



City of Grand Island

Tuesday, July 10, 2018

Council Session

Item I-2

#2018-208 - Consideration of Approving Lease Agreement for Transit Services Office Facility

Staff Contact: John Collins, P.E. - Public Works Director

Council Agenda Memo

From: Charley Falmlen, Transit Program Manager

Meeting: June 26, 2018

Subject: Approving Lease Agreement for Transit Services Office Facility

Presenter(s): John Collins PE, Public Works Director

Background

Beginning in the mid-1970s, Hall County, using Section 5311 Rural Transit Funding, provided elderly and para-transit services through Senior Citizens Industries, Inc. Over the years, this service evolved into a full-scale, portal-to-portal transit service, providing transportation to all residents of Hall County through a combination of buses and discounted cab vouchers.

In March of 2012, the City of Grand Island Census Defined Urbanized Area reached a population of greater than 50,000 people and Grand Island was classified as a metropolitan statistical area. This designation changed the funding streams and responsibilities for a number of programs, including those used to provide Transportation Services within the City of Grand Island. With this designation, Section 5307 Urban Transit Funds became available to the City of Grand Island. On September 25, 2012 the Grand Island City Council authorized the Mayor to send a letter requesting the City of Grand Island be named the recipient of these transit funds. The Governor then approved the request.

On August 26, 2014 City Council approved Resolution No. 2014-259 which allowed for the City to fund transit services within the City through the existing contract between Hall County and Senior Citizen Industries, Inc., until such time the City was ready to authorize a separate contract for the provision of transit services within the City.

On June 14, 2016, via Resolution No. 2016-138, Grand Island City Council approved an agreement between the City and Senior Citizens Industries, Inc. for the provision of Public Transit Services. Rates of the agreement are as follows:

- July 1, 2016- June 30, 2017 = \$53,202.50 per month
- July 1, 2017- June 30, 2018 = \$54,798.64 per month
- July 1, 2018- June 30, 2019 = \$56,442.60 per month

The City has the option of renewing the agreement for a maximum of two (2) years beyond June 30, 2017, in increments of two (2) months.

As of July 1, 2016 the City of Grand Island assumed management of the transit service.

Discussion

In order to facilitate the City's transit program in an efficient manner, a location has been selected to house both City staff and the service provider. At this time a lease agreement is being presented for City Council approval to accomplish such.

The proposed lease agreement between the City of Grand Island and Mid-Country Trading, LLC is for an office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska. The term of this lease would be three (3) years, with the option to extend the lease for three (3) six (6) month period(s) on the same terms as provided in the original lease. The annual cost of such lease is \$40,000.00, which equates to monthly rental of \$3,333.34. A sub-lease agreement is being presented at tonight's council meeting to assign such rental fee to the transit provider, which is currently Senior Citizens Industries, Inc.

This lease is considered an "operating lease" by the Federal Transit Administration, and is therefore reimbursed at 50%.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the lease agreement with Mid-Country Trading, LLC for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska.

Sample Motion

Move to approve the resolution.

LEASE AGREEMENT

THIS LEASE AGREEMENT, entered into this 27th day of June, by and between Mid-Country Trading L.L.C. hereinafter called "LESSOR"), and City of Grand Island (hereinafter called "LESSEE").

ARTICLE I. PREMISES.

Section 1.1 Demised Premises. In consideration of the rents, covenants, and agreements to be performed by Lessee, Lessor demises and leases to Lessee, and Lessee rents from Lessor, the premises known locally as 1016 Diers Avenue, Suite 119, Grand Island, Nebraska (hereinafter called the "DEMISED PREMISES"). The Demised Premises are depicted on Exhibit A. The Demised Premises consist of approximately 2160 square feet. The Demised Premises are measured from the center of interior walls and the outside of exterior walls.

Section 1.2 Use of Common Areas. Lessee shall further have the right to use, in common with others, of the Common Areas of the Shopping Center, subject to the terms of this Lease and reasonable rules and regulations adopted by Lessor.

Section 1.3 Shopping Center Defined. The term "SHOPPING CENTER" shall mean all buildings, structures, parking facilities, common facilities, and the like constructed or to be constructed on the property containing the Demised Premises. The Shopping Center is depicted on Exhibit B.

Section 1.4 Common Areas Defined. The term "COMMON AREAS" shall mean all parking areas, driveways, entrances and exits, sidewalks, landscaped areas, and all other common areas constructed or to be constructed for use in common by Lessee, other tenants in the Shopping Center and their employees and business invitees. The Common Areas shall be subject to the exclusive control and management of Lessor, and Lessor shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to the use of the Common Areas. Lessor shall have the right to designate employee parking areas within the Common Areas.

