

27TH BOARD OF
REPRESENTATIVES
CITY OF STAMFORD

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**RESOLUTION NO. 3279
APPROVING A LEASE AGREEMENT BY AND BETWEEN
THE CITY OF STAMFORD AND CTE, INC.
FOR PREMISES LOCATED
AT 34 WOODLAND AVENUE, STAMFORD, CONNECTICUT**

**NOW THEREFORE BE IT RESOLVED BY THE 27TH BOARD OF
REPRESENTATIVES THAT:**

Pursuant to Section C1-50-3 of the Stamford Charter and Section 9-7 of the Stamford Code of Ordinances, the lease agreement ("Lease") between City of Stamford ("Lessor") and CTE, Inc. ("Lessee") for a building and parking lot located at 34 Woodland Avenue, Stamford, CT, for use as a federal, anti-poverty agency and as a community center in Stamford's South End in accordance with the terms and conditions set forth in the Lease, which is incorporated herein by reference, for a initial term of five years commencing on the date the Lease is executed and terminating five years from such date, unless further extended by the Lessor as therein provided, is hereby approved; and

The Mayor is hereby authorized to execute such Lease and to execute any instrument he deems necessary or desirable in connection with the execution of such Lease.

This Resolution shall be effective as of the date of approval.

Adopted by the 27th Board of Representatives of the City of Stamford on the 4th day of May, 2009.

This resolution was approved on the Consent Agenda at the regular monthly meeting of the 27th Board of Representatives held on Monday, April 6, 2009.



David R. Martin, President



Annie M. Summerville, Clerk

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cc: Mayor Dannel P. Malloy
Benjamin Barnes, Director of Operations
Thomas M. Cassone, Director of Legal Affairs
William Callion, Director of Public Safety, Health & Welfare
Sandy Dennies, Director of Administration
Sybil Richards, Esq., Deputy Corporation Counsel

sooner terminated as may be hereinafter provided (hereinafter referred to as the "Term"). Provided the Lessee is not in default of this Lease, the Lessor may, at its sole option and discretion, extend this Lease for five (5) consecutive five (5) year terms provided the Lessee is not in default of this Lease. Any such extension shall be in writing signed by both the Lessor's Director of Operations and the Lessee's duly authorized representative.

3. **Rent.** The rent for the entire Term of this Lease shall be in the amount of Ten Dollars and Zero Cents (U.S. \$10.00) and be payable to the order of the "City of Stamford" upon the execution of this Lease by the parties.

4. **Use.** The Lessee shall utilize the Demised Premises for a community center in Stamford's South End and for no other purpose whatsoever. The Lessee agrees, warrants and represents that such center, which is commonly known as the "Lathon Wider Community Center", shall be open for use by the general public (hereinafter referred to as the "Program"). It is understood by the parties that the Lessee has been designated as a federal, anti-poverty agency for the greater Stamford area under the federal Community Development Block Grant program and that the Lessee shall use the Demises Premises for purposes directly related thereto. The Lessee shall be responsible for the operation, administration and supervision of the Program at its sole cost and expense.

No use shall be permitted on the Demised Premises wherein any pecuniary benefit accrues to any officer, director, or trustee of the Lessee.

5. **Approval.** This lease is subject to the approval of the Lessor's Planning Board, Board of Finance, Board of Representatives and Mayor.

6. **Assignment.** The Lessee shall not be permitted to assign this Lease or any interest therein.

7. **Subletting.** The Lessee shall not sublease, permit, or license the Demised Premises or any part thereof unless:

- a. Such sublease, permit or license shall comport with the uses permitted by this Lease in the reasonable judgment of the Lessor; and
- b. Such sublease, permit or license shall be in writing and be pre-approved by the Lessor which pre-approval shall not be unreasonably withheld; and
- c. Such sublease, permit or license provides that the sub-lessee, permittee or licensee shall indemnify and hold the City of Stamford, its officers, agents and employees harmless from any and all liability arising from any such use of the Demised Premises; and
- d. Such sublease, permit or license shall contain any and all insurance coverage(s) required by the Lessor's Risk Manager.
- e. All cash, in kind or other compensation to be provided to the Lessee shall be specifically reflected in the books and records of Lessee.

