

## **PROPERTY MANAGEMENT AGREEMENT**

This Property Management Agreement (“Agreement”) dated as of November 9, 2022, is entered into by and between Mountain House Community Services District (“District”) and Mountain House Muslim Association, a California non-profit organization (“Manager”).

### **RECITALS**

A. District leases and maintains that certain portion of land containing approximately 62,207 square feet, including without limitation, all buildings, structures, systems, facilities, landscaping, hardscaping and fixtures, upon Lot 14, Tract 3925 (APN: 254-550-17), including the MULT1260 modular building measuring approximately 96’ x 60’ square feet commonly referred to as the Old Library located at 250 East Main Street, Mountain House (the “Building”).

B. District maintains and intends to improve the Building to serve as a multi-use community center for the public’s use for recreation, social welfare, community improvement, and public assembly servicing the Mountain House community. Manager desires to facilitate the offering and operation of this community asset as a service to the Mountain House community, as well as the improvements needed to prepare the Building for this use, through the contribution of funds for improvements and other capital costs and serving as the property manager of the facility; and

C. District desires that Manager maintain, operate, and manage the use of the Building as a public community center, subject to the terms and conditions stated in this Agreement.

D. Manager desires to accept and assume such responsibilities, in accordance with the terms and conditions of this Agreement. Additionally, Manager agrees to advance the sum of Three Hundred Thousand Dollars (\$300,000) to cover the costs of improvements to the Building, the sum of which will be recovered by Manager through income generated through the operation of the facility as further described herein.

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### **Section 1. APPOINTMENT OF MANAGER**

1.1 Appointment and Acceptance. District hereby engages Manager as its sole and exclusive property manager to operate and manage the Premises described in Section 1.2 to make the Building and Premises available to the Mountain House community as a facility for individual, business, and organization activities and events in furtherance of the District’s authority to provide recreation facilities to the public. Manager accepts the engagement and agrees to operate and manage the Building and Premises for this purpose by providing the services described herein in accordance with the terms and conditions below.

1.2 Description of Premises. The property to be managed by Manager under this Agreement consists of the Building, a MULT1260 modular building measuring approximately 96’ x 60’ square feet, and all structures, systems, facilities, surrounding landscaping and hardscaping, attached fixtures, and other improvements operating as the Old Library Building, located at 250 East Main Street, Mountain House, CA 95391. Additionally, Manager shall have the right to use the adjacent parking area for the benefit and use of visitors and patrons, and employees of Manager for the purposes authorized by this Agreement.

1.3 Term.

a. The initial term of this Agreement shall be for a period of four (4) years commencing on November 10, 2022 (the “Commencement Date”) unless this Agreement is terminated as provided in Section 7. Manager expressly acknowledges that District leases the Premises pursuant to a lease that, as of the time of execution of this Agreement, expires November 9, 2026.

b. In the event the District acquires a right to possess the Building for an additional year, or more, beyond the initial term of this Agreement, it shall provide written notice of such acquisition within sixty (60) days of the acquisition, or as soon as reasonably possible if less than sixty (60) days remain of the initial term of this Agreement. Upon receipt of such notice, Manager may elect to extend the term of this Agreement by one (1) year but no more than five (5) years by delivery of written notice to the District.

1.4 Role of District. District hereby engages Manager as property manager to operate and manage the Premises for use as a community center available for use by individuals, businesses, and organizations on a fair, equitable, and non-discriminatory basis for authorized activities. District shall retain supervision and control of the Premises and Manager as it relates to the services provided for under this Agreement.

1.5 Role of Manager. Manager agrees to serve as property manager and to operate and manage the Premises for use as a community center pursuant to the Scope of Services attached hereto as **Exhibit A**. Manager shall use the Premises during the Term for the use, operation and management of a community center available for use by individuals, businesses, and organizations on a fair, equitable, and nondiscriminatory basis for authorized activities pursuant to District policies. Manager shall not use or permit the use of the Premises for any other purpose without District’s prior written consent. Manager shall not use or permit the Premises or any portion of the Premises to be improved, developed, used or occupied in any manner or for any purpose that is in any way in violation of applicable statutes, ordinances, or regulations now or hereafter adopted by any federal, state, or county governmental entity, and shall comply with all ordinances, regulations, policies, and guidelines now or hereafter adopted and applicable to Manger’s use of the Premises.

