perform those functions. The equipment owned by the City of Evanston and will remain the property of the City of Evanston. The equipment owned by the City is the following at the time of occupancy is:

- 1- 3 Compartment sink
2. 2 hand wash sinks
3. 1 Hood
4. (1) 2 tier push cart

Any improvements that Tenant seeks to make to the Premises must be approved by the Landlord prior to any work. Additionally, any improvements or additional equipment needed for Tenant's use, are at the sole cost and expense of Tenant. All trade fixtures and equipment installed by Tenant in or on the Premises (including kitchen equipment, tables and chairs, registers, other equipment, shelving and signs) will remain the property of Tenant and Tenant may be removed at any time prior to or at the expiration or earlier termination of this Lease. Tenant must repair at its own expense any damage to the Premises caused by the removal of said fixtures or equipment by Tenant. This provision must expressly survive the termination or expiration of this Lease.

E. Landlord has no obligation to repair damage to or to replace any leasehold improvements, Tenant's personal property or any other property located in the Premises, and Tenant must within sixty (60) days after the Premises is sufficiently repaired so as to permit the commencement of work by Tenant, commence to repair, reconstruct and restore or replace the Premises (including fixtures, furnishings and equipment) and prosecute the same diligently to completion. Notwithstanding the foregoing, Tenant's Fixed Minimum Rent and Additional Rent must continue to be abated as provided in Section 9(a) above, until the Property is once again suitable for its Permitted Use.

SECTION 2. TERM

A. **TERM DEFINED:** The term of this Agreement will be for five years (60 months), commencing on August 1, 2019 to July 31, 2024 (the "Term"). Tenants must provide Landlord with 90 days' notice to request a renewal of the Agreement for the Premises. Tenant is provided two options to renew the Agreement for an additional five year term, provided Tenant is not in default of this Agreement at time of renewal, this renewal and decision to exercise the option must be authorized by written consent of the Parties and must be authorized by the City Council.

B. **JOB FAIR:** Tenant will be hosting a job fair at the Premises prior to opening for business. Tenant will publicize the event and host it at Tenant's expense. Tenant agrees to hire a minimum of 2 Evanston residents to work at the Premises during the Term.

C. **EVENTS IN THE PREMISES AND PROPERTY:** Tenant is not the exclusive caterer for City sponsored events at the Property. However, the City will seek to utilize Tenant for events during the Term.

SECTION 3. RENT

(a) **RATE:** For the first year of the Lease, Tenant agrees to pay Landlord on or before the 1st day of every month the monthly Rent rate of \$1,200 (rental rate is based on \$37.60/sq. foot). The first rental payment will commence on September 1, 2019, meaning the Tenant has one month of free Rent. Rent shall be made payable to the City of Evanston. The Rent will increase every year for the remainder of the Term by the Consumer Price Index (CPI), but under no circumstances shall it increase by more than

three percent (3%).

(b) **LATE FEE.** In the event any sums required hereunder to be paid are not received by Landlord on or before the date the same are due, then, Tenant also owes Landlord a late fee of \$200 per month. Such late fee is deemed Additional Rent.

Any and all Rent under this Lease shall be mailed to:

City of Evanston
2100 Ridge Avenue, Room 1100
Evanston, IL 60201
Attn: Parks, Recreation, and Community Services

SECTION 4. COMMON FACILITIES

A. MAINTENANCE BY LANDLORD: Tenant acknowledges that it leases the Premises, Common Facilities and remainder of the Property in as-is condition, and acknowledge that the Landlord has made no representations to the condition or has made any repairs to same. The Landlord or Landlord's staff or other representatives have made no representations or assurances that it will alter or remodel the Premises or Property. If the Parties discover that any part of the Premises, Common Facilities or the remainder of the Property is not or was not in substantial compliance with the Building Code at the start of lease, the Landlord will make necessary repairs in a reasonable time frame. Landlord shall, when necessary, as determined by Landlord, in its reasonable discretion or when required by applicable laws, perform, repair and maintain all of the following:

1. Exterior maintenance, including the foundation, exterior walls, slab, common area doors and roof;
2. Landlord will contract, to have trash hauled from such container with reasonable frequency;
3. Electric facilities and systems, gas facilities and systems and the HVAC unit(s) and systems (including the portions of such systems serving the Premises exclusively). However, Landlord will not upgrade electric facilities to accommodate an increased capacity due to Tenant's use and any upgrade in electrical will be at the sole cost and expense of Tenant and any work performed shall be done in consultation and review by the Landlord prior to work;
4. Plumbing and water facilities and systems (including the portions of such systems serving the Premises exclusively). However, Landlord will not upgrade plumbing facilities to accommodate an increased capacity due to Tenant's use and any upgrade in plumbing will be at the sole cost and expense of Tenant and any work performed shall be done in consultation and review by the Landlord prior to work;

5. Fire and life safety systems and fire alarm systems, including inspections thereof (including the portions of such systems serving the Premises exclusively);

6. Landlord will clean and maintain all hallways, stair rails, and related elements, restrooms, and other Common Facilities and if necessary with perform pest control operations; and

7. Snow and ice removal, including salting, from front walkway of Premises in front of the Property within 48 hours of any snow event with accumulation of an 1 inch or more; and

8. Change light bulbs, ballasts and tubes in any fluorescent or comparable light fixtures in the Premises. Notwithstanding the foregoing, Tenant will change light bulbs, ballasts and tubes which are considered specialty lighting and related to cooking activities.

