

# MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office  
155 S. Seward St., Juneau, Alaska 99801  
Dan.Bleidorn@juneau.org  
(907) 586-5252

**TO:** Rob Edwardson, Chair of the Assembly Lands Committee  
*Daniel Bleidorn*  
**FROM:** Dan Bleidorn, Lands and Resources Manager  
**SUBJECT:** Mayflower Building Lease Renewal  
**DATE:** May 27, 2020

The Montessori School has leased the Mayflower Building from the CBJ since 1992. Fair market value for the Mayflower Building was established by appraisal in 1993 and found to be \$2,000 per month. The lease rate has not been updated to a current fair market value since 1993.

The Current lease was signed in 2015 and was authorized by Ordinance 2014-44. In 2014 fair market value was determined by appraisal to be \$3,255 per month, at that time the Lands Committee and Assembly chose to keep the lease rate flat at the 1993 amount of \$2,000 per month, since it was covering the costs of maintaining the building. Since 2014, the building maintenance costs have gone up and the lease rate no longer covers the costs to maintain this building. It currently costs roughly \$2,600 per month to maintain this building.

The current lease has the option for a 5 year renewal with the requirement that anything less than a fair market value lease rate be brought to the Assembly for approval. Section 4 of the lease states that “the manager is only authorized to renew this lease with a rental rate at the fair market value. If the Lessee seeks to renew the lease at less than fair market value, then the Assembly must first authorize the reduced rental rate.” On May 18, 2020, staff received the attached letter from Laura Talpey, the Executive Director of the Juneau Montessori School, addressed to the Assembly requesting the lease be renewed and that it continue to be at less than fair market value.

**Lands staff requests that the Lands Committee pass a motion of support to continue to lease this property to the Montessori School for less than fair market but increase the rates from \$2,000 per month to \$2,600 per month in order to cover building maintenance costs.**

Attachments:

1. 2014 Mayflower Building Lease with attachments
2. August 19, 2014 Memo from Greg Chaney
3. May 18, 2020 Letter from Laura Talpey, Executive Director of the Juneau Montessori School



**MAYFLOWER BUILDING LEASE AGREEMENT**

**PART I. PARTIES.** This lease is between the City and Borough of Juneau, Alaska, a municipal corporation in the State of Alaska, hereafter "CBJ," and the Juneau Montessori School, formerly known as Juneau Montessori Center, Inc., an Alaska nonprofit corporation, hereafter "Lessee."

**PART II. LEASE ADMINISTRATION.** All communications about this lease shall be directed as follows, and any reliance on a communication with a person other than that listed below is at the party's own risk.

**CBJ:**  
City and Borough of Juneau  
Attn: Greg Chaney  
Land and Resources Manager  
155 S. Seward Street  
Juneau, AK 99801  
Phone: (907) 586-0205  
Fax: (907) 586-0295

**Lessee:**  
Juneau Montessori School  
Attn: Sharlyn M. Smith  
Executive Director  
750 St. Ann's Avenue  
Douglas, AK 99824  
Phone: (907) 364-3535  
Fax: (907) 364-3537

**PART III. LEASE DESCRIPTION.** This lease agreement is identified as: Mayflower Building Lease Agreement. The following appendices are attached hereto and are considered a part of this lease agreement as well as anything incorporated by reference or attached to those appendices.

- Appendix A: Property Description & Additional Lease Provisions
- Appendix B: Lease Provisions Required by CBJ Chapter 53.20
- Appendix C: Standard Provisions

If in conflict, the order of precedence shall be: this document, Appendix A, B, and then C.

**PART IV. LEASE EXECUTION.** CBJ and Lessee agree and sign below. This contract is not effective until signed by the CBJ. Lessee represents that the person signing below on its behalf has the authority to do so and that it is a valid and binding contract enforceable in accordance with its terms.

CBJ:  
Date: March 6, 2015

Lessee:  
Date: 2/19/15

By: Kimberly A. Kiefer  
Kimberly A. Kiefer  
CBJ Manager

By: Sharlyn M. Smith  
Sharlyn M. Smith  
Executive Director

Risk Management Review: [Signature] 2/20/15, Risk Manager  
Approved as to Content: Greg Chaney 2/20/15, Lands & Resource Manager  
Approved as to Form: [Signature] 3/6/15, Law Department

**APPENDIX A:  
PROPERTY DESCRIPTION & ADDITIONAL LEASE PROVISIONS**

**1. DESCRIPTION OF PROPERTY**

The property subject to this lease shall be referred to generally as "the Property or "the Leased Premises" and shall consist of the following:

The entirety of the Mayflower Building, (5,086 square feet, more or less) located at 750 St. Ann's Avenue, Douglas, Alaska 99824 and approximately 14,816 square feet of Lots 12 and 25 of Block 32, of the Tyee 2<sup>nd</sup> Millsite Addition, Douglas Townsite, as generally shown on Exhibit A.

**2. AUTHORITY**

This lease is entered into pursuant to the authority of the CBJ 53.20, CBJ 53.09, and Ordinance No. 2014-44, attached as Exhibit B.

**3. TERM AND RENEWAL OPTION**

- a) The term of this lease is five (5) years, unless terminated as provided herein. The term shall commence on the effective date of this lease, which shall be the date the lease is signed by the CBJ.
  
