

**RESOLUTION NO. 33-17**

**A RESOLUTION AUTHORIZING THE LEASE OF CITY OWNED PROPERTY TO  
COLORADO DISCOVER ABILITY**

Recitals:

The City of Grand Junction is the owner of the following described real property ("Property") in the City of Grand Junction, County of Mesa, State of Colorado, to wit:

A certain parcel of land lying in the Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4) of Section 23, Township 1 South, Range 1 West of the Ute Principal Meridian, County of Mesa, State of Colorado and being more particularly described as follows:

COMMENCING at the Northeast corner of the NE 1/4 SW 1/4 of said Section 23 and assuming the North line of the NE 1/4 SW 1/4 of said Section 23 bears N 89°35'51" W with all other bearings contained herein being relative thereto; thence from said Point of Commencement, N 89°35'51" W, along said North line, a distance of 268.91 feet to the POINT OF BEGINNING; thence from said Point of Beginning, S 00°24'09" W, a distance of 142.28 feet; thence N 89°35'51" W, a distance of 21.97 feet; thence S 00°24'09" W, a distance of 111.41 feet; thence N 89°35'51" W, a distance of 179.34 feet; thence N 00°24'09" E, a distance of 253.69 feet to a point on the North line of the NE 1/4 SW 1/4 of said Section 23; thence S 89°35'51" E, along said North line, a distance of 201.31 feet, more or less, to the Point of Beginning.

CONTAINING 48,621 Square Feet or 1.116 acres, more or less, as described above and commonly addressed as 599 Struthers Avenue, Grand Junction, CO 81501.

The City has negotiated an agreement with Colorado Discover Ability to lease the Property for the purpose of providing a location for the construction and operation of a facility to increase independence, self-confidence, self-worth and education of people with disabilities, their family and friends through outdoor recreation. The City Council having been advised in the premises deems it necessary and appropriate that the City lease the Property to Colorado Discover Ability for those purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

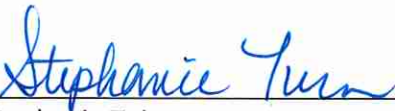
The City Manager is hereby authorized and directed to sign the attached Lease Agreement with Colorado Discover Ability, for the lease of the Property for a term of twenty-five (25) years, commencing on June 8, 2017, and expiring on June 7, 2042, subject to each and every term and condition contained in the Lease Agreement.

PASSED and ADOPTED this 7<sup>th</sup> day of June, 2017.

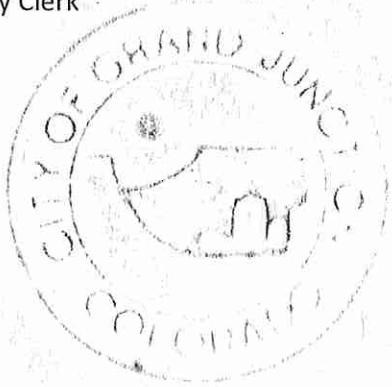


J. Merrick Taggart  
President of the Council

Attest:



Stephanie Tuin  
City Clerk



COLORADO DISCOVER ABILITY

OWNER:

CITY OF GRAND JUNCTION

TENANT:

COLORADO DISCOVER ABILITY (A COLORADO CORPORATION)

June 8, 2017

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SUMMARY OF LEASE PROVISIONS:

DATE: June 8, 2017

OWNER: City of Grand Junction

ADDRESS OF OWNER: 250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

TENANT: Colorado Discover Ability

ADDRESS OF TENANT: 740 Gunnison Ave Suite 105  
Grand Junction, CO 81501

LEASED PROPERTY: 599 Struthers Ave; Containing 1.1169 acre/ 48,621\_square feet.

LEASE TERM: Twenty-five (25) Years

COMMENCEMENT DATE: June 8, 2017

TERMINATION DATE: June 7, 2042

RENT: See Section 3

POSSESSION DATE: Immediately upon execution of the lease.

RENT COMMENCEMENT: On the Possession Date.

PERMITTED USES: General Office Use and Support of Tenant's Mission

SECURITY DEPOSIT: N/A

CONTACT: Terry D. Harper, Executive Director

ADDRESS OF CONTACT: 740 Gunnison Avenue Suite 105  
Grand Junction, CO 81501

RENEWAL OPTION: To be determined on mutual agreement of Owner and Tenant.

## LEASE AGREEMENT

THIS LEASE is entered into this \_\_\_\_ day of June 2017 BETWEEN City of Grand Junction ("Owner" and Colorado Discover Ability ("Tenant").

### 1. PROPERTY

In consideration of the rents, covenants and agreements contained herein, Owner leases to Tenant, and Tenant leases from Owner certain real property located at 599 Struthers Avenue, Grand Junction, Colorado, (the "Property"), located in the City of Grand Junction, Mesa County, Colorado. The Property location and area are shown on Exhibit "A", which is made a part hereof.

### 2. TERM

2.1 Length of Term. The term of this Lease shall be for a period of twenty-five (25) consecutive years beginning on the Commencement Date as set forth below.

