

The City Council met in semi-monthly session pursuant to adjournment at 4:30 o'clock P.M. on August 5, 2024. A quorum was declared by Mayor Deb De Haan. The meeting was held in the Council Chambers, City Hall, 125 Central Ave SE, Orange City, Iowa.

Members Present: Council members Olivia Chapman, Rod De Boer, Daron De Jong, and Bret Walinga

Members Absent: Council member Daryl Beltman

Staff: Earl Woudstra, Janet Brown, Kurt Frederes, Jim Pottebaum, Matt Van Schouwen, Ryan McEwen, and Kent Anderson

Guests: Doug Calsbeek, Sarah Weber, Mike Hofman, Tony and Kolbie Vande Brake, Esther Diekevers, Jennie Droog, Al Jeltema, Emily Vogel, Caleb and Beth Witt, and Luther Hofmeyer and kids

Agenda: A motion was made by Council member Daron De Jong and duly seconded by Council member Rod De Boer approving the tentative agenda as the official agenda. On call of the roll motion carried. The vote was as follows: AYES: Daron De Jong, Rod De Boer, Olivia Chapman, Bret Walinga; NAYS: None.

Citizen Comments: This time was provided for citizen comments, and none were heard.

Approval of Minutes: The minutes of the July 15, 2024 council meeting were presented. A motion was made by Council member Rod De Boer and duly seconded by Council member Olivia Chapman approving said minutes as published. On call of the roll motion carried. The vote was as follows: AYES: Rod De Boer, Olivia Chapman, Daron De Jong, Bret Walinga; NAYS: None.

Monthly Bills: A Summary of Warrants report listing bills from June 17, 2024 through July 19, 2024 was presented. A motion was made by Council member Olivia Chapman and duly seconded by Council member Bret Walinga approving the monthly bills, subject to audit. On call of the roll motion carried. The vote was as follows: AYES: Olivia Chapman, Bret Walinga, Rod De Boer, Daron De Jong; NAYS: None.

Industrie Centrum West First Addition:

A motion was made by Council member Rod De Boer and duly seconded by Council member Daron De Jong adopting a resolution approving the Industrie Centrum West First Addition plat. On call of the roll motion carried. The vote was as follows: AYES: Rod De Boer, Daron De Jong, Olivia Chapman, Bret Walinga; NAYS: None. The resolution was assigned number 8-5-24-2110 and appears in the official resolution book.

A motion was made by Council member Olivia Chapman and duly seconded by Council member Rod De Boer approving the Industrie Centrum West First Addition Dedication and Plat Provisions. On call of the roll motion carried. The vote was as follows: AYES: Olivia Chapman, Rod De Boer, Daron De Jong, Bret Walinga; NAYS: None.

This being the time and place as advertised a public hearing was held to consider the disposal of City owned property known as Lots 1-4 of Industrie Centrum West First Addition. The Mayor called for comments from members of the audience and no one was heard speaking for or against the proposed disposal. No written objections were filed. The Mayor then closed the time for the public hearing.

A motion was made by Council member Daron De Jong and duly seconded by Council member Bret Walinga adopting a resolution authorizing the disposal of City owned property known as Lots 1 -4 of Industrie Centrum West First Addition. On call of the roll motion carried. The vote was as follows: AYES: Daron De Jong, Bret Walinga, Rod De Boer, Olivia Chapman; NAYS: None. The resolution was assigned number 8-5-24-2111 and appears in the official resolution book.

Amending the Code of Ordinances to Provide for Permitting Process for Chickens in the R-1 Low Density Residential District: The public hearing to consider amending the City Code was held at the July 15, 2024 council meeting, at that time action on the first reading of proposed Ordinance No. 852, which would provide for a permitting process for chickens in the R-1 Low Density Residential District was tabled. A motion was made by Council member Olivia

Chapman and duly seconded by Council member Daron De Jong approving the first reading of proposed Ordinance No. 852. Bret expressed appreciation for the efforts of staff to bring the proposed ordinance but feels that it is in the best interest of the community to not support this change. On call of the roll motion failed. The vote was as follows: AYES: Olivia Chapman, Daron De Jong; NAYS: Rod De Boer, Bret Walinga.

