

1 RESOLUTION NO. _____

2
3 A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO
4 EXECUTE A LEASE AGREEMENT, AND AN ESTOPPEL AND CONSENT
5 TO LEASE, OF PROPERTY AT THE ARKANSAS ARTS CENTER
6 LOCATED IN MacARTHUR PARK; AND FOR OTHER PURPOSES.

7
8 WHEREAS, the City of Little Rock, Arkansas (“the City”), as the owner of the real property entered
9 into a formal Maintenance Agreement with the Arkansas Arts Center (“AAC”), to provide maintenance
10 monies to the AAC facilities in Little Rock, Ark., Resolution No. 14,234 (November 3, 2015); and,

11 WHEREAS, pursuant to Little Rock, Ark., Ordinance No. 21,564 (March 20, 2018), the City
12 authorized the issuance of bonds secured by an Advertising and Promotion Tax to, among other things, pay
13 for improvements to the AAC in addition to any other monies that may be contributed; and,

14 WHEREAS, as the instruction of improvements and rehabilitation of the AAC is underway, and it has
15 become possible through a lease agreement to Blossomoutreach22, Inc., to obtain additional funding for
16 the improvements and rehabilitation; and,

17 WHEREAS, as part of the process of this additional funding the City, through the Mayor and City
18 Clerk, need to execute a Lease Agreement and an Estoppel and Consent to Lease, attached as Exhibits A
19 and B to this resolution; and,

20 WHEREAS, pursuant to Arkansas State Law, the Board of Directors of the City must authorize the
21 election of any such lease.

22 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY
23 OF LITTLE ROCK, ARKANSAS:

24 Section 1. The Mayor, and City Clerk, are authorized to execute a lease agreement attached as Exhibit
25 A to this resolution between the City, AAC and Blossomoutreach22, Inc., an Arkansas corporation, as set
26 forth in Exhibit A to this resolution; further, the Mayor and City Clerk are authorized to execute a certain
27 Estoppel and Consent to Lease, as set forth in Exhibit B to this resolution, to accommodate the receipt of
28 additional funds for improvements and renovation of the AAC.

29 Section 2. *Severability.* In the event any title, section, paragraph, item, sentence, clause, phrase, or
30 word of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or
31 adjudication shall not affect the remaining portions of the resolution which shall remain in full force and
32 effect as if the portion so declared or adjudged invalid or unconstitutional were not originally a part of the
33 resolution.

34 Section 3. *Repealer.* All laws, ordinances, resolutions, or parts of the same, that are inconsistent with
35 the provisions of this resolution, are hereby repealed to the extent of such inconsistency.

36 ADOPTED: January 19, 2021

1 **ATTEST:**

APPROVED:

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4 _____
Susan Langley, City Clerk

Frank Scott, Jr., Mayor

5 **APPROVED AS TO LEGAL FORM:**

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Thomas M. Carpenter, City Attorney

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1 **Exhibit A**

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3 **LEASE AGREEMENT**

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5 This Lease Agreement is made and entered into to be effective as of January 21, 2021, by and
6 between the Arkansas Arts Center, an agency of the City of Little Rock, Arkansas, and
7 Blossomoutreach22, Inc., an Arkansas non-profit corporation.

8 ***RECITALS:***

9 **WHEREAS**, the City of Little Rock, Arkansas (City), is the owner of that certain tract of real
10 property situated in the City of Little Rock, Pulaski County, Arkansas, commonly known as MacArthur
11 Park, and formerly known as the Little Rock City Park; and,

12 **WHEREAS**, in Little Rock, Arkansas, Ordinance No. 5,235 (May 6, 1935), the City authorized
13 the construction of a Museum of Fine Arts (Museum Building), and established a Board of Trustees to
14 oversee this museum which was to be located within MacArthur Park; and,

15 **WHEREAS**, Ordinance No. 5,235 stipulated that the museum building would be constructed at no
16 cost to the City, but upon its completion, title to the Museum Building would revert to the City which
17 would also assume the Museum Building; and,

18 **WHEREAS**, the City subsequently passed Ordinance No. 10,576 (July 8, 1957), which authorized
19 the Arkansas Arts Center (AAC) Board of Trustees to raise funds and establish an endowment to extend
20 the Museum Building, equip such added premises, and occupy such additional areas of the Property, as
21 necessary; and,

22 **WHEREAS**, Ordinance No. 10,576 also stipulated that any additions would be at no cost to the
23 City, even though the City would still have a maintenance responsibility as set forth in Ordinance No.
24 5,235; and,

25 **WHEREAS**, the City later passed Ordinance No. 11,111 (September 6, 1960), and changed the
26 name of the Museum of Fine Arts to the Arkansas Arts Center and granted the AAC Board of Trustees
27 additional authority to plan, design, construct and equip further additions and modifications to the
28 Museum Building, as well as occupy such additional areas adjoining the Museum Building as needed
29 to accommodate such additions; and,

30 **WHEREAS**, Ordinance No. 11,111 also repealed Ordinance No. 5,235 and Ordinance No. 10,576,
31 provided that any additions and modifications would be completed at no cost to the City; and,

32 **WHEREAS**, pursuant to City Resolution No. 9,280 (November 23, 1994), the City affirmed its
33 commitment to expansion efforts of AAC; and,

34 **WHEREAS**, rather than providing city employees or contractors, the City has historically
35 appropriated and paid annual sums to AAC to be applied to offset the cost of maintaining the Museum
36 Building pursuant to the above-referenced ordinances and agreements; and,

1 **WHEREAS**, the funds appropriated and paid by the City to AAC for maintenance of the Museum
2 Building have varied greatly through the years, and the cost of maintaining the Museum Building has
3 continued to increase as the Museum Building was expanded and has aged; and,

4 **WHEREAS**, on November 3, 2015, Resolution No. 14,234 of the City was passed to authorize a
5 Maintenance Agreement between the City, AAC, and The Arkansas Arts Center Foundation (the
6 Foundation), the owner of the art collection exhibited within the Museum Building to set forth the
7 maintenance obligations of the City as to the Museum Building and grounds associated therewith, all
8 as set forth therein; and,

9 **WHEREAS**, by the express language of Resolution No. 14,234, all laws, ordinances, resolutions,
10 and parts of the same that were inconsistent with the provisions of Resolution No. 14,234 were repealed
11 to the extent of such inconsistency, particularly those provisions of Ordinance No. 5,235, Ordinance
12 No. 10,576 and Ordinance No. 11,111, that set out any provisions as to the responsibilities of the City
13 for the maintenance of the Museum Building and grounds associated therewith; and,

14 **WHEREAS**, on March 31, 2016, the Board of Directors of the Foundation authorized entering into
15 a Maintenance Agreement with respect to the Museum Building and grounds associated therewith; and,

16 **WHEREAS**, on November 9, 2016, the AAC Board of Trustees authorized entering into a
17 Maintenance Agreement with respect to the Museum Building and the grounds associated therewith;
18 and,

19 **WHEREAS**, the City, AAC and the Foundation have previously entered into a Maintenance
20 Agreement with respect to the Museum Building and the grounds associated therewith; and,

21 **WHEREAS**, on November 5, 2018, AAC, the City, and the Foundation entered into that certain
22 Construction Contribution Agreement with respect to the contribution of sums to cover costs and
23 expenses of the renovation and expansion construction of the Museum Building; and,

24 **WHEREAS**, the Museum Building and the grounds associated therewith are currently undergoing
25 substantial renovations and expansion construction; and,

26 **WHEREAS**, Blossomoutreach22, Inc., (Lessee), is an Arkansas non-profit corporation designated
27 as a supporting organization of AAC; and,

28 **WHEREAS**, Lessee desires to support AAC by leasing from AAC certain designated spaces of the
29 Museum Building commonly known as the restaurant and catering kitchen spaces (8,637 square-feet),
30 theater and lecture hall spaces (23,792 square-feet), art school space (19,954 square-feet) and glass box
31 space (2,910 square-feet), all as more particularly shown on Exhibit A attached hereto and incorporated
32 herein by this reference (collectively, the “Premises”), and to assume all obligations associated with
33 completing the ongoing acquisition, assembly, and installation of certain furniture, fixtures, equipment,
34 and improvements at the Premises to cause the Premises to be in a complete state of readiness and
35 occupancy to be operational for their intended purposes, and to relet the completed Premises to AAC
36 to allow AAC, or its lessees or designees, to operate the Premises for their intended purposes
37 (collectively, the “Project”); and,

1 schedules and addenda thereto, and furthermore together with that certain Joinder to Construction
2 Agreement dated as of the date hereof, between AAC, Contractor and Lessee.

3 *Event of Default* means the occurrence of any event or condition described as an event of default in
4 Section 11.01 hereof.

5 *Equipment* means any furniture, furnishings, equipment, machinery and other personal property
6 furnished to the Premises which is not permanently affixed to the Premises.

7 *Financing Documents* mean all of the documents, agreements and instruments governing the
8 NMTC Transaction.

9 *Force Majeure* means any a) act of God, landslide, lightning, earthquake, hurricane, tornado,
10 blizzard and other adverse and inclement weather, fire, explosion, flood, act of a public enemy, war,
11 blockade, insurrection, riot or civil disturbance; b) labor dispute, strike, work slowdown or work
12 stoppage; c) order or judgment of any Governmental Authority, if not the result of willful or negligent
13 action of Lessee; d) adoption of or change in any Applicable Laws after the date of execution of this
14 Lease; e) any actions or failure to act by AAC or any Governmental Authority which may cause delay;
15 or f) any other similar cause or similar event beyond the reasonable control of Lessee.

16 *Governmental Authority* means any and all entities, Courts, Boards, Agencies, Commissions,
17 Offices, Divisions, Subdivisions, Departments, Bodies or Authorities of any nature whatsoever of any
18 governmental unit (Federal, State, County, District, Municipality, City or otherwise), whether now or
19 hereafter in existence, having jurisdiction over the Premises.

20 *Holiday* means any day which is a legal holiday in the State or a day on which banking institutions
21 in the State are authorized or required by law to close.

22 *Person* means an individual; a trust; an estate; a Governmental Authority; or a partnership, joint
23 venture, corporation, company, firm or any other entity whatsoever.

24 *Plans and Specifications* means the initial plans and specifications applicable to the Project, as
25 provided in accordance with the Construction Contract.

26 *State* means the State of Arkansas.

27 *Sublease* means that certain Sublease Agreement dated of even date herewith by and between,
28 Lessee, as sublessor, and AAC, as sublessee, regarding the Premises as improved and completed as the
29 Project.