- b) The Lessee may request renewal of the lease pursuant to Chapter 53.20 prior to the expiration of the lease term or extensions thereof. The parties may negotiate any number of lease extensions, provided that the extensions total no more than five (5) additional years after the original lease term.

**4. LEASE PAYMENTS**

The current fair market value is \$3,255 per month. Consistent with CBJ 53.09.270(b), Lessee shall pay rent to the CBJ at the rate of **\$2,000** per month for use and occupancy of the Premises (61% of fair market value). Rent shall be paid in advance on the 1<sup>st</sup> day of every month and may be mailed or personally delivered to the Office of the Treasurer, City and Borough of Juneau, 155 South Seward Street, Juneau, Alaska 99801.

Lessee agrees to a review and adjustment of the annual rental payment by the manager not less often than every fifth year of the lease term beginning with the rental due after completion of each review period. The CBJ may adjust the rental rate to reflect fair market value of the Leased Premises at the time each renewal option is exercised. The manager is only authorized to renew this lease with a rental rate at the fair market value. If the Lessee seeks to renew the lease at less than the fair market value, then the Assembly must authorize the reduced rental rate.

Any rate changes or adjustments shall be based primarily upon the values of comparable land in the same or similar areas; such evaluations shall also include all improvements, placed upon or made to the land, to which CBJ has right or title, excluding landfill placed upon the land by Lessee, except that the value of any improvements credited against rentals shall be included in the value. Lessee may protest the adjustment to the manager, and if denied wholly or in part, an appeal may be taken to the Assembly. The decision of the Assembly shall be final.

#### **5. AUTHORIZED USE OF LEASED PREMISES**

Lessee is authorized to use the Leased Premises solely for the operation of an elementary school, which may include a pre-school, and daycare. Included in this authorization is the Lessee's option to use and make improvements to and expand the existing playground area into the areas currently used for parking and vehicular circulation within the Leased Premises.

Lessee is further authorized to non-exclusive use of the CBJ parking lot that adjoins the Leased Premises. Lessee agrees to make the playground available for public use when Montessori is not in session.

#### **6. INSURANCE REQUIREMENTS.**

Lessee understands that CBJ carries no fire or other casualty insurance on the Leased Premises or improvements located thereon belonging to Lessee, and that it is Lessee's obligation to obtain adequate insurance for protection of Lessee's personal property located on the Leased Premises.

Lessee has secured and agrees to keep and maintain in full force and effect, at its own expense, the insurance described by CBJ Risk Management as outlined below. The Lessee has provided certification of proper insurance coverage to the CBJ, attached as Exhibit C. All insurance required under this contract, including during any periods of renewal, shall name the CBJ as an additional insured, except with respect to any required Professional Liability or Workers Compensation policies. At least 30 days prior to the cancellation, non-renewal or reduction in the amount of coverage, Lessee shall provide written notice to the CBJ's Risk Management. The Lessee's insurance shall be primary and any insurance maintained by the CBJ shall be non-contributory. If the Lessee maintains higher limits than shown below, the CBJ shall be entitled to coverage for the higher limits maintained by the Lessee.

Any deductibles and self-insured retentions must be declared to and approved by the CBJ. The CBJ may require the Lessee to provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

**Commercial General Liability Insurance.** The Lessee must maintain Commercial General Liability Insurance in an amount it deems reasonably sufficient to cover any suit that may be brought against the Lessee. This amount must be at least one million dollars (\$1,000,000.00) per **occurrence**, and two million dollars (\$2,000,000.00) aggregate. **The CBJ will be named as an additional insured on this policy.**

**Workers Compensation Insurance.** If required by Alaska Statute (*see* Alaska Statute 23.30), the Lessee must maintain Workers Compensation Insurance to protect the Lessee from any claims or damages for any bodily or personal injury or death which may arise from services performed under this contract. This requirement applies to the Lessee's firm, the Lessee's subcontractors and assignees, and anyone directly or indirectly employed to perform work under this contract. The Lessee must notify the City as well as the State Division of Workers Compensation immediately when changes in the Lessee's business operation affect the Lessee's insurance status. Statutory limits apply to Workers Compensation Insurance. The policy must include employer's liability coverage of one hundred thousand dollars (\$100,000.00) per injury and illness, and five hundred thousand dollars (\$500,000.00) policy limits. Lessee also agrees to provide evidence of Longshore and Harbor Worker's Insurance and Jones Act coverage if applicable to the work required. If the Lessee is exempt from Alaska Statutory Requirements, the Lessee will provide written confirmation of this status in order for the CBJ to waive this requirement.

## **7. SERVICES AND UTILITIES**

Lessee shall contract and pay for all services (i.e. janitorial, snow removal, and yard maintenance, etc.) and utilities for the Leased Premises.

## **8. REPAIRS AND MAINTENANCE**

Except as identified above, the CBJ shall maintain the Leased Premises in good order and condition. The CBJ shall be responsible for building systems which are integral to the structure such as electrical wiring, plumbing sewer lines and durable features of the structure such as roof, walls, floors and stairs. Lessee shall be responsible for supplies, repairs and replacement of interior and exterior improvements made by Lessee. The CBJ's duty to maintain does not include the repair of any damage caused by the act or omission of Lessee, its, students, visitors, volunteers, agents, employees, or licensees, which repair shall be paid for by Lessee.