Mayor De Haan asked Code Enforcement Officer Kurt Frederes on how to move forward. Kurt responded the options are to leave the code as is and work with the City Attorney on the process to remove chickens. The Council can also consider amending the code to remove the option to seek written consent from the Council to have livestock in Section 55.05.

A motion was made by Council member Rod De Boer and duly seconded by Council member Bret Walinga to set a public hearing to consider an ordinance to remove the language allowing persons to seek written consent from the Council to keep livestock in Section 55.05. On call of the roll motion failed. The vote was as follows: AYES: Rod De Boer, Bret Walinga; NAYS: Olivia Chapman, Daron De Jong.

Fireworks Display Request: A motion was made by Council member Rod De Boer and duly seconded by Council member Olivia Chapman approving the request of the MOC-FV Pride of the Dutchmen Band Parents Association for a fireworks display permit for after the Pride of the Dutchmen Field Championship on October 12. On call of the roll motion carried. The vote was as follows: AYES: Rod De Boer, Olivia Chapman, Daron De Jong, Bret Walinga; NAYS: None.

Library Board Appointment: Upon recommendation of Mayor De Haan, a motion was made by Council member Bret Walinga and duly seconded by Council member Rod De Boer approving the appointment of Autumn Den Boer to the Library Board. On call of the roll motion carried. The vote was as follows: AYES: Bret Walinga, Rod De Boer, Olivia Chapman, Daron De Jong; NAYS: None.

Police Administration Wages: A motion was made by Council member Olivia Chapman and duly seconded by Council member Daron De Jong approving the \$1.50/hour increase for the Chief of Police and Assistant Chief of Police to match the increase received by patrol officers and investigator through the union contract. On call of the roll motion carried. The vote was as follows: AYES: Olivia Chapman, Daron De Jong, Rod De Boer, Bret Walinga; NAYS: None.

Alcohol License Renewal Applications: A motion was made by Council member Bret Walinga and duly seconded by Council member Rod De Boer approving the renewal applications for a Class C Retail Alcohol License from The Roadhouse and a Class B Retail Alcohol License from Family Dollar. On call of the roll motion carried. The vote was as follows: AYES: Bret Walinga, Rod De Boer, Olivia Chapman, Daron De Jong; NAYS: None.

Employee Picnic: A motion was made by Council member Olivia Chapman and duly seconded by Council member Bret Walinga to hold an employee picnic and give a gift of appreciation. On call of the roll motion carried. The vote was as follows: AYES: Olivia Chapman, Bret Walinga, Rod De Boer, Daron De Jong; NAYS: None.

Gas Worker: A motion was made by Council member Daron De Jong and duly seconded by Council member Olivia Chapman approving the hiring of Louis Vander Velde as a gas worker. On call of the roll motion carried. The vote was as follows: AYES: Daron De Jong, Olivia Chapman, Rod De Boer, Bret Walinga; NAYS: None.

Consideration of Management Agreement between ECD (Early Childhood Development 28E group) and Crittenton Center for the Orange City Area Daycare: A motion was made by Council member Olivia Chapman and duly seconded by Council member Bret Walinga approving the management and lease agreement between the ECD and Crittenton Center for the Orange City Area Daycare. The agreement is hereto attached and therefore made a part of these minutes. On call of the roll motion carried. The vote was as follows: AYES: Olivia Chapman, Bret Walinga, Rod De Boer, Daron De Jong; NAYS: None.

Administrative Reports:

Scheduled Meetings/Important Dates:

August 19	Council Meeting, 4:30 P.M.
August 20	Employee Picnic, 6:00 P.M.
September 3	TUESDAY , Council Meeting, 4:30 P.M.
September 16	Council Meeting, 4:30 P.M.
October 7	Council Meeting, 4:30 P.M.
October 21	Council Meeting, 4:30 P.M.

Oral reports: Earl shared picnic invites have been sent; work is happening on the disc golf course and bridle trail; Schwebach has started removing trees; the parking lot is mostly complete. Matt reported the Delaware Avenue and 2nd Street project is moving along, the new well and pipeline are complete but working on the controls yet; MRES scholarship went to Christopher Diehl.