2.2 Commencement Date and Obligation to Pay Rent. The Commencement Date for this Lease Agreement and Tenant's obligation to pay rent hereunder shall commence June 8, 2017.

2.3 Tenant's Certificate. Tenant shall, within five (5) days after the Commencement Date, and thereafter at Owner's request, execute and deliver to Owner a written declaration in recordable form: (a) ratifying this Lease and the Tenant's possession of the Property pursuant thereto; (b) expressing the Commencement date and termination date hereof; (c) certifying that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated); (d) that all conditions under this Lease to be performed by Owner have been satisfied; (e) that there are no defenses or offsets against the enforcement of this Lease by the Owner, or stating those claimed by Tenant; (f) the amount of advance rental, if any, (or none, if such is the case) paid by Tenant; (g) the date to which rental has been paid; (h) expansion and cancellation rights; and (i) such other information in accordance with the facts as Owner may reasonably request. Lenders shall be entitled to rely upon such declaration and Tenant shall be entitled to record the same.

### 3. RENT

Tenant agrees to pay to Owner at such place as Owner may designate, without prior demand therefore and without any deduction or setoff whatsoever, and as fixed rent, the sum of \_ Dollars (\$25.00). Simultaneously with the execution hereof, Tenant has paid to Owner the first \$1 year's rent, receipt whereof is hereby acknowledged.



4. NO ADJUSTMENTS TO RENT

It is the intent of the parties that (i) the rent is fixed for the term of this Lease and (ii) that the Owner shall be liable for no costs throughout the term of this Lease; all costs, expenses, and obligations of every kind relating to the Property which may arise or become due during the term hereof shall be paid by Tenant and that Owner shall be indemnified by Tenant against such costs, expenses, and obligations.

4.1 Taxes.

(a) Tenant shall pay all "Real Estate Taxes" levied or assessed by lawful taxing authorities against the land, buildings and/or improvements made and/or comprising the Property as it is improved.

(b) "Real Estate Taxes" shall mean all taxes, assessments, levies, and charges, whether foreseen or unforeseen, which may be levied, assessed, or imposed upon, on account of or with respect to: (i) the ownership of and/or all other taxable interests in all land and improvements situated on the Property; and (ii) all buildings, structures, and other improvements situated thereon over the term of the Lease.

(c) Tenant shall pay the Real Estate Taxes as the same become due. The amount of Real Estate Taxes upon which such payment is based shall be the most current notice(s) or assessment(s) or tax bill(s) concerning the Property and all improvements and taxable personal and business property taxed and included or not in the Real Estate Taxes, including but not limited to the value of any improvements made by Tenant, including machinery, equipment, fixtures, inventory or other personal property of Tenant.

(d) Tenant shall also be solely responsible for and shall pay before delinquency all municipal, county, state, or federal taxes assessed during the term of this Lease against any personal property of any kind, owned by or placed in, upon, or around the Property by Tenant.

4.2 Insurance. Tenant shall pay to insure the Property and protect, indemnify and defend the Owner, as provided herein, from any and all claims; the cost(s) thereof shall not constitute or be claimed to constitute an adjustment to rent or otherwise require payment or contribution from the Owner to provide and maintain insurance required by this Lease.

5. CONSTRUCTION

5.1 Owner's Obligation. The Owner shall have no obligation to extend utilities or perform any construction, site remediation and/or hazardous material(s) characterization, testing or removal, for the Tenant to use or occupy the Property; the Property is leased in "AS-IS" condition without any representation as to suitability for the Tenant's purpose(s).

5.2 Tenant's Obligations. Tenant shall be responsible for any and all construction of any and all necessary or required building(s) and improvements. All work to be performed by Tenant shall be constructed by Tenant in a good and workmanlike manner free of any liens for labor and materials. Tenant agrees to indemnify Owner and hold Owner harmless against any loss, liability or damage resulting from such work. All work shall be performed by Tenant at its own cost and expense.

5.3 Signs, Architecture and Site Plan. Tenant's exterior sign plans must be approved by Owner in writing and accordance with the City Code. All signs installed by Tenant shall be kept in good repair and in proper operating condition at all times, shall be removed at the termination of the Lease and any damage caused by such removal shall be repaired at Tenant's expense. Prior to commencement of the Lease Tenant shall provide Owner the elevation(s) of the proposed building improvements and site plan. The site plan review and approval process is and shall be a condition precedent to any construction and construction shall only be in accordance with the approved site plan.

## 6. USE

Tenant shall use the Property solely for the purpose of conducting its business, which is providing adaptive recreation opportunities for people with disabilities, and their friends and families. Tenant shall not use or permit the Property to be used for any other purpose or purposes, except with the prior written consent of the Owner, such consent not to be unreasonably withheld. Said business shall be operated under the tradename of Colorado Discover Ability / Andy Blood Adaptive Center.

## 7. CONTINUOUS OPERATION

Tenant covenants to use the Property and operate its business continuously during the term of this Lease unless prevented from doing so by causes beyond Tenant's control. For purposes of this Lease, "continuously" means Tenant's normal hours of operation without periods of abandonment or extended cessation of use; Tenant shall keep on the Property sufficient personnel to service the usual and ordinary demands and requirements of its customers, users of its services and maintenance obligations necessary to the Property.

