

LEASE AGREEMENT BETWEEN THE CITY OF SANTA ANA AND THE DELHI CENTER

THIS LEASE AGREEMENT (the "**Lease**") is made and entered into by The Delhi Center, a California nonprofit benefit corporation ("**Lessor**" or "**Delhi**"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("**Tenant**" or "**City**") (collectively referred to as the "**Parties**"), under the following terms and conditions:

RECITALS

- A. The Parties entered into a Ground Lease Agreement ("Ground Lease") dated September 5, 2000, as amended, by which the City leased real property to the Delhi Center for construction of a Community Center to be operated by Delhi for the duration of the Ground Lease. This facility is known as The Delhi Center.
- B. The Ground Lease remains in effect through September 5, 2040, subject to further extension through 2050.
- C. The Parties intend to enter an agreement wherein the Lessor would agree to lease approximately 2,465 square feet of space at the Delhi Center to the City of Santa Ana for purposes of providing public library services.

1. Description of the Leased Premises. Delhi hereby leases to City the premises at the Delhi Center encompassing rooms 101, 102, and 103 for a total of approximately 2,465 square feet, plus the immediately adjacent exterior space for an outdoor patio, all as referred to herein as the "**Premises**" and shown on **Exhibit A** (the "**Property**").

2. Term, Occupancy, Termination.

(a) Term. The term of this Lease shall be ten (10) years, commencing with the City taking possession on March 1, 2023 (the "**Commencement Date**") with the option for up to two (2) five-year renewals, exercisable by mutual agreement of the Parties and in writing by the City Manager and the City Attorney, unless earlier terminated as provided herein.

(b) Occupancy. City may, upon execution of this Lease by Delhi and City, occupy the Premises on the Commencement Date subject to all terms and conditions of this Lease. Upon delivery of first month's rent, Delhi shall deliver the keys and possession of the Premises to City.

(c) Termination. This Lease may be terminated by the City upon ninety (90) days written notice of termination. At the termination of this Lease, City shall surrender the Premises to Delhi in the condition required by this Lease.

3. Rent. The initial rent for the first twelve (12) months of this Lease including a pro-rata share of common area maintenance ("**CAM**"), as described below in Section 6, shall be a

monthly rent of Three Thousand, Five Hundred Fifty Dollars and Zero Cents (**\$3,550.00**). City shall, commencing on the Commencement Date and continuing thereafter on the first (1st) day of each and every month during the term of this Lease, pay to Delhi in advance, such minimum monthly rent, without setoff, deduction or demand. Every year after the initial year, on the anniversary of the Commencement Date, the rent payable by City shall be increased by 3% each year.

Year		Base Rent
1	March 1, 2023 – February 29, 2024	\$3,550
2	March 1, 2024 – February 28, 2025	\$3,657
3	March 1, 2025 – February 28, 2026	\$3,766
4	March 1, 2026 – February 28, 2027	\$3,879
5	March 1, 2027 – February 29, 2028	\$3,996
6	March 1, 2028 – February 28, 2029	\$4,116
7	March 1, 2029 – February 28, 2030	\$4,239
8	March 1, 2030 – February 28, 2031	\$4,366
9	March 1, 2031 – February 29, 2032	\$4,497
10	March 1, 2032 – February 28, 2033	\$4,632

4. Place of Payment of Rent. Rent and all other sums which shall become due under this Lease, including but not limited to late charges and additional rent, shall be payable by hand delivery or mail at the office of the Delhi located at 505 E Central Ave, Santa Ana, CA 92707, or at such other place as Delhi may designate from time to time in writing. Parties may agree to change to electronic payment, subject to City’s accounting procedures.

5. Condition of, and Improvements to, Premises.

(a) Improvements.

(i) Delhi shall have the obligation to clear out rooms of furniture and non-fixed items that are located within the Premises to another location prior to the Commencement Date of this Lease.