Council Comments: The Mayor called for comments from members of the Council and none were heard.

Adjournment: No further business appearing it was therefore moved by Council member Rod De Boer and duly seconded by Council member Olivia Chapman to adjourn. On call of the roll motion carried. The vote was as follows: AYES: Rod De Boer, Olivia Chapman, Daron De Jong, Bret Walinga; NAYS: None. Adjournment time was 5:01 o'clock P.M.

Deb De Haan, Mayor

ATTEST: _____
Janet Brown, City Clerk

LEASE - BUSINESS PROPERTY

THIS LEASE AGREEMENT, is entered into on the 19 day of August, 2024, by Early Childhood Development (“Landlord” or “ECD”) whose address for the purpose of this lease is c/o City of Orange City, Iowa, 125 Central Avenue SE, Orange City, IA 51041, and Florence Crittenton Home of Sioux City, Iowa, d/b/a Crittenton Center or The Crittenton Center (“Tenant” or “Crittenton”) whose address for the purpose of this lease is 600 4th Street, Suite 100, Sioux City, IA 51101.

1. **PREMISES AND TERM.** The Landlord, in consideration of the rents, agreements and conditions herein contained, leases to the Tenant and Tenant leases from Landlord, according to the terms of this lease, the following described “premises”, situated in Sioux County, Iowa, locally known as 1103 Lincoln Circle, Orange City, IA 51041, with improvements thereon, and all rights, easements and appurtenances, which, more particularly, includes the space and premises as may be shown on Exhibit “A”, if attached, for a term of five (5) years, commencing at midnight of the day previous to the first day of the lease term, which shall be on September 1, 2024, and ending at midnight on the last day of the lease term, which shall be on August 31, 2029, upon the condition that the Tenant pays rent therefor, and otherwise performs as in this lease provided, and subject to any rights to extend the Agreement as set forth herein.
2. **RENTAL.** Tenant agrees to pay to Landlord as rental for said term, as follows: \$0.00 per month.
3. **POSSESSION.** Tenant shall be entitled to possession on the first day of the term of this lease, and shall yield possession to the Landlord at the end of the lease term, except as herein otherwise expressly provided.
4. **USE OF PREMISES.** Tenant covenants and agrees during the term of this lease to use and to occupy the leased premises only for childcare and early childhood education.
5. **QUIET ENJOYMENT.** Landlord covenants that its estate in said premises is in fee simple and that the Tenant, if not in default, shall peaceably have, hold and enjoy the premises for the term of this lease. Landlord shall have the right to mortgage all of its right, title, and interest in said premises at any time without notice, subject to this lease.
6. **EQUIPMENT, DECORATING, REPLACEMENT, REPAIR AND MAINTENANCE.**

DEFINITIONS

“Maintain” means to clean and keep in good condition.

“Repair” means to fix and restore to good condition after damage, deterioration or partial destruction.

CONDITIONS OF PREMISES

- A. Tenant takes the premises in its present condition, except for such repairs and alterations as may be expressly otherwise provided in this lease.
- B. Landlord shall replace the structural parts of the building. For purposes of this lease, the structural parts of the building shall mean the foundation, exterior walls, load bearing components or interior floors and walls, the

roof and all sewers, pipes, wiring and electrical fixtures outside of the structure.

- C. Repairs beyond regular monthly or preventative maintenance shall be performed and paid for by the parties as follows:

	<u>PERFORMANCE</u>		<u>PAYMENT</u>	
	L=LANDLORD	T=TENANT	%Landlord	%Tenant
Interior walls, floors and ceilings from daily wear and tear		T	0%	100%
Interior walls, floors and ceilings from structural damage due to water, natural disaster, etc.	L		100%	0%
Sewer, plumbing fixtures, pipes, wiring, electrical fixtures with structure	L		100%	0%
Heating equipment	L		100%	0%
Air conditioning	L		100%	0%
Plate glass (replacement)	L		100%	0%
Sidewalks	L		100%	0%
Parking areas	L		100%	0%
Playground	L		100%	0%
Other common areas	L		100%	0%

- D. Any repair or maintenance not specifically provided for above shall be performed and paid for by Tenant.
- E. Each party shall perform their responsibilities of repair and maintenance to the end that the premises will be kept in a safe and serviceable condition. Neither party will permit nor allow the premises to be damaged or depreciated in value by any act, omission to act, or negligence of itself, its agents or employees.