a. *Advertising.* Manager is authorized to advertise the Premises for community center facility use, using periodicals, signs, plans, brochures, or displays, or any such other means as Manager may deem proper and advisable. Manager is authorized to place signs on the Premises provided such signs comply with applicable laws. Cost of such advertising shall be assumed by Manager.

b. *Responsibility for Employee Costs.* Manager shall be solely responsible for the payment of all wages, fringe benefits, and all other forms of compensation payable to, or for the benefit of, employees or agents of Manager and all local, state and federal taxes and assessments (including, but not limited to, Social Security taxes, Unemployment Insurance and Worker’s Compensation Insurance) incident to the employment of all such personnel, shall be the sole responsibility of Manager. Such payments shall also include all awards of back pay and overtime compensation which may be awarded to any Premises employee in any legal proceeding, or in settlement of any action or claim which has been asserted by any such employee.

c. *Applicable Laws.* Manager shall, as agent for and at the expense of District, perform the following in a manner consistent with applicable law, industry best practices, and the

standard of care generally applicable to property management companies for similar real estate Premises in the Mountain House Statistical Area:

i. Promptly after becoming actually aware of the need, notify District of actions necessary to cause the physical condition of the Premises to comply with applicable laws. District acknowledges Manager is not an expert or consultant regarding the Premises' compliance with applicable laws. Manager shall be responsible for complying with applicable law in the performance of its duties under this Agreement;

ii. Cause its employees and agents to fully comply in all material respects with applicable laws in respect of the operation of the Premises and notify District as promptly as practicable of any complaints, warnings, notices or summonses received by it relating to, alleging or asserting a breach or violation of applicable law, and notify the District as promptly as practicable if and when Manager has actual knowledge of any violation or threatened violation of applicable law;

iii. Use commercially reasonable efforts to comply promptly with all applicable laws and governmental orders or other requirements affecting the Premises, whether imposed by Federal, state, county or municipal authority; provided, that Manager shall take no such action so long as District is contesting, or has affirmed its intention to contest, any such order or requirements, within seventy-two (72) hours from the time of their receipt;

iv. Report to the District in a timely manner any significant criminal activity observed or discovered by Manager at the Premises.

d. *Cost of Operation and Performance.* All purchases and other obligations incurred in connection with the operation of the Premises and the performance of this Agreement shall be the sole cost and expense of Manager and subject only to the reimbursement payment described in Section 6.2.

**Section 2. FACILITY USE**

2.1 Manager's Authority to Operate Facility. Manager shall use its best efforts to keep the Premises in use by procuring visitors or patrons for use of the Premises consistent with the District's Community Rooms Use and Reservation Policies and Guidelines, including, but not limited to, the reservation process, community rooms use permit conditions, and general regulations stated therein. It is acknowledged that there is no guarantee relating to performance by Manager. Manager is authorized to negotiate, prepare and execute all facility use agreements and to cancel and modify existing agreements subject to and in accordance with the District's Community Rooms Use and Reservation Policies, as the same may be updated from time to time by District. Manager shall execute all facility use agreements as agent for the District.

2.2 Facility Use Rates. Manager shall use only the then-current facility use schedule established by the District in the performance of this Agreement. In no event will such facility use fees and other fees or charges be exceeded or changed by Manager without the prior consent of District.

2.4 Standard of Performance. Manager shall use its best efforts in all activities contemplated by this Agreement in the management of the Premises including but not limited to facility use, financial goals, maintenance, general operations, and other obligations established herein. Manager shall utilize its best efforts to carry out the intended use for the Premises.

2.5 Management Office. Manager, subject to written approval by District, may establish a space on the Premises for ongoing use as a management office and exclusively for the use of Manager to conduct the business of the management of the Premises.

2.6 District Use of Facilities. The District shall be entitled to up to one hundred and fifty (150) hours of use of the Premises annually beginning on the Commencement Date of this and every anniversary thereafter in accordance with District policies, except those pertaining to the payment of fees for facility use, and applicable laws. To exercise its right under this section, District shall reserve the Premises using the reservation system and procedures applicable to all other users and shall be responsible for compliance with all requirements except facility use payment.