## APPENDIX B: LEASE PROVISIONS REQUIRED BY CBJ CHAPTER 53.20

### 1. RESPONSIBILITY TO PROPERLY LOCATE ON LEASED PREMISES.

As required by CBJ 53.20.160, it shall be the responsibility of Lessee to properly locate Lessee's improvements on the Leased Premises and failure to so locate shall render Lessee's liable as provided by law.

### 2. APPROVAL OF OTHER AUTHORITIES.

As required by CBJ 53.20.180, the issuance by CBJ of leases, including this lease, under the provisions of CBJ Title 53 does not relieve Lessees of responsibility for obtaining licenses, permits, or approvals as may be required by CBJ or by duly authorized state or federal agencies.

### 3. TERMS AND CONDITIONS OF LEASES REQUIRED BY CBJ 53.20.190.

As required by CBJ 53.20.190, the following terms and conditions govern all leases and are incorporated into this lease unless modified by the Assembly by ordinance or resolution for this specific lease. Modifications of the provisions of this Appendix B applicable to this specific lease, if any, must specifically modify such provisions and be supported by the relevant ordinance or resolution to be effective.

(a) **Lease Utilization.** The Leased Premises shall be utilized only for purposes within the scope of the application and the terms of the lease, and in conformity with the provisions of CBJ code, and applicable state and federal laws and regulations. Utilization or development of the Leased Premises for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation.

(b) **Subleasing.** The lessee may sublease lands or any part thereof leased to it hereunder; provided that the proposed sublessee first applies to the manager for a permit therefor; and further provided that the improvements on the leased lands are the substantial reason for the sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing and be subject to the terms and conditions of the original lease; all terms, conditions, and covenants of the underlying lease which may be made to apply to the sublease are hereby incorporated into the sublease.

(c) **Assignment.** Lessee may assign its rights and obligations under this lease; provided that the proposed assignment shall be approved by CBJ prior to any assignment. The assignee shall be subject to all of the provisions of the lease. All terms, conditions, and covenants of the underlying lease that may be made applicable to the assignment are hereby incorporated into the assignment.

(d) **Modification.** The lease may be modified only by an agreement in writing signed by all parties in interest or their successor in interest.

(e) **Cancellation and Forfeiture.**

(i) The lease, if in good standing, may be canceled in whole or in part, at any time, upon mutual written agreement by Lessee and CBJ.

(ii) CBJ may cancel the lease if it is used for any unlawful purpose.

(iii) If Lessee shall default in the performance or observance of any of the lease terms, covenants or stipulations thereto, or of the regulations now or hereafter in force, or any of the provisions of this code, and should the default continue for thirty calendar days after service of written notice by CBJ without remedy by Lessee of the conditions warranting default, CBJ may subject Lessee to appropriate legal action including, but not limited to, forfeiture of the lease. No improvements may be removed by Lessee or other person during any time Lessee is in default.

(iv) Failure to make substantial use of the land, consistent with the proposed use, within one year shall in the discretion of CBJ with the approval of the Assembly constitute grounds for cancellation.

(f) **Notice or Demand.** Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which the notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in a United States general or branch post office enclosed in a registered or certified mail prepaid envelope addressed as hereinbefore provided.

(g) **Rights of Mortgagee or Lienholder.** In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage, conditional assignment or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the original lease.

(h) **Entry and Reentry.** In the event that the lease should be terminated as hereinbefore provided, or by summary proceedings or otherwise, or in the event that the Leased Premises, or any part thereof, should be abandoned by Lessee during the term, CBJ or its agents, servants, or representative, may, immediately or any time thereafter, reenter and resume possession of the Leased Premises or such thereof, and remove all persons and property there from either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No reentry by CBJ shall be deemed an acceptance of a surrender of the lease.

(i) **Release.** In the event that the lease should be terminated as herein provided, or by summary proceedings, or otherwise, CBJ may offer the Leased Premises for lease or other appropriate disposal pursuant to the provisions of CBJ code.

(j) **Forfeiture of Rental.** In the event that the lease should be terminated because of any breach by Lessee, as herein provided, the annual rental payment last made by Lessee shall be forfeited and retained by CBJ as partial or total damages for the breach.

(k) **Written Waiver.** The receipt of rent by CBJ with knowledge of any breach of the lease by Lessee or of any default on the part of Lessee in observance or performance of any of the conditions or covenants of the lease shall not be deemed a waiver of any provision of the lease. No failure on the part of CBJ to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by CBJ unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of CBJ to enforce the same in the event of any subsequent breach or default. The receipt, by CBJ, of any rent or any other sum of money after the termination, in any manner, of the term demised, or after the giving by CBJ of any notice thereunder to effect such termination, shall not reinstate, continue, or extend the resultant term therein demised, or destroy, or in any manner impair the efficacy of any such notice or termination as may have been given thereunder by CBJ to Lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by CBJ.