EQUIPMENT, DECORATING AND ALTERATIONS

- F. The following items of equipment, furnishings and fixtures shall be supplied and replaced by the parties as follows:

SUPPLIED

REPLACED

	L=LANDLORD T=TENANT	L=LANDLORD T=TENANT
Heating equipment	L	L
Air conditioning	L	L
Carpeting/floor covering	L	T
Drapes, shades, blinds	L	T
Camera system*	L	T

Landlord shall initially provide and transfer ownership to Tenant of all trade equipment, furnishings and fixtures used in connection with the operation of its business, including, but not limited to: telephones, computers, desks, chairs, shelving, toys, playground equipment, cribs, and similar items. This transfer of ownership is conditioned upon Tenant using said items at the Orange City Area Daycare and Preschool. Landlord shall provide funds for the purchase of indoor and outdoor equipment as set out in the Management Agreement entered into by the parties contemporaneously with the execution of this agreement. Landlord shall provide a Playground, three-season outdoor play area, additional playground equipment, pedaling and running track, kitchen updates and three (3) vehicles subject to a cap of \$250,000. Any repair, maintenance, or replacement of these items during the terms of the lease will be the responsibility of Tenant. Tenant agrees to leave the premises in similar condition and shall transfer ownership of all of the above-mentioned personal property items, furnishings, and fixtures in Tenant's possession at the conclusion of the lease period.

- G. The three vehicles referred to in F above shall be one sedan, one minivan, and one 15-passenger vehicle.
- H. Tenant shall be responsible for all interior decorating. Tenant shall make no structural alterations or improvements without the prior written consent of the Landlord.

AMERICANS WITH DISABILITIES ACT

- I. Tenant will make no unlawful use of said premises and agrees to comply with all valid regulations of the Board of Health, City Ordinances or applicable municipality, the laws of the State of Iowa and the Federal government, but this provision shall not be construed as creating any duty by Tenant to members of the general public, provided, however, responsibility for compliance with the Americans with Disabilities Act shall be performed and paid for by the parties as follows:

	% Landlord	%Tenant
Tenants area:		
Initial compliance (specify)	100%	0%
Future compliance	0%	100%

7. **UTILITIES AND SERVICES.** Utilities and services shall be furnished and paid for by the parties as follows:

	<u>PERFORMANCE</u> L=LANDLORD T=TENANT	<u>PAYMENT</u> %Landlord	%Tenant
Electricity	T	0%	100%
Gas	T	0%	100%
Water and sewer	T	0%	100%
Garbage/trash	T	0%	100%
Janitor/cleaning	T	0%	100%
Common areas	T	0%	100%

8. **TERMINATION, SURRENDER OF PREMISES AT END OF TERM-REMOVAL OF FIXTURES.**

- A. **TERMINATION.** This lease shall terminate upon expiration of the original term, subject to the agreements between the parties to extend this Agreement as set forth in the subsequent Paragraph B.
- B. **EXTENSION OF LEASE.** The parties by agreement may extend this agreement under the same terms and conditions for an additional five (5) year period(s) following the expiration of the original term, or any extension thereof. Following the expiration of both the original term and the initial five (5) year extension, the monthly rent owed by Tenant to Landlord during any subsequent extensions shall be negotiated. The parties agree that they will begin negotiations concerning extension of this lease at least 180 days prior to the conclusion of the lease term or any extension thereof.
- C. **SURRENDER.** Tenant agrees that upon termination of this lease it will surrender and deliver the premises in good and clean condition, except the effects of ordinary wear and tear and depreciation arising from lapse of

time, or damage without fault or liability of Tenant.

D. **HOLDING OVER.** Continued possession by Tenant beyond the expiration of its tenancy, coupled with the receipt of the specified rental by the Landlord (and absent a written agreement by both parties for an extension of this lease, or for a new lease) shall constitute a month-to-month extension of the lease with rent due and owing in the sum of \$3,000/month. However, in no event shall Tenant hold over for a period of time longer than six (6) months without the specific agreement to so granted by Landlord.