ARTICLE II. TERM.

Section 2.1 Term. The term of this Lease shall be for three (3) years beginning - August 1, 2018 (hereinafter called the "COMMENCEMENT DATE") and ending July 31, 2021 unless terminated sooner hereunder.

Section 2.2 Option to Renew. So long as Lessee is (1) not in default under the terms and provisions of the Lease and (2) open and operating its business in the Demised Premises, Lessee shall have the right and option to extend the Lease Term for three(3) six(6) month period(s) on the same terms as provided in said Lease.

Lessee may exercise said options by giving Lessor written notice pursuant to Section 13.4 of this Lease at least ninety (90) days prior to the termination of this Lease.

Section 2.3 Lease Year Defined. Intentionally Deleted

Section 2.4 Partial Year Defined. The term "PARTIAL YEAR" shall mean the period beginning with the Commencement Date and continuing to the beginning of the initial Lease Year and the period beginning with the end of the last complete Lease Year and continuing to the termination of this Lease.

Section 2.5 Lessee's Installation of Fixtures. To expedite commencement of Lessee's Business in the Demised Premises, Lessee may enter upon the Demised Premises with the prior written approval of Lessor to Perform Lessee's

work and install fixtures and furnishings. Lessor shall not be liable for loss of or damage to fixtures, equipment or other personal property installed or placed within the Demised Premises.

ARTICLE III. RENT AND OTHER CHARGES.

Section 3.1 Rent. Lessor shall receive rent for the Demised Premises the monthly amount outlined below during the term of this lease (hereinafter called "RENT"), in advance, on the first day of each month at P.O Box 139, Grand Island, NE. 68802-0139, or at such other place designated by Lessor. Rent may be paid by the City of Grand Island or by a sub-lessee, as assigned by the City of Grand Island.

<u>Period</u>	<u>Rate/Annum</u>	<u>Rate/Month</u>
Initial Lease Term	\$40,0000	\$3,333.34

Section 3.2 Additional Rent. Any other sums of money or charges to be paid by Lessee pursuant to this Lease shall be called "ADDITIONAL RENT."

Section 3.3 Taxes. Lessee shall pay all taxes assessed against Lessee's merchandise, trade fixtures and equipment located within the Demised Premises. Lessee shall pay all franchise taxes and rent taxes required for Lessee's business.

Section 3.4 Insurance. Lessor and Lessee agree that the agreed upon amount for Insurance contribution for the Initial Lease Term shall be included in the gross rent price. .

Section 3.5 Common Area Maintenance. Lessor and Lessee agree that the agreed upon amount for Common Area Maintenance for the Initial Lease Term shall be included in the gross rent price. .

Section 3.6 Past Due Rent and Additional Rent. If Lessee shall fail to pay any Rent or Additional Rent when the same is due and payable, Lessor may impose, in addition to the unpaid amount, a late charge penalty equal to ten percent (10%) of the unpaid amount.

If Lessee shall fail to pay any Rent or Additional Rent when the same is due and payable and such amount remains unpaid for thirty (30) days, Lessee shall pay interest on such amount after the thirty (30) day period at the rate of eighteen percent (18%) per annum or the highest rate allowed by law, whichever is the lesser (hereinafter called the "DEFAULT RATE").

Section 3.7 Utility Charges. Lessor and Lessee agree that the agreed upon amount for Utility Charges for the Initial Lease Term shall be included in the gross rent price.

Section 3.8 Percentage Rent. Intentionally deleted.

Section 3.9 Gross Sales Defined. Intentionally deleted.

Section 3.10 Statement of Gross Sales. Intentionally deleted.

Section 3.11 Security Deposit. Intentionally deleted.

ARTICLE IV. CONDUCT OF BUSINESS BY LESSEE.

Section 4.1 Use of Premises. Lessee shall use the Demised Premises solely for the purpose of operations of City services , and for no other purpose without Lessor's prior written approval. Lessee shall comply with all rules,

regulations and laws of any governmental authority with respect to its use and occupancy of the Demised Premises. Lessee shall not violate any exclusive use rights granted by Lessor to other Lessees in the Shopping Center.

Section 4.2 Standard of Operation and Business Hours. Lessee shall keep the Demised Premises open for business to the public during the hours that such businesses are customarily open for business, unless prevented from so doing by strikes, fires, casualty or other similar cause, and except during reasonable periods for repairing, cleaning and decorating. Nothing contained herein, however, shall require Lessee to remain open Sunday or legal holidays.