9. Maintain the HVAC units in the Premises, the HVAC units are the property of the Landlord and shall remain in the Premises at the end of the Term.

B. MAINTENANCE BY TENANTS:

1. All refuse from Premises to be placed in appropriate containers. Tenant is responsible for putting trash and recycling in the exterior dumpsters associated with the Premises. If Tenant needs a special trash disposal container for grease, Tenant must contact Landlord and pay for the cost of the container.

2. The Tenant must maintain all of the Premises in a clean, neat and orderly condition. Tenant is responsible to cleaning the kitchen and café tables and space during the hours of operation to keep the Premises clean.

3. Tenant will not use the Premises in a manner that will violate or make void or inoperative any policy of insurance held by the Landlord. The use provided for in this Agreement does not violate any of the Landlord's insurance policies.

4. Tenant will keep the interior non-structural portions of the Premises, including all interior, non-structural walls, surfaces and appurtenances (other than systems and any other items that Landlord is required to maintain pursuant to Section 4[A]), in good repair. Tenants is responsible for repairs, damages and losses for damages sustained outside the Premises to other Center property attributable to Tenant's negligence or intentional misconduct. All such damage must be reported in writing to the Director of Parks, Recreation and Community Services, or his/her designee, by the next City of Evanston business day, after discovery of such damage by Tenants.

5. Tenant is required upon lease termination to leave space in good repair and condition. Maintenance and repair issues which constitute a life and

safety hazard must be corrected within twenty-four (24) hours after discovery by Tenants, provided that the issue can be fixed within that time frame. If the issue cannot be fixed within twenty-four (24) hours after discovery by Tenants, the Tenants must provide a schedule for repair within one (1) business day after discovery by Tenants to the Director of Parks, Recreation and Community Services for approval, which cannot be unreasonably withheld.

SECTION 5. USE OF PREMISES

A. PURPOSES: Tenants will use the Premises to operate a commercial kitchen for the preparation of pasteries, sandwiches, salads, and other similar items related to a restaurant, and other related business and uses incidental thereto, and no part of the Premises will be used for any other purpose without the prior written consent of Landlord (the "Permitted Use").

B. HOURS OF OPERATION AND LANDLORD ACCESS:

1. Tenant's use of the Premises shall only be for the permitted use. Tenants shall have the right of access to conduct their business in the Premises during the hours of 6:00 a.m. – 9:00 p.m (hours of operation 7:00 a.m. to 8:00 p.m.). and open 6 days a week (Monday – Saturday) (the "Hours of Operation"). The Property will be closed on holidays/days as observed by the City of Evanston and will not be cleaned by Landlord during this time period, however Tenant may be open for business on City holidays. If the Tenant has a special event, approved by the Landlord, the hours described above can be modified.

2. The Landlord shall have the right to retain a set of keys to the Premises, and Tenants shall not change any locks for the Premises to any other lock, other than a lock consistent with the Landlord's master lock for the Property. The Tenants shall permit the Landlord to erect, use and maintain pipes, ducts, wiring and conduits in and through the Premises concealed to the greatest extent possible, above ceiling, under floor or in walls that don't reduce the square footage of the Premises and don't materially affect Tenants' use of the Premises. The Landlord shall have the right to enter upon the Premises with 24 hours prior written notice or without notice in case of an emergency, to control heat, electricity and air conditioning, to inspect the same, and to make such repairs, alterations, improvements or additions to the Premises or the GM Center, as the Landlord may deem necessary or desirable. Tenants will not cease any Rent payments while repairs, alterations, improvements, or additions are being made, by reason of loss or interruption of business of the Tenants, or otherwise, provided Landlord shall complete such work as quickly as reasonably possible. Notwithstanding the foregoing, if a portion of the Premises is unusable for the purpose contemplated hereunder for a period of greater than 5 days (including, without limitation, as a result of a casualty or a condemnation or the repairs required in connection therewith), the fixed minimum monthly rental will be equitably reduced in the proportion that the unusable part of the Premises bears

to the whole. The determination of the unusable space shall be reasonably determined by the Landlord based on square footage. Notwithstanding anything to the contrary contained herein, Landlord shall not have the right to alter the Premises except as expressly required or permitted hereunder. Notwithstanding the foregoing, if the repairs, alterations, improvements, or additions are at a Tenant's request or if the repairs are necessitated by a Tenant's actions, then the Tenants may not cease any rent for any period, unless the Premises are unusable as a result of the negligence or intentional misconduct of Landlord or its agents, employees or contractors. If a Tenant shall not be personally present to open and permit an entry into Premises, at any time, when for any reason an entry therein shall be necessary or permissible, the Landlord or the Lessor's agents may enter the same by using the key, or may forcibly enter the same, without rendering the Landlord or such agents liable therefore (if during such entry the Landlord or the Lessor's agents shall accord reasonable care to Tenants' property), and without in any manner affecting the obligations and covenants of this Lease. If the Premises is unusable for a period greater than thirty (30) days, Tenant has the option to cancel this Agreement.