(l) **Expiration of Lease.** Unless the lease is renewed or sooner terminated as provided herein, Lessee shall peaceably and quietly leave, surrender and yield up unto CBJ all of the Leased Premises on the last day of the term of the lease.

(m) **Renewal Preference.** Any renewal preference granted to Lessee is a privilege, and is neither a right nor bargained for consideration. The lease renewal procedure and renewal preference shall be that provided by ordinance in effect on the date the application for renewal is received by the designated official.

(n) **Removal or Reversion of Improvements upon Termination of Lease.** Improvements owned by Lessee shall within sixty calendar days after the termination of the lease be removed by Lessee; provided, such removal will not cause injury or damage to the lands or improvements demised; and further provided, that manager may extend the time for removing such improvements in cases where hardship is proven. Improvements owned by Lessee may, with the consent of the manager, be sold to the succeeding Lessee. All periods of time granted Lessee to remove improvements are subject to Lessee's paying to CBJ pro rata lease rentals for the period.

(i) If any improvements and/or chattels not owned by CBJ and having an appraised value in excess of five thousand dollars as determined by the assessor are not removed within the time allowed, such improvements and/or chattels shall upon due notice to Lessee, be sold at public sale under the direction of the manager. The proceeds of the sale shall inure to Lessee preceding if Lessee placed such improvements and/or chattels on the lands, after deducting for CBJ rents due and owing and expenses incurred in making such sale. Such rights to the proceeds of the sale shall expire one year from the date of such sale. If no bids acceptable to the manager are received, title to such improvements and/or chattels shall vest in CBJ.

Y. C.



(ii) If any improvements and/or chattels having an appraised value of five thousand dollars or less, as determined by the assessor, are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, CBJ.

(o) **Rental for Improvements or Chattels Not Removed.** Any improvements and/or chattels belonging to Lessee or placed on the Lease Premises during Lessee's tenure with or without Lessee's permission and remaining upon the Premises after the termination date of the lease shall entitle CBJ to charge Lessee a reasonable rent therefor.

(p) **Compliance with Regulations and Code.** Lessee shall comply with all regulations, rules, and the code of the CBJ, and with all state and federal regulations, rules and laws as the code or any such rules, regulations or laws may affect the activity upon or associated with the Leased Premises.

(q) **Condition of Premises.** Lessee shall keep the Leased Premises in neat, clean, sanitary and safe condition and shall take all reasonable precautions to prevent, and take all necessary action to suppress destruction or uncontrolled grass, brush or other fire on the Leased Premises. Lessee shall not undertake any activity that causes or increases a sloughing off or loss of surface materials of the Leased Premises.

(r) **Inspection.** Lessee shall allow an authorized representative of CBJ to enter the Leased Premises for inspection at any reasonable time.

(s) **Use of Material.** Lessee of the surface rights shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, top soils, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the Leased Premises may be used, if its use is first approved by CBJ.

(t) **Rights-of-Way.** CBJ expressly reserves the right to grant easements or rights-of-way across the Leased Premises if it is determined in the best interest of CBJ to do so. If CBJ grants an easement or right-of-way across any of the Leased Premises, Lessee shall be entitled to damages for all Lessee-owned improvements or crops destroyed or damaged. Damages shall be limited to improvements and crops only, and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate Lessee for loss of use.

(u) **Warranty.** CBJ does not warrant by its classification or leasing of land that the land, or the Leased Premises described in this lease, is ideally suited for the use authorized under the classification or lease and no guaranty is given or implied that it shall be profitable to employ the land or Leased Premises to said use.

(v) **Lease Rental Credit.** When authorized in writing by CBJ prior to the commencement of any work, Lessee may be granted credit against current or future rent; provided the work accomplished on or off the Leased Premises results in increased valuation of the leased or other CBJ owned lands. The authorization may stipulate type

of work, standards of construction and the maximum allowable credit for the specific project. Title to improvements or chattels credited against rent under this section shall vest immediately and be in CBJ and shall not be removed by Lessee upon termination of the lease.

#### APPENDIX C: STANDARD PROVISIONS

1. **Holding Over.** If Lessee holds over beyond the expiration of the term of this lease and the term has not been extended or renewed in writing, such holding over will be a tenancy from month-to-month only at fair market value.
2. **Interest on Late Payments.** Should any installment of rent or other charges provided for under the terms of this lease not be paid when due, the same shall bear interest at the rate established by ordinance for late payments or at the rate of 12 percent per annum, if no rate has been set by ordinance.
3. **Taxes, Assessments, and Liens.** During the term of this lease, Lessee shall pay, in addition to the rents, all taxes, assessments, rates, charges, and utility bills for the Leased Premises and Lessee shall promptly pay or otherwise cause to be discharged, any claim resulting or likely to result in a lien, against the Leased Premises or the improvements placed thereon.
4. **Easements.** Lessee shall place no building or structure over any portion of the Leased Premises where the same has been set aside or reserved for easements.
5. **Encumbrance of Parcel.** Lessee shall not encumber or cloud CBJ's title to the Leased Premises or enter into any lease, easement, or other obligation of CBJ's title without the prior written consent of CBJ; and any such act or omission, without the prior written consent of CBJ, shall be void against CBJ and may be considered a breach of this lease.
6. **Valid Existing Rights.** This lease is entered into and made subject to all existing rights, including easements, rights-of-way, reservations, or other interests in land in existence, on the date of execution of this lease.
7. **State Discrimination Laws.** Lessee agrees, in using and operating the Leased Premises, to comply with applicable sections of Alaska law prohibiting discrimination, particularly Title 18 of the Alaska Statutes, Chapter 80, Article 4 (Discriminatory Practices Prohibited). In the event of Lessee's failure to comply any of the above non-discrimination covenants, CBJ shall have the right to terminate the lease.
8. **Unsafe Use.** Lessee shall not do anything in or upon the Leased Premises, nor bring or keep anything therein that will unreasonably increase or tend to increase the risk of fire or cause a safety hazard to persons or obstruct or interfere with the rights of any other tenant(s) or in any way injure or annoy them or which violates or causes violation of any applicable health, fire, environmental or other regulation by any level of government.