### **Section 3. OPERATIONS, MAINTENANCE AND REPAIR**

3.1 Building Compliance. Manager shall use commercially reasonable efforts to maintain compliance of the Premises or any building thereon or any equipment therein with the requirements of any building codes or with any statute, ordinance, law or regulation of any governmental body or of any public authority or official thereof having jurisdiction, and shall promptly notify District of any non-compliance of which it becomes aware and forward to District promptly any complaints, warnings, notices or summons received by Manager relating to such matters. District authorizes Manager to disclose the management of the Premises to any such officials, and agrees to indemnify and hold Manager its representative, servants, and employees harmless of and from all loss, cost, expense and liability whatsoever which may be imposed by reason of any present or future violation or alleged violation of such laws, ordinances, statutes or regulations; provided, indemnity shall be subject to Section 5 and shall not be applicable if Manager has actual knowledge of any such violation or alleged violation but fails to give notice to District, as provided under the terms and provisions of this Agreement.

3.2 Performance of Minor Repairs. Manager is authorized to make or cause to be made, through Premises Staff, Manager's employees, or through contracted services, all ordinary repairs and replacements reasonably necessary to preserve the Premises in its present condition and for the operating efficiency of the Premises, and all alterations required to comply with governmental regulations or insurance requirements. In the event the cost of repair or replacement equals one thousand dollars (\$1,000) or less, Manager is authorized to make or cause to be made, such repair or replacement without prior approval from District and shall be reimbursed for such costs in full. In the event the cost of repair or replacement equals more than one thousand dollars (\$1,000) but less than ten thousand dollars (\$10,000), Manager shall obtain prior written consent from District to perform such repair and shall only be reimbursed for such costs with prior written consent. Reimbursement for repair or replacement of more than one thousand dollars (\$1,000) incurred without prior approval shall be at the sole discretion of the District. Repair and replacement work may not be unreasonably split to avoid obtaining District approval. The District may provide guidelines on what constitutes "ordinary repairs and replacements reasonably necessary to preserve the Premises in its present condition and for the operating efficiency of the Premises" eligible for reimbursement.

Manager is also authorized to decorate the Premises and the community rooms, on District's behalf, all equipment, tools, appliances, materials, supplies, uniforms and other items necessary for the management, maintenance or operation of the Premises.

3.3 Major Repairs. In the event a repair or replacement in of ten thousand dollars (\$10,000) or more is necessary for the continued operation of the Premises, Manager shall notify the District of the need of such repairs and/or replacement. District shall be entitled to determine, in its sole discretion, the appropriate course of action. Manager shall notify District of Major Repairs necessary to protect the

safety of the Premises or occupants within twenty-four (24) hours of discovery that such Major Repair is necessary.

3.4 Utilities and Services. At its sole cost and expense and subject only to the reimbursement payment described in Section 6.2, Manager shall pay for all water, gas, heat, electricity, telephone, internet, and power which during the Term of this Agreement, may be furnished to or used on the Premises, and hold District free and harmless from all charges for the furnishing of gas, light, water, electricity, power, telephone service, and any other public utilities to the Premises during the Term of this Agreement. Manager shall coordinate with District to determine the manner in which janitorial services shall be provided to the Premises and for the removal of garbage and rubbish from the Premises during the term of this Agreement. The costs for janitorial and trash removal services shall be borne by the District.

3.5 Structural Changes. District expressly withholds from Manager any power or authority to make any structural changes in any building, or to make any other major alterations or additions in or to any such building or to any equipment in any such building, or to incur any expense chargeable to District other than expenses related to exercising the express powers vested in Manager through this Agreement, without the prior written consent of District. However, such emergency repairs as may be required because of danger to life or property, or which are immediately necessary for the preservation and safety of the Premises or the safety of the visitors, patrons and occupants thereof, or required to avoid the suspension of any necessary service to the Premises, or to comply with any applicable federal state or local laws, regulations or ordinances, shall be authorized pursuant to this Agreement, and Manager shall notify District appropriately.

**Section 4. RELATIONSHIP OF MANAGER TO DISTRICT; NO ASSIGNMENTS**

Manager is engaged independently in the business of property management and acts hereunder as an independent contractor. Manager acknowledges that it shall have a fiduciary responsibility for the safekeeping and good faith use of all funds and assets of the District, whether or not in the Manager's immediate possession or control. Nothing contained in this Agreement shall be construed as creating a partnership, joint venture, or any other relationship between the parties to this Agreement, or as requiring Manager to bear any portion of losses arising out of or connected with the management or operation of the Premises. Manager shall not, at any time during the term of this Agreement, be considered to be a direct or indirect employee of District. Except as provided herein, neither party shall have the power to bind or obligate the other party, and Manager shall not have any rights, duties, powers or obligations except those expressly set forth in this agreement. Except as specifically set forth in this Agreement, Manager shall not act as the agent of District; and, except as provided in this Agreement, District shall not act as the principal of Manager.