3. Nothing herein contained, however, shall be deemed or construed to impose upon the Landlord any obligations, responsibility or liability whatsoever, for the care, supervision or repair of the Premises or any part thereof, other than as herein provided. The Landlord shall also have the right at any time without the same constituting an actual or constructive eviction and without incurring any liability to the Tenants therefore, to change the arrangement and/or location of Common Facilities, including entrances or passageways, doors and doorways, and corridors, stairs, toilets or public parts of the GM Center, and to close Common Facilities (as and when reasonably necessary for Landlord to perform its obligations hereunder or exercise its rights or as necessary due to Force Majeure), including entrances, doors, corridors or other facilities. The Landlord shall not be liable to the Tenants for any expense, injury, loss or damage resulting from work done by persons other than the Landlord in or upon, or the use of, any adjacent or nearby building, land, street, or alley.

C. LOCKING OF PREMISES: All doors to the Premises must be kept locked at all times except during the Hours of Operation. During normal Hours of Operation for the Property, patrons and users of the Property shall have access to the Common Facilities.

D. STORAGE OF INFLAMMABLE MATERIALS: Tenants agree that they will not permit to be kept at the Premises any gasoline, distillate or other petroleum product, or other substance of an explosive or inflammable nature as may endanger any part of the premises without the written consent of the Landlord, provided that Tenants can maintain customary cleaning products in the Premises.

E. USE IMPAIRING STRUCTURAL STRENGTH: The Tenants will not permit the Premises to be used in any manner that will impair the structural strength of the Premises, or permit the installment of any machinery or apparatus the weight or vibration of which may tend to impair the building's foundations or structural strength.

F. GARBAGE DISPOSAL: The Tenants will not incinerate any garbage or debris in or about the Premises, and will cause all containers, rubbish, garbage and debris stored in the Premises to be placed in the refuse container supplied by Landlord for the Property before accumulation of any substantial quantity.

G. PUBLIC REGULATIONS: In the conduct of its business on the Premises, Tenants will observe and comply with all laws, ordinances and regulations of public authorities. Tenants acknowledge that the Property is owned by the City of Evanston and therefore no smoking will be permitted at the Property.

H. OTHER MISUSE: Tenant and Landlord will not permit any unlawful practice with knowledge or consent, to be committed or carried on in the Premises by Tenants or any other person. Tenant and Landlord will not use or allow the use of the Premises for any purpose whatsoever that will injure the reputation of the Premises or of the building of which they are a part.

I. PARKING: The Gibbs Morrison Cultural Center does not have any dedicated parking spaces for Tenants, City employees, or guests of City programs at the building. There is off street parking located on the southeast corner of Church and Dodge provided as a courtesy by Y.O.U. ("Y.O.U. Lot") The first eight parking spaces in the most northern section, affronting the sidewalk on Church, are for patron and employee use at the Gibbs Morrison Cultural Center. The Y.O.U. Lot parking is provided on a first come first serve basis. On street parking is also available on a first come first serve basis, but no permits available for this parking.

SECTION 6. SIGNS

Tenant is responsible for installing permanent signage for the Property along Church Street and Dodge Avenue ("**Property Signs**"). If tenant seeks to install signage, Tenant acknowledges that there are limitations from the City of Evanston Municipal Code of 2012, as amended, and the Code governs the application process and the details regarding size, type, and number of signs and Tenants agree to be bound by such ordinances. Landlord cannot make representations in a lease agreement that Tenants shall be entitled additional signage, a certain number of signs and/or dimensions of proposed signage, because the Tenants must make an application to the Sign Review Board, as provided by Code, but Landlord will not withhold its consent to a reasonably sized sign over the entrances to the Premises and will work with the Tenant to designate appropriate signage for the business.

SECTION 7. DEFECTS; DEFECTIVE CONDITION; WIND; ACTS OF THIRD PERSONS

Except as provided by Illinois law and except to the extent arising from the negligence or intentional misconduct of Landlord or its agents, employees or contractors, or from the breach of this Lease by Landlord, Landlord will not be liable to Tenants for any damage or injury done or occasioned by wind or by or from any defect of plumbing, electric wiring or of insulation thereof, gas pipes, water pipes or steam pipes, or from broken stairs, porches, railings or walks, or from the backing up of any sewer pipe or