9. **Indemnification.** The Lessee agrees to defend, indemnify, and hold harmless CBJ, its employees, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit arising out of or related to the use and occupancy of the Leased Premises by Lessee. This agreement to defend, indemnify, and hold harmless is without limitation as to the amount of fees, and without limitation as to any damages, cost or expense resulting from settlement, judgment, or verdict, and includes the award of any attorneys' fees even if in excess of Alaska Civil Rule 82. This indemnification agreement applies to the fullest extent permitted by law and is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against CBJ relating to this agreement. The obligations of Lessee arise immediately upon actual or constructive notice of any action, claim, or lawsuit. CBJ shall notify Lessee in a timely manner of the need for indemnification, but such notice is not a condition precedent to Lessee's obligations and is waived where the Lessee has actual notice.

10. **Successors.** This lease shall be binding on the successors, administrators, executors, heirs, and assigns of Lessee and CBJ.

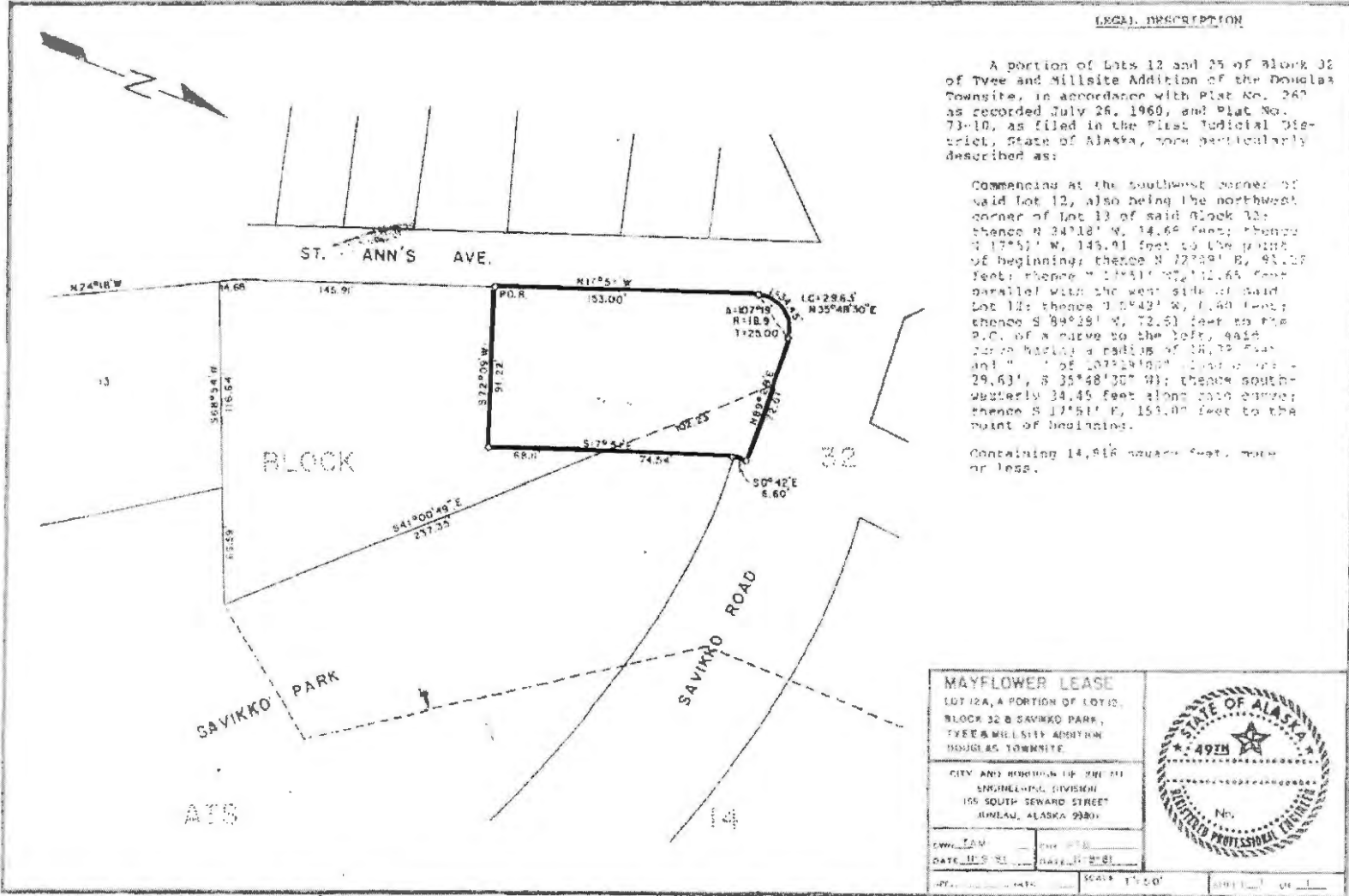
11. **Choice of Law; Venue.** This lease shall be governed by the law of the State of Alaska. Venue shall be in the State of Alaska, First Judicial District at Juneau.