Section 4.3 Signs. Lessee shall not place any sign upon or within the Demised Premises without Lessor's prior written approval which shall not be unreasonably withheld. Lessee shall maintain its signs in good condition and repair. All signs shall comply with applicable ordinances, restrictions, and covenants, which compliance shall be the responsibility of Lessee.

Section 4.4 Additional Provisions. Lessee's use of the Demised Premises shall further be restricted as follows:

- (A) Lessee shall not use the sidewalks, parking areas or other Common Areas in the Shopping Center for the sale or display of merchandise or for advertising purposes without Lessor's prior written approval, which approval shall not be unreasonably withheld.
- (B) Lessee shall conduct no auction, fire, bankruptcy, liquidation or similar sale without Lessor's prior written approval, which approval shall not be unreasonably withheld.
- (C) Lessee shall keep the Demised Premises and exterior and interior of all windows, doors and all other glass in a neat and clean condition.
- (D) Lessee shall not allow any unlawful or immoral activities in the Demised Premises, create any nuisance or injure the reputation of the Shopping Center, or disturb the quiet enjoyment of other Lessees of the Shopping Center.
- (E) The delivery or shipping of merchandise, supplies and fixtures to and from the Demised Premises shall be subject to such reasonable rules and regulations as Lessor deems necessary for the operation of the Shopping Center.
- (F) Lessee shall store all trash and garbage within the designated areas and arrange for the regular pickup of the same at Lessee's expense.
- (G) Lessee shall keep the Demised Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.
- (H) Lessee shall provide for pest extermination services at reasonable intervals, if necessary.

ARTICLE V. MAINTENANCE AND REPAIRS

Section 5.1 Condition of Demised Premises. Lessor shall deliver possession of the demised premises to Lessee in the "as is" condition.

Section 5.2 Lessee's Duty to Repair. Lessee shall keep and maintain the Demised Premises in a clean, sanitary and safe condition.

Section 5.3 Compliance with Laws. Lessor shall make, at its expense, all repairs, additions and alterations to the Demised Premises ordered or required by the adoption by any governmental authority of new statutes, regulations, laws or

ordinances, whether to meet the special needs of Lessee, or due to the occupancy of Lessee, or otherwise.

Section 5.4 Alterations by Lessee. Lessee shall not alter the Demised Premises and shall not install any fixtures or equipment within the Demised Premises without prior written approval of Lessor, which approval shall not be unreasonably withheld.

Section 5.5 Lessor's Duty to Repair. Lessor shall keep and maintain in good order, condition and repair the Demised Premises and every part thereof, including (but not limited to) the exterior and interior portion of all doors, door checks, windows, plate glass, store front, all plumbing and sewage facilities, fixtures, the heating and air conditioning and electrical system, sprinkler system, walls, floors and ceilings, meters applicable to the Demised Premises, and all installations made by Lessor under the terms of this lease. Additionally, Lessor shall keep and maintain the foundation, roof, exterior walls and structural portions of the Demised Premises in good repair, except any repairs required due to the negligence of Lessee, or its agents, employees, contractors, subtenants or assignees, which repairs shall be the responsibility of Lessee.

Section 5.6 Surrender of Demised Premises. At termination of this Lease, Lessee shall deliver the Demised Premises to Lessor in good and clean condition, reasonable wear and tear excepted, and shall surrender all keys for the Demised premises to Lessor. During the last thirty (30) days of the term of this Lease, Lessee shall remove all its trade fixtures and, to the extent required by Lessor, any other installations, alterations or improvements before surrendering the Demised Premises and Lessee shall repair any damage to the Demised Premises caused thereby. Also within the last thirty (30) days, Lessee shall remove its signage from the exterior fascia of the building and shall be obligated to patch and repaint said fascia to match existing color. Any items remaining in the Demised Premises at the termination of this Lease shall be deemed abandoned, become the property of Lessor and Lessor may dispose of the same without any liability at all.

Upon Lessee's delivery of keys to Lessor, Lessee and Lessor shall complete a walkthrough inspection of the Demised Premises to determine its final condition. Lessor shall also cause to be completed a review of all mechanical systems servicing the Demised Premises to verify their proper operation and shall verify that all utility and/or service bills for the Demises Premised have been paid in full. Upon verification of same, Lessor shall refund Lessee's security deposit, if applicable, less any deductions provided for in Section 3.7, within ten (10) business days.