down-spout or from the bursting, leaking or running of any tank, tub, washstand, water closet or waste pipe, drain, or any other pipe or tank in, upon or about the Premises or the building of which they are a part nor from the escape of steam or hot water from any radiator, nor for any such damage or injury occasioned by water, snow or ice being upon or coming through the roof, skylight, trap door, stairs, walks or any other place upon or near the Premises, or otherwise, nor for any such damage or injury done or occasioned by the falling of any fixture, plaster, or stucco, nor for any damage or injury arising from any act, omission or negligence or co-tenants or of other persons, occupants of the same building or of adjoining or contiguous buildings or of owners of adjacent or contiguous property, or of Landlord's agents or Landlord, all claims for any such damage or injury being hereby expressly waived by Tenants. Notwithstanding the foregoing, if any portion of the Premises unusable for the purpose contemplated hereunder for a period of greater than 5 days, the fixed minimum monthly rental will be equitably reduced in the proportion that the unusable part of the Premises bears to the whole.

SECTION 8. CASUALTY DAMAGE; REPAIRS; ABATEMENT OF RENT

A. USE OF PARTIALLY DAMAGED PREMISES: On damage or destruction by a casualty to the Premises, Tenants will continue to use them for the operation of its business to the extent practicable

B. RIGHT TO TERMINATE ON DESTRUCTION OF TWO-THIRDS OF PREMISES: Either Party will have the right to terminate this Agreement if, the Premises is damaged by a casualty to an extent exceeding two-thirds of the reconstruction cost of the Premises as a whole. If such damage occurs, this termination will be affected by written notice to the other Party, delivered within 90 days of the damage.

C. REPAIRS BY LANDLORD: If the Premises are damaged by a casualty before or after the start of the Agreement, then Landlord will immediately, on receipt of insurance proceeds paid in connection with casualty damage, but no later than sixty days after damage has occurred, proceed to repair the Property. Repairs will include any improvements made by Landlord or by Tenants with Landlord's consent, on the same plan and design as existed immediately before the damage occurred, subject to those delays reasonably attributable to governmental restrictions or failure to obtain materials, labor or other causes, whether similar or dissimilar, beyond the control of Landlord. Materials used in repair will be as nearly like original materials as reasonably procured in regular channels of supply. Wherever cause beyond the power of the party affected causes delay, the period of delay will be added to the period in this lease for completion of the work, reconstruction or replacement.

D. REDUCTION OF RENT DURING REPAIRS: If a portion of the Premises is unusable for the purpose contemplated hereunder for a period of greater than 5 days, the fixed minimum monthly rental will be equitably reduced in the proportion that the unusable part of the Premises bears to the whole. The determination of the unusable space shall be reasonably determined by the Landlord based on square footage. No rent will be payable while the Premises is wholly unoccupied pending the repair of casualty damage.

E. FIRE AND CASUALTY. If the Premises are entirely destroyed by fire or another act of God, and Landlord elects to not rebuild the Premises, then this Agreement shall be terminated effective as of the date of the casualty.

SECTION 9. REPAIRS AND MAINTENANCE

Except to the extent any of the following is Landlord's obligation pursuant to Section 4[A], Tenants shall keep the interior, non-structural portions of the Premises in a clean condition, and in good repair, all according to the statutes and ordinances in such cases made and provided, and the directions of public officers thereunto duly authorized, all at Tenants' own expense, and shall yield the same back to Landlord, upon the termination of this Agreement, whether such termination shall occur by expiration of the term, or in any other manner whatsoever, in the same condition of cleanliness and repair as at the date of the execution hereof, loss by fire and reasonable wear and tear excepted. Except to the extent any of the following is Landlord's obligation pursuant to Section 4[A], Tenant shall make all necessary repairs and renewals upon Premises and replace broken fixtures with material of the same size and quality as that broken. If, however, the Premises shall not thus be kept in good repair and in a clean condition by Tenants, as aforesaid, Landlord may enter the same, or by Landlord's agents, servants or employees, without such entering causing or constituting a termination of this Agreement or an interference with the possession of the Premises by Tenants, and Landlord may replace the same in the same condition of repair and cleanliness as existed at the date of execution hereof, and Tenants agree to pay Landlord, in addition to the rent hereby reserved, the expenses of Landlord in thus replacing the Premises in that condition. Tenants shall not cause or permit any waste, misuse or neglect of the water, or of the water, gas or electric fixtures.

Tenants shall be in substantial compliance with all laws and regulations during the entire term of this Agreement, except for repairs required of the Landlord to be made and damage occasioned by fire, hurricane or other causes as provided for in this Agreement.

SECTION 10. UTILITIES

Landlord agrees to pay before delinquency all charges for water, heat, electricity, power and other similar charges incurred by Landlord or Tenants with respect to the Premises or the Property during the Term of this Agreement and Tenants' occupancy of the Premises. Tenant is responsible for payment of gas charges and coordinating for service and payment of the account prior to the due date with the utility company.

SECTION 11. TAXES

If applicable, Tenants will pay before delinquency all taxes levied on Tenants' fixtures, equipment and personal property on the demised Premises, whether or not affixed to the real property. As of the date of this Lease, the Property is tax exempt and therefore no taxes are assessed to Landlord. However, if the Cook County changes said tax assessment, the Tenant will issue payment to reimburse the City for a tax bill

which is a portional amount of the taxes owed based on square footage of the Premises within the Property.