(ii) Under this Lease, City, at City’s expense, shall have the right to improve the Premises and/or the exterior of the building housing the subject Premises (the “**Building**”) such that it is appropriate for use as a modern public library space. Any improvements shall be made only in accordance with applicable federal, state, or local codes, ordinances, or regulations, having due regard to the type of construction of the Building. Such improvements, if removable, shall remain the property of City at the termination of this Lease. City is not required to return the Premises to a pre-Lease state upon termination of the Lease. In consideration of this provision, City shall pay to Delhi a one-time, non-refundable sum equal to the monthly rent at the time of the termination. City shall share plans of design and improvements with Delhi for coordination purposes so as not to hinder Delhi’s operations, however, Delhi’s permission shall

not be required for such improvements. A non-exhaustive list of possible City improvements is attached as **Exhibit B**. The City shall inform Delhi of any additional improvements that materially change the original concept.

(b) Condition Upon Surrender. Upon termination of this Lease, City shall surrender the Premises as improved to Delhi in good condition and repair, ordinary wear and tear and damage by fire, storm, lightning, earthquake, act of God or other casualty excepted.

6. Use. The Premises shall be used in a manner consistent with that of a modern public library, exclusively. The library will not be open Saturdays after 2:00 p.m., Sundays, and holidays. City shall not use any portion of the Premises for purposes other than those specified without first obtaining the written consent of Delhi, which consent shall not be unreasonably withheld. City shall not do, bring, or keep anything in, on, or about the Premises which will in any way increase the premium rate or cause the cancellation of any fire or other insurance upon the Premises, the building in which the Premises are located, or any of its contents. City shall have the non-exclusive right to use the parking area and driveways, sidewalks, hallways, restrooms (to the extent not entirely contained in the Premises), common area pathways to and from the parking area and Premises in common with the other tenants or users of the Building as well as the main lobby and central hallway. City agrees to a proportional share of the common area maintenance amounting to 398 square feet, such CAM fees are included in the Rent described in Section 3, above.

7. Compliance with Laws/Hazardous Materials. City, at City's expense, shall comply with and cause all of City's agents to comply with all applicable laws, ordinances, rules and regulations of governmental authorities applicable to the Premises or the use or occupancy thereof, including, without limitation, the law commonly known as the Americans With Disabilities Act and California Code of Regulations Title 8, Sections 3281 through 3299 (collectively, "**Laws**"). Further, City, at City's expense, shall ensure that any activities conducted in, on, from, or about the Premises shall comply with all applicable laws, ordinances, rules and regulations of governmental authorities.

8. Waste; Nuisance; Quiet Enjoyment; Rules and Regulations. City shall not suffer or commit any waste or nuisance on the Premises, nor shall City interfere with or obstruct the rights of or disturb the quiet enjoyment of any other tenant or occupant of the Building or injure or annoy them. City will comply, and cause its employees, patrons, and agents to comply, with all rules and regulations adopted by Delhi in connection with the use of the Premises, the parking areas, and common areas, which rules and regulations may be adopted or amended by Delhi at any time so long as such rules and regulations are provided to City in writing and within a reasonable time after promulgation by Delhi. City shall provide security services within its leased premises.

9. Repair and Maintenance.

(a) Except as noted under Section 9(b), below, Delhi shall repair and maintain the roof, structural foundations, and exterior walls of the Building as well as all interior portions of the Building that are not within the Premises.

(b) City shall, at City's sole cost and expense, maintain the Premises, including the indoor and outdoor routine maintenance and repairs of the Premises and surrounding area, in good condition and repair. Said maintenance shall include, the interior of the Premises, exterior doors and windows, all fixtures and equipment, including without limitation, plate glass, lighting fixtures, and plumbing fixtures. Delhi shall maintain the heating and air conditioning system in good working order at Delhi's sole expense and cost.

10. Janitorial. All cleaning and janitorial services for the Premises shall be provided, at City's sole cost and expense, exclusively by or through City or City's janitorial contractors in accordance with the provisions of this Lease. City shall notify Delhi of the company, person or persons providing this service. Janitor service shall include ordinary cleaning and occur regularly. Scheduling and access will be coordinated by both parties.