9. **ASSIGNMENT AND SUBLETTING.** Any assignment of this lease or subletting of the premises or any part thereof is not permitted, with the exception of Head Start and Early Childhood Education services, such as those offered by the MOC Floyd Valley Community School District or other entities.

10. **RIGHT OF FIRST REFUSAL TO PURCHASE.** The Landlord shall, prior to selling or otherwise transferring the premises or any portion thereof or any interest therein (the "Transfer Property") to another party, first offer to sell the Transfer Property to Tenant (each, a "ROFR Offer") for the price and on such terms upon which Landlord is willing to sell the Transfer Property. All such ROFR Offers shall be in writing and specify in detail all material terms of the proposed sale, including, without limitation, the purchase price, proposed closing date and all contingencies. Tenant shall notify Landlord in writing whether Tenant elects to exercise its right of first refusal (the "Purchase Option") within thirty (30) days after Landlord delivers the ROFR Offer to Tenant. If Tenant shall not timely exercise the Purchase Option, Landlord shall be free to sell the Transfer Property to a third party on the terms and conditions contained in the ROFR Offer; provided, however, if Landlord desires to sell Transfer Property to a third party for a lower purchase price or on other terms more beneficial to such party than those set forth in the ROFR Offer, Landlord shall first re-offer to sell the Transfer Property to Tenant for such lower price and/or on such more beneficial terms in accordance herewith. If Tenant timely elects to exercise the Purchase Option, then Landlord shall sell the Transfer Property to Tenant (or, at Tenant's election, to an entity designated by Tenant), and such party shall purchase the Transfer Property on the terms set forth in the ROFR Offer.

A. If Tenant purchases the premises during the final year of the original term or during the five-year extension, if invoked, Tenant shall receive a credit against the purchase price for each year Tenant has operated the childcare and early childhood education program at the premises. Such credit shall be based on the fair market commercial rent for the property each year Tenant has operated the daycare. Tenant shall receive a per-year credit in an amount equal to the fair market commercial rent. For purposes of illustration, if Tenants purchase the building at the end of the fifth year of the five (5) year extension, and fair market commercial rent for the entirety of the five (5) years Tenant operated the daycare and early childhood education program at the premises is \$50,000 per year, Tenant

will receive a credit of \$500,000 against the purchase price. If Tenant purchases the premises from Landlord mid-year, Tenant shall receive a pro-rata credit.

11. **REAL ESTATE TAXES.**

- A. All installments of real estate taxes would become delinquent if not paid during the term of this lease and shall be paid by the parties in the following proportions: Landlord certifies that it is an Iowa 28E Agreement comprising municipal entities and a school district and as such is exempt from the payment of property taxes. Tenant certifies that it is a 501(c)(3) organization, as such, is not subject to property taxes.
- B. **PERSONAL PROPERTY TAXES.** Tenant agrees to timely pay all taxes, assessments or other public charges levied or assessed by lawful authority against its personal property on the premises during the term of this lease.
- C. **SPECIAL ASSESSMENTS.** Special assessments that would be delinquent if not paid during the term of this lease shall be timely paid by the parties in the following proportions:
Landlord 0% Tenant 100%
- D. Each party reserves the right of protest of any assessment of taxes.

12. **INSURANCE.**

- A. **PROPERTY INSURANCE.** Landlord and Tenant agree to insure their respective real and personal property for the full insurable value. Such insurance shall cover losses included in the special form causes of loss (formerly all risks coverage). To the extent permitted by their policies, the Landlord and Tenant waive all rights of recovery against each other for their respective real and personal property.
- B. **LIABILITY INSURANCE.** Tenant shall obtain commercial general liability insurance in the amounts of \$1,000,000.00 each occurrence and \$5,000,000.00 annual aggregate per location. Such policy shall include liability arising from premises operations, independent contractors, personal injury, products and completed operations and liability assumed under an insured contract. This policy shall be endorsed to include the Landlord as an additional insured.
- C. **CERTIFICATES OF INSURANCE.** Prior to the time the lease takes effect, the Tenant will provide Landlord with a certificate of insurance with these property and liability insurance requirements. Such certificate shall include 30 days advance notice of cancellation to the Landlord. A renewal certificate shall be provided prior to expiration of the current policies.
- D. **ACTS BY TENANT.** Tenant will not do or omit doing of any act which would invalidate any insurance, or increase the insurance rates in force on the premises.
- E. **INCREASED RISKS OR HAZARDS.** Tenant further agrees to be liable for and to promptly pay, as if current rental, any increase in insurance