SECTION 12. INSURANCE

A. INSURANCE COMPANIES: It is agreed that any policies of insurance to be maintained by the respective parties will be obtained from good and solvent insurance companies. Only companies with an "A" Policyholder's Rating with the Alfred Best Company will be acceptable.

B. TENANT TO OBTAIN LIABILITY INSURANCE: Tenants agree that they will, at their expense, maintain a policy of insurance, written by responsible insurance carriers, approved by Landlord that will insure Tenants against liability for injury to or death of persons or damage to property occurring about the Premises. Landlord will be named as an additional insured. The liability under insurance will be at least \$1,000,000 million for any one person injured or killed or any one occurrence, \$2 million general aggregate coverage for any one accident, and \$100,000.00 property damage. Tenants will obtain an endorsement and Certificate of Insurance naming the Landlord as an additional insured from Tenants' carrier (during the term of the Lease, including Premises Improvement construction) and all contractors during the construction of the Premises Improvements and any other renovation or construction at the Premises. Annually, Tenant shall provide copies of the insurance policy and all endorsements thereto to Landlord. Tenant shall send the policy to the Law Department on or before January 1st of every year this Lease is in effect. If the Tenant fails to comply with this requirement, that shall constitute a default by Tenant.

C. TENANTS TO OBTAIN WORKER'S COMPENSATION INSURANCE: Tenants agree to maintain employees' Worker's Compensation insurance required under Illinois law.

D. TENANTS TO OBTAIN INSURANCE ON FIXTURES AND EQUIPMENT: The Tenants agree to maintain on all trade fixtures and personal property in the Premises, a policy of insurance approved by the Landlord of at least 90% of the insurable replacement value of all trade fixtures and personal property.

E. TENANTS' WAIVER OF CASUALTY INSURANCE PROCEEDS: If the Premises are damaged by fire or other casualty insured against, Tenants agree to claim no interest in any insurance settlement arising out of any loss where premiums are paid by Landlord, or where Landlord is named as sole beneficiary, and that it will sign all documents required by Landlord or the insurance company necessary in connection with the settlement of any loss.

F. CONTROL OF INSURANCE PROCEEDS TO AVOID TAXABLE GAIN: If the Premises, including any improvements, were to be damaged in any manner, and the receipt of any insurance proceeds or other reimbursement for such damage would result in the realization of taxable gain for federal or state purposes, then the party to whom the gain would be taxed will have the right to take all action respecting proceeds or reimbursements necessary to enable party to comply with any regulations of the

appropriate taxing authorities, so that the gain will not be recognized for tax purposes. Nothing here will be construed to entitle Landlord to delay any repairs to any part of the improvements in the event of damage.

G. TENANTS' FAILURE TO INSURE: Should Tenants fail to keep in effect and pay for insurance as required by this section, the Landlord may terminate this Lease immediately.

SECTION 13. SUBLETTING; ASSIGNMENT

Tenant cannot sublet or assign this Lease Agreement without Landlord's consent, which consent can be withheld in Landlord's sole discretion.

SECTION 14. SURRENDER OF PREMISES; HOLDING OVER

Tenants will, at the termination of this Lease, leave the Premises in as good condition as they are in at the time of entry by Tenants, except for reasonable use and wear, acts of God, or damage by casualty beyond the control of Tenants. On vacating, Tenants will leave the Premises clear of all rubbish and debris. If Tenants retain possession of the Premises or any part thereof after the termination of the term by lapse of time or otherwise, then Landlord may at its option within thirty days after termination of the term serve written notice upon Tenants that such holding over constitutes the creation of a month to month tenancy, upon the terms of this Agreement. Tenants shall also pay to Landlord all damages sustained by Landlord resulting from retention of possession by Tenants. The provisions of this paragraph shall not constitute a waiver by Landlord of any right of re-entry as hereinafter set forth; nor shall receipt of any rent or any other act in apparent affirmation of tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the covenants herein.

SECTION 15. INDEMNIFICATION AND LIENS

A. LIENS AND ENCUMBRANCES: The Tenants will hold the Landlord harmless from all claims, liens, claims of lien, demands, charges, encumbrances or litigation arising out of any work or activity of Tenants on the Premises. Tenant will, within sixty (60) days after filing of any lien, fully pay and satisfy the lien and reimburse Landlord for all resulting loss and expense, including a reasonable attorney's fees. Provided, however, in the event that Tenants contest any lien so filed in good faith and pursues an active defense of said lien, Tenants shall not be in default of this paragraph. However, in the event of any final judgment against Tenants regarding such lien, Tenants agree to pay such judgment and satisfy such lien within 60 days of the entry of any such judgment.