8. LAWS, WASTE, NUISANCE

Tenant covenants that it: (a) will not use or suffer or permit any person or persons to use the Property or any part thereof for conducting thereon any use that is not allowed by zoning and the applicable law, including but not limited to land use regulations; (b) will comply with all governmental laws, ordinances, regulations, and requirements, now in force or which hereafter may be in force, or any lawful governmental body or authorities having jurisdiction over the Property; (c) will keep the Property and every part thereof in clean, neat, and orderly condition, free of objectionable noise, odors, or nuisances, and will in all respects and at all times, fully comply with all health and policy regulations; (d) shall not suffer, permit or commit any waste. The Tenant shall be responsible and pay all damages and charges to the State or Local Government or any others for any nuisance made or suffered during the term on the Property or any way resulting from the activity of the Tenant.

9. MAINTENANCE

9.1 Maintenance by Tenant. Tenant, at its sole cost and expense, shall at all times keep the Property in good order, condition, and repair or contract for the same. By separate agreement the City, by and through the Parks and Recreation Department, has agreed to mow and maintain the landscaping installed on the Property by the Tenant. The Tenant shall pay the City \$100 per month for landscape maintenance including seasonal upkeep of turf, trees, shrubs, flowers, etc., excluding snow removal.

9.2 Right to Cure. If the Tenant refuses, fails or neglects to maintain the Property as required hereunder to the reasonable satisfaction of the Owner as soon as reasonably possible after written demand, the Owner may take action to correct the condition without liability on its part to the Tenant for any loss or damage that may accrue to its property or to its business by reason thereof, and upon completion thereof, the Tenant shall pay the cost for making such repairs, immediately upon presentation of a bill therefore. Failure of the Tenant to pay such amount immediately shall constitute a default hereunder.

10. MECHANIC'S LIEN

Should any mechanic's or other lien be filed against the Property or any part thereof by reason of Tenant's acts or omissions or because of a claim against Tenant, Tenant shall cause the same to be cancelled and discharged of record by bond or otherwise within thirty (30) days after notice from Owner.

11. ASSIGNMENT

11.1 Assignment Prohibited. Tenant shall not transfer, assign, mortgage, or hypothecate this Lease, in whole or in part, or permit the use of the Property by any person or persons other than Tenant, or sublet the Property, or any part thereof, without the prior written consent of Owner in each instance, such consent not to be unreasonably withheld, delayed or conditioned. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law.

Any transfer of this Lease from the Tenant by merger, consolidation, transfer of assets, or liquidation shall constitute an assignment for purposes of this Lease. In the event that Tenant hereunder is a corporation, an unincorporated association, or a partnership, the transfer, assignment, or hypothecation of any stock or interest in such corporation, association, or partnership in the aggregate in excess of forty-nine percent (49%) shall be deemed an assignment within the meaning of this section.

11.2 Consent Required. An assignment or subletting without Owner's consent shall be void, and shall constitute a default hereunder which, at the option of Owner, shall result in the termination of this Lease or exercise of Owner's other remedies hereunder. Consent to any assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under, or through Tenant.

11.3 Owner's Right in Event of Assignment. If this Lease is assigned or if the Property or any portion thereof are sublet or occupied by any person other than the Tenant, Owner may collect rent and other charges from such assignee or other party, and apply the amount collected to the rent and other charges reserved hereunder, but such collection shall not constitute consent or waiver of the necessity of consent to such assignment, subleasing, or other transfer, nor shall such collection constitute the recognition of such assignee, sublessee, or other party as the Tenant hereunder nor shall it release Tenant from the further performance of all of the covenants and obligations of Tenant herein contained. In the event that Owner shall consent to a sublease or assignment hereunder, Tenant shall pay to Owner reasonable fees, not to exceed Five Hundred Dollars (\$500.00), incurred in connection with processing of documents necessary to the giving of such consent. Owner's consent to a sublease or assignment shall not operate to relieve Tenant from primary liability unless Owner so states in writing.

## 12. INDEMNITY

Tenant hereby agrees to defend, pay, indemnify, and save free and harmless Owner, from and against any and all claims, demands, fines, suits, actions, proceedings, orders, decrees, and judgments of any kind or nature by or in favor of anyone whomsoever and from and against any and all costs and expenses, including reasonable attorney's fees, resulting from or in connection with loss of life, bodily or personal injury or property damage arising, directly or indirectly, out of or from injury or property damage arising, directly or indirectly, out of or from or on account of any occurrence in, upon, at, or from the Property or occasioned wholly or in part through the use and occupancy of the Property or any improvements therein or appurtenances thereto, or by any act of omission or negligence of Tenant or any subtenant, concessionaire or licensee of Tenant, or their respective employees, agents, or contractors in, upon, at or from its or their negligence. Tenant

and all those claiming by, through, or under Tenant hereby release Owner to the full extent permitted by law, from all claims of every kind, including loss of life, personal or bodily injury, damage to merchandise, equipment, fixtures or other property, or damage to business or from or on account of occupancy and use of the Property and from or resulting from, any present or future condition thereof.