Section 5.7 Mechanic's Liens. Lessee shall not permit any mechanic's liens or similar liens to be placed against the Demised Premises or the Shopping Center. If such liens are filed or threatened, Lessee shall immediately obtain a release of the lien through payment or bonding. If the lien is not released within ten (10) days from the date of written notice from Lessor, Lessor shall have the right, at Lessor's option, to pay the lien or any portion thereof and the amounts paid, including reasonable attorney's fees, expenses and interest at the Default Rate, shall be paid to Lessor immediately. Lessee shall indemnify and hold Lessor harmless from all losses, claims, damages, costs and expenses relating to any repairs, installations or improvements to the Demised Premises made by Lessee.

Section 5.8 Roof. Lessee shall not cut, puncture or otherwise damage the roof of the Demised Premises. Lessee shall be responsible for any damage caused to the roof by any acts of Lessee, its agents, employees, contractors, subtenants or assignees.

ARTICLE VI. INSURANCE AND INDEMNITY.

Section 6.1 Lessee's Liability Insurance. Lessee shall, keep in full force and effect a policy of public liability and property damage insurance with respect to the Demised Premises and the business operated by Lessee and any subtenants or

assignees. The coverage limits of the policy shall not be less than \$1,000,000 combined single limit per occurrence. The policy shall name Lessor and its mortgagee as additional insureds. The policy shall provide that the insurer shall not cancel or change the insurance without giving the Lessor thirty (30) days prior written notice. A copy of the policy or a certificate of insurance shall be delivered to Lessor.

Section 6.2 Indemnification of Lessor. Lessee shall indemnify, defend and hold Lessor harmless from all claims, demands, causes of action, actions, damages, liability, judgments or expenses, including reasonable attorney's fees and expenses, in connection with any personal injury or damage to property arising from or out of any occurrence in, upon or at the Demised Premises, or the occupancy or use of the Demised Premises or any part thereof by Lessee, its agents, employees, contractors, subtenants or assignees, or relating to any act or omission of Lessee, its agents, employees, contractors, subtenants or assignees, except if caused by the act or omission of Lessor, its agents, employees or contractors.

Section 6.3 Lessor's Liability Insurance. Lessor shall keep in full force and effect a policy of public liability and property damage insurance with respect to the Common Areas. Lessor shall determine, in its sole discretion, the coverage limits of such policy.

Section 6.4 Indemnification of Lessee. Lessor shall indemnify, defend and hold Lessee harmless from all claims, demands, causes of action, actions, damages, liability, judgments or expenses, including reasonable attorney's fees and expenses, in connection with any personal injury or damage to property arising from or out of any occurrence in, upon or at the Common Areas, except if caused by the act or omission of Lessee, its agents, employees, contractors, subtenants or assignees.

Section 6.5 Lessee's Casualty Insurance. Lessee shall, keep all Lessee improvements, merchandise, fixtures and other personal property within the Demised Premises insured against fire, with extended coverage, the extent of at least eighty percent (80%) of the full insurable value thereof. The policy shall provide that the insurer will not cancel or change the insurance without giving the Lessor thirty (30) days prior written notice. A copy of the policy or a certificate of insurance shall be delivered to Lessor.

Lessor shall not be liable for any damage to any Lessee improvements, merchandise, fixtures and other personal property within the Demised Premises. Lessor shall not be liable for loss or damage to any property of Lessee or others by theft or otherwise. Lessor shall not be liable for any damage caused by other Lessees of the Shopping Center, occupants of property next to the Shopping Center or the public.

Section 6.6 Lessor's Casualty Insurance. Lessor shall keep the Demised Premises insured against loss or damage by fire, with extended coverage, in such amount determined by Lessor, in its sole discretion.

Section 6.7 Increase in Fire Insurance Premium Lessee shall not keep, use, sell or offer for sale within the Demised Premises any item that may be prohibited by the standard form of fire insurance policy. If anything done or omitted to be done by Lessee causes the rate of fire or other insurance on the Demised Premises or the Shopping Center to be increased, Lessee shall pay the amount of such increase as Additional Rent.

Section 6.8 Waiver of Subrogation. Where either Lessor or Lessee sustains a loss or damage protected by an existing policy or policies of insurance, the party sustaining such loss or damage, to the extent that it is so protected and to the extent that it may legally do so, waives its rights of recovery, if any, against the other party hereto.