B. DISCHARGE OF LIEN: If Tenants fail to fully discharge any claim, lien, claim of lien, demand, charge, encumbrance, or litigation, or should proceedings be instituted for the foreclosure of any lien or encumbrance, and if judgment is rendered against Tenants either by a court of competent jurisdiction or by arbitration and Tenants still persists in non-payment of the same within the 60 days set forth above, Landlord will have the right at any time after expiration of the 60-day period, to pay the lien or

encumbrance. All amounts so paid will be repaid by the Tenants on demand, together with interest at the rate of 10 % per year from the date of payment and shall be considered additional rent owed to Landlord by Tenants.

C. INDEMNIFICATION OF LANDLORD: Except as otherwise provided in this Agreement, and except to the extent caused by the negligence or willful misconduct of Landlord, or its agents, employees or contractors, or by the breach of this Lease by Landlord, Tenants shall protect, defend, indemnify and save Landlord and its officers, directors, agents, attorneys, and employees harmless from and against any and all obligations, liabilities, costs, damages, claims and expenses of whatever nature arising from (i) any matter, condition or thing that occurs in the Premises, which is not the result of Landlord's negligence or willful misconduct, or (ii) any negligence or willful misconduct of Tenants, or their agents, employees or contractors.

D. INDEMNIFICATION OF TENANTS. Except as otherwise provided in this Agreement, and except to the extent caused by the negligence or willful misconduct of Tenants, or its agents, employees or contractors, or by the breach of this Lease by Tenants, Landlord shall protect, defend, indemnify and save Tenants and their officers, directors, agents, attorneys, and employees harmless from and against any and all obligations, liabilities, costs, damages, claims and expenses of whatever nature arising from (i) any matter, condition or thing that occurs in the Common Facilities, which is not the result of Tenants' negligence, or willful misconduct or (ii) any negligence or willful misconduct of Landlord, or its agents, employees or contractors.

SECTION 16. LANDLORD'S RIGHT OF INSPECTION AND REPAIRS

Tenants shall allow Landlord or any person authorized by Landlord reasonable access to the Premises during the Hours of Operation for the purpose of examining or exhibiting the same, or to make any repairs or alterations thereof which Landlord may see fit to make (provided that Landlord cannot make voluntary alterations or modifications to the Premises without Tenant's consent). If the Tenants do not exercise the Option to renew the Lease and/or will be vacating the Premises at or prior to the end of the Term, Tenants will also allow Landlord to have placed upon the Premises at all times notices of "For Sale" and/or "For Rent" and Tenants will not interfere with the same.

SECTION 17. DEFAULT AND REMEDIES

A. EVENT OF DEFAULT: Any one of the following events shall be deemed to be an event of default hereunder by Tenants subject to Tenants' right to cure:

1. Tenants shall fail to pay any item of Base Rent at the time and place when and where due and does not cure such failure within five (5) business days after Rent is due;
2. Tenants shall fail to maintain the insurance coverage as set forth herein;

3. Tenants shall fail to comply with any term, provision, condition or covenant of this Lease, other than the payment of rent, and shall not cure, any such failure, within fifteen (15) days after written notice to the Tenants of such failure;

4. Tenants shall make a general assignment the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy; or

B. OCCURRENCE OF AN EVENT: Upon the occurrence of any event of default, Landlord shall have the option to pursue any one or more of the following remedies subject to the laws of the State of Illinois and the Tenants' right to cure:

1. Terminate this Lease, in which event Tenants shall immediately surrender the Premises to Landlord, but if Tenants fail to do so, Landlord may, without further notice and without prejudice to any other remedy Landlord may have for possession or arrearages in rent, or damages for breach of contract, enter upon the Premises and expel or remove and with or without notice of such election or any notice or demand whatsoever, this Agreement shall thereupon terminate and upon the termination of Tenants' right of possession, as aforesaid, whether this Agreement be terminated or not, Tenants agree to surrender possession of the Premises immediately, without the receipt of any demand for rent, notice to quit or demand for possession of the Premises whatsoever and hereby grants to Landlord full and free license to enter into and upon the Premises or any part thereof, to take possession thereof with or (to the extent permitted by law) without process of law, and to expel and to remove Tenants or any other person who may be occupying the Premises or any part thereof, and Landlord may use such force in and about expelling and removing Tenants and other persons as may reasonably be necessary, and Landlord may re-possess itself of the Premises, but such entry of the Premises shall not constitute a trespass or forcible entry or detainer, nor shall it cause a forfeiture of rents due by virtue thereof, nor a waiver of any covenant, agreement or promise in this Agreement contained to be performed by Tenants. Tenants agree to indemnify Landlord for all loss and damage which Landlord may suffer by reason of such lease termination, whether through inability to re-let the Premises, or through decrease in Rent, or otherwise.

2. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedy herein provided or available to Landlord at law or in equity, or constitute a forfeiture or waiver of any Rent due hereunder or of any damages suffered by Landlord.