12. **Applicability of Alaska Public Records Act.** Lessee acknowledges and understands that the CBJ is subject to the Alaska Public Records Act (AS 40.25.120) and that all documents received, owned or controlled by the CBJ in relation to this agreement must be made available for the public to inspect upon request, unless an exception applies. It is Lessee's sole responsibility to clearly identify any documents Lessee believes are exempt from disclosure under the Public Records Act by clearly marking such documents "Confidential." Should the CBJ receive a request for records under the Public Records Act applicable to any document marked "Confidential" by Lessee, the CBJ will notify Lessee as soon as practicable prior to making any disclosure. Lessee acknowledges it has five (5) calendar days after receipt of notice to notify the CBJ of its objection to any disclosure, and to file any action with any competent court Lessee deems necessary in order to protect its interests. Should Lessee fail to notify the CBJ of its objection or to file suit, Lessee shall hold the CBJ harmless of any damages incurred by Lessee as a result of the CBJ disclosing any of Lessee's documents in the CBJ's possession. Additionally, Lessee may not promise confidentiality to any third party on behalf of the CBJ, without first obtaining express written approval by the CBJ.

13. **Entire Agreement.** This Agreement, including all appendices and exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter.

14. **Severability.** If a court of competent jurisdiction renders any part of this agreement invalid or unenforceable, that part will be severed and the remainder of this agreement will continue in full force and effect.

*H C*



LEGAL DESCRIPTION

A portion of Lots 12 and 25 of Block 32 of Tvee and Millsite Addition of the Douglas Townsite, in accordance with Plat No. 267 as recorded July 26, 1960, and Plat No. 73-10, as filed in the First Judicial District, State of Alaska, more particularly described as:

Commencing at the southwest corner of said Lot 12, also being the northwest corner of Lot 13 of said Block 32; thence N 34°18' W, 14.69 feet; thence S 17°51' W, 145.91 feet to the point of beginning; thence N 72°39' E, 91.17 feet; thence " " 11°51' W, 11.65 feet parallel with the west side of said Lot 12; thence S 8°42' W, 1.40 feet; thence S 89°28' W, 72.51 feet to the P.O. of a curve to the left, said curve having a radius of 18.72 feet and " " of 107°24'00" clockwise - 29.63', S 35°48'30" W; thence southwesterly 34.45 feet along said curve; thence S 17°51' E, 151.00 feet to the point of beginning.

Containing 14,918 square feet, more or less.

|   |                          |                        |
|---|--------------------------|------------------------|
| <p><b>MAYFLOWER LEASE</b><br/>                 LOT 12A, A PORTION OF LOT 12,<br/>                 BLOCK 32 B SAVIKKO PARK,<br/>                 TVEE &amp; MILLSITE ADDITION<br/>                 DOUGLAS TOWNSITE.</p> |                          |                        |
| <p>CITY AND BOROUGH OF JUNEAU<br/>                 ENGINEERING DIVISION<br/>                 155 SOUTH SEWARD STREET<br/>                 JUNEAU, ALASKA 99801</p>  |                          |                        |
| <p>DATE: JAN 21 2014</p>  | <p>DATE: FEB 28 2014</p> | <p>SCALE: 1" = 50'</p> |

**MAYFLOWER LEASE EXHIBIT A**      CBJ Ordinance No. 2014-44

Presented by: The Manager  
Introduced: 10/20/2014  
Drafted by: A. G. Mead

## ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2014-44

### **An Ordinance Authorizing the Manager to Execute a Lease of the Mayflower Building and Grounds to the Juneau Montessori Center, an Alaskan Non-Profit Corporation.**

WHEREAS, the Juneau Montessori Center (Montessori) is a non-profit organization providing education to the children of the City and Borough; and

WHEREAS, Montessori has been leasing property for its school from the City and Borough since 1992; and

WHEREAS, by Ordinance 2008-37, the City and Borough executed a lease with Montessori allowing for Montessori's use of the Mayflower Building and an additional 14,816 square feet of Lots 12 and 25 of Block 32 of the Tyee 2<sup>nd</sup> Millsite Addition, Douglas Townsite; and

WHEREAS, Ordinance 2008-37 authorized Montessori to expand its playground, provided it would be available for public use when Montessori is not in session, and allowing Montessori to utilize a portion of the City and Borough public parking lot for its use as long as such use did not conflict with Robert Savikko Recreation Area operations; and

WHEREAS, Montessori has not yet expanded its playground hut intends to do so; and

WHEREAS, the market rental value of the proposed lease premises is \$3,255 per month; and

WHEREAS, CBJ 53.09.270(b) authorizes the lease of City and Borough property to a private, nonprofit corporation at less than fair market value provided the lease is approved by the Assembly and the property to be leased is used for the purpose of providing a service to the public that could or should reasonably be provided by the state or the City and Borough.