8. **Quiet Enjoyment.** The Lessee, provided it is not in default hereunder, shall peaceably hold, occupy and enjoy the Demised Premises during the Term and, if applicable, Renewal Term, without hindrance, ejection or interference except as otherwise provided in this Lease or as permitted by law.

9. **Lessee's Covenants.** The Lessee agrees, warrants and represents that it shall commit no waste to the Demised Premises, nor suffer the same to be committed thereon, nor injure nor misuse the same; and further agrees, warrants and represents that the Lessee has neither the right nor the power to assign or hypothecate this Lease in any way whatsoever, except as otherwise provided in this Lease or make alterations to the Demised Premises, nor use the same for any purposes except as those expressly authorized herein.

The Lessee shall keep the Demised Premises in good condition, free of debris, safely and adequately for the uses and purposes hereby authorized. The Lessee shall deliver the Demised Premises up to Lessor upon the expiration or earlier termination of this Lease in reasonably good condition, normal wear and tear excepted, and the Lessee shall have no right or obligation to remove any improvements to the Demised Premises without the prior written consent of Lessor. Likewise, any fixtures, equipment, furnishings, supplies or inventory which are purchased or obtained during the term of this Lease, by or for the Lessee utilizing any City operating or other revenue funds, including but not limited to state and federal funds administered by the City, shall become the property of Lessor upon the expiration or sooner termination of this Lease in good condition, normal wear and tear excepted, at the option of the Lessor.

10. **Default.** If Lessee should be in breach or default of or violate any of the terms and conditions of this Lease, or if the Lessee should assign or hypothecate this Lease or sublet the Demised Premises in a manner not provided by this Lease or otherwise dispose

of the whole or any part of the Demised Premises or make any structural alterations therein without the prior written approval of the Lessor, or shall commit waste or suffer the same to be committed on said Demised Premises or injure or misuse the same, or shall cease to exist as an IRS qualified or Connecticut corporation, or shall be adjudicated bankrupt, or shall make a voluntary or involuntary assignment of its estate or effects for the benefit of creditors, or if a receiver of Lessee's property shall be appointed, or if this Lease shall by operation of law, devolve upon or pass to anyone other than the Lessee, then this Lease shall thereupon, by virtue of this express stipulation expire and terminate, at the sole option of the Lessor, and the Lessor may, at any time thereafter re-enter said premises and shall have and possess all of the Lessor's former estate, and without such re-entry, may recover possession thereof in the manner prescribed by the statutes relating to summary process; it being understood that no demand for rent or re-entry for condition broken, as at common law, shall be necessary to enable the Lessor to recover such possession pursuant to said statutes relating to summary process, that any or all right to any such demand or any such re-entry is hereby expressly waived by Lessee.

In the event the Lessee should be in breach or default of or violate any of the Lessee's obligations set forth in the Lease and fail to cure such breach, default or violation within thirty (30) days written notice of such breach from the Lessor, then this Lease shall thereupon, by virtue of this express stipulation expire and terminate, at the sole option of the Lessor, and the Lessor may, at any time thereafter re-enter said premises and shall have and possess all of the Lessor's former estate, and without such

re-entry may recover possession thereof in the manner prescribed by the statutes relating to summary process; it being understood that no demand for rent or re-entry for condition broken, as at common law, shall be necessary to enable Lessor to recover such possession pursuant to said statutes relating to summary process, that any or all right to any such demand or such re-entry is hereby expressly waived by Lessee.

11. **Compliance with Laws.** Lessee shall comply with all applicable federal, state and local laws, rules, regulations, ordinances, charters, statutes, codes, orders, policies and procedures including, but not limited to the City Purchasing Ordinance as a non-city entity in accordance with Code Section 8-4 *et seq.*, in relation to the use and occupancy of the Demised Premises and with respect to its operation of the Program, and any costs for non-compliance or violation of same shall be solely the responsibility of the Lessee.

