AMENDMENT TO LEASE AGREEMENT BETWEEN THE CITY OF YAKIMA AND TRANSFORM YAKIMA TOGETHER

THIS AMENDMENT TO THE LEASE AGREEMENT is made and entered into by and between TRANSFORM YAKIMA TOGETHER, a public benefit corporation registered with the State of Washington and a religious organization pursuant to RCW 35.21.915 ("Lessee") and THE CITY OF YAKIMA, a Washington municipal corporation ("City").

WHEREAS, on October 17, 2017, the City and Lessee entered into a "Lease Agreement Between the City of Yakima and Transform Yakima Together", City Contract No. 2017-178 ("Lease"), whereby the City leased unimproved land at no charge for a period of three years in exchange for the Lessee providing services to the homeless in Yakima, including, but not limited to, shelter in the form of an encampment; and

WHEREAS, on May 16, 2018, the City and Lessee entered into a Lease Amendment to amend the Use section, Section 5, of the Lease providing for ~~the Lessee has requested amendments to the Lease to accommodate~~ accommodating additional populations; and

WHEREAS, the Lessee is requesting additional amendments to the Lease, Section 5, to accommodate homeless persons during time periods that are different than the original Lease, and that would allow homeless persons to use the homeless encampment as emergency temporary shelter during winter months; and

WHEREAS, the City has started the process to amend its Comprehensive Plan and rezone a piece of property owned by the City so that the parcel can be used for a permanent homeless shelter for people experiencing homelessness in Yakima; and

WHEREAS, the Comprehensive Plan amendment and rezone process will take at least until November of 2018 to complete, after which the City will have to evaluate the use of a homeless shelter, services to be offered, and who would operate and maintain such a shelter; and

WHEREAS, the shelter would also take time to be built at the location, putting the reality of a permanent homeless shelter being operational into late 2019 or, more likely, 2020; and

WHEREAS, until that time, there will likely be an ongoing need for homeless services, including temporary emergency homeless shelter services, in Yakima, and the homeless encampment authorized under the Lease with Transform Yakima Together provides temporary emergency shelter services; and

WHEREAS, in the short term interim period it is necessary to have a plan for allowing a temporary emergency shelter in Yakima, but it is anticipated that by the end of 2018 there will be a path forward towards a permanent shelter in the area; and

WHEREAS, YVCOG has allocated funding from 2163 funds to pay for the design, construction, installation and staff time associated with water and sewer improvements that will service the temporary emergency shelter; and

WHEREAS, providing public water and sewer service to the temporary emergency shelter will provide those using the services a cleaner, more sanitary, and safer living environment; and

WHEREAS, the plan for the improvements includes a long term goal of connecting the proposed permanent site of an emergency shelter; and

WHEREAS, Transform Yakima Together, as the Lessee, should be responsible for the maintenance and upkeep of the water and sewer lines, improvements, and services within the temporary emergency shelter's boundaries; and

WHEREAS, the City is willing to amend the Lease ~~with additional amendments regarding to religious activities on the property~~ in light of the ongoing efforts to establish a permanent shelter in Yakima and the need for an interim measure for temporary emergency shelter for homeless;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, it is agreed by and between the City and the Lessee as follows:

Section 1: Section 5 of the attached and incorporated "Lease Agreement Between the City of Yakima and Transform Yakima Together" is amended to read as follows:

5. USE.

(a) Age restrictions. Unaccompanied persons under the age of 18 are prohibited at the homeless encampment. Persons under the age of 18 must be accompanied by a parent or legal guardian and should be encouraged to take advantage of services through other entities. LESSEE should put families with children in contact with other agencies that can provide services to families with children. If there is no other option for the family with children, such family with children may stay at the homeless encampment if there is an approved area for families. Approved areas must be physically separated from the general encampment by a site screened fence and gate that is guarded 24 hours per day by a staff person that is not a resident. Approved areas must have their own bathroom and handwashing facilities, as well as their own community areas for relaxing, eating and/or recreation.