C. REPOSSESSION OR RELETTING NOT A TERMINATION; LANDLORD'S RIGHT TO TERMINATE NOT FORFEITED: No repossession, operation or re-letting of the Premises or of fixtures and equipment will be construed as an election by Landlord to terminate this Agreement unless a written notice is given by the Landlord to the Tenants. The Landlord may terminate this Agreement if the Tenants remain in default (beyond any applicable notice and cure period). The acceptance of rent, whether

in a single instance or repeatedly, after it falls due, or after knowledge of any breach hereof by Tenants, or the giving or making of any notice or demand, whether according to any statutory provision or not, or any act or series of acts except written waiver, shall not be construed as a waiver of Landlord's rights to act without notice or demand or of any other right hereby given Landlord, or as an election not to proceed under the provisions of this Agreement.

D. TENANTS' OBLIGATION TO PAY DEFICIENCIES: If rentals received by the Landlord from re-letting the Premises under the provisions of this section are insufficient to pay all expenses and amounts due, Tenants will pay any deficiencies to the Landlord on demand and be declared in default for failure to pay.

E. LANDLORD'S RIGHT TO PERFORM TENANTS' DUTIES AT TENANTS' COST: If in Landlord's judgment any default by Tenants will jeopardize the Premises or the rights of Landlord, Landlord may, without notice, elect to cure Tenants' default and Tenants will reimburse Landlord, with interest, on 10-days' notice by Landlord to Tenants.

F. LANDLORD'S RIGHT TO TERMINATE AGREEMENT: If there is an event of default by Tenants as stated in Paragraph A of this section, Landlord may, without further notice, terminate this Agreement and all interest of Tenants and may take possession of the Premises by legal proceedings.

G. LANDLORD'S RIGHT ON TERMINATION TO RECOVER AMOUNT EQUAL TO RENT RESERVED: If this Agreement is terminated by Landlord due to any event of default by Tenants, Landlord will be entitled to recover from Tenants, at termination, the excess, if any, of the rent reserved in this Agreement for the balance of the term over the reasonable rental value of the Premises for the same period. The "reasonable rental value" will be the amount of rental Landlord can obtain as rent for the balance of the term.

SECTION 18. REMOVAL OF OTHER LIENS

In event any lien upon Landlord's title results from any act or neglect of Tenants and Tenants fail to remove said lien within thirty (30) days after Landlord's notice to do so, Landlord may remove the lien by paying the full amount thereof or otherwise and without any investigation or contest of the validity thereof and Tenants shall pay Landlord upon request the amount paid out by Landlord in such behalf, including Landlord's costs, expenses and attorney's fees. If Tenants demonstrate to Landlord that Tenants are contesting the validity of said lien in good faith, then Landlord shall allow Tenants to so contest such lien until either Tenant either abandons such contest or a final verdict is reached in a court of competent jurisdiction. Any amount advanced on behalf of Tenants shall be paid to Landlord by Tenants within 30 days after such advancement is made together with interest at 5% per annum and such amount shall be considered additional rentals (including any overage provided in either of the two [2] immediately preceding years).

SECTION 19. REMEDIES NOT EXCLUSIVE

The obligation of Tenants to pay the rent reserved hereby during the balance of the term hereof, or during any extension hereof, shall not be deemed to be waived, released or terminated, by the service of any five-day notice, other notice to collect, demand for possession, or notice that the tenancy hereby created will be terminated on the date therein named, the institution of any action of forcible detainer or ejectment or any judgment for possession that may be rendered in such action, or any other act or acts resulting in the termination of Tenants' right to possession of the Premises. The Landlord may collect and receive any rent due from Tenants and payment or receipt thereof shall not waive or affect any such notice, demand, suit or judgment, or in any manner whatsoever waive, affect, change, modify or alter any rights or remedies which Landlord may have by virtue hereof.

SECTION 20. EXPENSES OF ENFORCEMENT

Tenants, if Landlord is the prevailing party, shall pay upon demand all Landlord's costs, charges and expenses, including attorney's fees, agents fees and fees of others retained by Landlord, incurred in enforcing any of the obligations of Tenants under this Agreement, or in any litigation, negotiation or transaction in which Landlord shall, without Landlord's fault become involved through or on account of any action or omission of Tenants regarding this Agreement.

Landlord, if Tenants are the prevailing party, shall pay upon demand all Tenants' costs, charges and expenses, incurred in enforcing any of the obligations of Landlord under this Agreement, or in any litigation, negotiation or transaction in which Tenant shall, without Tenants' fault become involved through or on account of any action or omission of Landlord regarding this Agreement.

SECTION 21. EMINENT DOMAIN

Because the building is already owned by the City of Evanston, the only Eminent Domain proceeding for the building would be due to the State of Illinois or the Federal Government. Landlord is not aware that the State or Federal Government seeking to use the land under the building for a public use.

If the Landlord becomes aware of the State having any such interest, it will immediately so notify Tenant. If there is any such taking by the State of Illinois or the Federal Government, the Landlord and Tenant will work together to determine if such taking will change the programming at the facility, in which case the parties agree to work together to determine how and if they need to make changes to this agreement. If the parties are unable to reach an agreement, then this agreement shall terminate when such material changes become effective.