12. **Access to Premises.** Lessor and its employees, officers, agents and independent contractors shall have the right to enter and inspect the Demised Premises at any reasonable time during business hours after oral or written notice to the Lessee, or at any time in case of emergency, for the purpose of ascertaining the condition of the Demised Premises, curing a default on the part of the Lessee at the Lessee's sole cost and expense, making major repairs and capital improvements not made by the Lessee pursuant to the terms and conditions of this Lease at the Lessee's sole cost and expenses, providing however nothing herein shall be deemed to obligate the Lessor to make any such repairs or improvements. Lessor shall have a copy of the most current key(s) along with any

access and security codes to the Demised Premises for the purposes set forth in this paragraph.

13. **Capital Improvements, Repairs, Maintenance and Utilities.** Lessee shall be responsible for capital improvements, all major and minor repairs, maintenance of the Demised Premises, all utilities and systems including but not limited to the following: plumbing, electrical, boiler, furnace, generator, heat, water, air conditioning and all other systems. Lessee shall also be responsible for the following:

1. Interior and exterior walls and glass, including mirrors.
2. Snow and ice removal, refuse collection, water, sewer use, electricity, heat, air conditioning, fuel oil, gas and other utilities.
3. Custodial services, groundskeeping, landscaping, janitorial supplies, security and service agreements.
4. Any and all other expenses for the operation of the Program, if applicable, including but not limited to supplies, equipment, furnishings, insurance, telephones, etc.

Any and all capital improvements and major repairs to the Demised Premises shall be subject to the prior written approval of the Lessor's Director of Operations and shall be performed in accordance with paragraph 11 above. Notwithstanding the foregoing, subject to the approval of and appropriation by, as the case may be, the Lessor's Planning Board, Board of Finance, Board of Representatives and Mayor, the Lessor shall have the right and power to make any and all capital improvements at its sole cost and expense.

14. **Books and Records; Audits.** Lessee shall maintain separate books and records for its income and expenditures, assets and liabilities, and the Program and for its maintenance and repair of, and improvement to the Demised Premises. Such books and records shall include separate accounts from its organization-wide operations and Program, if applicable. Lessee shall provide Lessor open and regular access to such books and records, as well as the books and records of its organization-wide operations and Program, upon the demand of Lessor. Lessee shall furnish Lessor with copies of annual certified independent audits prepared at the expense of the Lessee and certified to the Lessor in accordance with Generally Accepted Auditing Standards by a Connecticut licensed CPA, no later than 135 days after the close of each fiscal or calendar year, as the case may be.

15. **Non-Appropriation.** Any obligation of Lessor to make payments or expenditures of any kind under this Lease shall be contingent upon the Lessor securing the requisite approvals and appropriations being duly passed pursuant to the laws of the City of Stamford.

16. **Insurance Requirements.** The Lessee shall affect and maintain for the life of this Lease, such commercial general liability and automobile liability insurance as shall protect the Lessee and the Lessor from claims for damages arising out of personal injury, including death, and claims for property damage, which may be suffered as a result of operations/completed operations under this Lease, whether such operations/completed operations be by the Lessee or any employee or agent thereof. The Lessee shall also

affect and maintain for the term of the Agreement workers' compensation insurance covering injuries or disease suffered by the Lessee's employees. The workers' compensation insurance shall comply with all workers' compensation statutes and regulations in the State of Connecticut. The Lessee shall also maintain all risk property insurance which insures all real and personal property of the Lessee, and boiler and machinery insurance, valued on a full replacement cost basis. The Lessor's Risk Manager also reserves the right to require the Lessee to affect and maintain other insurance coverage under the Lease that is deemed appropriate or necessary.

The Lessee shall provide, at its own cost and expense, documentary proof of the following insurances to the Risk Manager of the City of Stamford:

- A. Workers' compensation – Statutory, which complies with the workers' compensation regulations and laws of the State of Connecticut.
- B. Employer's liability, with minimum limits of liability of \$100,000 for each accident, disease each employee and policy limit for disease.
- C. Commercial general liability, subject to a minimum limit of liability of \$2,000,000 combined single limit for bodily injury and property damage and \$4,000,000 in the aggregate. This requirement can be met with a combination of general liability insurance and excess liability insurance. This insurance shall include, but not be limited to, bodily injury and property damage and the following coverages:
 - 1. Premises and operations liability.