11. Utilities. City shall pay City's portion of utilities, including gas service, trash, electrical service, water, real estate taxes and all connection charges furnished to or used by City upon the Premises. The Parties agree that City's share shall be 11.36% of the utilities. Delhi will invoice City once a month with a copy of the utility bills, and City will submit payment to Delhi within 60 days of receipt, subject to City accounting procedures. City shall provide itself or contract directly with the following utilities/service providers and pay for such services directly: janitorial, security, cable service, telephone services, broadband internet services, and all connection charges. City shall deposit all trash only in designated areas.

12. Rules. City shall before and during the Term faithfully observe and comply with, and shall cause all occupants of the Premises to observe and comply with, the rules and regulations, if any, attached to this Lease as **Exhibit C** and all reasonable modifications thereof and additions thereto from time to time put into effect by Delhi (the "**Rules and Regulations**").

13. Entry by Delhi. Except for emergencies such as fire, water intrusion and the like, which may be at any time, Delhi and its agents shall have the right to enter the Premises during normal hours of operation to inspect and examine the same and to make mutually agreed upon repairs to the Premises.

14. Hold Harmless. Delhi shall assume no liability for any use of the Premises by the City. Except from Delhi's negligence, City shall waive, release and hold harmless Delhi, its employees, and agents from all claims against Delhi, including but not limited to claims for death, injuries, exposure to COVID-19, or other illness, or damage to property sustained by City, its agents, employees, contractors, and invitees in, upon, or about said Premises, or for any action or liability of injury arising out of the use of the Premises by City, due to any act or omission by the City, its employees, agents, invitees, and contractors, including failure of Tenant to keep the Premises in good condition and repair as provided in this Lease. City shall adhere to all CDC guidelines to help minimize the spread of COVID-19 or other illness.

15. Insurance. Throughout the Term or any renewal period, City shall maintain insurance as described below:

(a) Combined Single Limit Bodily Injury and Property Damage Insurance. Policy naming Delhi as an additional insured with the City against any liability arising out of the improvements, use, occupancy, or maintenance of the Premises in the conduct of the City's

programs. Such insurance shall be a Combined Single Limit policy in the amount not less than Two Million Dollars (\$2,000,000). The limits of such insurance shall not, however, limit the liability of the City.

(b) Workers' Compensation Insurance. For all employees working on the Premises and shall furnish Delhi with a Certificate of Insurance indicating the extent of coverage.

16. Destruction of Premises.

(a) Destruction Due to Risk Covered by Insurance. If, during the term of this Lease, including any renewal term, the Premises or the Building and other improvements in which the Premises are located are totally or partially destroyed from a risk covered by insurance carried by either City or Delhi for the Building, rendering the Premises totally or partially inaccessible or unusable, the responsible party shall work with their respective insurance carrier(s) to restore the Premises or the Building, and other improvements in which the Premises are located, to substantially the same condition as they were immediately before destruction, if they can be repaired within 120 days from date of destruction, such destruction shall not terminate this Lease. In the event that damage was caused due to the actions of both parties, the shared damage would be repaired or replaced through a cooperative action by both parties and their respective insurance carriers. However, if such destruction cannot be repaired within 120 days from date of destruction, City shall have the right to terminate this Lease upon 30 days written notice. If the existing laws do not permit the restoration, either party can terminate this Lease immediately by giving notice to the other party.

(b) Abatement or Reduction of Rent. In case of destruction where Delhi is at fault, there shall be an abatement or reduction of rent between the date of destruction and the date of substantial completion of restoration based on the extent to which the destruction interferes with City's use of the Premises. In the event that a governmental authority with jurisdiction over the Premises recognizes a pandemic and issues an order requiring businesses to be closed, rent shall not be abated.

17. Default.

(a) Default by City. The occurrence of any of the following shall constitute a default by City:

(i) City shall fail to pay when due any rent or any other monetary sum payable under this Lease.