30 *Taking* means the actual or constructive condemnation or the actual or constructive acquisition by
31 condemnation, eminent domain or similar proceeding by or at the direction of any Governmental
32 Authority or other Person with the power of eminent domain.

33 **Section 1.02. Construction.** For purposes of this Lease, except as otherwise expressly provided
34 or unless the context clearly otherwise requires:

35 (a) The words “herein,” “hereof” and “hereunder” and other similar words refer to this
36 Lease as a whole and not to any particular Article, Section or other subdivision, the word

1 “includes” or “including” shall mean “including without limitation” and the word “or” shall
2 have the inclusive meaning represented by the phrase “and/or”.

3 (b) The Section, Article and other headings in this Lease are for reference purposes and
4 shall not control or affect the construction of this Lease or the interpretation hereof in any
5 respect.

6 (c) All accounting terms which are not defined in this Lease have the meanings assigned
7 to them in accordance with generally accepted accounting principles.

8 (d) Any terms which are not defined in this Lease but which are defined in the Indenture
9 have the same meanings in this Lease as are given to them in the Indenture.

10 (e) Any pronouns; however, and wherever used in this Lease, and of whatever gender,
11 shall include natural persons and corporations and associations of every kind and character
12 and both the singular and the plural and refer to both genders.

13 (f) To the extent any provision herein shall conflict with the terms and provisions of the
14 Maintenance Agreement and/or Construction Contribution Agreement, the parties hereto
15 hereby expressly acknowledge and agree that the terms and provisions of the Maintenance
16 Agreement and/or Construction Contribution Agreement shall control and govern.

17 **ARTICLE II**

18 **LEASE OF PROPERTY - TERMS OF LEASE**

19 **Section 2.01. Lease of Premises.** AAC hereby lets, demises and rents all of its right, title and
20 interest in and to the physical spaces comprising the Premises, including all improvements, alterations,
21 additions, and fixtures thereto. This Lease shall not constitute a lease of land, nor shall it constitute a
22 lease of the Museum Building or any exterior portions of the Museum Building, rather this Lease shall
23 constitute a lease of the interior physical spaces comprising the Premises only, together with a
24 Temporary Construction Easement, with all necessary agents and contractors, and with all necessary
25 materials and equipment, to provide reasonable access, ingress and egress to develop the Project as
26 anticipated during the limited period of development of the Project for the sole purpose of completing
27 the Project.

28 **Section 2.02. Term.** This Lease shall commence on the date hereof and, unless sooner terminated
29 as herein provided, shall continue and remain in full force and effect for a term of thirty (30) years
30 (Term) ending on January 20, 2051 (the Expiration Date).

31 **ARTICLE III**

32 **RENT**

33 **Section 3.01. Rent.** Rent hereunder shall be due in the amount of One Thousand Dollars
34 (\$1,000.00) per lease year for each lease year during the Term of this Lease, and shall be paid, in
35 advance, on the date hereof and on each anniversary date hereof for the duration of the Term. The
36 parties hereto hereby acknowledge and agree that the City has not incurred any obligations with respect
37 to the payment of the rent.

1 **ARTICLE IV**

2 **USE OF PREMISES**

3 **Section 4.01. Purpose of Lease.** Lessee is entering into this Lease for the purpose of granting
4 certain occupancy rights to Lessee that are necessary to allow Lessee to develop the Project in
5 accordance with the Plans and Specifications. The Premises are to be used for no other purpose
6 whatsoever except for the Project.

7 **Section 4.02. Benefit of AAC.** Lessee shall lease and hold the Premises for the support,
8 maintenance or benefit of AAC, and the Premises shall be leased solely for the purpose set forth herein
9 in Section 4.01.

10 **ARTICLE V**

11 **DEVELOPMENT OF PROJECT**

12 **Section 5.01. Lessee to Pay Costs.** Lessee will be responsible for the costs and expenses of the
13 Project. AAC shall have no financial obligation or other obligation of any kind under this Lease except
14 as specifically set forth herein as it pertains to assisting in the development and construction, and related
15 management activities pertaining thereto, of the Premises.

16 (a) Lessee shall engage the Contractor pursuant to the Construction Agreement to furnish
17 all supervision, tools, implements, machinery, labor, materials and accessories necessary and
18 proper for the construction of the Premises, to pay all permit and license fees and to develop
19 the Project in a good, substantial and workmanlike manner, as approved by AAC, all in
20 accordance with this Lease, the Plans and Specifications, the Construction Agreement and all
21 other documents executed pursuant hereto and thereto.

22 (b) All construction, alteration, renovation or additions to the Premises undertaken by
23 Lessee shall be in conformance with all applicable codes, rules and regulations, including
24 amendments thereto. Lessee and AAC shall each have the independent right to contest any
25 such codes on reasonable grounds by ordinary and proper procedures.

26 (c) AAC Representative shall review and approve the Plans and Specifications. Any
27 changes in the Plans and Specifications subsequent to the date hereof are subject to review and
28 approval of the AAC Representative. Lessee agrees to notify AAC Representative of any
29 changes in the Plans and Specifications that require AAC Representative's approval and, if
30 AAC Representative fails to respond within ten (10) business days following receipt of notice
31 thereof, AAC Representative shall be deemed to have approved any such change.

32 (d) Following completion and occupancy of the Premises, at least sixty (60) days prior to
33 undertaking any alteration, renovation or remodeling of the Premises during the Term, Lessee
34 shall submit plans for such renovation or remodeling to AAC Representative. The AAC
35 Representative shall either approve, approve with conditions or disapprove any such proposed

1 alteration within thirty (30) days following receipt of such plans from Lessee. If AAC Repre-
2 sentative fails to respond within such thirty (30) day period, he shall be deemed to have
3 approved such alteration, renovation or remodeling.

4 (e) Lessee shall make upon written request of AAC, and forward to AAC, periodic written
5 reports as to the actual construction of the Premises, in such detail as may reasonably be
6 requested by AAC. During the development period, the construction work shall be subject to
7 inspection by authorized personnel of AAC in order to verify reports of construction, determine
8 compliance with safety, fire and building codes and compliance with approved construction
9 plans or such other inspections as may be necessary in the reasonable opinion of the AAC
10 Representative.

11 (f) Lessee shall not place any sign upon the Premises without the written consent of AAC.

12 **Section 5.02. Access.** Lessee shall permit AAC’s agents, representatives or employees to enter on
13 the Premises at reasonable times for the purposes of review and inspection as provided in this Lease, to
14 determine whether Lessee is in compliance with the terms of this Lease, or for other reasonable
15 purposes, including security. Subject to the rights of AAC, its agents and other duly constituted
16 governmental agencies to observe and enforce the applicable laws of the State and the rights of AAC
17 and its agents to enforce the applicable rules and policies of AAC, AAC, its agents, representatives and
18 employees shall not disturb or interfere with development of the Project. Entry onto the Premises by
19 AAC or AAC’s agents, representatives or employees shall be at their sole risk and Lessee shall not have
20 any liability to AAC for any damage or injury to AAC, its agents, representatives or employees resulting
21 from their entry onto the Premises except such damage or injury as may result from the negligence of
22 Lessee, its agents, representatives or employees. The parties hereto hereby expressly acknowledge and
23 agree that the City, independent of AAC, shall have the same access rights to the Premises as AAC.

24 **Section 5.03. Architectural and Design Considerations.** The layout and general character and
25 appearance of the Premises shall be subject to the approval of AAC and shall conform to the Plans and
26 Specifications. Any changes to the Plans and Specifications, whether as a result of the initial
27 construction, any reconstruction or maintenance thereof, shall be subject to the approval of AAC, in the
28 manner provided in Section 5.01(c) hereof.

29 **Section 5.04. No Representations.** Except for the express representations and warranties of AAC
30 set forth in this Lease, Lessee’s execution of this Lease shall be conclusive evidence of Lessee’s
31 acceptance of the Premises in an “as is” “with all faults” condition.

32 **ARTICLE VI**

33 **ENCUMBRANCES**

34 **Section 6.01. Mortgage of Leasehold.** Lessee may not mortgage, grant a lien upon or a security
35 interest in (or assign as collateral) Lessee’s leasehold estate in the Premises except by an instrument
36 expressly approved in writing by AAC and the City (each a “Permitted Mortgage”).

1 **ARTICLE VII**

2 **MAINTENANCE AND REPAIR**

3 **Section 7.01. Utilities.** AAC shall pay or cause to be paid all charges, including any connection
4 fees, for water, gas, electricity, sewer, telecommunications and any other utilities installed in and used
5 at the Premises throughout the Term. The parties hereto hereby expressly acknowledge and agree that
6 the City shall assume no obligations hereunder with respect to the payment of utilities for the Premises.

7 **Section 7.02. Maintenance and Repairs.** Throughout the term of this Lease, AAC shall keep,
8 maintain, and repair, or cause to be kept, maintained, and repaired the Premises in a good state of repair,
9 damage caused by casualty, condemnation and force majeure excepted.

10 **ARTICLE VIII**

11 **LIENS PROHIBITED**

12 **Section 8.01. No Mechanics' Liens.** Except as permitted in Section 8.02 hereof, Lessee shall not
13 suffer or permit any mechanics' liens or other liens to be enforced against AAC's Interest nor against
14 Lessee's leasehold interest in the Premises by reason of a failure to pay for any work, labor, services or
15 materials supplied or claimed to have been supplied to Lessee or to anyone holding the Premises or any
16 part thereof through or under Lessee. The parties hereto hereby expressly acknowledge and agree that
17 the real property upon which the Premises is located is owned by the City, and the parties shall not
18 suffer or permit any mechanics' liens or other such liens to be enforced against the City's interest in
19 such real property.

20 **Section 8.02. Release of Recorded Liens.** If any such mechanics' liens or materialmen's liens
21 shall be recorded against the Premises, Lessee shall cause the same to be released of record or, in the
22 alternative, if Lessee in good faith desires to contest the same, Lessee shall be privileged to do so, but
23 in such case Lessee hereby agrees to indemnify and save AAC harmless from all liability for damages
24 occasioned thereby and shall, in the event of a judgment of foreclosure on said mechanics' lien, cause
25 the same to be discharged and released prior to the execution of such judgment. In the event AAC
26 reasonably considers AAC's Interest to be endangered by any such liens and so notifies Lessee, and
27 Lessee fails to provide adequate security for the payment of such liens in the form of a surety financing,
28 cash deposit or cash equivalent or indemnity agreement satisfactory to AAC within thirty (30) days
29 following receipt of such notice, then AAC, at AAC's sole discretion, may discharge such liens and
30 recover from Lessee immediately as net rent under this Lease the amounts to be paid.