### 13. INSURANCE

13.1 Fire, Casualty, and General Liability Insurance. Tenant shall procure and pay the cost of insurance insuring the Tenant and the Owner against loss or damage to the Property and property by reason of fire and other casualties with an A-rated qualified insurance company or companies in an amount and of such coverage as are satisfactory to and approved by Owner, but in no event shall the amount of such insurance be less than the cost of all risk coverage for physical injury to persons on or using the Property. Owner and Tenant's lender or any other person(s) or entity(ies) interested under any mortgage or similar instrument then affecting the Property, shall be named as an insured on each policy.

Tenant shall procure and pay the cost of insurance for insuring the Tenant and the Owner against General Liability. The limits of liability to be carried will not be less than One Million Dollars (\$1,000,000.00) for injury or death for all persons arising out of a single accident, and not less than One Million Dollars (\$1,000,000.00) to the property of any one person or persons.

The cost of such insurance coverage as required hereunder shall be paid by Tenant in full when due and be in an amount equal to the replacement cost of Tenant's improvements, trade fixtures, furnishings, equipment and contents upon the Property, and naming Owner as an additional insured.

13.2 Provisions to be Contained in Policies. All insurance provided for in this Lease shall be effected under enforceable policies issued by insurers reasonably approved by Owner and a copy of the policy or a certificate of insurance shall be delivered to the Owner within ten (10) days after the date of commencement of the term of this Lease or on or before the day Tenant begins Tenant's work on the Property, whichever is first. The policy or policies shall provide by its terms that it is non-cancellable except on forty-five (45) days prior written notice to Owner. At least twenty (20) days prior to the expiration date of any policy, the original renewal policy for such insurance shall be delivered by Tenant to the Owner. Within twenty (20) days after the premium on any policy shall fall due and payable, the Owner shall be furnished with satisfactory evidence of its payment. All policies shall name Owner, any person, firms, or corporation reasonably designated by Owner, and Tenant as insured. All policies shall be written as primary policies, not contributing with and not in excess of coverage which Owner may carry. All such insurance shall specifically insure the performance by Tenant of the indemnity agreement(s) as to liability provided herein.

13.3 Subrogation. Each party hereto waives its right to subrogation against the other for any reason whatsoever, and any insurance policies herein required to be procured by either shall contain an express waiver of any right of subrogation by the insurer against the other.

13.4 Lenders. Any mortgage lender interested in any part of the improvements on the Property may, at Tenant's option, be afforded coverage under any policy required to be secured by Tenant hereunder, by use of a mortgagee's endorsement to the policy(ies.)

13.5 Blanket Policy. If the Tenant provides any insurance required by this Lease in the form of a blanket policy, the Tenant shall furnish satisfactory proof that such blanket policy complies in all respects with the provisions of this Lease., and that the coverage thereunder is at least equal to the coverage which would be provided under a separate policy covering only the Property.

13.6 Proof of Insurance. Tenant shall provide proof of insurance upon the commencement date and no less often than every year subsequent thereto or when the policy(ies) is(are) renewed.

#### 14. DAMAGE BY CASUALTY

If the Property or the improvements thereon shall be partially damaged by a casualty insured under Tenant's insurance policy, Tenant shall, upon receipt of the insurance proceeds and to the extent those proceeds repair the damage(s) repair the improvements so that the Property is made commercially habitable. Notwithstanding, the foregoing, if: (a) the Property/improvements by reason of such occurrence are rendered wholly un-tenantable or (b) the Property/improvements should be damaged as a result of a risk which is not covered by Tenant's insurance, or (c) the Property should be damaged in whole or in part during the last year of the term or of any renewal hereof, or (d) the Property/improvements of which it is a part should be damaged to the extent of greater than fifty percent (50%) or more of the then monetary value thereof, or (e) any or all of the building or other improvements on the Property are damaged to an extent that the same cannot in the sole reasonable judgment of Owner be operated then and in any such event, Owner may cancel this Lease by notice of cancellation within sixty (60) days after such event and thereupon this Lease shall expire and Tenant shall vacate and surrender the Property to Owner after removing the building/improvements and returning the Property to the condition thereof as of the Commencement Date. Tenant's liability for rent upon the termination of this Lease shall cease as of the day following the event giving rise to Owner's giving notice of cancellation. Unless this Lease is terminated by Owner, Tenant shall repair the building/improvements on the Property in a manner and in at least a condition equal to that existing prior to the destruction or casualty and the proceeds of all insurance carried by Tenant on its property and fixtures shall be held in trust by Tenant for the purpose of said repair(s).

#### 15. CONDEMNATION

15.1 Total Condemnation. If the whole of the Property shall be acquired or taken by condemnation proceeding, then this Lease shall cease and terminate as of the date of title vesting in such proceeding.

15.2 Partial Condemnation. If any part of the Property shall be taken as aforesaid, and such partial taking shall render that portion not so taken unsuitable for the business of Tenant, then this Lease shall cease and terminate as aforesaid. If such partial taking is not extensive enough to render the Property unsuitable for the business of Tenant, then this Lease shall continue in effect.