(ii) City shall fail to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease and such default continues for a period of thirty (30) days after written notice by Delhi specifying the nature of the default with reasonable particularity, unless the nature of the default is such that more than thirty (30) days is required to cure it and City commences to cure it within such thirty (30)-day period and thereafter diligently pursues it to completion.

(iii) City shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or take or have taken against City

any proceedings of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event any such proceedings are involuntary, City is not discharged from the same within thirty (30) days thereafter.

(iv) A receiver is appointed for a substantial part of the assets of City, and such receivership is not released within thirty (30) days.

(v) The abandonment of the Premises by City, or the vacation (hereby defined to be thirty (30) or more consecutive days of continual absence from the Premises) of the Premises by City.

Notices given under this section shall be in writing and specify the alleged default and the applicable Lease provisions, and shall demand that City perform the provisions of this Lease or pay the rent that is in arrears, as the case may be, within the applicable period of time, or quit the Premises.

(b) Delhi's Remedies. If any default by City shall occur, and following notice of default as required by this Lease (for the period applicable to the default under the applicable provision of this Lease), Delhi shall have the following remedies in addition to all other rights and remedies provided by law or equity, to which Delhi may resort cumulatively or in the alternative.

(i) Delhi shall have the immediate option to terminate this Lease and all rights of City hereunder by giving written notice of such intention to terminate.

(ii) No reentry or taking possession of the Premises by Delhi pursuant to this section shall be construed as an election to terminate this Lease.

(c) Default by Delhi. The occurrence of any of the following shall constitute a default by Delhi:

(i) Delhi shall fail to observe, keep or perform any of the other terms, covenants, agreements or conditions contained in this Lease and such default continues for a period of thirty (30) days after written notice by City specifying the nature of the default with reasonable particularity, unless the nature of the default is such that more than thirty (30) days is required to cure it and Delhi commences to cure it within such thirty (30)-day period and thereafter diligently pursues it to completion.

(ii) Delhi shall become bankrupt or insolvent or make a transfer in fraud of creditors, or make an assignment for the benefit of creditors, or take or have taken against Delhi any proceedings of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act and, in the event any such proceedings are involuntary, Delhi is not discharged from the same within thirty (30) days thereafter.

(iii) A receiver is appointed for a substantial part of the assets of Delhi, and such receivership is not released within thirty (30) days.

Notices given under this section shall be in writing and specify the alleged default and the applicable Lease provisions.

(d) City's Remedies. If any default by Delhi shall occur, and following notice of default as required by this Lease (for the period applicable to the default under the applicable provision of this Lease), City, in addition to all other rights and remedies provided by law or equity, to which City may resort cumulatively or in the alternative, shall have the immediate option to terminate this Lease and all rights of Delhi hereunder by giving written notice of such intention to terminate.

18. Assignment and Subletting. City shall not either voluntarily or by operation of law, assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, and shall not sublet the said Premises or any part thereof, or any right or privilege appurtenant thereto, or allow any other person (the employees, agents, servants, and invitees of City excepted) to occupy or use the said Premises, or any portion thereof, without first obtaining the written consent of Delhi which shall not be unreasonably withheld.

19. Signs. Delhi agrees that City may provide signs on the Building, and throughout the Premises, provided, at termination of its occupancy, City shall remove such signage.

20. Parking. City shall have the nonexclusive use of the parking area controlled by Delhi at and around the Premises; provided; however, that no invitee may park in an area designated, identified, and/or reserved for parking by any other tenant or tenants, if any. It is expressly understood and agreed that City's right to the use of said parking area shall be non-exclusive and subject to the Rules and Regulations, and that Delhi reserves the right to establish and enforce other rules with respect to the use thereof, and City agrees to abide by and conform to the same, as revised from time-to-time.

21. Attorneys' Fees. If either party commences an action against the other party arising out of or in connection with this Lease, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney's fees and costs of suit.