ARTICLE VII. FIRE OR OTHER CASUALTY

Section 7.1 Notice. Lessee shall immediately notify Lessor of any damage caused to the Demised Premises by fire or other casualty.

Section 7.2 Partial Destruction. In the event of the partial destruction of the Demised Premises by fire or any other casualty, Lessor shall restore or repair the demised Premises to its condition immediately before the damage with reasonable diligence. The Rent shall be reduced in direct proportion to the reduction in usefulness of the Demised Premised from the date of the damage until the Demised Premises is repaired or restored.

Section 7.3 Substantial Destruction. In the event that the Demised Premises is substantially destroyed by fire or any other casualty, Lessor shall have the option to terminate this Lease by giving Lessee written notice within thirty (30) days after such destruction, and any unearned Rent shall be apportioned and returned to Lessee. If Lessor does not elect to cancel this Lease, then this shall remain in full force and effect and Lessor shall proceed with all reasonable diligence to repair and replace the Demised Premises to its condition immediately before the destruction. The Rent shall abate from the date of the destruction until the Demised Premises is repaired or restored.

ARTICLE VIII. EMINENT DOMAIN.

Section 8.1 Partial Taking. If part of the Demised Premises shall be taken for public improvements or otherwise under the exercise of the right of eminent domain and the Demised Premises shall continue to be reasonably suitable for use by Lessee, then the Rent shall be reduced from the date of such taking in direct proportion to the reduction in usefulness of the Demised Premises.

Section 8.2 Substantial Taking. If the taking shall render the Demised Premises wholly unfit for use by Lessee, then Lessee shall have the right, at Lessee's option, to terminate and cancel this Lease on thirty (30) days written notice to Lessor, and Lessee shall be liable only for the Rent and Additional Rent accrued and earned to the date of surrender of possession of the Demised Premises to Lessor and for the performance of other obligation maturing before that date.

Section 8.3 Award. Lessee shall not be entitled to participate or receive any part of the damages or award that may be paid to or awarded Lessor due to a public taking, except where the award shall provide for moving or other reimbursable expenses for Lessee under applicable statute.

ARTICLE IX. ASSIGNMENT AND SUBLETTING.

Section 9.1 Consent Required. Lessee shall not sublet or assign the Demised Premises without Lessor's prior written approval, which approval shall not be unreasonably withheld. The approval of Lessor to any assignment or subletting shall not constitute a waiver of the necessity for approval to any subsequent assignment or subletting.

Section 9.2 Liability After Assignment. In the event that Lessee receives rent or similar payments from a subtenant or assignee more than that being paid by Lessee to Lessor, then such excess amounts shall be paid to Lessor as Additional Rent. Lessor may collect rent or similar charges from the subtenant or assignee and apply the net amount collected to the Rent hereunder.

ARTICLE X. DEFAULT.

Section 10.1 Events of Default. The occurrence of any one or more of the following shall constitute an "EVENT OF DEFAULT" by Lessee:

- (A) Failure to pay when due any installment of Rent or Additional Rent if the failure continues for ten (10) days after written notice of such default.
- (B) Failure to cure or remedy any default in the performance or observance of any term, provision or covenant of this Lease to be performed or observed by Lessee, other than as described in subsection (A) above, if the failure continues for twenty (20) days after written notice of such default. However, if the default cannot reasonably be cured or remedied within the twenty (20) day period, Lessee shall not be deemed to be in default if Lessee shall have diligently commenced curing such default within such (20) day period and proceeds thereafter to diligently and in good faith to remedy or cure the default. In no event shall the cure take longer than sixty (60) days. If at the end of the sixty (60) day period Lessee has failed to cure the default, the Lessee shall be deemed a default without further right to cure.
- (C) Abandonment of the Demised Premises before the expiration of the term of this Lease.
- (D) Failure to pay any installment of Rent or Additional Rent after more than three (3) written notices relative to similar failures during the term of this Lease shall be deemed an irrefutable default without any right to cure.
- (E) Lessee is adjudicated bankrupt or insolvent, or a receiver is appointed for Lessee's business or assets on the ground of Lessee's insolvency, or a trustee is appointed for Lessee, or a petition has been filed naming Lessee as the debtor under the bankruptcy laws of the United States, or Lessee shall make an assignment for the benefit of its creditors.
- (F) If Lessee is a corporation and any part or all of its shares of stock be transferred by sale, assignment, bequest, inheritance, operation of law or other disposition to result in a change in the majority ownership of Lessee's stock.