15.3 Award. Tenant shall not be entitled to and expressly waives all claim to any condemnation award paid to the Owner for any taking, whether whole or partial and whether for diminution in value of the leasehold or to the fee, although Tenant shall have the right, to the extent that the same shall not reduce Owner's award, to claim from the condemner, but not from the Owner, such compensation as may be recoverable by Tenant in its own right for damages to Tenant's building, improvements, business and fixtures.

15.4 Definition. As used in this section, the term "condemnation proceeding" means any action or proceeding in which any interest in the Property is taken for any public or quasi-public purposes by any lawful authority through exercise of the power of eminent domain or right of condemnation or by purchase or otherwise in lieu thereof.

## 16. EVENTS OF DEFAULT, REMEDIES

16.1 Default by Tenant. Upon the occurrence of any of the following events, Owner shall have the remedies set forth in this Lease.

(a) Tenant fails to pay any rental or any other sum due hereunder within ten (10) days after the same shall be due.

(b) Tenant fails to perform any other term, condition, or covenant to be performed by it pursuant to this Lease within ten (10) days after written notice of such default shall have been given to Tenant by Owner, or to commence performance of any term, condition or covenant which would take more than ten (10) days to complete.

(c) Tenant or its agent shall falsify any report required to be furnished to Owner hereunder.

(d) Tenant or any guarantor of this Lease shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a petition in bankruptcy or insolvency, reorganization, or appointment of a receiver or trustee; or Tenant petitions for or enters into an arrangement; or suffers this Lease to be taken under a writ of execution.

(e) Tenant violates any provision of this Lease.

16.2 Remedies. Upon the occurrence of the events set forth in this Lease, Owner shall have the option to take any or all of the following action, without further notice of demand of any kind to Tenant or any other person:

(a) Collect by suit or other legal or equitable process, rent or other sum of money as it becomes due hereunder, or enforce, by suit or otherwise, any other term or provision hereof on the part of Tenant required to be kept of performed.

(b) Terminate Tenant's right to possession of the Property at any time. No act by Owner other than giving notice to Tenant of intent to terminate shall terminate the Tenant's right to possession. Upon termination, Owner may recover from the Tenant, in addition to any other remedy it may have, (i) the unpaid rent that had been earned at the time of termination of the Tenant's right to possession; (ii) the cost of recovering the leased Property; and (iii) the excess, if any, of rental due pursuant to the provisions of this lease for the remainder of the stated term over the then reasonable rental value of the lease Property for the remainder of the stated term, which amount shall be immediately due and payable by Tenant to Owner.

(c) The remedies given to Owner shall be in addition and supplemental to all other rights or remedies which Owner may have under laws then in force.

17. ACCESS TO PROPERTY

Owner or its duly authorized agent shall have the right to enter the Property at reasonable times to inspect the same. Owner shall make its best efforts to keep to a minimum any interference with Tenant, Tenant's business and customers as a result of Owner's exercise of any of its rights.

18. CONTRACTOR



With respect to each of Tenant's obligations under any provision of this Lease concerning construction repair and maintenance of the Property, the building or other improvements on the Property, the obligation shall be fulfilled either: (i) by Tenant's arranging to have the work accomplished by one (1) or more contractors licensed in the City of Grand Junction; and/or, at Owner's option; (ii) if, at the time Tenant is required to fulfill such obligation, it is the holder of a license authorizing it to act as a contractor within the City, by Tenant's participating in creation or construction of the improvements in the capacity of contractor. Any construction or building permits required for work on the Property, the building or other improvements shall be obtained by Tenant's contractor(s) prior to commencement of the work.

19. FINANCING

19.1 Subordination. Upon written request of Tenant to Owner, and conditioned upon receipt of non-disturbance agreements from the lienholders, Owner will subordinate its rights hereunder for a term of no more than 25 years to the lien of any mortgage or mortgages, or lien or other security interest resulting from any other method of financing or refinancing, now or hereafter in force against the building and and/or improvements hereafter placed upon the Property. The provisions of this section notwithstanding, so long as Tenant is not in default hereunder, this Lease shall remain in full force and effect for the full term and shall not be terminated as a result of any foreclosure or sale or transfer in lieu of such proceedings pursuant to a mortgage or other instrument to which Owner has subordinated its rights pursuant hereto.

19.2 Amendment. Owner agrees that from time to time, it shall, if so requested by Tenant, and if doing so will not substantially and adversely affect Owner's interest and the term is consistent with the Charter of the City, under this Lease, join with Tenant in amending the terms of this Lease so as to meet the reasonable needs or requirements of any lender which is considering furnishing or which has furnished financing to the Tenant.

20. ATTORNMEN

In the event of the sale or assignment of Tenant's interest in the building on the Property, or in the event of any proceedings brought for the foreclosure of any mortgage or other security instrument made by Tenant covering the building/improvements, Tenant shall attorn to the assignee and recognize the Owner under this Lease, so long as the assignee assumes Tenant's obligations under this Lease.