22. Notices. Any notice required or permitted to be given hereunder may be given by personal delivery or by United States certified mail, postage prepaid, addressed to City at the Premises and to Delhi at 505 E Central Ave, Santa Ana, CA 92707, or at such other address as the Delhi shall designate in writing.

23. Waiver. Each and every waiver of any covenant, representation, warranty or any other provision hereof must be in writing and signed by each party whose interests are adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

24. Time is of the Essence. Time is of the essence of this Lease as to the performance of all terms, covenants, and conditions stated herein.

25. Successors and Assigns. Except as otherwise provided herein, all of the terms and conditions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

26. Titles and Definitions. The titles of paragraphs herein are for identification only. They shall not be considered to be a part of this Lease and shall have no effect upon the

construction or interpretation thereof. The terms "Delhi" and "City" as used in this Lease shall include both singular, plural, masculine, feminine, and neuter as the context shall require.

27. Entire Agreement. This Lease contains the entire agreement of the Parties and supersedes all prior negotiations, drafts, and other understandings which the parties may have concerning the subject matter hereof. This Lease may not be modified except by written instrument duly executed by the parties hereto or their successors in interest.

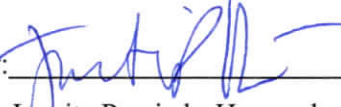
28. Choice of Laws; Interpretation. This Lease has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Lease shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Lease. The provisions of this Lease shall be construed in accordance with the fair meaning of the language used and shall not be strictly construed against either party.

29. Authority. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective Parties to each of the terms of this Lease, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

IN WITNESS WHEREOF, Delhi and City have executed this Lease on the day and year set forth below.

LESSOR: THE DELHI CENTER

Dated: 11/14/2022

By: 
Juanita Preciado-Hernandez
Interim CEO

TENANT: CITY OF SANTA ANA

Dated: _____

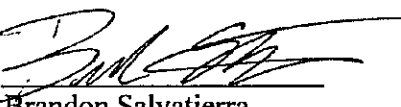
By: _____
Kristine Ridge
City Manager

[signatures continued on next page]

ATTEST:

Clerk of the Council

APPROVED AS TO FORM
SONIA R. CARVALHO
City Attorney

By: 
Brandon Salvatierra
Deputy City Attorney

RECOMMENDED FOR APPROVAL

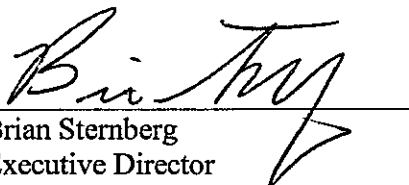
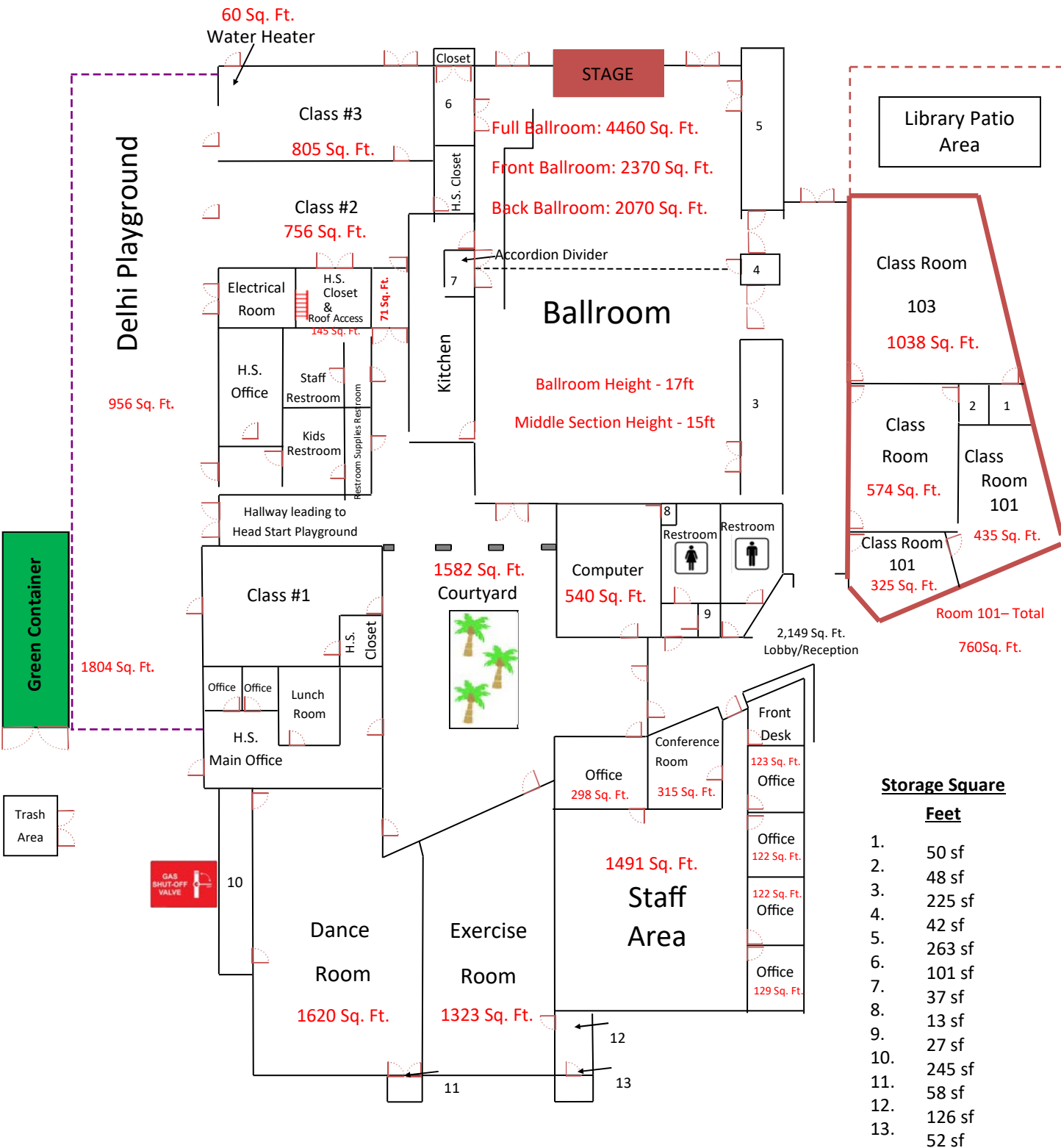

Brian Sternberg
Executive Director
Library Services Department

EXHIBIT A

EXHIBIT A

Delhi Center Plot Plan



Storage Square

Feet

- 50 sf
- 48 sf
- 225 sf
- 42 sf
- 263 sf
- 101 sf
- 37 sf
- 13 sf
- 27 sf
- 245 sf
- 58 sf
- 126 sf
- 52 sf

Total 1287 sf

EXHIBIT B

EXHIBIT B

Delhi Community Center Library Possible Improvements:

- Interior Library space – glass storefront-style entrance with marquee signage overhead
 - Include interior and exterior displays (digital and display cases)
- Reconfigure interior floorplan so conducive to public library space
- Book Collection
 - Utilize mobile double-face shelving units for collection (72'Wx24"Dx52"H)
 - Collection
 - 20% YA
 - 50% Youth
 - 30% Adult
- Laptop Kiosks for public computer desktops
 - No public desktop computers
- Signage Plan Needed
 - Marquee Library Exterior and Interior signage
 - Monument Sign @ entrance to parking lot (not internally lighted)
- Book drop in parking lot as part of traffic flow
- Public Printer/Copier/Scanner area – only one multi-use machine with computer screen
- Furniture Plan Needed
 - Indoor furniture (flexible)
 - Outdoor reading/laptop use seating areas (secured)
 - Circ/Reference Mobile Desk (6-ft desk)
 - Inside Reader Tables
- Staff
 - 1 Office
 - Circ/Reference Desk Service Point
- Lighting Plan Needed (Interior and Exterior Patio)
- Electrical Plan Needed (Interior and Exterior Patio)
- Potential new exterior patio access through Library space
- Small decorative patio fence
- Shade Structure for Patio
- Exterior Patio playground equipment – interactive, learn through playing
- Outdoor area combination of soft-scape and hard-scape; drought tolerant landscaping
- Children's programming seating (30 people)
- Mobile book shelving/carts to the outdoor patio