31 **ARTICLE IX**

32 **ACCOUNTING**

33 **Section 9.01. Books and Records.** Lessee shall keep, or cause to be kept, accurate, full and
34 complete books and accounts showing exclusively its assets and liabilities, operations, transactions and
35 the financial condition of the Premises. All financial statements shall be accurate in all material
36 respects, shall present fairly the financial position and results of the Premises' operations and shall be
37 prepared on a cash basis and otherwise in accordance with generally accepted accounting principles

1 consistently applied. Lessee shall determine methods to be used in the preparation of financial
2 statements, in connection with all items of income and expense including, but not limited to, valuation
3 of assets, the method or methods of depreciation, elections, credits and accounting procedures. The
4 books, accounts and records of the Premises shall be maintained at the principal office of Lessee.

5 **Section 9.02. AAC Audits.** AAC may, at its option and at its own expense and during customary
6 business hours, conduct internal audits of the books, records and accounts of the Premises. Audits may
7 be made on either a continuous or a periodic basis, or both, and may be conducted by employees of
8 AAC or by independent auditors retained by AAC. All such audits shall be conducted without
9 materially or unreasonably interrupting or interfering with the normal conduct of business affairs by
10 Lessee. AAC covenants with Lessee to keep the results of any such audits confidential, except as
11 required by rules and regulations of AAC and by applicable law or court order.

12 **ARTICLE X**

13 **INSURANCE AND INDEMNIFICATION**

14 **Section 10.01. Indemnification by Lessee.** Excluding the acts or omissions of AAC, its
15 employees, agents, and invitees, Lessee shall indemnify and save harmless AAC, its agents, officers
16 and employees, from and against any and all liability claims, demands, damages, expenses, fees, fines,
17 penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or
18 growing out of or in any way connected with Lessee's use, occupancy, development of the Project, and
19 control of the Premises. This obligation to indemnify shall include the reasonable fees and costs of
20 legal counsel, third-party investigation costs and all other reasonable costs, expenses and liabilities from
21 the first notice that any claim or demand has been made; provided, however, that, unless prevented by
22 a conflict of interest, Lessee and AAC shall use the same counsel if such counsel is approved by AAC,
23 which approval shall not be unreasonably withheld or delayed. It is expressly understood and agreed
24 that Lessee is and shall be deemed to be an independent contractor responsible to all parties for its
25 respective acts or omissions and that AAC shall in no way be responsible therefor.

26 **Section 10.02. Insurance.** AAC shall at all appropriate times maintain, or cause to be maintained,
27 with respect to the Premises, for the duration of this Lease, casualty property insurance and commercial
28 general liability insurance issued by a company or companies qualified, permitted or admitted to do
29 business in the State, in the amounts deemed acceptable to AAC. In the event of an insured loss to the
30 Premises, AAC will consult with the City prior to application of any actual insurance proceeds.

31 **Section 10.03. Additional Insured.** AAC agrees that with respect to the above required insurance,
32 Lessee shall:

- 33 (a) Be named on all such insurance coverages as an additional insured, an insured, or a loss
34 payee, as appropriate, as its interests may appear. Lessee agrees to endorse insurance checks or
35 otherwise release insurance proceeds promptly to AAC, provided no Event of Default by AAC is
36 continuing hereunder.

1 (b) Be provided with thirty (30) days advance notice, in writing, of the cancellation of or
2 material change in any required insurance coverage.

3 (c) If requested by Lessee, be provided with a certificate evidencing the above-required
4 insurance.

5 **Section 10.04. Contractor Insurance and Bonding Requirements.** Lessee shall require all
6 third-parties entering into contracts with Lessee for the construction, installation and equipping of the
7 Premises to satisfy AAC's insurance and performance bonding policies, to the extent such policies are
8 applicable to the Premises and to contracts of such nature. AAC will provide all necessary information
9 describing such policies to Lessee.

10 **ARTICLE XI**

11 **DEFAULT AND REMEDIES**

12 **Section 11.01. Events of Default.** Any one of the following events shall be deemed to be an
13 "Event of Default" by Lessee under this Lease.

14 (a) Lessee fails to pay any sum required to be paid to AAC under the terms and provisions of
15 this Lease and such failure shall not be cured within sixty (60) days after Lessee's receipt of written
16 notice from AAC of such failure.

17 (b) Lessee fails to perform any other covenant or agreement, other than the payment of money,
18 to be performed by Lessee under the terms and provisions of this Lease and such failure is not cured
19 within 120 days after receipt of written notice from AAC of such failure; provided that if, during
20 such one hundred twenty (120) day period, Lessee takes action to cure such failure but is unable,
21 by reason of the nature of the work involved, to cure such failure within such period and continues
22 such work thereafter diligently and without unnecessary delays, such failure shall not constitute an
23 Event of Default hereunder.

24 (c) A court having jurisdiction enters an order for relief in any involuntary case commenced
25 against Lessee, as a debtor, under the Federal Bankruptcy Code, as now or hereafter constituted, or
26 enters a decree or order appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator
27 or other similar official of or for Lessee or any substantial part of the properties of Lessee or
28 ordering the winding up or liquidation of the affairs of Lessee, and the continuance of any such
29 decree or order unstayed and in effect for a period of 120 consecutive days.

30 (d) The commencement by Lessee of a voluntary case under the Federal Bankruptcy Code, as
31 now or hereafter constituted, or the consent or acquiescence by Lessee to the commencement of a
32 case under such Code or to the appointment of or taking possession by a custodian, receiver,
33 liquidator, assignee, trustee, sequestrator or other similar official of or for Lessee or any substantial
34 part of the properties of Lessee.

35 **Section 11.02. AAC's Rights Upon Default.** Upon the occurrence and during the continuance of
36 an Event of Default, AAC may at its option i) declare this Lease and all rights and interests created by

1 it to be terminated; ii) seek any and all damages occasioned by the Event of Default; or iii) seek any
2 other remedies available at law or in equity.

3 **Section 11.03. Right To Relet Premises.** Upon AAC's exercise of the election to terminate this
4 Lease, AAC shall take possession of the Premises and shall use reasonable efforts to relet the same for
5 the remainder of the Term for the account of Lessee upon such terms as AAC is able to obtain. Any
6 termination of this Lease shall not relieve Lessee from the payment of sums then due and payable to
7 AAC or any claim for accrued damages against Lessee. Any such termination shall not prevent AAC
8 from enforcing the payment of any sums or from claiming damages by any remedy provided for by law
9 or from recovering damages from Lessee for any Event of Default.

10 **ARTICLE XII**

11 **TITLE TO IMPROVEMENTS AND EQUIPMENT**

12 **Section 12.01. Title to Improvements and Equipment.** During the Term of this Lease, Lessee
13 shall have a leasehold interest in and to the Premises, subject to the rights of AAC and the City pursuant
14 to this Lease. At the expiration of the Term, in accordance with the provisions hereof, all rights, title
15 and interest in and to the Premises and any Equipment utilized therein shall vest in AAC, and to the
16 extent applicable the City, free of any right, claim or lien of Lessee, without further action of the parties.

17 **ARTICLE XIII**

18 **DEFAULT BY AAC**

19 **Section 13.01. AAC Defaults.** If AAC fails to perform any of its respective obligations or
20 covenants under this Lease, then Lessee shall be entitled to enforce any one or more of the following
21 rights and remedies:

22 (a) Lessee shall be entitled to cease paying all Rent and other amounts owed to AAC under
23 this Lease; and

24 (b) Lessee shall be entitled to require AAC to specifically perform its obligations under
25 this Lease or restrain or enjoin AAC from continuing the activities that constitute the default
26 of AAC.

27 **ARTICLE XIV**

28 **CONDEMNATION**

29 **Section 14.01. Condemnation of Entire Premises.** Upon the permanent Taking of the entire
30 Premises, this Lease shall terminate and expire as of the date of such Taking, and both Lessee and AAC
31 shall thereupon be released from any liability thereafter accruing hereunder. Lessee shall each receive
32 notice of any proceedings relating to a Taking and shall each have the right to participate therein.

33 **Section 14.02. Partial Condemnation.** Upon a Taking of less than all of the Premises, Lessee, at
34 its election, may terminate this Lease by giving AAC notice of its election to terminate at least sixty
35 (60) days prior to the date of such termination if Lessee reasonably determines that, as a consequence
36 thereof, the Premises cannot be economically and feasibly used by Lessee for its intended purposes.

1 Upon any such termination, the Rent accrued and unpaid hereunder shall be apportioned to the date of
2 termination.

3 **Section 14.03. Payment of Awards.** Upon the Taking of all or any portion of the Premises
4 (a) Lessee shall be entitled (free of any claim by AAC) to the Award for the value of its interest in the
5 Premises and its rights under this Lease and damages to any of its other property, together with any
6 other compensation or benefits paid as a consequence of the interruption of Lessee's business, not
7 exceeding in the aggregate the outstanding balance on any Permitted Mortgage; and (b) AAC shall be
8 entitled (free of any claim by Lessee) to the remainder of any such Award. In the event of any Taking
9 resulting in an Award to AAC, AAC will consult with the City prior to application of any proceeds of
10 the Award.

11 **ARTICLE XV**

12 **ASSIGNMENT, SUBLETTING AND TRANSFERS OF LESSEE'S INTEREST**

13 **Section 15.01. Assignment by Lessee.** Without the express prior written consent of AAC, Lessee
14 may not sell or assign Lessee's leasehold estate created by this Lease and the other rights of Lessee
15 hereunder.

16 **Section 15.02. Subletting.** Except for the Sublease, Lessee is not authorized to sublet all or any
17 part of its leasehold estate without AAC's prior written consent, which consent may be withheld in
18 AAC's sole discretion.

19 **ARTICLE XVI**

20 **COMPLIANCE CERTIFICATES**

21 **Section 16.01. AAC Compliance.** Lessee agrees, at any time and from time to time upon not less
22 than thirty (30) days prior written notice by AAC, to execute, acknowledge and deliver to AAC or to
23 such other party as AAC shall request, a statement in writing certifying a) that this Lease is unmodified
24 and in full force and effect (or if there have been modifications, that the same is in full force and effect
25 as modified and stating the modifications); b) to the best of its knowledge, whether or not there are then
26 existing any offsets or defenses against the enforcement of any of the terms, covenants or conditions
27 hereof upon the part of Lessee to be performed (and if so specifying the same), (c) the dates to which
28 the Rent and other charges have been paid; and d) the dates of commencement and expiration of the
29 Term, it being intended that any such statement delivered pursuant to this Section may be relied upon
30 by any prospective purchaser of AAC's Interest.