(b) ~~From March 15th through November 15th~~General Use. LESSEE agrees to use the leased premises for operating and facilitating a temporary encampment for homeless persons. Attached as Exhibit 2, subject to the terms outlined in this lease agreement and fully incorporated herein, is an operations plan and summary of the services and activities that are expected to be offered at the temporary homeless encampment when in operation, subject to the terms outlined in this lease agreement. No persons shall occupy the property and use it as a temporary encampment or otherwise stay overnight, camp or otherwise occupy the property in a temporary residential capacity during any time period other than those outlined herein.~~LESSEE agrees to use the leased premises for operating and facilitating a temporary encampment for homeless adults (persons 18 years of age or older).~~

~~Attached as Exhibit 2, subject to the terms outlined in this lease agreement and fully incorporated herein, is an operations plan and summary of the services and activities that are expected to be offered at the temporary homeless encampment when in operation, subject to the terms outlined in this lease agreement. All persons occupying the temporary homeless encampment shall be transitioned off of the property on or before November 15th of each year. No persons shall occupy the property and use it as a temporary encampment or otherwise stay overnight, camp or otherwise occupy the property in a temporary residential capacity during any other time.~~

(c) Temporary Emergency Shelter Period Number 1: Persons may occupy the homeless encampment for the temporary period of July 1, 2018, through December 1, 2018. LESSEE agrees that from December 2, 2018 through December 15, 2018, there shall be no homeless accommodations or services, either overnight or during the daytime at the site. The site shall only be used for maintenance of the property by LESSEE, development or improvement of the property by LESSEE, or storage of equipment and items by LESSEE during this time. It is anticipated that LESSEE will use this time period to clean, sanitize and organize the encampment.

(d) Temporary Emergency Shelter Period Number 2: Persons may occupy the homeless encampment for the temporary period of December 16, 2018, through May 16, 2019. LESSEE agrees that from May 17, 2019, through May 31, 2019, there shall be no homeless accommodations or services, either overnight or during the daytime at the site. The site shall only be used for maintenance of the property by LESSEE, development or improvement of the property by LESSEE, or storage of equipment and items by LESSEE during this time. It is anticipated that LESSEE will use this time period to clean, sanitize and organize the encampment.

(e) Temporary Emergency Shelter Period Number 3: Persons may occupy the homeless encampment for the temporary period of June 1, 2019 through November 15, 2019. LESSEE agrees that from November 16, 2019, through December 31, 2019, there shall be no homeless accommodations or services, either overnight or during the daytime at the site. The site shall only be used for maintenance of the property by LESSEE, development or improvement of the property by LESSEE, or storage of equipment and items by LESSEE during this time. It is anticipated that LESSEE will use this time period to clean, sanitize and organize the encampment.

(f) Temporary Emergency Shelter Period Number 4: Persons may occupy the homeless encampment for the temporary period of January 1, 2020 through May 31, 2020. LESSEE agrees that from June 1, 2020, through June 15, 2020, there shall be no homeless accommodations or services, either overnight or during the daytime at the site. The site shall only be used for maintenance of the property by LESSEE, development or improvement of the property by LESSEE, or storage of equipment and items by LESSEE during this time. It is anticipated that LESSEE will use this time period to clean, sanitize and organize the encampment.

(g) Temporary Emergency Shelter Period Number 5: Persons may occupy the homeless encampment for the temporary period of June 16, 2020 through November 15, 2020. LESSEE agrees that any further occupancy of the temporary emergency homeless encampment shall be renegotiated as part of any renewal process.

~~(c) From November 15th through March 15th (winter months). LESSEE agrees that during the winter months, from November 15th through March 15th of each year, there shall be no homeless accommodations or services, either overnight or during the daytime at the site. The site shall only be used for maintenance of the property by LESSEE, development or improvement of the property by LESSEE, or storage of equipment and items by LESSEE. Further, temporary tents, portable toilets, temporary hand-washing stations and other similar items must be taken down, removed from the property, or stored within weather-tight buildings on the property. No tents shall remain during the winter months.~~

(h~~d~~) Additional facilities onsite. LESSEE, with express written permission of LESSOR, through its City Manager, or his or her designee, may construct on-site facilities such as community buildings, water and sewer connections, or other similar improvements and facilities to be used during the time the temporary encampment is ~~functioning~~ providing emergency shelter ~~(March 15th through November 15th)~~ upon receiving all necessary permits pursuant to the Yakima Municipal Code and state law. Any such facilities may be used for storage of personal property during the ~~winter months~~time where the homeless are not being served, but may not be used to house people or conduct activities. Any such facilities should be winterized~~, but may be accessible to LESSEE for the purposes of accessing stored items~~ and prepared for summer as appropriate.