Infrastructure:

- Internal/Exterior Patio Wifi Access Points - for Delhi and Library patrons
- Network connectivity via IT (City private network)

EXHIBIT C

EXHIBIT C
DELHI CENTER RULES AND REGULATIONS

RULES AND REGULATIONS

The following Rules and Regulations shall be in effect at the Premises. Delhi reserves the right to adopt reasonable modifications and additions hereto. In the case of any conflict between these Rules and Regulations and the Lease, the Lease shall be controlling.

1. The City employees, agents, guests, and invitees shall comply with all applicable laws and government rules and regulations.
2. No live animals are to be brought onto the Center without the prior written authorization of Delhi, except for service animals.
3. The Center is a non-smoking facility. No smoking, including vaping, is permitted inside the facility or in its courtyard at any time. Designated smoking areas are located outside at least 100 feet away from the front door of the Center.
4. Illegal drugs are not permitted in or on the Center's property, including parking areas.
5. Upon substantial completion of the improvements, tentatively January 2024, the Library shall not be open to the public Saturdays after 2:00 pm, Sundays and legal holidays. Special events and functions will be coordinated by Parties.
6. Parties shall meet regularly to coordinate improvements, transitions, programming, and events. Meetings will occur more frequently during improvements and six months after commencement of public operations. Frequency, dates, and times are to be agreed upon at the initial meeting after the execution of the lease and shall not exceed one regularly scheduled meeting per month, or as necessary.
7. City will receive one annual rental of the Delhi ballroom space free of charge during regular Delhi hours, and based on availability with thirty (30) days written notice.
8. City will have access to the Premises (as identified in **Exhibit A**) and common areas. Minors in fifth (5th) grade or below must be accompanied by a parent, guardian, or family member in ninth (9th) grade or above.
9. City shall not allow the number of employees, agents, guests, and invitees to exceed the maximum number allowed for such Area as set forth by the number permitted under government regulations.
10. Parking is only allowed in designated areas. The Center driveway is to be used for loading and unloading only.
11. The lobby, hallways and courtyard shall not be obstructed by the City or used by it for any purpose other than for ingress to and egress from their respective Premises. City will request in writing approval to place objects in common areas.
12. The City will abide by all rules set forth by waste collection provider, Republic Services when disposing of waste. City will be responsible for reimbursing Delhi for penalty charges assessed by waste collection provider for overflowing trash bins, or other violation when caused by City.

EXHIBIT C
DELHI CENTER RULES AND REGULATIONS

13. City, shall deliver to Delhi a set of keys for the Premises to be used for emergency purposes. Delhi shall deliver to the City a key for the Premise and restrooms. Upon the termination of its tenancy, parties shall return keys that have been furnished.
14. City shall see that the windows and doors of the Premises are closed and securely locked before leaving the Premises and City shall exercise care that all utilities are shut off before City or City employees leave the Premise, and that all other items are shut off, so as to prevent waste or damage.
15. City shall not erect any aerial or antenna on the roof or exterior walls of the Premises, the Building, or the Premises, without prior consent.
16. Delhi reserves the right to make such other and further rules and regulations as in its reasonable judgment may be for the safety, care and cleanliness of the Premises and for the preservation of good order therein. Such additional Rules and Regulations shall be noticed 45 days in advance of implementation and mutually agreed upon by both parties. City agrees to abide by these Rules and Regulations herein above stated and any additional rules and regulations which are adopted hereafter.