21. RIGHT TO CURE

In the event of breach, default, or noncompliance hereunder by Tenant, Owner shall, before exercising any right of remedy available to it under this Lease, give Tenant written notice of the claimed breach,

default, or noncompliance. For the thirty (30) days following the giving of the notice(s) required by the foregoing sentence of this section (or such longer period of time as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be rectified within thirty (30) days, Owner and/or lender shall have the right to cure the breach, default, or noncompliance involved.

22. QUIET ENJOYMENT

Tenant, upon paying the rents and observing and performing all of the terms, covenants, and conditions on its part to be performed hereunder, shall peaceably and quietly enjoy the Property for the term hereof.

23. SURRENDER OF PROPERTY

At the expiration of this Lease, Tenant shall surrender the Property in as good condition as it was in upon delivery of possession thereto under this Lease, without the building or improvements, to Owner. Before surrendering the Property, Tenant shall remove all of its building(s) and improvements together with its personal property and fixtures and shall repair any damage caused by the removal thereof. If Tenant fails to remove its building(s) and improvements, personal property and fixtures upon the expiration of this Lease, the same shall be deemed abandoned and shall become the property of the Owner.

24. HOLDING OVER

Unless otherwise agreed to in writing by Owner and Tenant, if the Tenant retains possession of the Property or any part thereof after the termination of the term, such holding over shall be deemed unlawful occupancy and Tenant may be subject to removal in accordance with law. The Owner's costs, for which Tenant shall be liable are stipulated to be \$500.00 per day from the first day of the commencement of the holdover period, and Tenant shall remain liable for all other payments provided for hereunder, and such holding over shall be subject to all of the other terms and conditions of the Lease. In addition, Tenant stipulates and agrees to pay the Owner for all damages, consequential as well as direct, sustained by Owner resulting from or arising out of Tenant's possession and the process of eviction of the Tenant. No such holding over shall be deemed to constitute a renewal or extension of the term of the Lease.

25. ATTORNEY'S FEES

In the event that at any time during the term of this Lease, either Owner or the Tenant institutes any action or proceeding against the other relating to the provisions of this Lease or any default hereunder, then the unsuccessful party in such action or proceedings agrees to reimburse the successful party for the reasonable expenses of such action including reasonable attorneys' fees, incurred therein by the successful party.

26. PAST DUE SUMS

If Tenant fails to pay, when the same is due and payable, any rent or other sum required to be paid by it hereunder, such unpaid amounts shall bear interest from the due date thereof to the date of payment at the rate of fifteen percent (15%) per annum. Notwithstanding the foregoing, however, Owner's right concerning such interest and service fee shall be limited by the maximum amount which may properly be charged by Owner for such purposes under applicable law.

27. MISCELLANEOUS PROVISIONS

27.1 No partnership. Owner does not by this Lease, in any way or for any purpose, become a partner or joint venturer of Tenant in the conduct of its business or otherwise.

27.2 Force Majeure. Owner and Tenant shall be excused for the period of any delay in the performance of any obligations hereunder (except as to the payment of rent) when prevented from so doing by cause or causes beyond said party's control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or services, or acts of God.

27.3 No Waiver. Failure of a party to insist upon the strict performance of any provision or to exercise any option hereunder shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived unless such waiver be in writing signed by the party making the waiver.

27.4 Notices. Any notice, demand, request, or other instruments which may be or is required to be given under this Lease shall be delivered in person or sent by United States certified or registered mail, postage prepaid, and shall be addressed (a) if to Owner, at the place specified for payment of rent, and (b) if to Tenant, either at the Property or at any current address for Tenant which is known to Owner. Either party may designate such other address as shall be given by written notice. Such notice, demand, request, or other instrument shall be deemed delivered effective as of the third day after the day on which it was mailed pursuant hereto.

To Owner: City Manager  
c/o City of Grand Junction  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501

Tenant: Executive Director  
c/o Colorado Discover Ability  
599 Struthers Avenue  
Grand Junction CO, 81501

27.5 Recording. This Lease shall be recorded in the land title records of, with and for Mesa County.

27.6 Partial Invalidity. If any provision of this Lease or the application thereof to any persons or circumstances shall to any extent be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

27.7 Tenant Defined; Use of Pronouns. The word "Tenant" shall be deemed and taken to mean each and every person or party executing this document as a Tenant herein. If there is more than one (1) Tenant, any notice required or permitted by the terms of this Lease may be given by or to anyone thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Owner or Tenant shall be deemed a proper reference even though Owner or Tenant may be an individual, partnership, corporation, or group of two (2) or more individuals or corporations. The necessary grammatical changes required to make the provisions of the Lease apply in the plural sense where there is more than one (1) Owner or Tenant and to corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

27.8 Provisions Binding. Except as otherwise provided, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives, heirs, successors and assigns. Each provision to be performed by Tenant shall be construed to be both a covenant and a condition, and if there shall be more than one (1) Tenant, they shall all be bound jointly and severally, by such provisions. In the event of any sale or assignment (except for purposes of security or collateral) by Tenant of this Lease, Owner's interest shall automatically pass to Tenant's successor in interest.