**Section 5. INSURANCE AND INDEMNITY**

5.1 Manager's Insurance. Manager, at its sole cost and expense, shall provide and maintain in effect the insurance described in **Exhibit B**. Evidence of that insurance must be delivered to District prior to the Commencement Date.

5.2 Indemnification by Manager. Subject to Section 0 below, Manager shall defend, indemnify and hold harmless District, its agents, lenders, and any and all affiliates of District, from and against any and all claims, suits, liabilities, damages, costs or expenses ("Loss") arising either before or after the Commencement Date from (i) Manager's grossly negligent, reckless, or wrongful use or occupancy of the Premises, (ii) from the negligent, reckless, or wrongful conduct of its business, or from any grossly negligent, reckless, or wrongful activity, work, or thing done, permitted or suffered by Manager or its agents, employees, sub managers, vendors, contractors, invitees or licensees in or about the Premises,

(iii) from any Default in the performance of any obligation on Manager's part to be performed under this Agreement, or (v) from any grossly negligent, reckless, or wrongful act of Manager or its agents, employees, sub managers, vendors, contractors, invitees or licensees. District may, at its option, require Manager to assume District's defense in any action covered by this Section 5 through counsel reasonably satisfactory to District. Notwithstanding the foregoing, Manager shall not be obligated to indemnify District against any liability or expense to the extent it is ultimately determined that the same was caused by the District, its agents, contractors or employees.

5.3 Nonliability of District. District shall not be liable to Manager, its employees, agents and invitees, and Manager hereby waives all claims against District, its employees and agents for loss of or damage to any property, or any injury to any person, resulting from any condition including, but not limited to, acts or omissions (criminal or otherwise) of third parties and/or other Managers of the Premises, or their agents, employees or invitees, fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak or flow from or into any part of the Premises or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning, electrical works or other fixtures in the Premises, whether the damage or injury results from conditions arising in the Premises or in other portions of the land, except where caused by the negligence of District, its agents, or any and all affiliates of District in connection with the foregoing. Notwithstanding anything to the contrary contained in this Agreement, in no event shall District be liable for Manager's loss or interruption of business or income (including without limitation, Manager's consequential damages, lost profits or opportunity costs), or for interference with light or other similar intangible interests.

5.4 Waiver of Subrogation. District and Manager each hereby waives all rights of recovery against the other on account of loss and damage occasioned to the property or Premises of such waiving party to the extent that the waiving party is entitled to proceeds for such loss and damage under any property insurance policies carried or otherwise required to be carried by this Agreement; provided however, that the foregoing waiver shall not apply to the extent of Manager's obligation to pay deductibles under any such policies and this Agreement.

5.5 No Assumption of Liability By Manager. District acknowledges and agrees that, except as expressly provided for herein, Manager is not assuming and shall bear no liability with respect to any responsibilities and/or liabilities of the District, whether to the others, to any third parties, or otherwise. Manager assumes no liability for: (1) any failure of or default by any facility user in the payment of any facility use fee or other charges due District or in the performance of any obligations owed by any community member or patron to District pursuant to any facility use agreement or otherwise unless caused by gross negligence or willful misconduct of Manager; 2) any claims arising out of the condition of the premises, or (3) the District's conduct of its business, or from any activity, work, or thing done, permitted or conducted by District or its agents or employees in or about the Premises, except to the extent such Loss is caused by the gross negligence, willful misconduct, or bad faith of Manager. Manager assumes no liability for previously unknown violations occurring prior to the effective date of this Agreement of environmental, fair housing, zoning, building, or other regulations which may become known during the period this Agreement is in effect. Any such violations or hazards discovered by Manager shall be brought to the attention of District in writing and District shall be responsible for such violations or hazards.

## **Section 6. REIMBURSEMENT; COMPENSATION**

6.1 Effective Gross Income. The term Effective Gross Income shall be deemed to include all facility use fees and other income, fees and charges from the normal operation of the Premises pursuant to this Agreement, including, but not limited to, rents, parking fees, utility reimbursements, forfeited security deposits, other fees and deposits, and other miscellaneous income, to the extent such fees or income sources are authorized by this Agreement and District policies. Effective Gross Income does not

include income arising out of the sale of real property or the settlement of fire or other casualty losses and items of a similar nature, or any fee or income source not authorized by this Agreement and District policies.