2. Products liability and completed operations, to be maintained for a period of not less than three years following termination or cancellation of the Agreement.
 3. Broad form contractual liability covering any indemnities contained in the Agreement.
 4. Personal injury and advertising liability.
- D. Automobile liability insurance, with a minimum limit of liability of \$1,000,000 combined single limit for bodily injury and property damage. This insurance shall include, but not be limited to, bodily injury and property damage for the following:
1. Owned vehicles
 2. Hired and leased vehicles
 3. Non-owned vehicles
- E. All risk property insurance, which covers all real and personal property by the Lessee from Lessor. The limits under the all risk property insurance shall be and a full replacement cost basis and shall be sufficient to prevent the Lessee from incurring a co-insurance penalty because of inadequate limits. The all risk property insurance shall designate the Lessor as loss payee for any losses covered under this insurance. Any damages or losses beneath the applicable deductible(s) shall be repaired by the Lessee to the full satisfaction of the Lessor.
- F. Boiler and machinery insurance, which covers all boilers, pressure-fired and non-pressured vessels, hot water heaters, gas-fired furnaces, electrical equipment and any

other machinery and equipment, which is generally insured under a boiler and machinery policy. This insurance shall be on a full replacement cost basis and shall be sufficient to prevent the Lessee from incurring a co-insurance penalty because of inadequate limits.

The Lessee shall be responsible for repair and/or replacement of all damage and losses to the Demised Premises, whether insured or not insured. All repairs and / or replacement of damage and losses will be completed as soon as practicable after discovery of the damage and losses by the Lessee and Lessor. All repairs and / or replacement of damage and / or losses to the Demised Premises must be approved by and meet the satisfaction of the Lessor.

Thirty (30) days prior written notice shall be provided to the Lessee's Risk Manager in the event of cancellation, termination or material change in any terms and conditions of any insurance policies required hereunder.

Any insurance required hereunder underwritten on a claims made, as opposed to an occurrence basis, shall contain a retroactive date not later than the date of execution of the Lease or commencement of the occupancy of the Demised Premises by the Lessee, whichever is earlier, and an extended reporting period endorsement of not less than three years following vacating of the Demised Premises or termination of the Lease, whichever is later.

All insurance coverage and certificates of insurance shall be approved by the Lessor's Risk Manager prior to commencement of occupancy of the Demised Premises or

execution of the Lease. Other insurance coverages may be required by the Lessor's Risk Manager, which are predicated upon specific needs.

The Lessee agrees to waive any right of recovery against the City of Stamford and its employees, agents and officers for any claim, loss or damage of any kind or description whatsoever, which may or may not be covered under insurance required under this Lease.

If, at any time, any of the said insurance policies shall be or become unsatisfactory to the Lessor's Risk Manager as to form or substance, or if any insurance company shall become unsatisfactory to the Lessor's Risk Manager, the Lessee shall promptly obtain a new insurance policy, submit same to the Lessor's Risk Manager for approval and submit a certificate thereof as hereinabove required. Upon failure of the Lessee to furnish, deliver or maintain same, this Lease, at the election of the Lessor, may forthwith be declared suspended, discontinued or terminated. Failure of the Lessee in the above shall not relieve Lessee from any and all liability under the Lease, nor shall the insurance requirements be construed to conflict with the obligations of the Lessee concerning its liability or indemnification obligations under the Lease.

The Lessee shall provide the Lessor's Risk Manager with certificates of insurance or original copies of the insurance policies, whichever the Lessor's Risk Manager requires, which contain all requirements in the insurance provision for the Lease. The City of Stamford and its employees, agents and officers shall be designated as additional

insureds under the commercial general liability and automobile liability insurance policies.

17. **Non-Waiver.** The failure of the Lessor to insist upon strict performance of any of the terms, conditions or covenants herein shall not be deemed a waiver of any rights or remedies that the Lessor may have; and shall not be deemed a waiver of any subsequent breach or default of the terms, conditions or covenants herein contained, the Lessor reserving the right to require strict compliance therewith at any time, with or without notice except as may be otherwise required herein.

18. **Condition of Demised Premises.** No agreements, promises, covenants, warranties or representations have been made by the Lessor as to the condition of said Demised Premises upon which the Lessee has relied in entering into this Lease, and Lessee agrees to take the Demised Premises "As-Is" in its present and existing condition.