(i~~e~~) Tiny Homes. As part of the temporary homeless encampment, up to ten (10) temporary tiny homes may be placed on the site. Said tiny homes shall be on skids, so as to be removable. No tiny homes may be connected to water or sewer facilities and must be “dry” units.

(j~~f~~) Organized Religious Activities. No homeless services provided by LESSEE or any of LESSEE’s subcontractors shall be denied due to a person’s religious affiliation or lack thereof. LESSEE is hereby prohibited from conducting, or allowing other organizations to enter the encampment and conduct, prayer and other religious activities in locations and at times where the camp’s residents’ only way to avoid them is to leave a common area or the encampment. This includes any community or dining tents.

Section 2: Section 6 of the attached and incorporated “Lease Agreement Between the City of Yakima and Transform Yakima Together” is amended to read as follows:

UTILITIES. All costs for utilities, including any costs for infrastructure necessary for said utilities, shall be paid by LESSEE.

LESSEE shall install a meter and be charged separately from the City for all electricity charges at no charge to LESSOR. LESSEE shall be responsible for

the operation and maintenance of the meter and any damages to the meter or power pole associated with the meter or LESSEE'S use of the power pole for electricity. LESSEE shall coordinate with Pacific Power to have all billings for electricity used during the term of this lease to be billed directly to the LESSEE. A meter shall be installed prior to November 15, 2017.

LESSEE may connect to public water and/or sewer with the express written consent of the LESSOR and approval of the location of pipelines and facilities by LESSOR. In the event LESSEE connects the property to public water and/or sewer, LESSEE is responsible for all costs associated therewith, from the main water and sewer line to and throughout the property, including, but not limited to permit fees, connection fees, and construction costs. LESSEE shall also be responsible for obtaining any necessary easements or rights to cross private property if necessary. Said easements and improvements shall be transferred to the LESSOR at the termination of this Lease. LESSEE shall be limited to no more than three connections for temporary bathroom, shower and/or kitchen facilities.

LESSEE shall be responsible for all utility charges, including, but not limited to, electricity, water, sewer and garbage charges for the property. All payments shall be promptly made upon receiving a bill, and in no event shall any payment become delinquent. Delinquent payments for utilities may be considered a default under the terms and conditions of the Lease.

Section 3: Section 10 of the attached and incorporated "Lease Agreement Between the City of Yakima and Transform Yakima Together" is amended to read as follows:

MAINTENANCE. LESSEE agrees to keep and maintain the premises in at least as good a condition as the condition of the premises at the beginning of LESSEE's occupancy, normal wear and tear excepted. LESSEE further agrees that LESSEE shall be responsible to maintain all leased areas, trade fixtures, water and sewer lines and facilities, and other improvements, existing and future, in an attractive and usable manner consistent with other LESSOR property. LESSEE understands and acknowledges that it is responsible for all maintenance of the water and sewer lines and facilities within the boundaries of the temporary emergency homeless encampment. Any back-ups, breaks, or other damages to the water or sewer lines therein shall be promptly fixed by LESSEE at its sole expense.

LESSEE agrees to maintain the areas adjacent to the property used by LESSEE in a safe, sanitary, and usable condition at all times.

LESSEE is responsible for snow removal along the driveway access routes and within the temporary emergency encampment as necessary. Snow removal along the driveway access shall provide for emergency vehicle ingress and egress. ~~during the months of November 15th through March 15th if access is necessary for LESSEE~~.

Section 4: Except as expressly modified herein, all other terms and conditions of the attached Lease shall remain in full force and effect.

Section 5: Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Amendment is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this Amendment.

DATED this _____ day of June, 2018.

CITY OF YAKIMA

_____
Cliff Moore, City Manager

Date: _____

ATTEST:

_____
City Clerk

TRANSFORM YAKIMA TOGETHER

_____
Andrew Ferguson, Executive Director

STATE OF WASHINGTON)
) ss
County of Yakima)

I certify that I know or have satisfactory evidence that Andrew Ferguson, the Executive Director of Transform Yakima Together, signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date _____

_____
By: _____
Notary Public for the State of Washington
Residing at: _____
Appointment Expires_____

STATE OF WASHINGTON)
) ss
County of Yakima)

I certify that I know or have satisfactory evidence that Cliff Moore signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the City Manager of the City of Yakima, Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date: _____

By: _____
Notary Public for the State of Washington
Residing at: _____
Appointment Expires _____