6.2 Improvement Advance; Reimbursement.

a. *Improvement Advance.* To facilitate certain improvements and other capital costs related to the Premises, Manager hereby agrees to pay District Three Hundred Thousand Dollars (\$300,000) as advance partial payment for intended improvements of, and other capital costs related to, the Building and Premises (“Improvement Advance”).

b. *Reimbursement of Improvement Advance.* To the extent Effective Gross Income is received, Manager shall be entitled to reimbursement of the Improvement Advance as described herein. Reimbursement payments shall be paid monthly and calculated based on the Effective Gross Income received during the prior calendar month unless the parties agree in writing to a different payment schedule.

c. *Reimbursement of Operating Expenses.* To the extent Effective Gross Income is received, Manager shall be entitled to reimbursement of expenses incurred under Section 3 of this agreement. Reimbursement payments shall be paid monthly and calculated based on the Effective Gross Income received during the prior calendar month unless the parties agree in writing to a different calculation and payment schedule.

d. *Reimbursement Payments.* The District shall pay Manager an amount equal to one hundred percent (100%) of the Effective Gross Income received, calculated on a monthly basis and paid within thirty (30) days of the end of the applicable monthly period, as reimbursement of the Improvement Advance. After the amount of the Improvement Advance has been fully reimbursed, Manager shall not be entitled to any further reimbursement except as otherwise expressly provided by this Agreement.

6.3 Compensation.

a. *Share of Effective Gross Income.* As full consideration for services provided pursuant to this Agreement, and only after Manager has been fully reimbursed for the amount of the Improvement Advance pursuant to Section 6, Manager shall be entitled to thirty-five percent (35%) of Effective Gross Income, calculated on a monthly basis and paid within thirty (30) days of the end of the applicable monthly period.

b. *Use of Premises.* In further consideration of the services provided pursuant to this Agreement, Manager shall be entitled to up to three hundred and fifty (350) hours of use of the Premises annually beginning on the Commencement Date of this and every anniversary thereafter in accordance with District policies, except those pertaining to the payment of fees for facility use, and applicable laws. To exercise its right under this section, Manager shall reserve the Premises using the reservation system and procedures applicable to all other users and shall be responsible for compliance with all requirements except facility use payment.

**Section 7. TERMINATION**

7.1 By Either Party. This Agreement may be terminated by either District or Manager, with or without cause, by giving not less than sixty (60) days advanced written notice to the other party.

7.2 For Cause. Notwithstanding the foregoing, this Agreement shall terminate in any event, and all obligations of the parties hereunder shall cease (except as to liabilities or obligations which

have accrued or arisen prior to such termination, or which accrue pursuant to this Section as a result of such termination, and obligations to insure and indemnify), upon the occurrence of any of the following events:

a. *Breach of Agreement.* Ten (10) days after the receipt of notice by either party to the other specifying in detail a material breach of this Agreement, if such breach has not been cured within said ten (10) day period; or if such breach is of a nature that it cannot be cured within said ten (10) day period but can be cured within a reasonable time thereafter, if efforts to cure such breach has not commenced and/or such efforts are not proceeding and being continued diligently both during and after such ten (10) day period prior to the breach being cured. However, the breach of any obligation of either party hereunder to pay any moneys to the other party under the terms of this Agreement shall be deemed to be curable within ten (10) days.

b. *Excessive Damage.* Upon the destruction of or substantial damage to the Premises by any cause, or the taking of all or a substantial portion of the Premises by eminent domain, in either case making it impossible or impracticable to continue operation of the Premises.

c. *Sale of Premises.* In the event of the sale of the Premises, this Agreement shall terminate upon the giving of not less than thirty (30) days written notice by District to Manager.