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Classification.** This ordinance is a noncode ordinance.

**Section 2. Authorization.** The manager is authorized to negotiate and execute a lease with Montessori of approximately 5,086 square feet of space known as the Mayflower Building and including 14,816 square feet of Lots 12 and 25 of Block 32 of the Tye 2<sup>nd</sup> Millsite Addition, Douglas Townsite as shown on Exhibit A, subject to the following essential terms and conditions:

(A) Term. The lease term shall be for a period of five years;

(B) Renewal Options. The manager may negotiate any number of lease term extensions, provided that the extensions total no more than five additional years after the original lease term.

(C) Adjustment of Rental. The City and Borough may adjust the rent to reflect changes in fair market value at the time each renewal option is exercised, except the Assembly must approve any adjustment that results in a rental amount at less than fair market value.

(D) Use of Premises. Montessori shall use the leased premises solely for the operation of an elementary school and day care facility.


(E) Hold Harmless. The lease agreement shall provide that Montessori indemnify, defend and hold harmless the City and Borough, its officers and employees for any claim related to or arising out of Montessori's use, operation or maintenance of the leased premises.

(F) Rent. Pursuant to CBJ 53.09.270(b), rent shall be \$2,000 per month, an amount less than the fair market value, for the initial five year term.

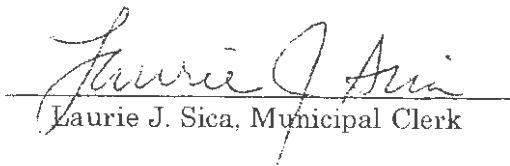
(G) Other terms and conditions. The manager may include other lease terms and conditions as the manager determines to be in the public interest.

**Section 3. Effective Date.** This ordinance shall be effective 30 days after its adoption.

Adopted this 10<sup>th</sup> day of November, 2014.

  
Merrill Sanford, Mayor

Attest:

  
Laurie J. Sica, Municipal Clerk

# MEMORANDUM

CITY/BOROUGH OF JUNEAU

Lands and Resources Office  
155 S. Seward St., Juneau, Alaska 99801  
Greg\_Chaney@ci.juneau.ak.us  
Voice (907) 586-5252  
Fax (907) 586-5385

**TO:** Assembly Lands Committee  
**FROM:** Greg Chaney, CBJ Lands and Resources Manager  
**SUBJECT:** Mayflower Building Lease Renewal  
**DATE:** August 19, 2014



The Montessori School has leased the Mayflower Building from the CBJ since 1992. The most current lease expired in April of 2014.

Below is the history of the Montessori School leases in reverse chronological order:

Current lease expired in April 2014 (this year) Appraisal stipulates Fair Market Value \$3,255

2009 – NEW 5 year lease approved @ \$2,000 month

2005 – 4 year extension of lease approved @ \$2,000 month

1999 – 6 year extension of lease approved @ \$2,000 month

1998 – Month to month @ \$2,000

1997 1 year lease extension

1993-1997 continued lease from 1992 @ \$2,000/month

1993 rate increased to \$2,000 month (under 1992 lease agreement)

1992 lease signed for 5 years for \$1,500 month for the first year

As can be seen above, fair market value for the Mayflower Building was established at \$2,000 in 1993 and has not been updated to a current fair market value since then. Per the Leases section of Title 53, the CBJ is required to lease property for fair market value:

## **53.20.050 Minimum acceptable annual rental.**

(a) No land shall be leased for less than the approved, appraised annual rental except that when leased to a governmental unit, agency, department or body for public purposes, or to a nonprofit organization for the purpose of performing a public or quasi-public health function, such minimum rental may be waived by the assembly by resolution;...

(b) The appraisal shall be made by the assessor or a qualified appraiser. The appraisal shall be based on the use of the land specified in the application.

The renewal of the Mayflower Building lease prompted an appraisal as required by CBJ§53.20.040 *Appraisal Required*, to determine the current fair market value for the building. The appraisal which was completed April 11, 2014 established that fair market value is \$3,255 (Attachment A).

Ordinance 2008-37 Section 2(C) Adjustment of Rental.

The City and Borough may adjust the rent to reflect changes in fair market value of the Premises at the time each renewal option is exercised.

Since the Mayflower Building is a City owned property; the Building Maintenance Division is responsible for maintaining the building. This includes routine and unexpected maintenance.