19. **Indemnification.** Lessor shall not be liable for any injury or damage to person or property happening in and or on the building, parking lot, sidewalks, grounds, interior or exterior or any part of said premises by reason of any existing or future condition, defect, matter or thing, except where such injury or damage to person or property is caused by, relates to or arises out of the Lessor's negligent acts, and Lessee agrees to indemnify and hold harmless the Lessor from any and all fines, claims, suits, actions, judgments, damages or liability arising therefrom and from anything otherwise arising from or out of the Lessee's use and occupancy of said premises or the Lessee's operation of the Program or Lessee's negligent acts or omissions or willful misconduct. Lessor shall not be

responsible for the loss of or damage to property, or injury to persons occurring in and or on the Demised Premises or for the acts, omissions or negligence of other persons or Lessee, its employees, officers and agents, in and or on said premises, except where such loss, damage or injury to person or property is caused by, relates to or arises out of the Lessor's negligent acts, and Lessee agrees to indemnify and save Lessor harmless from all fines, claims, suits, actions, judgments, damages or liability for loss of or damage to property or injuries to persons occurring in and or on the Demised Premises by reason of any such acts, omissions or negligence. Lessee further agrees to indemnify and save harmless Lessor of and from any and all fines, claims, suits, actions, judgments, damages or liability and acts of any kind by reason of any breach, violation, or non-performance of any covenant or condition hereof or for the violation of any law, statute, regulation or order, on the part of Lessee, its agents, employees or officers.

20. **Mechanic's Liens.** Lessee shall not permit any mechanic's or other lien or charge to be filed against the Premises by reason of any act of Lessee. If any such mechanic's or other lien or charge shall at any time be filed against the Premises, Lessee shall immediately cause the same to be discharged of record, in default of which Lessor may, on thirty (30) days written notice to Lessee, discharge the same, and all costs and expenses, including attorney's fees, incurred by Lessor in procuring such discharge shall be payable by Lessee to Lessor as additional rent upon demand.

21. **Notices.** All notices and demands, legal or otherwise, incidental to this Lease, or the occupation of the Demised Premises, shall be in writing. If the Lessor or its agents

desires to give or serve upon the Lessee any notice or demand, it shall be sufficient to send a copy thereof by certified or registered mail, addressed to the Lessee at the Demised Premises. All such notices to the Lessor from the Lessee shall be sent by registered or certified mail to the City of Stamford, Director of Operations, 888 Washington Boulevard, Stamford, Connecticut, 06904, with a copy to the Director of Legal Affairs at said address.

22. **Holdovers.** In the event that the Lessee shall remain in the Demised Premises after the expiration of the term of the Lease without having executed a new written Lease with the Lessor, such holding over shall not constitute a renewal or extension of this Lease. The Lessor may, at its option, elect to treat the Lessee as one who has not removed at the end of its term, and thereupon be entitled to all the remedies against Lessee provided by law in that situation, or the Lessor may elect to construe such holding over as a tenancy from month to month, subject to all the terms and conditions of this Lease, except as to duration.

23. **Eminent Domain.** In the event the whole or any part of the Demised Premises shall be taken under any power of eminent domain or condemnation, the Lessee hereby waives any claim to compensation except, in case of a taking by the State or Federal Government or other political subdivision thereof other than the Lessor, Lessee may apply for such Lessee's award as which shall in no way affect the value or amount of Lessor's award.

24. **Entire Agreement.** This Lease contains the entire agreement between the parties and all representations relating to this tenancy or to the demised premises are included herein.

25. **Governing Law.** This Lease shall be construed in accordance with the laws of the State of Connecticut.

26. **Successors and Assigns.** This Lease shall be binding upon the parties, their successors, successors and assigns, trustees and legal representatives.

IN WITNESS WHEREOF, the parties have executed this Lease on the date and year first above written.

CITY OF STAMFORD

By _____
Mayor Dannel P. Malloy
Duly-authorized

CTE, INC.

By _____
E. Phillip McKain
Its Duly-authorized President
and CEO

Approved as to form:

Sybil V. Richards
Deputy Corporation Counsel

Approved as to insurance:

Ann Marie Mones
Risk Manager