31 **Section 16.02. Lessee Compliance.** AAC agrees, at any time and from time to time, upon not less
32 than thirty (30) days prior written notice by Lessee, to execute, acknowledge and deliver to Lessee a
33 statement in writing, addressed to Lessee or to such other party as Lessee shall request, certifying a) that
34 this Lease is unmodified and in full force and effect (or if there have been modifications that the same
35 is in full force and effect as modified and stating the modifications); b) the dates to which the Rent and
36 other charges have been paid; c) whether an Event of Default has occurred and is continuing hereunder
37 (and stating the nature of any such Event of Default); d) whether an event has occurred which, after

1 giving of notice or the passage of time (or both) would result in an Event of Default (and stating the
2 nature of any such event); and e) the dates of commencement and expiration of the Term.

3 **ARTICLE XVII**

4 **TAXES AND LICENSES**

5 **Section 17.01. Payment Of Taxes.** The parties hereto hereby expressly acknowledge and agree
6 that the intent is that the Premises and Equipment shall not be subject to County Ad Valorem Property
7 Raxes. To the extent the Premises or Equipment shall become subject to any taxation, AAC shall pay
8 all such taxes and fees which are now or may hereafter be, levied upon the Premises and any Equipment
9 located therein.

10 **ARTICLE XVIII**

11 **FORCE MAJEURE**

12 **Section 18.01. Discontinuance During Force Majeure.** Whenever a period of time is herein
13 prescribed for action to be taken by Lessee, there shall be excluded from the computation of any such
14 period of time, any delays due to Force Majeure. AAC shall not be obligated to recognize any delay
15 caused by Force Majeure unless Lessee shall, within ten (10) days after Lessee is aware of the existence
16 of an event of Force Majeure, notify AAC in writing thereof.

17 **ARTICLE XIX**

18 **MISCELLANEOUS**

19 **Section 19.01. Nondiscrimination.** None of the parties hereto their agents or employees, will
20 discriminate in contracting or leasing space in the Premises on the basis of race, color, sex, age, religion,
21 national origin or handicap, in employment practices or in the performance of the terms, conditions,
22 covenants and obligations of this Lease. THE PARTIES HERETO ACKNOWLEDGE AND AGREE
23 THAT THIS LEASE IS MADE IN ENTERED INTO SUBJECT TO THE EXPRESS COVENANT
24 AND AGREEMENT OF EACH PARTY THAT PERFORMANCE OF ANY TERM, CONDITION,
25 PROVISION, DUTY OR OBLIGATION SET FORTH HEREIN, BY ANY PARTY, OR ANY
26 EMPLOYEE OR OTHER PERSON ACTING THROUGH OR UNDER THE DIRECTION OR
27 CONTROL OF ANY PARTY, SHALL FULLY COMPLY WITH ALL FEDERAL, STATE AND
28 LOCAL LAWS, REGULATIONS AND ORDINANCES PROHIBITING DISCRIMINATION ON
29 THE BASIS OF RACE, COLOR, CREED, RELIGION, SEX, NATIONAL ORIGIN, AGE,
30 DISABILITY, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR GE-
31 NETIC INFORMATION, INCLUDING WITHOUT LIMITATION ORDINANCE NO. 21,031 OF
32 THE CITY OF LITTLE ROCK, ARKANSAS, DATED APRIL 21 2015.

33 **Section 19.02. Notices.** Notices or communications to AAC or Lessee required or appropriate
34 under this Lease shall be in writing, sent by a) personal delivery; or b) expedited delivery service with
35 proof of delivery; or c) registered or certified United States mail, postage prepaid; or d) prepaid
36 telecopy if confirmed by expedited delivery service or by mail in the manner previously described,
37 addressed as follows:

1 If to AAC:
2 501 East Ninth Street
3 Little Rock, Arkansas 72202
4 Attention: Chairman and Executive Director
5

6 With a copy to:
7 City of Little Rock, Arkansas
8 500 West Markham Street
9 Little Rock, Arkansas 72201
10 Attention: City Manager
11

12 If to Lessee:
13 501 East Ninth Street
14 Little Rock, Arkansas 72202
15 Attention: Chairman
16

17 or to such other address or to the attention of such other person as hereafter shall be designated in
18 writing by such party. Any such notice or communication shall be deemed to have been given either at
19 the time of personal delivery or, in the case of delivery service, telecopy or mail, upon receipt.

20 **Section 19.03. Relationship Of Parties.** Nothing contained herein shall be deemed or construed
21 by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners,
22 joint venturers, or any other similar such relationship, between the parties hereto. It is understood and
23 agreed that no provision contained herein nor any acts of the parties hereto creates a relationship other
24 than the relationship of AAC and Lessee.

25 **Section 19.04. Attorneys' Fees.** If either party is required to commence legal proceedings relating
26 to this Lease, the prevailing party shall be entitled to recover and receive reimbursement for its
27 reasonable attorneys' fees and costs of suit.

28 **Section 19.05. Approvals.** Whenever approvals are required of either party hereunder, if no
29 objection is made to a written proposal or request for approval within the time period specified for
30 response herein, such approval shall be deemed to have been given. If no time period is specified for a
31 response to a proposal or request for approval, a reasonable time not to exceed ten (10) business days
32 from the date of such proposal or request shall apply unless the parties otherwise agree in writing.

33 **Section 19.06. Governing Law.** This Lease shall be construed under and in accordance with the
34 laws of the State of Arkansas, and all obligations of the parties created hereunder are performable in
35 Little Rock, Pulaski County, Arkansas.

36 **Section 19.07. Approval of Ancillary Agreements.** AAC agrees that in the event it becomes
37 necessary or desirable for AAC to approve in writing any ancillary agreements or documents concerning
38 the Premises or concerning the development of the Project or to alter or amend any such ancillary
39 agreements between AAC and Lessee or to give any approval or consent of AAC required under the
40 terms of this Lease, AAC hereby authorizes, designates and empowers AAC Representative to execute
41 any such agreement, approvals or consents that may be necessary or desirable.

1 **Section 19.08. Rights Cumulative.** All rights, options, and remedies of AAC and Lessee
2 contained in this Lease shall be construed and held to be cumulative and no one of them shall be
3 exclusive of the other. AAC and Lessee shall each have the right to pursue any one or all of such
4 remedies or any other remedy or relief which may be provided by law or in equity whether or not stated
5 in this Lease.

6 **Section 19.09. Nonwaiver.** No waiver by AAC or Lessee of a breach of any of the covenants,
7 conditions or restrictions of this Lease shall constitute a waiver of any subsequent breach of any of the
8 covenants, conditions or restrictions of this Lease. The failure of AAC or Lessee to insist in any one or
9 more cases upon the strict performance of any of the covenants of the Lease, or to exercise any option
10 herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant
11 or option. Receipt or acceptance by AAC of Rent with knowledge of the breach of any agreement
12 herein or covenant hereof shall not be deemed a waiver of such breach. No waiver, change,
13 modification or discharge by AAC or Lessee of any provision of this Lease shall be deemed to have
14 been made or shall be effective unless expressed in writing and signed by the party to be charged.

15 **Section 19.10. Counterparts.** This Lease may be executed in multiple counterparts, each of
16 which shall be deemed an original.

17 **Section 19.11. Severability.** If any severable clause or provision of this Lease is determined to be
18 illegal, invalid or unenforceable under present or future laws effective during the Term of this Lease,
19 then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not
20 be affected thereby.

21 **Section 19.12. Entire Agreement.** This Lease, together with the exhibits attached hereto, contains
22 the final and entire agreement between the parties hereto and contains all of the terms and conditions
23 agreed upon, and no other agreements, oral or otherwise, regarding the subject matter of this Lease shall
24 be deemed to exist or to bind the parties hereto; it being the intent of the parties that neither shall be
25 bound by any term, condition or representations not herein written.

26 **Section 19.13. Amendment.** No amendment, modification or alteration of this Lease shall be
27 binding unless the same be in writing, dated on or subsequent to the date hereof and duly executed by
28 the parties hereto.

29 **Section 19.14. Successors and Assigns.** All of the covenants, agreements, terms and conditions
30 to be observed and performed by the parties hereto shall be applicable to and binding upon their
31 respective successors and assigns.

32 **Section 19.15. Privacy of Information.** Unless otherwise provided herein or required by law,
33 including, but not limited to, the Arkansas Freedom of Information Act, any information provided by
34 AAC pursuant to this Lease shall not be disseminated to third parties without AAC's prior written
35 consent.

1 **IN WITNESS WHEREOF, THE DULY AUTHORIZE OFFICERS OF AAC AND LESSEE**
2 **HAVE EXECUTED THIS LEASE AGREEMENT AS OF THE DATE FIRST SET FORTH**
3 **ABOVE.**