Section 10.2 Lessor's Remedies. Upon the occurrence of any one or more Event of Default, without notice or demand of any kind to Lessee, Lessor shall have the option to pursue, in addition to all other legal or equitable remedies, the following remedies:

- (A) Lessor may elect to terminate this Lease, in which event Lessor may immediately repossess the Demised Premises and Lessee shall pay at once to Lessor, as liquidated damages, the sum of the Rent and Additional Rent for the balance of the stated term of this Lease, together with all expenses incurred by Lessor for legal services, brokerage fees and preparing the Demised Premises.
- (B) Lessor may elect to terminate Lessee's right of possession of the Demised Premises without termination of this Lease, in which event
 Lessee shall surrender possession and vacate the Demised Premises
 immediately and deliver possession thereof to Lessor, and
 Lessee
 hereby grants to Lessor full and free license to enter into and
 upon
 the Demised Premises and remove Lessee and any other
 person, firm
 or corporation who may be occupying the Demised Premises and

remove all personal property therefrom, without releasing Lessee from its obligation to pay the Rent and Additional Rent and perform the covenants, conditions and agreements to be performed by Lessee under this Lease.

After taking possession of the Demised Premises without terminating this Lease, Lessor may, but shall not be obligated to, relet all or any part of the Demised Premises for such rent and upon such terms and to such person, firm or corporation and for such use or uses and such period or periods as Lessor, in Lessor's sole discretion, shall be determined. Lessor shall not be required to accept any prospective lessee offered by Lessee or to observe any instruction given by Lessee about such reletting. For such reletting, Lessor may decorate or make repairs, changes, alterations or additions to the Demised Premises to the extent deemed by Lessor desirable or convenient. If the consideration collected by Lessor upon any such reletting is not sufficient to pay as liquidated damages, the Rent and Additional Rent reserved in the Lease, and the cost of repairs, alterations, additions, redecorating and other similar expenses, including reasonable attorney's fees and brokerage fees, then Lessee shall pay to the Lessor the deficiency upon demand.

Lessor, any time after the occurrence of an Event of Default, without being under any obligation to do so and without thereby waiving such default, may cure the default of the account of Lessee (and enter the Demised Premises for such purpose). Lessee shall pay to Lessor upon demand, all costs, expenses and disbursements, including reasonable attorneys' fees, incurred by Lessor in curing such default with interest thereon at the Default Rate.

ARTICLE XI. SUBORDINATION, OFFSET STATEMENT AND ATTORNMEN

Section 11.1 Subordination. Lessor is hereby irrevocably vested with the full power and authority, if it so elects, to subordinate this Lease to any mortgage, deed of trust, or other lien now or hereafter placed upon the Demised Premises or upon the Shopping Center. Within ten (10) days after request therefore by Lessor, Lessee shall execute and deliver an agreement subordinating this Lease, provided such subordination shall be upon the express condition that this Lease shall be recognized by the mortgagee, and that the right of Lessee shall remain in full force and effect during the term of this Lease so long as Lessee shall continue to perform all of the covenants and conditions of this Lease.

Section 11.2 Estoppel Certificate. Within ten (10) days after request therefore by Lessor, Lessee shall execute and deliver a statement certifying (if such be the case) that this Lease is in full force and effect and that there are no defenses or offsets thereto.

Section 11.3 Attornment. Lessee shall, in the event any proceedings are brought for foreclosure of, or upon exercise of the power of sale under any mortgage or deed of trust made by Lessor covering the Demised Premises, attorn to the purchaser upon any such foreclosure of sale and recognize such purchaser as Lessor under this Lease.

Section 11.4 Attorney-in-Fact. In the event that Lessee shall fail to execute and deliver instruments pursuant to Sections 11.1, 11.2, and 11.3, then Lessee hereby appoints Lessor as attorney-in-fact for Lessee to execute any such instrument or certificate for and on behalf of Lessee.

ARTICLE XII. HAZARDOUS SUBSTANCES.

Section 12.1 Lessor's Obligations. Lessor represents and warrants that, during the term of this Lease, Lessor shall not use, generate, place, store, release, or otherwise dispose of, nor allow the use, generation, placing, storage, release, or

disposal of Hazardous Materials in the Shopping Center, except in strict accordance with all Environmental Laws. If, during the term of this Lease, Hazardous Materials are discovered in any portion of the Shopping Center outside the Demised Premises, Lessor shall immediately undertake or cause to be undertaken remediation or removal of the Hazardous Materials according to all Environmental Laws and, to the extent Lessee's business is interrupted during the remediation or removal, the Rent shall be abated as is fair and reasonable under the circumstances. Lessor shall indemnify, defend and hold Lessee harmless against and reimburse Lessee for all Hazardous Materials Liabilities asserted against or incurred by Lessee arising out of a breach of the representations, warranties or covenants set forth in this Section 12.1.