27.9 Entire Agreement. This Lease and the exhibits attached hereto, set forth the entire agreement between the parties. All exhibits mentioned in this Lease are incorporated herein by reference. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon Owner or Tenant unless reduced to writing and signed by both parties. Submission of this Lease for examination does not constitute an option for the Property and becomes effective as a lease only upon execution and delivery thereof by Owner to Tenant. The captions and section numbers appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any section or paragraph.

27.10 Governing Law. This lease shall be governed by the laws of the City of Grand Junction, State of Colorado.

28. AUTHORITY OF SIGNATORIES

Each person executing this Lease individually and personally represents and warrants that he is duly authorized to execute and deliver the same on behalf of the entity for which he is signing (whether it be a corporation, general or limited partnership or otherwise) and that this Lease is binding upon said entity in accordance with its terms.

29. RULES AND REGULATIONS


Tenant's substantial failure to keep and observe all rules and regulations shall constitute a breach of the terms of this Lease in the same manner as if the rules and regulations were contained herein as covenants. In the case of any conflict between rules and regulations and this Lease, this Lease shall be controlling.

30. INSPECTION

Tenant agrees that in taking this Lease, it is governed by his own inspection of the Property and his own judgement of the desirability and suitability of it for its purposes, and has not been governed or influenced by any representation of the Owner as to the condition and character of the Property, or as to the tenantability thereof; that no agreements, stipulations, reservations, exceptions, or conditions whatsoever have been made or entered into in regard to said Property or this Lease, which will in any way vary, contradict or impair the validity of this Lease or of any of its terms and conditions, and that no modification of this Lease shall be binding unless it be in writing and executed and acknowledged in due form for recording by all of the parties hereto. Furthermore, Tenant takes this Lease and the demised Property subject to all recorded easements and restrictions affecting the occupation and use thereof, and subject to all statutes, ordinances and regulations affecting the occupancy and use thereof, the construction and maintenance of improvements thereon, and the businesses and occupations to be engaged in by Tenant, in force now and subsequently during the term of this lease.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date hereof.