CBJ's annual maintenance costs for the Mayflower Building have varied over the years but have averaged **\$16,646** since FY07 with a high of \$33,479 in FY10. The FY15 budget includes \$17,000 for Mayflower Building maintenance and \$17,500 in FY16.

|                        |          |
|------------------------|----------|
| FY07                   | \$13,536 |
| FY08                   | \$18,399 |
| FY09                   | \$14,278 |
| FY10                   | \$33,479 |
| FY11                   | \$10,555 |
| FY12                   | \$12,414 |
| FY13                   | \$15,510 |
| FY14                   | \$14,998 |
| FY15 (budget)          | \$17,000 |
| FY16 (proposed budget) | \$17,500 |

If the lease rate is not increased to address inflation, in the near future the annual lease rate will not cover maintenance costs and the Lands Fund will be subsidizing the operation of the Mayflower building. The Lands Division has discussed the situation with the Juneau Montessori program. Attached is a June 10<sup>th</sup> letter from Geoff Kirsch, President Juneau Montessori School Board of Directors objecting to the proposed increased lease rate.

In acknowledgement of the sudden increase in lease rates, the Lands Division is proposing a compromise. This would involve phasing in the new rate over the term of the lease as shown below. The increase would occur in uniform increments starting with the current rate of \$2,000 a month for the rest of FY 2015 so that parents would have an opportunity to budget for the increased rates:

|         |               |
|---------|---------------|
| FY 2015 | \$2,000 month |
| FY 2016 | \$2,314 month |
| FY 2017 | \$2,628 month |
| FY 2018 | \$2,942 month |
| FY 2019 | \$3,255 month |



After reviewing the compromise proposed above, the Juneau Montessori School Board's position was provided in the following E-mail:

Hey, Greg:

Okay, here is the JMS board position.

If the cost for maintenance is \$17K/yr, JMS is currently paying \$24K in rent, which gives CBJ \$7K in profit. Were JMS a for-profit entity, we would gladly pay market value for the rental. However, as a non-profit providing much-needed early childhood education and care to the community -- especially considering the recent closure of Puddle Jumpers learning center - - we do not feel CBJ should be looking to profit from our lease. As such, JMS proposes to pay for the actual cost of building maintenance, setting aside lease payments for these costs, similar to CBJ's rental agreement with the Juneau Arts and Humanities Council, which, from what we understand, is the only other non-profit currently renting from CBJ. Any difference between maintenance costs and our current rate of \$24K per annum would go into a CBJ rainy day account to draw upon should large-scale improvements prove necessary (e.g. plumbing).

As a non-profit proving an extremely valuable service to the community, the JMS board sees our position as no different from the swimming pool, Eaglecrest, ice rink and other entities that operate in a deficit. For CBJ to break even with a JMS lease sounds like a win-win.

Please let me know if you have any questions, or require any further information to include in the Aug. 25 Lands Committee packets.

Best,  
Geoff Kirsch

As provided in CBJ§53.09.600, all revenue from property leased from the CBJ is credited to the municipal land fund and all expenses for land maintenance or development are drawn from the municipal land fund. If the Mayflower Building is leased for less than fair market value, it represents a loss of potential revenue that could be used to develop more CBJ property for affordable housing. Leasing the Mayflower Building solely for the cost of short term maintenance would be a significant departure from the lease agreement that has been in place since 1993. Prior to leasing the Mayflower Building to the Montessori School, the CBJ spent over \$300,000 renovating the building. If significant repairs are needed in the future, no funds would be available for the repairs. Market rate rentals take long term repairs, maintenance and other expenses into account. If the property is leased for the cost of maintenance, the lands fund would be subsidizing the school. If the CBJ desires to subsidize early childhood education, it would be more appropriate to create a uniform program that applies to all programs equally rather than to have the lands fund subsidizing this building lease.

Staff Recommendation:

Lands Committee recommends the Assembly adopt a Resolution to renew the Mayflower Building lease for the Juneau Montessori School as follows:

|         |               |
|---------|---------------|
| FY 2015 | \$2,000 month |
| FY 2016 | \$2,314 month |
| FY 2017 | \$2,628 month |
| FY 2018 | \$2,942 month |
| FY 2019 | \$3,255 month |

The proposed lease rate will initially be below current market rate but will reach current fair market value in FY 2019. Prior to renewing the lease in 2020, the rate will be reviewed and adjusted as required by CBJ§53.20.050(a).



# Juneau Montessori SCHOOL

SERVING JUNEAU FAMILIES SINCE 1985

750 St. Ann's Ave., Douglas, AK 99824 Phone: (907) 364-3535, Fax (907) 364-3537  
E-Mail: [jms@juneaumontessori.org](mailto:jms@juneaumontessori.org) Website: [www.juneaumontessorischool.org](http://www.juneaumontessorischool.org)

City and Borough of Juneau Assembly  
155 S. Seward Street,  
Juneau AK 99801

Dear Assembly Members,

The Juneau Montessori School's lease on the Mayflower building will expire at the end of June. On behalf of the Juneau Montessori School, I would like to request a lease renewal starting at the beginning of July 2020.

Not only is the Mayflower building a wonderful place to house our school, but it also helps us by keeping our rent costs low. As a nonprofit school operating on thin margins, and especially during the difficult time of Covid, our lease with the Mayflower building has been essential for keeping our school alive. Therefore, I would like to request that we maintain our lease at less than market value.

We love our school, and we appreciate CBJ's support in giving us a place to call home. Thank you for all you have done and continue to do to help us keep running!

Sincerely,

A handwritten signature in black ink, consisting of the initials "LMT" in a stylized, cursive font.

Laura Talpey  
Executive Director