Section 12.2 Lessee's Obligations. Lessee represents and warrants that, during the term of this Lease, Lessee shall not use, generate, place, store, release or otherwise dispose of Hazardous Materials in the Demised Premises or Shopping Center, except in strict accordance with all Environmental Laws. In the event of a breach of the foregoing, Lessee shall immediately undertake or cause to be undertaken remediation or removal according to all Environmental Laws. Lessee shall indemnify, defend and hold Lessor harmless against and reimburse Lessor of all Hazardous Materials Liabilities asserted against or incurred by Lessor arising out of a breach of the representations, warranties or covenants set forth in this Section 12.2.

Section 12.3 Hazardous Materials Defined. The term "HAZARDOUS MATERIALS" as used herein means any substance, (i) the presence of which special handling, storage, investigation, notification, monitoring, or remediation under any Environmental Law, (ii) which is toxic, explosive, corrosive, erosive, flammable, infectious, radioactive, carcinogenic, mutagenic, otherwise hazardous, (iii) which is or becomes regulated by any Governmental Authority, or (iv) the presence of which causes or threatens to cause a nuisance to the Shopping Center or Demised Premises or to adjacent properties or Demised Premises.

Section 12.4 Environmental Laws Defined. The term "ENVIRONMENTAL LAWS" refer to all Laws relation to (i) emissions, discharges, spills, releases or threatened releases of Hazardous Materials onto land or into ambient air, surface water, groundwater, watercourses, publicly or privately owned treatment works, drains, sewer systems, wetlands, or septic systems, (ii) the use, treatments, storage, disposal, handling, manufacturing, transportation, or shipment of Hazardous Materials, or (iii) the protection of human health or the environment.

Section 12.5 Hazardous Materials Liabilities Defined. The term "HAZARDOUS MATERIALS LIABILITIES" as uses herein means all claims, damages, losses, forfeitures, expenses, or liabilities arising from or caused in whole or in part, directly or indirectly, by a breach by the other parts of its representations, warranties, or covenants under Section 12.1 or 12.2, including (but not limited to) all costs of defense (including reasonable attorneys' fees and other costs of litigation), all consultant's fees, and all costs of investigation, repair, remediation, restoration, clean up, detoxification or decontamination, and/or preparation and implementation of any closure, remedial action or other required plan.

Section 12.6 Survival. The provisions of the Article XII shall survive the expiration or earlier termination of this Lease.

ARTICLE XIII. GENERAL PROVISIONS

Section 13.1 Lessor's Right of Entry. Lessor reserves the right, at all times during the term of this Lease, to enter the Demised Premises for inspection and examining the same, and to show the same to prospective purchasers or Lessees, and to make such repairs, alterations, improvements or additions as Lessor may deem necessary or desirable. During the last ninety (90) days of the term of this Lease, Lessor may exhibit the Demised Premises to prospective Lessee s or purchasers, and place upon the Demised Premises the usual notices

advertising the Demised Premises for sale or lease. If Lessee shall not be present to open and allow entry into the Demised Premises, at any time, when for any reason entry shall be necessary or permissible, Lessor may enter by use of a master key or by forcible entry without rendering Lessor liable therefore, and without in any manner affection the obligations and covenants of the Lease. Nothing herein contained, however, shall be deemed or construed to impose upon Lessor any obligation, responsibility or liability at all for the care, maintenance or repair of the Demised Premises except as otherwise herein specifically provided.

Section 13.2 Quiet Enjoyment. Lessee shall lawfully and peaceable have, hold, possess, use and occupy and enjoy the Demised Premises while this Lease remains in force, without hindrance, disturbance or molestation from Lessor, subject to the specific provisions of this Lease.

Section 13.3 Trade Fixtures. At the expiration of this Lease, provided Lessee is not in default, Lessee shall have the right to remove any trade fixtures installed by Lessee at the Demised Premises. Lessee shall repair any damage to the Demised Premises caused by such removal. Notwithstanding the foregoing, Lessor shall have a lien upon the fixtures, or any additions thereto, during the term of this Lease to secure performance by Lessee. Any security interest or lien on equipment and trade fixtures by Lessor shall be secondary to the Lessee, (Franchisor) or the lender during the term of this agreement and any renewal, assignment or termination.