d. *Default.* Each of the following events shall constitute an event of default by the party in respect of which such even occurs:

i. the failure of either party to pay any amounts required to be paid by it hereunder or to perform any of its obligations hereunder for a period of ten (10) days after the date on which notice of the failure has been given to the defaulting party by the other party;

ii. the filing of a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy or similar creditor relief law;

iii. the consent to an involuntary petition in bankruptcy or the failure by such party to vacate, within sixty (60) days from the date of entry thereof, any order approving an involuntary petition;

iv. the entering of an order, judgment or decree by any court of competent jurisdiction, on the application of a creditor, adjudicating such party as bankrupt or involvement or approving a petition seeking reorganization or appointing a receiver, trustee, conservator or liquidator of all or a substantial part of such party's assets, if such order, judgment or decree shall continue unstayed and in effect for a period of one hundred twenty (120) consecutive days;

v. the failure to fulfill any of the other covenants, undertakings, obligations or conditions set forth in this Agreement and the continuance of any such default for a period of ten (10) days after written notice of said failure; and

vi. theft, fraud, or other knowing or intentional misconduct by Manager or its employees or agents or District or its employees, Landlords, agents or assigns.

7.3 Compensation Upon Termination. Any amounts accruing to Manager pursuant to Section 6 prior to such termination shall be due and payable upon termination of this Agreement.



a. *With Cause.*

i. *By District.* In the event the District terminates this Agreement for cause pursuant to subdivisions (a) or (d) of Section 7.2, the District shall pay the remaining balance of the unreimbursed Improvement Advance to Manager less the greater of (1) an amount equal to the estimated costs incurred by the District as a result of the acts or omissions of Manager constituting cause pursuant to subdivisions (a) or (d) of Section 7.2, or (2) as liquidated damages, an amount equal to ten percent (10%) of the amount of the Improvement Advance that has not been reimbursed as of the date the District delivers notice of termination for cause. Such payment shall be made within ninety (90) days of the effective date of the termination.

ii. *By Manager.* In the event Manager terminates this Agreement for cause pursuant to subdivisions (a) or (d) of Section 7.2, the District shall pay the remaining balance of the unreimbursed Improvement Advance to Manager. In addition to the foregoing, the District shall pay Manager liquidated damages in an amount equal to ten percent (10%) of the amount of the Improvement Advance that has not been reimbursed as of the date the Manager delivers notice of termination for cause. Such payments shall be made within sixty (60) days of the effective date of the termination.

b. *Without Cause.*

i. *By District.* In the event the District terminates this Agreement without cause, the District shall pay the remaining balance of the unreimbursed Improvement Advance to Manager. In addition to the foregoing, the District shall pay Manager liquidated damages in an amount equal to five percent (5%) of the amount of the Improvement Advance that has not been reimbursed as of the date the District delivers notice of termination without cause. Such payments shall be made within sixty (60) days of the effective date of the termination.

ii. *By Manager.* In the event Manager terminates this Agreement without cause, the District shall pay the remaining balance of the unreimbursed Improvement Advance to Manager less an amount equal to five percent (5%) of the amount of the Improvement Advance that has not been reimbursed as of the date Manager delivers notice of termination without cause as liquidated damages. Such payment shall be made within sixty (60) days of the effective date of the termination without cause.

c. *Liquidated Damages.* The parties agree that quantifying losses arising from the early termination of this Agreement is inherently difficult insofar as early termination impacts the repayment plan of the Improvement Advance, and further stipulate that the agreed upon sum is not a penalty, but rather a reasonable measure of damages, based upon the parties' experience and given the nature of the losses that may result from early termination. Liquidated Damages recoverable under this Section 7.3 (a) shall not constitute a waiver of any other damages or remedies arising out of the breach of the terms of this Agreement available under law.

7.4 Final Accounting. All books, records, contracts, leases, facility use agreements, receipts for deposits, unpaid bills, computer data, and other papers and documents which pertain to the Premises are deemed to be the property of the District, they are to be delivered to District, upon the effective date of such termination.

7.5 Personal Property. Upon termination of this Agreement, Manager shall promptly deliver to District all keys to the Premises and all other items of personal property owned by District and in Manager's possession, and vacate any space in the Premises except as occupied under separate lease with District.

**Section 8. REPRESENTATIONS; WARRANTIES**

8.1 By District. District represents and warrants as follows: (a) District has the full power and authority to enter into this Agreement, and the person executing this Agreement is authorized to do so; (b) all permits for the operation of the Premises has been secured and are current; and (c) District is not aware of any violation of any building or construction statute, ordinance, or regulation that will affect the operation of the Premises.

8.2 By Manager. Manager represents and warrants as follows: (a) the officers of Manager have the full power and authority to enter into this Agreement; (b) there are not written or oral agreements by Manager that will be breached by, or agreements in conflict with, Manager's performance under this Agreement; and (c) where necessary, Manager will be duly licensed and able to perform all of the duties under this Agreement at the effective date of this Agreement and shall comply with and abide by all laws, rules, regulations, and ordinances pertaining thereto; provided, however, that District's damages relating to a breach of these representations and warranties shall be limited to actual damages.