SECTION 22. GOVERNMENTAL INTERFERENCE WITH POSSESSION

Tenants will not be released from its obligation should their possession of the Premises be interfered with by adoption of any law, ordinance, resolution, regulation or act of any legal or governmental authority. Further, Tenants will not be released by any

order of abatement or judgment preventing use of the premises on the ground that the Premises or the business operated there constitutes a legally recognized nuisance.

SECTION 23. PEACEFUL ENJOYMENT

Landlord covenants and warrants that it is the owner of the Property and Premises, and that Tenants, on payment of rents and performance of the conditions, covenants, and agreements to be performed by it, may enjoy the Premises without interruption or disturbance. Landlord covenants, represents and warrants that there is no mortgage, deed of trust or similar encumbrance affecting the Property, as of the date hereof.

SECTION 24. EFFECT OF WAIVER OF BREACH OF COVENANTS

No waiver of any breach of any condition of this Agreement will be construed to be a waiver of any other breach of provision, covenant or condition.

SECTION 25. AMENDMENTS TO BE IN WRITING

This Agreement may be modified or amended only in writing signed by Landlord and Tenants. It may not be amended or modified by oral agreements between the Parties unless they are in writing duly executed by Landlord and Tenants.

SECTION 26. PARTIES BOUND

Every provision of this Agreement will bind the parties and their legal representatives. The term “**legal representatives**” is used in its broadest meaning and includes, in addition to assignees, every person, partnership, corporation or association succeeding to any interest in this Agreement. Every covenant, agreement and condition of this Agreement will be binding on Tenant’s successors and assignees. Any sublease, concession or license agreement will be subject and subordinate to this Lease.

SECTION 27. NOTICES

All notices or demands that either party may need to serve under this Agreement may be served on the other party by mailing a copy by registered or certified mail to the following addresses for the parties (or at such other address as the applicable party may designate in a written notice to the other party):

If to the City:

City Manager
2100 Ridge Avenue
Evanston, IL 60201
Fax: 847-448-8083

with a copy to:

Corporation Counsel
2100 Ridge Avenue
Evanston, IL 60201
Fax: 847-448-8093

If to Tenants:

Evanston Litehosue LLC

3102 South Giles
Chicago, IL 60605
Attn: Erik Nance

Service will be deemed complete at the time of the leaving of notice or within 2 days after mailing. In the event that it appears that Tenants are avoiding the service of any notice and is not present at the Premises for a period of more than 14 consecutive days, notices may be served by posting such notice upon the Premises. Notice shall than be deemed effective 5 days after such posting.

SECTION 28. MISCELLANEOUS

A. Provisions typed on this Agreement and all riders attached to this Agreement and signed by Landlord and Tenant are hereby made a part of this Agreement.

B. Tenant shall keep and observe such reasonable rules and regulations now or hereafter required by Landlord, which may be necessary for the proper and orderly care of the building of which the Premises are a part.

C. All covenants, promises, representations and agreements herein contained shall be binding upon, apply and inure to the benefit of Landlord and Tenants and their respective heirs, legal representatives, successors and assigns.

D. The rights and remedies hereby created are cumulative and the use of one remedy shall not be taken to excuse or waive the right to the use of another.

E. This Agreement and any written and signed Amendments and/or Riders hereto shall constitute the entire agreement between the parties, and any oral representations made by one party to the other are considered merged herein.

F. In all cases where Landlord's consent is required, Landlord's consent shall not be unreasonably withheld.

G. This Agreement may be executed in multiple copies, each of which shall constitute an original.

SECTION 29. VENUE AND JURISDICTION

The Parties agree the this Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois and that venue for any disputes shall be in the Circuit Court of Cook County, Illinois.

SECTION 30. FORCE MAJEURE

Other than for Landlord's and Tenant's obligations under this Lease that can be performed by the payment of money, whenever a period of time is herein prescribed for action to be taken by either party hereto, such time period will be extended by a period

equal to the period of any delays in performance by the applicable party due to any of the following events ("**Force Majeure**"): (i) Acts of God, (ii) strike or other such labor difficulties not specific to any labor issue existing only at the Property, (iii) extraordinary weather conditions greatly exceeding norms for the greater metropolitan area where the Premises located, (iv) extraordinary scarcity of or industry-wide inability to obtain supplies, parts or employees to furnish such services, or (v) or any cause whatsoever beyond a party's control. For purposes of this Section, a cause or event shall not be deemed to be beyond a party's control, if it is within the control of such party's agents, employees or contractors.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, both of said Landlord and Tenants caused this Agreement to be executed as of the date signed by the Landlord.

Landlord:

**THE CITY OF EVANSTON,
an Illinois home rule municipal corporation**

By: _____

Date: _____, 2019

Its: City Manager, Wally Bobkiewicz

Tenant:

**LIGHTHOUSE EVANSTON, LLC
An Illinois limited liability company**

By: _____

Date: _____, 2019

Its: Manager

Print Name: _____