TENANT: Colorado Discover Ability

By:   
EXECUTIVE DIRECTOR

Date: 6-15-17

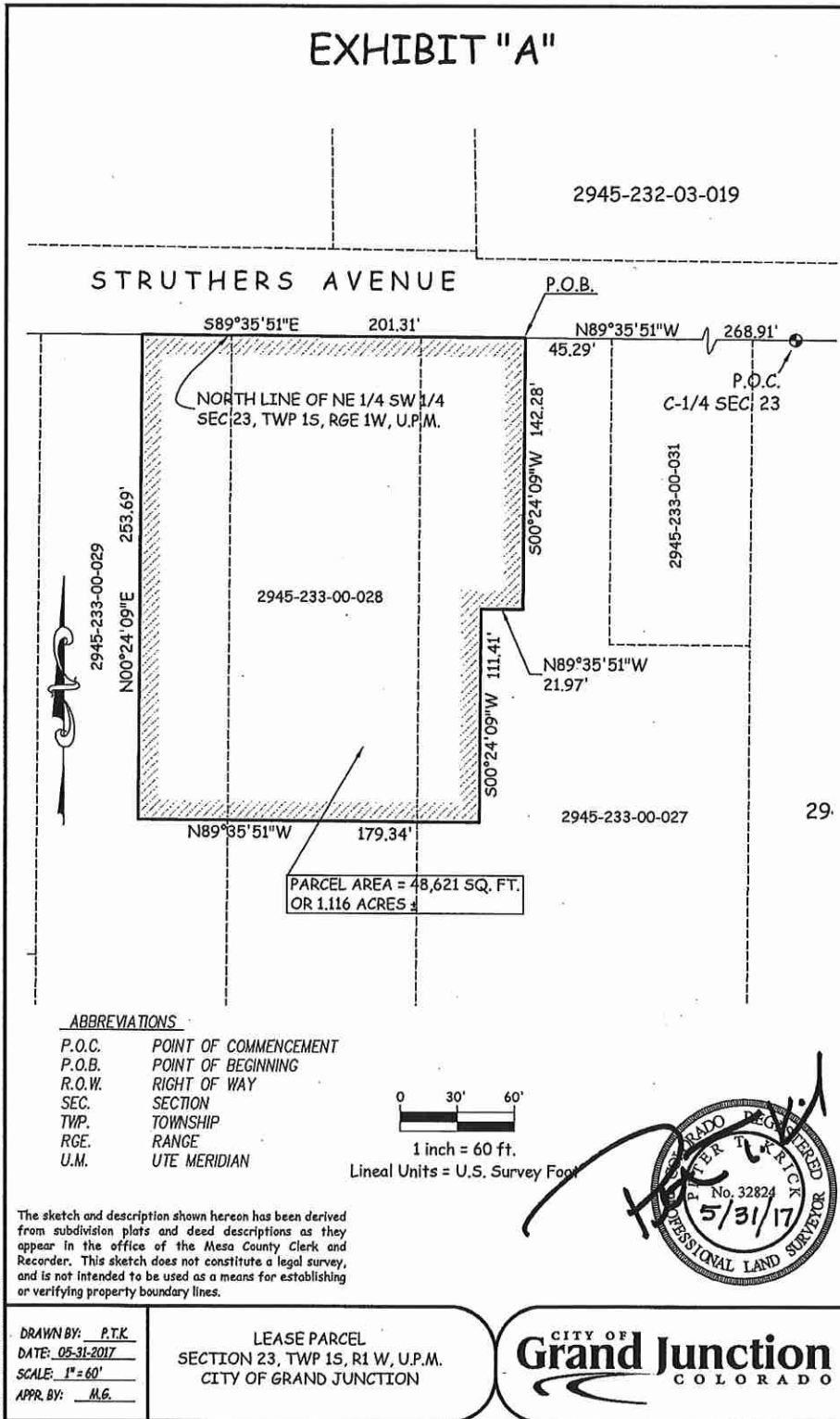
OWNER: City of Grand Junction

By: 

\_\_\_\_\_

Date: 6-15-2017

# EXHIBIT "A"



**ENDORSEMENT #27**

This endorsement, effective 12/01/16 12:01 a.m., forms a part of  
Policy No. ASG089703602 issued to Disabled Sports USA, Inc.  
by Greenwich Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY**

It is hereby understood and agreed that the attached Form IXI 405 CANCELLATION NOTIFICATION TO OTHERS ENDORSEMENT is added to the policy, but only with respect to COLORADO DISCOVER ABILITY INTEGRATED OUTDOOR SPORTS.

No additional premium due.

All other terms and conditions remain unchanged.



**ENDORSEMENT**

This endorsement, effective 12/01/16 12:01 a.m., forms a part of

Policy No. ASG089703602 issued to Disabled Sports USA, Inc.

by Greenwich Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**CANCELLATION NOTIFICATION TO OTHERS ENDORSEMENT**

In the event coverage is cancelled for any statutorily permitted reason, other than nonpayment of premium, advanced written notice will be mailed or delivered to person(s) or entity(ies) according to the notification schedule shown below:

Name of Person(s) or Entity(ies)	Mailing Address:	Number of Days Advanced Notice of Cancellation:
City of Grand Junction City Manager	250 N. 5 <sup>th</sup> Street, Grand Junction, CO 81501	45
c/o City of Grand Junction		

All other terms and conditions of the Policy remain unchanged.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/12/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> American Specialty Insurance & Risk Services, Inc.  7609 W. Jefferson Blvd., Suite 100 Fort Wayne IN 46804		<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 260-969-5203      FAX (A/C, No): 260-969-4729 E-MAIL ADDRESS:	
<b>INSURED</b> Disabled Sports USA, Inc. 451 Hungerford Drive, Suite 100  Rockville MD 20850		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Greenwich Insurance Company      NAIC # 22322 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

**COVERAGES**

CERTIFICATE NUMBER: 1001407732

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/> OTHER: CLUB	Y	Y	ASG089703602	12/01/2016	12/01/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000 \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$			ASX089704002	12/01/2016	12/01/2017	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 PROD-COMP WK HAZ AGG \$ 5,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

- Coverage applies to the following chapter: COLORADO DISCOVER ABILITY INTEGRATED OUTDOOR SPORTS, .

- The Certificate Holder is only an Additional Insured with respect to liability caused by the negligence of the Named Insured as per Form GXAL 428 Additional Insured - Certificate Holders, but only with respect to LEASED PROPERTY AT 599 STRUTHERS AVE; CONTAINING 1.1169 ACRE/ 48,621 SQUARE FEET.

**CERTIFICATE HOLDER****CANCELLATION**

City of Grand Junction  City Manager c/o City of Grand Junction 250 N 5th Street Grand Junction CO 81501	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_



## ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY American Specialty Insurance & Risk Services, Inc.		NAMED INSURED Disabled Sports USA, Inc. 451 Hungerford Drive, Suite 100 Rockville, MD 20850	
POLICY NUMBER ASG089703602		EFFECTIVE DATE: 12/01/2016	
CARRIER Greenwich Insurance Company	NAIC CODE 22322		

### ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE - Certificate #1001407732

- Advanced Notice of Cancellation (45 days) will be given to the Certificate Holder as per Form IXI 405 Cancellation Notification to Others Endorsement
- The General Liability policy contains a Waiver of Subrogation provision as per Form CG 0001.
- The General Liability policy includes Form GXAL 410 Construction Operations Limited Coverage, with the following Construction Operations scheduled: None
- The General Liability policy includes Form CG 2144 Limitation of Coverage to Designated Premises or Project, with the following Scheduled Project/Premises limitation: Events, activities, and business operations related to Disabled Sports USA.
- The General Liability policy includes Form CG 2135 Exclusion - Coverage C - Medical Payments, Scheduled Description and Location of Premises or Classification: ALL
- The General Liability policy includes Form CG 2133 Exclusion - Designated Products with the following products excluded: Athletic or exercise equipment when manufactured by you or manufactured by others to your specifications.
- The General Liability policy includes Form CG 2116 Exclusion - Designated Professional Services with the following professional services excluded: Providing or failure to provide medical professional services.