4
5 **AAC:**
6 **ARKANSAS ARTS CENTER**

7
8 **By:** _____
9 **Van Tilbury, President**

10
11 **LESSEE:**
12 **BLOSSOMOUTREACH22, INC.**

13
14 **By:** _____
15 **Michael Mayton, President**

16
17 **ACKNOWLEDGED AND CONSENTED TO BY:**
18 **CITY OF LITTLE ROCK, ARKANSAS:**

19
20 **By:** _____
21 **(Name)**

22
23 **ATTEST:**

24
25 **By:** _____
26 **(Name)**

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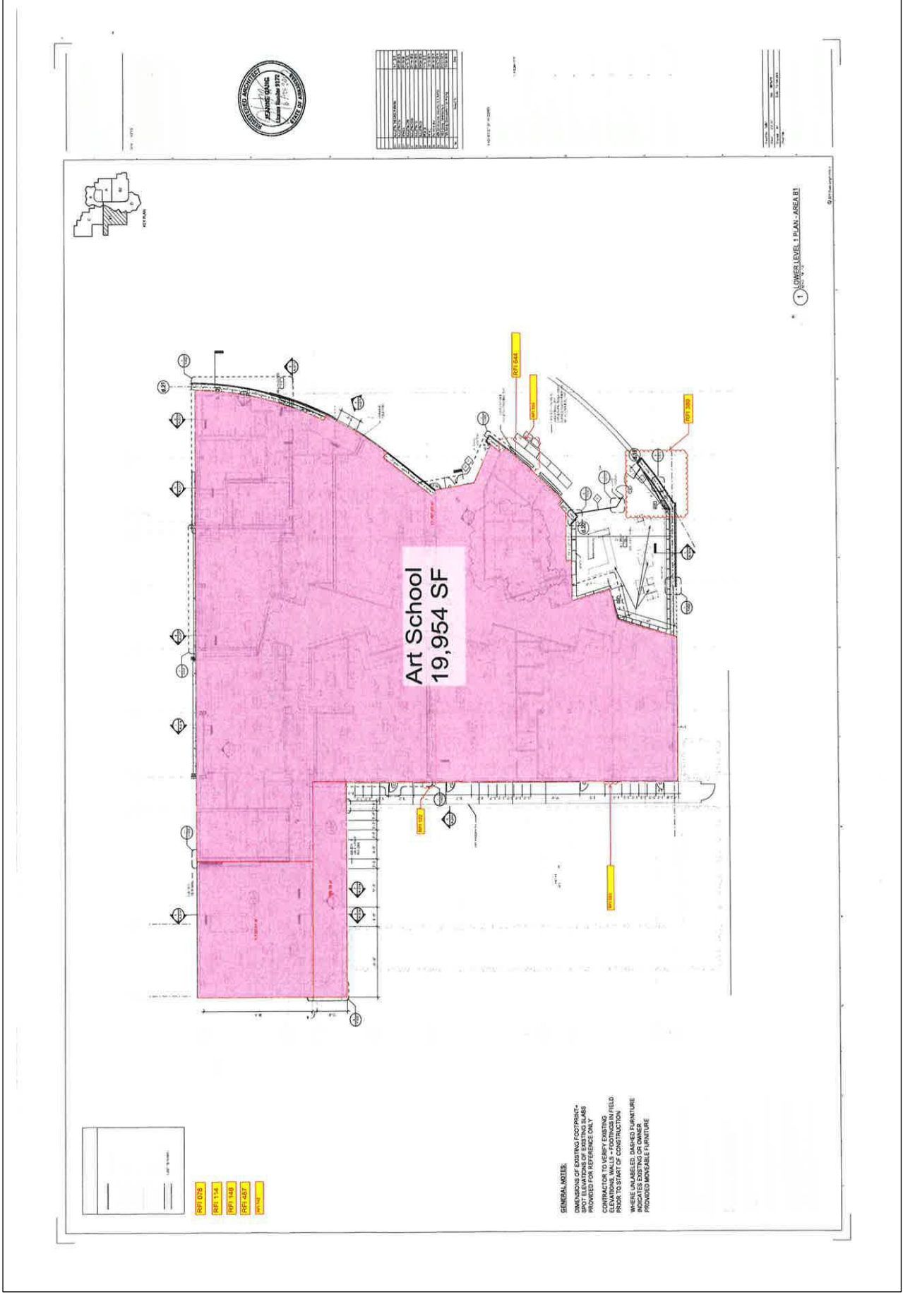
Exhibit A