Section 13.4 Notices. Whenever any notice is required or allowed hereunder, such notice shall be in writing. Any notice or document required or allowed to be delivered hereunder shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the parties hereto at the following addresses:

LESSOR:

PO Box 139
Grand Island, NE. 68802-0139

LESSEE:

PO Box 1968
Grand Island, NE 68803

Section 13.5 Holding Over. In the event Lessee, with Lessor's consent, remains in possession of the Demised Premises after the expiration of this Lease, Lessee shall be deemed to be occupying the Demised Premises as a month to month tenant subject to the terms, covenants and conditions of this Lease.

Section 13.6 Partial Invalidity. If any term or condition of this Lease shall to any extent be invalid and unenforceable, then the remainder of this Lease, other than those to which it is held invalid or unenforceable, shall not be affected and each term, covenant and condition of this Lease shall be valid and be enforced to the fullest extent allowed by law.

Section 13.7 Waiver. Waiver of any default, breach or failure under this Lease shall not be construed as a waiver of any subsequent or different default, breach or failure.

Section 13.8 Amendment. All amendments to this Lease shall be in writing executed by the parties.

Section 13.9 Successors. The provisions, covenants, and conditions of this Lease shall bind and inure to the benefit of the legal representatives, successors and assigns of each party. Lessor shall have the right to assign this Lease and be released therefrom upon the sale of the Demised Premises.

Section 13.10 Choice of Law. The laws of the State of Nebraska shall govern interpretation, validity, performance and enforcement of this Lease.

Section 13.11 Superseding Lease. This Lease supersedes all previous leases or other agreements between the parties hereto concerning the Demised Premises.

SIGNATURE PAGE

DATED this day of _____, 2018

LESSOR:
Mid-Country Trading L.L.C.

By:

Raymond J. O'Connor,

LESSEE:
City of Grand Island

By:

Jeremy L. Jensen, Mayor

GUARANTY OF LEASE

The undersigned do hereby guarantee the full performance of this Lease and do further expressly waive notice of non-performance or default under the Lease by or on behalf of Lessee, and further expressly hereby waive any legal obligations or necessity for Lessor to proceed first against Lessee or to exhaust any remedy Lessor may have against Lessee, it being understood that in the event of default or failure of performance under the Lease in any respect by Lessee, Lessor may proceed and have right of action solely against either the undersigned or Lessee, or jointly against the undersigned and Lessee.

If the Lease is renewed or its term extended, for any period beyond the original termination date specified in the Lease, either pursuant to any option granted under the Lease or otherwise at any time, or if Lessee holds over beyond the term of the Lease, or if the Lease is modified in any way, the obligations hereunder of Guarantor shall extend and apply with respect to the full performance and observance of all of the covenants, terms, and conditions of the Lease, as existing, extended, renewed or modified and of any such amendment thereof.

Dated this _____ day of _____, 2018.

INTENTIONALLY DELETED

RESOLUTION 2018-208

WHEREAS, March of 2012, the City of Grand Island Census Defined Urbanized Area reached a population of greater than 50,000 people and Grand Island was classified as a metropolitan statistical area; and

WHEREAS, this designation changed the funding streams and responsibilities for a number of programs, including those used to provide Transportation Services within the City of Grand Island; and

WHEREAS, with this designation, Section 5307 Urban Transit Funds became available to the City of Grand Island and on September 25, 2012 the Grand Island City Council authorized the Mayor to send a letter requesting the City of Grand Island be named the recipient of these transit funds, with the Governor approving the request; and

WHEREAS, on August 26, 2014 City Council approved Resolution No. 2014-259 which allowed for the City to fund transit services within the City through the existing contract between Hall County and Senior Citizen Industries, Inc., until such time the City was ready to authorize a separate contract for the provision of transit services within the City; and

WHEREAS, as of July 1, 2016 the City of Grand Island assumed management of the transit service; and

WHEREAS, in order to facilitate the City's transit program in an efficient manner a location has been selected to house both City staff and the service provider; and

WHEREAS, the lease agreement between the City of Grand Island and Mid-Country Trading, LLC is for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska.

WHEREAS, the term of this lease is for three (3) years, with the option to extend the lease for three (3) six (6) month period(s) on the same terms as provided in the original lease; and

WHEREAS, the annual cost of such lease is \$40,000.00, which equates to monthly rental of \$3,333.34.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign the lease agreement with Mid-Country Trading, LLC.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 10, 2018.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	□ _____
July 5, 2018	□ City Attorney