**Section 9. ADDITIONAL TERMS AND CONDITIONS**

9.1 Headings. All headings and subheadings employed within this Agreement are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

9.2 No Assignment. Manager agrees not to assign, sublease, or otherwise transfer the Agreement or any right, interest, or privilege connected therewith, including but not limited any lease or sub-lease of the Premises, without first obtaining District's written consent. Any such assignment or subletting without such consent shall be void, and shall be deemed a material breach of this Agreement.

9.3 Force Majeure. Any delays in the performance of any obligation of Manager under this Agreement shall be excused to the extent that such delays are caused by wars, national emergencies, natural disasters, strikes, labor disputes, utility failures, governmental regulations, riots, adverse weather, and other similar causes not within the control of Manager, and any time periods required for performance shall be extended accordingly.

9.4 Complete Agreement. This Agreement, including any specified attachments, constitutes the entire Agreement between District and Manager with respect to the management and operation of the Premises and supersedes and replaces any and all previous management agreements entered into and/or negotiated between District and Manager relating to the Premises covered by this Agreement. No change to this Agreement shall be valid unless made by supplemental written agreement executed and approved by District and Manager. Except as otherwise provided herein, any and all amendments, additions or deletions to this Agreement shall be null and void unless approved by District and Manager in writing. Each party to this Agreement hereby acknowledges and agrees that the other party has made no warranties, representations, covenants or agreements, express or implied, to such party, other than those expressly set forth herein, and that each party, entering into and executing this Agreement has relied upon no warranties, representations, covenants or agreements, express or implied, to such party, other than those expressly set forth herein, or as set forth in an exhibit or appendix to this Agreement.

9.5 Rights Cumulative; No Waiver. No right or remedy herein conferred upon or reserved to either of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of either party to this Agreement to insist at any time upon the strict observance

or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties to it may be exercised from time to time and as often as may be deemed expedient by those parties.

9.6 Governing Law; Attorneys Fees. The execution, interpretation and performance of this Agreement shall in all respects be controlled and governed by the laws of the State of California without reference to its principles of conflict of law to the extent such principles would require or permit the application of the laws of another jurisdiction. In the event that either party shall bring an action to enforce or to interpret the terms and provisions of this Agreement, the prevailing party in such action shall be entitled to receive court costs and the reasonable fees and expenses of attorneys and certified public accountants. The parties hereby agree, knowingly and voluntarily, for their mutual benefit, to the fullest extent permitted by law, to waive the right to trial by jury in the event of litigation regarding the performance, enforcement of, or in any way related to, this Agreement. All proceedings arising out of this Agreement shall be filed and maintained in the Superior Court of California, County of San Joaquin. The provisions of this Section 18.2 shall survive the expiration or earlier termination of this Agreement.

9.7 Notices. Any notices, demands, consents and reports necessary or provided for under this Agreement shall be in writing and shall be addressed as follows, or at such other address as District and Manager individually may specify hereafter in writing:

*To Manager:*

Mountain House Muslim Association  
Attn: Umar Sear  
795 Adam Street  
Mountain House, CA 95391  
Telephone: (408) 722-1043

*To District:*

Mountain House Community Services District  
Attn: General Manager  
251 East Main Street  
Mountain House, CA 95391  
Telephone: (209) 831-2300

Such notice or other communication may be mailed by United States registered or certified mail, return receipt requested, postage prepaid, and may be deposited in a United States Post Office or a depository for the receipt of mail regularly maintained by the post office. Such notices, demands, consents and reports may also be delivered by hand or by any other receipted method or means permitted by law. For purposes of this Agreement, notices shall be deemed to have been "given" or "delivered" upon personal delivery thereof or forty-eight (48) hours after having been deposited in the United States mails as provided herein.

9.8 Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective personal representatives, heirs, Landlords, executors, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed and caused to be affixed their respective signatures as of the day and year first written above.

MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT

DocuSigned by:  
By: Steve Pinkerton  
4DAD8C075F124D8...

Name/Title: Steven J. Pinkerton  
General Manager

Date: 11/17/2022

MOUNTAIN HOUSE MUSLIM ASSOCIATION

DocuSigned by:  
By: Umar Sear  
852540F048A446B...