Description of the Premises

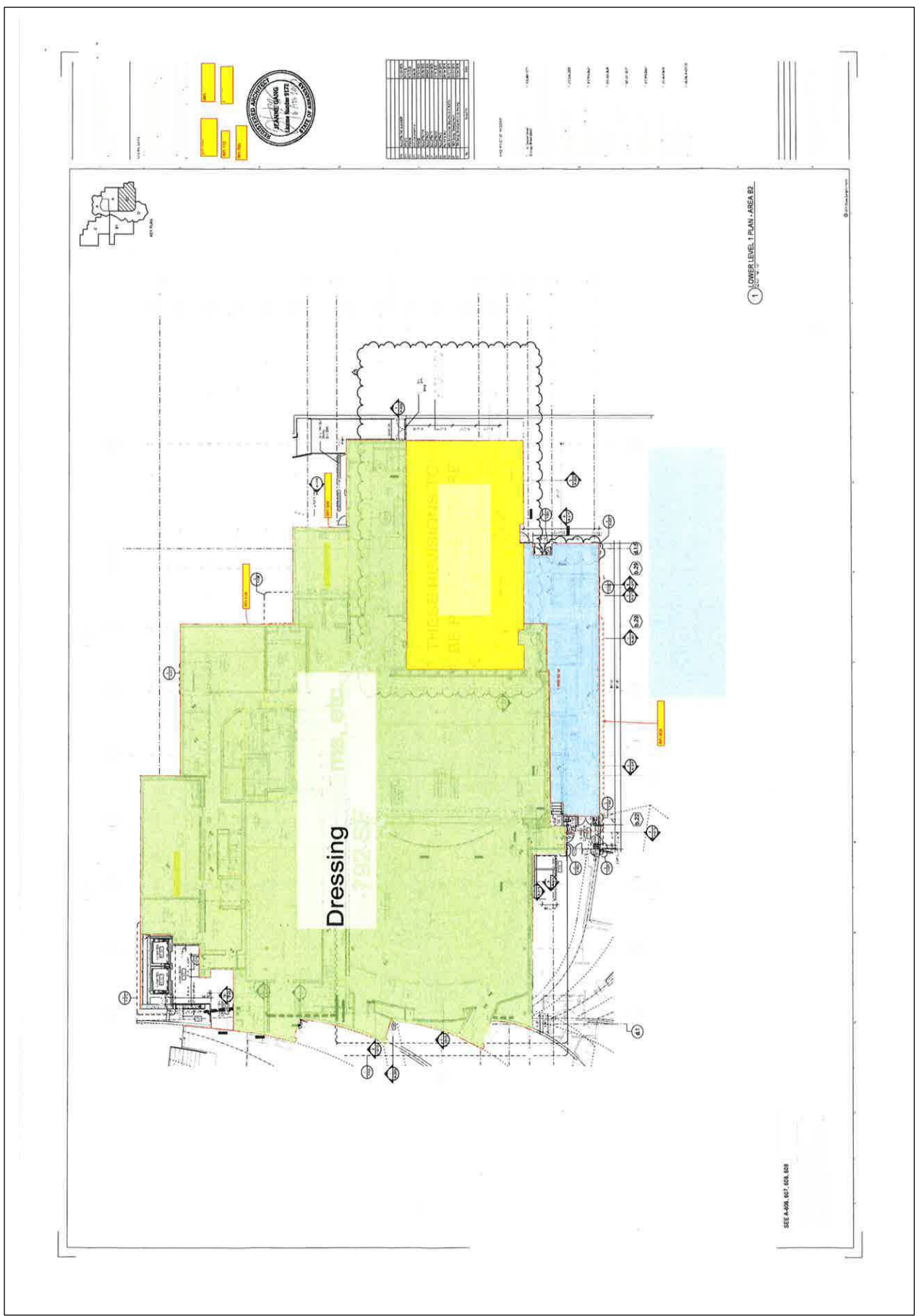
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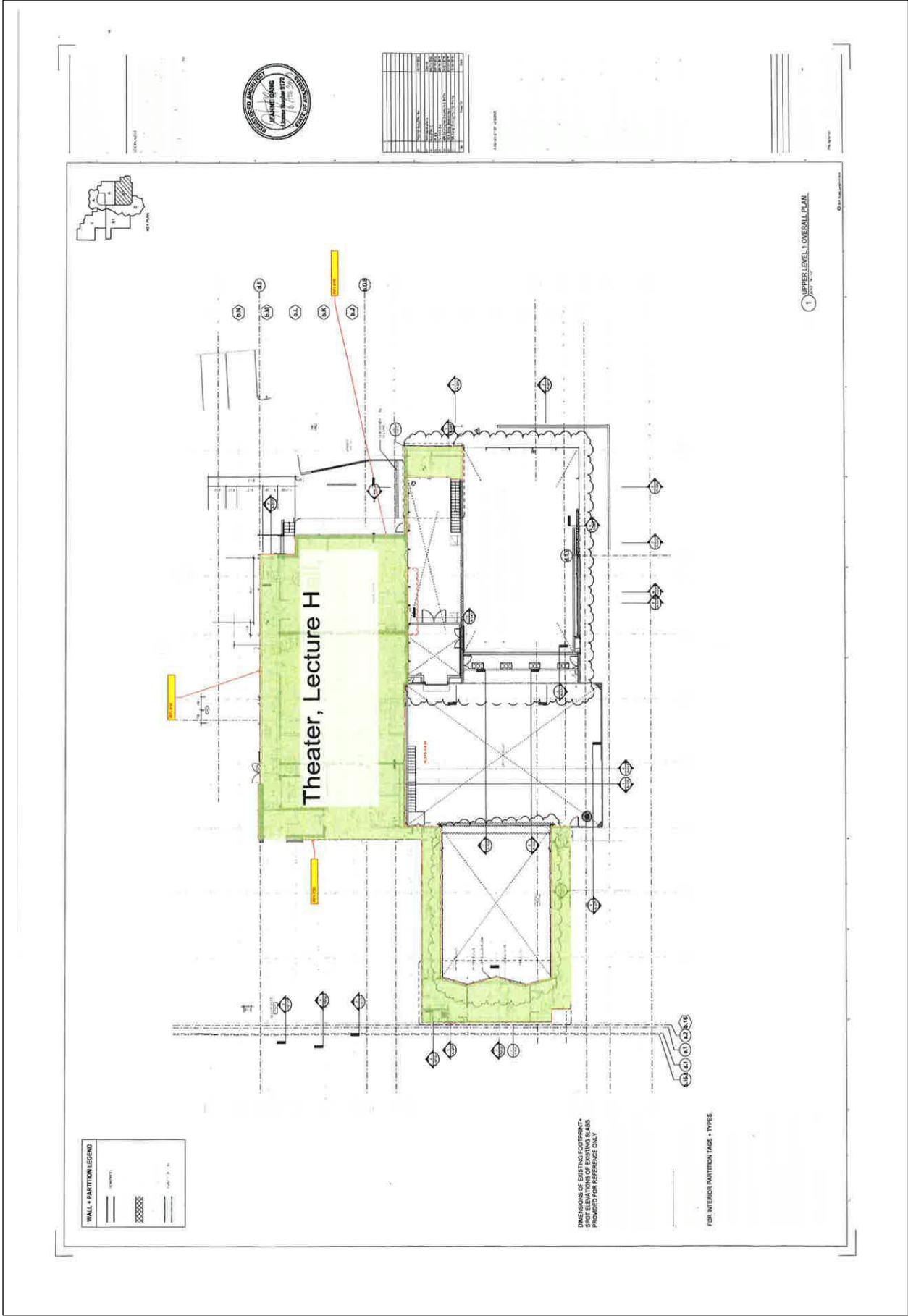
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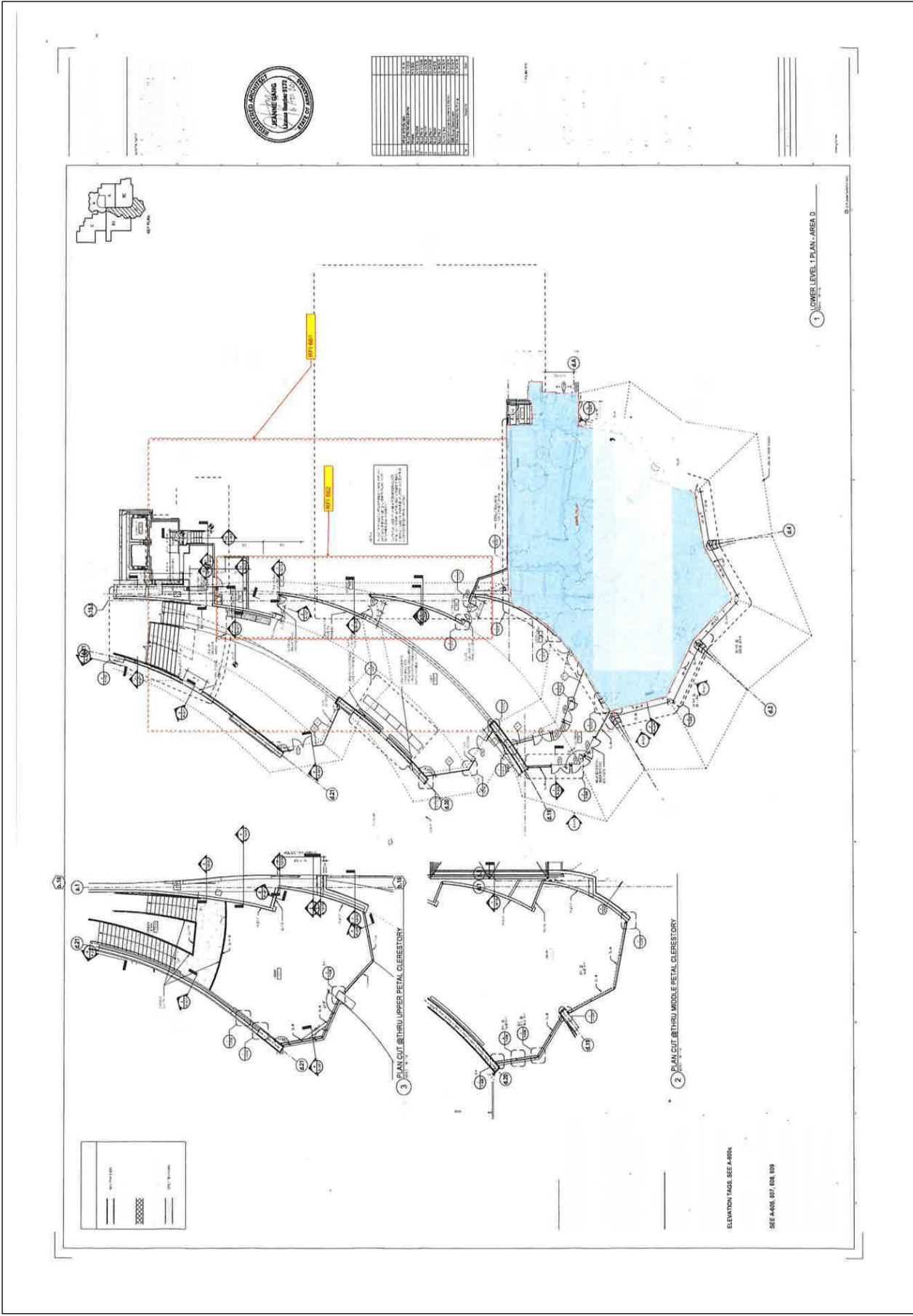
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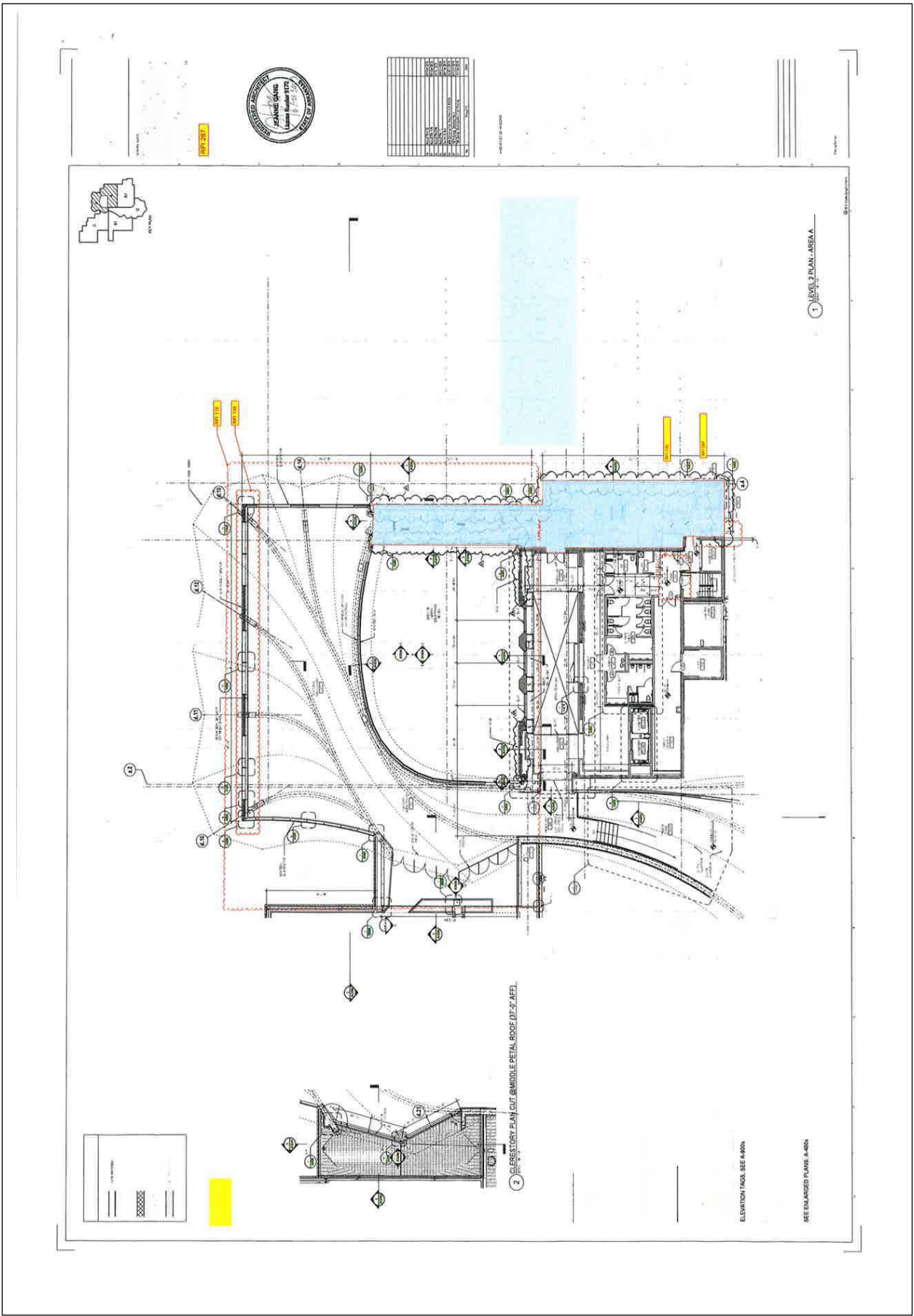
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1 **Exhibit B**

2
3 **ESTOPPEL AND CONSENT TO LEASE**

4
5 This ESTOPPEL and Consent to Lease (this Consent) is executed and delivered effective as of
6 January ___, 2021, by the City of Little Rock, Arkansas (City), to and in favor of the Arkansas Arts
7 Center (AAC), an agency of the City of Little Rock, Arkansas, and Blossomoutreach22, Inc.,
8 (Blossom), an Arkansas non-profit corporation (“Blossom”).

9 A. The City is the owner of that certain tract of real property situated in the City of Little Rock,
10 Pulaski County, Arkansas, commonly known as Macarthur Park and formerly known as the Little Rock
11 City Park; and,

12 B. AAC is the operator of the facility commonly known as the Arkansas Arts Center (Museum
13 Building), located at 501 East Ninth Street, Little Rock, Arkansas, 72202; and,

14 C. The Museum Building is currently undergoing substantial renovations and expansion
15 construction; and,

16 D. Blossom is an Arkansas non-profit corporation designated as a supporting organization of
17 AAC; and,

18 E. Blossom desires to support AAC by leasing certain designated spaces of the Museum Building
19 commonly known as the restaurant and catering kitchen spaces (8,637 square-feet), theater and lecture
20 hall spaces (23,792 square-feet), art school space (19,954 square-feet) and glass box space (2,910
21 square-feet), all as more particularly shown on Exhibit A to the Master Lease and Sublease (as such
22 terms are defined below) (collectively, the “Premises”), and to assume all obligations associated with
23 completing the ongoing acquisition, assembly, and installation of certain furniture, fixtures, equipment,
24 and improvements at the Premises to cause the Premises to be in a complete state of readiness and
25 occupancy to be operational for their intended purposes, and to relet the completed Premises to AAC
26 to allow AAC, or its lessees or designees, to operate the Premises for their intended purposes
27 (collectively, the Project); and,

28 F. To accomplish the Project, AAC and Blossom, propose to enter into: i) that certain Lease
29 Agreement, with AAC as lessor and Blossom as lessee, in the form attached hereto and incorporated
30 herein by this reference as Exhibit A (the “Master Lease”); and ii) that certain Sublease Agreement,
31 with Blossom as sublessor and AAC as sublessee, in the form attached hereto and incorporated herein
32 by this reference as Exhibit B (the “Sublease”); and,

33 G. City desires to execute this Consent to memorialize and evidence its consent to the Master
34 Lease and Sublease.

35 **NOW THEREFORE, THE CITY ACKNOWLEDGES, AGREES AND CERTIFIES AS**
36 **FOLLOWS:**

1 **1. Certifications.** The City hereby certifies as follows:

2 (a) The City is the fee simple owner of the real property upon which the Museum Building
3 is located.

4 (b) AAC is an agency of the City with the express authority to occupy, operate, lease, and
5 sublease the Museum Building, including the leasing of the Premises to Blossom pursuant to
6 the terms of the Master Lease, and the reletting of the Premises from Blossom pursuant to the
7 terms of the Sublease.

8 (c) The City has taken all necessary actions to consent to the Master Lease and Sublease.

9 **2. Consent to Master Lease and Sublease.** The City hereby expressly consents to the Master Lease
10 and Sublease.

11 **IN WITNESS WHEREOF, THE UNDERSIGNED HAS EXECUTED THIS CONSENT**
12 **EFFECTIVE AS OF THE DAY AND YEAR AFORESAID.**

13
14 **CITY OF LITTLE ROCK, ARKANSAS**

15
16 **By:** _____
17 **(Name)**

18
19 **ATTEST:**

20
21 **By:** _____
22 **(Name)**

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Exhibit A

Master Lease

(See attached.)

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1 **Exhibit B**

2
3 **SUBLEASE AGREEMENT**

4
5 This Sublease Agreement (Sublease) is made and entered into to be effective as of January 21, 2021,
6 by and between Blossomoutreach22, Inc., (Sublessor), and Arkansas non-profit corporation, and the
7 Arkansas Arts Center (AAC), an agency of the City of Little Rock, Arkansas.

8 ***RECITALS:***

9 **WHEREAS**, the Sublessor is the long-term lessee of certain designated spaces within the facility
10 commonly known as the Arkansas Arts Center (Museum Building), located at 501 East Ninth Street,
11 Little Rock, Arkansas, 72202, pursuant to a Lease Agreement (Master Lease) between AAC, as Lessor,
12 and Sublessor, as lessee, dated effective as of January 21, 2021; and,

13 **WHEREAS**, a true and correct copy of the Master Lease is attached hereto as Exhibit A and made
14 a part hereof for all purposes; and,

15 **WHEREAS**, the Master Lease relates to certain designated spaces (Premise) within the Museum
16 Building commonly known as the restaurant and catering kitchen spaces (8,637 square-feet), theater
17 and lecture hall spaces (23,792 square-feet), art school space (19,954 square-feet), and glass box space
18 (2,910 square-feet), all as more particularly shown on Exhibit B attached hereto and incorporated herein
19 by this reference; and,

20 **WHEREAS**, Sublessor is an Arkansas non-profit corporation designated as a supporting
21 organization of AAC; and,

22 **WHEREAS**, in conjunction with the mission of Sublessor, as stated above, the Master Lease
23 provides Sublessor the right and privilege to occupy the Premises and complete the ongoing acquisition,
24 assembly, and installation of certain furniture, fixtures, equipment, and improvements to cause the
25 Premises to be in a complete state of readiness and occupancy to be operational for their intended
26 purposes, and to relet the completed Premises to AAC to allow AAC, or its lessees or designees, to
27 operate the Premises for their intended purposes (Project); and,

28 **WHEREAS**, to finance the obligations of Sublessor with respect to the Project, Sublessor intends
29 to enter into a transaction utilizing federal New Markets Tax Credits (NMTCs) pursuant to Section 45D
30 of the Internal Revenue Code of 1986, as amended yielding qualified equity investments and loans to
31 Sublessor in the aggregate amount of Nine Million, Eight Hundred Thousand Dollars (\$9,800,000)
32 (NMTC Transaction); and,

33 **WHEREAS**, Sublessor and AAC have anticipated that the Premises ultimately would be occupied
34 and operated by AAC in its operation of an arts museum with related amenities and services, and for
35 other purposes related thereto, thus, in order to provide AAC the rights to so occupy and operate the
36 Premises, the parties desire to enter into this Sublease.

1 NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS,
2 CONDITIONS AND AGREEMENTS WHICH FOLLOW, THE PARTIES HERETO HEREBY
3 AGREE AS FOLLOWS:

4 **1. Demise and Description of Premises.** Sublessor hereby subleases to AAC, and AAC hereby sub-
5 leases from Sublessor, upon and subject to the terms, limitations and conditions set forth herein and (to
6 the extent not inconsistent herewith) in the Master Lease, the Premises. To the extent there is any
7 conflict between the terms and conditions of the Master Lease and this Sublease, the parties hereto
8 hereby expressly acknowledge and agree that the terms and conditions of the Master Lease shall govern
9 and control.

10 **2. Term.** The term (Term) of this Sublease shall commence on January 21, 2021 (Sublease
11 Commencement Date), and shall end on January 21, 2051 (Expiration Date), or at such earlier date as
12 this Sublease may be terminated pursuant to the terms of this Sublease. Notwithstanding the preceding
13 sentence, this Sublease will automatically terminate upon the expiration or termination for any reason
14 of the Master Lease.

15 **3. Sublease Rent.** During the Term of this Sublease, AAC shall pay to Sublessor rent on a
16 semi-annual basis, with rent payments being due, except as set forth below, on each April 15th and
17 October 15th of each calendar year during the Term until the Expiration Date. The rent hereunder shall
18 be allocated partially to building space (Building Rent) and partially to equipment and personal property
19 (Equipment Rent), and together with the Building Rent, (collectively, the Sublease Rent). Sublease
20 Rent shall be due, as follows:

| Date | Building. Space Rent | Equipment Rent | Total Sublease Rent |
|---|----------------------|----------------|---------------------|
| October 15, 2021 | | | |
| Each April 15 th and October 15 th from April 15, 2022, through October 15, 2027. | | | |
| April 15, 2028 | | | |
| October 15, 2028 | | | |
| Each April 15 th and October 15 th from April 15, 2029, through October 15, 2050. | | | |

21
22 The parties hereto hereby acknowledge and agree that the City of Little Rock, Arkansas (City) has not
23 incurred any obligations with respect to the payment of Sublease Rent.

24 **4. Acceptance, Maintenance and Use of the Premises.**

25 A. Acceptance of Premises. AAC hereby accepts the Premises in its present, "AS-IS,
26 WHERE IS" condition and with all faults; provided, however, AAC hereby expressly grants
27 Sublessor a Temporary Construction Easement to enter onto the Premises, with all necessary

1 agents and contractors, and with all necessary materials and equipment, to develop the Project
2 as anticipated by the Master Lease.

3 B. Maintenance of Premises. AAC must keep, maintain, and repair the Premises in good
4 condition and repair and in all respects in compliance the obligations in the Master Lease.

5 C. Use of Premises. The Premises may be used by AAC as an Arts Museum with related
6 amenities and services, and for other purposes related thereto.

7 D. Utilities. AAC shall pay or cause to be paid all charges, including any connection fees,
8 for water, gas, electricity, sewer, telecommunications and any other utilities installed in and
9 used at the Premises throughout the Term. The parties hereto hereby expressly acknowledge
10 and agree that the City shall assume no obligations hereunder with respect to the payment of
11 utilities for the Premises.

12 5. Insurance. AAC shall at all appropriate times maintain, or cause to be maintained, with
13 respect to the Premises, for the duration of this Sublease, casualty property insurance and com-
14 mercial general liability insurance issued by a company or companies qualified, permitted or
15 admitted to do business in the State of Arkansas, in the amounts deemed acceptable to AAC,
16 as required in the Master Lease. The application of any insurance proceeds actually received
17 by AAC shall be subject to the terms of the Master Lease.

18 6. Payment of Taxes. The parties hereto hereby expressly acknowledge and agree that
19 the intent is that the Premises and Equipment shall not be subject to county ad valorem property
20 taxes. To the extent the Premises or Equipment shall become subject to any taxation, AAC
21 shall pay all such taxes and fees which are now or may hereafter be, levied upon the Premises
22 and any Equipment located therein, as required in the Master Lease.

23 7. Absolute Net Lease. This Sublease is intended to be an absolute net lease, or so called
24 “triple net lease”, whereby all expenses of every kind and nature, except the Project
25 development expenses, whatsoever shall be the responsibility of AAC.

26 8. Assignment and Subletting. AAC may, with advance written notice to Sublessor,
27 sublease, license, or sublicense a portion of the Premises to one or more third-parties in
28 connection with the performance of the operations intended for the applicable portion of the
29 Premises. Sublessor acknowledges that AAC intends to sublease, license, or sublicense all or
30 a portion of the restaurant and catering kitchen spaces to one or more third party operators.
31 AAC may not assign this Sublease to an assignee or other transferee without the prior written
32 consent of Sublessor.

33 9. Security for Sublease Rent. As additional security for AAC’s Sublease Rent payment
34 obligations to Sublessor hereunder, AAC does hereby pledge for the benefit of Sublessor, to
35 the fullest extent permissible by law, the revenues of AAC earned from the operations, leas-
36 ing/subleasing, and/or licensing/sublicensing of the Leased Premises, which pledge the parties
37 hereto hereby expressly acknowledge and agree shall be subordinate in all respects to any

1 existing pledge of the same revenues of AAC, if any, securing any existing tax exempt bond
2 financing.

3 **10. Default and Remedies.**

4 A. Event of Default. The occurrence of any one or more of the following events will
5 constitute an event of default (Event of Default) by AAC under this Sublease:

6 (a) AAC fails to pay any sum required to be paid to Sublessor under the terms and
7 provisions of this Sublease and such failure shall not be cured within sixty (60) days
8 after AAC's receipt of written notice from Sublessor of such failure.

9 (b) AAC fails to perform any other covenant or agreement, other than the payment
10 of money, to be performed by AAC under the terms and provisions of this Sublease
11 and such failure is not cured within 120 days after receipt of written notice from
12 Sublessor of such failure; provided that if, during such 120-day period, AAC takes
13 action to cure such failure but is unable, by reason of the nature of the work involved,
14 to cure such failure within such period and continues such work thereafter diligently
15 and without unnecessary delays, such failure shall not constitute an Event of Default
16 hereunder.

17 (c) A court having jurisdiction enters an order for relief in any involuntary case
18 commenced against AAC, as a debtor, under the Federal Bankruptcy Code, as now or
19 hereafter constituted, or enters a decree or order appointing a custodian, receiver,
20 liquidator, assignee, trustee, sequestrator or other similar official of or for Lessee or
21 any substantial part of the properties of Sublessor or ordering the winding up or
22 liquidation of the affairs of Sublessor, and the continuance of any such decree or order
23 unstayed and in effect for a period of 120 consecutive days.