Name/Title: Umar Sear  
President

Date: 11/17/2022

## **EXHIBIT A**

### **SCOPE OF SERVICES**

For the purpose of fulfilling the common objectives of making the Premises available and affordable to the Mountain House Community, on a fair, equitable and non-discriminatory basis, Manager agrees to:

1. Use diligence in the performance of this Agreement.
2. Ensure all applicable licenses and permits for the management of the Premises are current, in coordination with District.
3. Use, manage and operate the Premises in accordance with the policies set forth in the District's Community Rooms Use and Reservation Policies and Guidelines, including, but not limited to, the reservation process, community rooms use permit conditions, and general regulations stated therein.
4. Coordinate with District the collection of all fees, security deposits or other charges and expenses due for use of the Premises, applying discounted rates for residents and non-profit organizations.
5. Prepare and place advertisements for prospective use of the Community Center.
6. Confirm, and monitor compliance with, facility use agreements with citizens.
7. Coordinate with District for provision of utilities, services and equipment to operate and maintain the property and safeguard visitors, patrons and community members.
8. Contract for any repairs, maintenance or improvements needed to maintain the property, as permitted by the Agreement.

## **EXHIBIT B**

### INSURANCE REQUIREMENTS

The following requirements for Manager's insurance shall be in effect during the Term. District reserves the right to adopt reasonable nondiscriminatory modifications and additions to these requirements.

1. Manager shall maintain, at its sole cost and expense, during the entire Term: (i) commercial general liability insurance with respect to the Premises and the operations of Manager in, on or about the Premises, including but not limited to coverage for personal injury, contractual liability, independent contractors, broad form property damage, fire legal liability, products liability (if a product is manufactured within or sold from the Premises), and liquor law liability (if alcoholic beverages are sold, served or consumed within the Premises), which policy(ies) shall be written on an "occurrence" basis and for not less than \$2,000,000 combined single limit per occurrence for bodily injury, death, and property damage liability; (ii) workers' compensation insurance coverage as required by law, together with employers' liability insurance coverage of at least \$1,000,000 each accident and each disease; (iii) with respect to Alterations constructed by Manager under this Agreement, builder's risk insurance, in an amount equal to the replacement cost of the work; and (iv) insurance against fire, vandalism, malicious mischief and such other additional perils as may be included in a standard "special form" policy, insuring all Alterations, trade fixtures, furnishings, equipment and items of personal property in the Premises, in an amount equal to not less than 90% of their replacement cost (with replacement cost endorsement), which policy shall also include business interruption coverage in an amount sufficient to cover 1 year of loss. In no event shall the limits of any policy be considered as limiting the liability of Manager under this Agreement.
2. All policies of insurance required to be carried by Manager pursuant to this **Exhibit B** shall be written by insurance companies authorized to do business in the State of California and with a general policyholder rating of not less than "A-" and financial rating of not less than "VIII" in the most current Best's Insurance Report. The deductible or other retained limit under any policy carried by Manager shall be commercially reasonable, and Manager shall be responsible for payment of such deductible or retained limit with waiver of subrogation in favor of District. Any insurance required of Manager may be furnished by Manager under any blanket policy carried by it or under a separate policy. A certificate of insurance, certifying that the policy has been issued, provides the coverage required by this Exhibit and contains the required provisions, together with endorsements acceptable to District evidencing the waiver of subrogation and additional insured provisions required below, shall be delivered to District prior to the date Manager is given the right of possession of the Premises. Proper evidence of the renewal of any insurance coverage shall also be delivered to District not less than thirty (30) days prior to the expiration of the coverage. In the event of a loss covered by any policy under which District is an additional insured, District shall be entitled to review a copy of such policy.
3. Manager's commercial general liability insurance shall contain a provision that the policy shall be primary to any policies carried by District, together with a provision including District and any other parties in interest designated by District as additional insureds. Manager's policies described in Subsections 1 (ii), (iii) and (iv) above shall each contain a waiver by the insurer of any right to subrogation against District, its agents, employees, contractors and representatives. Manager also waives its right of recovery for any deductible or retained limit under same policies enumerated above. All of Manager's policies shall contain a provision that the insurer will not cancel or change the coverage provided by the policy without first giving District thirty (30) days prior written notice. Manager shall also name District as an additional insured on any excess or umbrella liability insurance policy carried by Manager.