24 (d) The commencement by AAC of a voluntary case under the Federal Bankruptcy
25 Code, as now or hereafter constituted, or the consent or acquiescence by AAC to the
26 commencement of a case under such Code or to the appointment of or taking
27 possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other
28 similar official of or for AAC or any substantial part of the properties of AAC.

29 B. Remedies. Upon the occurrence of an Event of Default, Sublessor, in addition to any
30 and all other rights and remedies available to Sublessor at law or in equity and in addition to
31 all other rights or remedies reserved herein, will have the option to pursue any one or more of
32 the following remedies without any notice or demand whatsoever and without releasing AAC
33 from any obligation under this Sublease (except in the case of a termination of the Sublease):

34 (i) Sublessor may enter the Premises without terminating this Sublease and may
35 perform any covenant or agreement or cure any condition creating or giving rise to a
36 default or Event of Default under this Sublease or under the Master Lease, and AAC
37 agrees to pay to Sublessor on demand, as additional Sublease Rent, the amount

1 expended by Sublessor in performing such covenants or agreements or satisfying or
2 observing such condition. Sublessor, and Sublessor's agents, representatives and
3 employees, will have the right to enter the Premises in the exercise of such rights and
4 such entry and such performance will not terminate this Sublease or constitute an
5 eviction of AAC; or,

6 (ii) At Sublessor's sole option, Sublessor may terminate this Sublease by written
7 notice thereof to AAC or Sublessor may terminate AAC's right of possession to the
8 Premises, without terminating this Sublease.

9 C. No Termination or Waiver. Institution of a forcible detainer action to re-enter the
10 Premises will not be construed to be an election by Sublessor to terminate this
11 Sublease. Sublessor may collect and receive any Rent due from AAC and the payment thereof
12 shall not constitute a waiver of or affect any notice or demand given, suit instituted, or judgment
13 obtained by Sublessor, or be held or deemed to waive or alter the rights or remedies which
14 Sublessor may have at law or in equity or by virtue of this Sublease at the time of such payment.

15 D. Remedies Non-exclusive. All rights and remedies of Sublessor enumerated in this
16 Sublease are cumulative and will not exclude any other right or remedy allowed by law. All
17 such rights and remedies may be exercised and enforced concurrently, whenever and as often
18 as necessary.

19 **11. Miscellaneous Provisions.**

20 A. Governing Law and Forum. This Sublease shall be construed under and in accordance
21 with the laws of the State of Arkansas, and all obligations of the parties created hereunder are
22 performable in Little Rock, Pulaski County, Arkansas.

23 B. Parties Bound. This Sublease will be binding on and inure to the benefit of each of the
24 parties hereto and their respective successors and permitted assigns.

25 C. Partial Invalidity. In case any one or more of the provisions contained in this Sublease
26 is for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity,
27 illegality, or unenforceability will not affect any other provisions hereof and this Sublease will
28 be construed as if such invalid, illegal, or unenforceable provisions had never been included
29 herein.

30 D. Prior Agreements Superseded. Other than the Master Lease, this Sublease constitutes
31 the sole and entire agreement of the parties with respect to the subject matter hereof and
32 supersedes any prior understandings or written or oral agreement between the parties respecting
33 such subject matter.

34 E. Attorneys' Fees. If any action at law or in equity, including an action for declaratory
35 relief, is brought by other party hereto to enforce or interpret the provisions of this Sublease,
36 the prevailing party in such action will be entitled to recover from the non-prevailing party such
37 prevailing party's reasonable attorneys' fees and costs incurred, which fees and costs may be

1 set by the court in the trial of such action or may be enforced in a separate action for that
2 purpose, and which fees and costs shall be in addition to any other relief which may be awarded
3 in such action.

4 F. Time of Essence. Time is of the essence in this Sublease.

5 G. Survival of AAC Obligations. AAC's obligations under this Sublease (including,
6 without limitation, each indemnity agreement and hold harmless agreement of AAC contained
7 herein) will survive the expiration or earlier termination of this Sublease.

8 H. Only Sublessor/AAC Relationship. Nothing contained in this Sublease will be deemed
9 or construed by the parties here to or by any third party to create the relationship of principal
10 and agent, partnership, joint venture or any association between Sublessor and AAC, it being
11 expressly understood and agreed that nothing contained in this Sublease will be deemed to
12 create any relationship between Sublessor and AAC other than the relationship of sublessor
13 and AAC.

14 I. Headings; Miscellaneous. The captions and/or headings of the several articles,
15 paragraphs and sections contained herein are for convenience only and do not define, limit or
16 construe the contents of such articles, paragraphs or sections. Any reference herein to an
17 article, paragraph or section shall mean and refer to an article, paragraph or section of this
18 Sublease unless otherwise expressly specified herein. This Sublease may not be amended or
19 modified by any act or conduct of the parties or by oral agreements unless reduced and agreed
20 to in writing signed by both Sublessor and AAC. No waiver of any of the terms of this Sublease
21 will be binding upon Sublessor unless reduced to writing and signed by Sublessor. Neither
22 Sublessor's failure to enforce or require strict performance of any provision of this Sublease,
23 nor Sublessor's acceptance of Rent or other charges with knowledge of a breach, default or
24 Event of Default hereunder, will be a waiver of such breach, default or Event of Default or any
25 future breach, default or Event of Default hereunder.

26 J. Notices. Notices or communications to Sublessor or AAC required or appropriate
27 under this Lease shall be in writing, sent by a) personal delivery; b) expedited delivery service
28 with proof-of-delivery; c) registered or certified United States mail, postage prepaid; or d)
29 prepaid telecopy if confirmed by expedited delivery service or by mail in the manner previously
30 described, addressed as follows:

31 If to Sublessor:

32 501 East Ninth Street
33 Little Rock, Arkansas 72202
34 Attention: Chairman
35

36 If to AAC:

37 501 East Ninth Street
38 Little Rock, Arkansas 72202
39 Attention: Chairman and Executive Director

1 With a copy to:
2 City of Little Rock, Arkansas
3 500 West Markham Street
4 Little Rock, Arkansas 72201
5 Attention: City Manager
6

7 K. Interpretation. When used herein, the singular includes the plural and the plural the
8 singular, and words importing any gender include the other gender. The terms and conditions
9 of this Sublease represent the result of negotiations between Sublessor and AAC, each of which
10 were represented and/or had the opportunity to be represented by independent counsel and
11 neither of which has acted under compulsion or duress; consequently, the normal rule of
12 construction that any ambiguity be resolved against the drafting party will not apply to the
13 interpretation of this Sublease or of any exhibits, addenda or amendments hereto.

14 L. Exhibits. All exhibits attached to this Sublease are deemed to be incorporated in this
15 Sublease as if fully set forth hereinabove.

16 M. Holidays. If the date upon which any of the duties or obligations hereunder to be
17 performed occurs on a Saturday, Sunday or legal holiday, then, provided that performance of
18 such obligation is not earlier required under the Master Lease, the due date for performance of
19 any duty or obligation will thereupon be automatically extended to the next succeeding
20 business day.

21 N. Authority. The individual executing this Sublease on behalf of AAC represents and
22 warrants to Sublessor that AAC has full right and authority to enter into this Sublease and
23 performance obligations hereunder.

24 O. Defined Terms. Unless otherwise specifically defined in this Sublease, capitalized
25 terms utilized in this Sublease will have the meaning ascribed to such terms in the Master
26 Lease.

27 P. Nondiscrimination. None of the parties hereto, their agents or employees, will
28 discriminate in contracting or leasing space in the Premises on the basis of race, color, sex, age,
29 religion, national origin or handicap, in employment practices or in the performance of the
30 terms, conditions, covenants and obligations of this Sublease. THE PARTIES HERETO
31 ACKNOWLEDGE AND AGREE THAT THIS SUBLEASE IS MADE IN ENTERED INTO
32 SUBJECT TO THE EXPRESS COVENANT AND AGREEMENT OF EACH PARTY THAT
33 PERFORMANCE OF ANY TERM, CONDITION, PROVISION, DUTY OR OBLIGATION
34 SET FORTH HEREIN, BY ANY PARTY, OR ANY EMPLOYEE OR OTHER PERSON
35 ACTING THROUGH OR UNDER THE DIRECTION OR CONTROL OF ANY PARTY,
36 SHALL FULLY COMPLY WITH ALL FEDERAL, STATE AND LOCAL LAWS,
37 REGULATIONS AND ORDINANCES PROHIBITING DISCRIMINATION ON THE
38 BASIS OF RACE, COLOR, CREED, RELIGION, SEX, NATIONAL ORIGIN, AGE,
39 DISABILITY, MARITAL STATUS, SEXUAL ORIENTATION, GENDER IDENTITY, OR

1 GENETIC INFORMATION, INCLUDING WITHOUT LIMITATION ORDINANCE NO.
2 21,031 OF THE CITY OF LITTLE ROCK, ARKANSAS, DATED APRIL 21 2015.

3 Q. No Merger of Estates. Sublessor and AAC hereby expressly acknowledge and agree
4 that the Master Lease and Sublease are to be legally respected in their forms as leases, and
5 under no circumstances whatsoever shall the legal estates of Sublessor and/or AAC operate to
6 merge and/or consolidate and eliminate this Sublease and the Master Lease.

7 R. Privacy of Information. Unless otherwise provided herein or required by law,
8 including, but not limited to, the Arkansas Freedom of Information Act, any information pro-
9 vided by AAC pursuant to this Sublease shall not be disseminated to third-parties without
10 AAC's prior written consent.

11 **IN WITNESS WHEREOF, THE DULY AUTHORIZED OFFICERS OF SUBLESSOR**
12 **AND AAC HAVE EXECUTED THIS SUBLEASE AGREEMENT AS OF THE DATE FIRST**
13 **SET FORTH ABOVE.**

14
15 **SUBLESSOR:**

16 **BLOSSOMOUTREACH22, INC.**

17
18 **By:** _____
19 **Michael Mayton, President**

20
21 **AAC:**

22 **ARKANSAS ARTS CENTER**

23
24 **By:** _____
25 **Van Tilbury, President**

26
27 **ACKNOWLEDGED AND CONSENTED TO BY:**

28 **CITY OF LITTLE ROCK, ARKANSAS:**

29
30 **By:** _____
31 **(Name)**

32
33 **ATTEST:**

34
35 **By:** _____
36 **(Name)**

37 //

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Exhibit A

Master Lease

(See attached.)

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Exhibit B
Description of the Premises

(See Attached)