rates on said premises and on the building of which said premises are a part, due to increased risks or hazards resulting from Tenant's use of the premises otherwise than as herein contemplated and agreed.

F. Landlord and Tenant shall each provided a copy of this lease to their respective insurers.

13. **LIABILITY FOR DAMAGE.** Each party shall be liable to the other for all damage to the property of the other negligently, recklessly or intentionally caused by that party (or their agents, employees or invitees), except to the extent the loss is insured and subrogation is waived under the owner's policy.

14. **INDEMNITY.** Except as provided in paragraph 22(A)(5) and except for the negligence of Landlord, Tenant will protect, defend and indemnify Landlord from and against all loss, costs, damage and expenses occasioned by, or arising out of, any accident or other occurrence, causing or inflicting injury or damage to any person or property, happening or done in, upon or about the premises, or due directly or indirectly to the tenancy, use or occupancy thereof, or any part thereof by Tenant or any person claiming through or under Tenant.

15. **FIRE AND CASUALTY.**

A. **PARTIAL DESTRUCTION OF PREMISES.** In the event of a partial destruction or damage of the premises, which is a business interference which prevents the conducting of a normal business operation and which damage is repairable **within 30 days** after its occurrences, this lease shall not terminate but the rent for the premises shall abate during the time of such business interference. In the event of a partial destruction, Landlord shall repair such damages **within 30 days** of its occurrence unless prevented from doing so by acts of God, government regulations, or other causes beyond Landlord's control.

B. **ZONING.** Should the zoning ordinance of the municipality in which this property is located make it impossible for Landlord to repair or rebuild so that Tenant is not able to conduct its business on these premises, then such partial destruction shall be treated as a total destruction as provided in the next paragraph.

C. **TOTAL DESTRUCTION OF BUSINESS USE.** In the event of a destruction or damage of the leased premises so that Tenant is not able to conduct its business on the premises or the then current legal use for which the premises are being used and which damages cannot be repaired **within 180 days** this lease may be terminated at the option of either the Landlord or Tenant. Such termination in such event shall be effected by written notice of one party to the other **at least 30 days** prior to the conclusion of the 180 day term. Tenant shall surrender possession **within 30 days** after such notice issues and each party shall be released from all future obligations, and Tenant shall pay rent pro rata only to the date of such destruction. In the event of such termination of this lease, Landlord, at its option, may rebuild or not, at its discretion.

16. **CONDEMNATION.**

A. **DISPOSITION OF AWARDS.** Should the whole or any part of the

premises be condemned or taken for any public or quasi-public purpose, each party shall be entitled to retain, as its own property, any award payable to it. Or, in the event that a single entire award is made on account of the condemnation, each party will then be entitled to take such proportion of said award as may be fair and reasonable.

- B. DATE OF LEASE TERMINATION. If the whole of the demised premises shall be condemned or taken, the Landlord shall not be liable to the Tenant except and as its rights are preserved in paragraph 15(A) above.

17. **DEFAULT, NOTICE OF DEFAULT, AND REMEDIES.**

EVENTS OF DEFAULT

- A. Each of the following shall constitute an event of default by Tenant:
- 1) Failure to pay rent when due.
 - 2) Failure to observe or perform any duties, obligations, agreements or conditions imposed on Tenant pursuant to terms of the lease.
 - 3) Abandonment of the premises, "Abandonment" means the Tenant has failed to engage in its usual and customary business activities on the premises for more than fifteen (15) consecutive days.
 - 4) Institution of voluntary bankruptcy proceedings in which the Court orders relief against the Tenant as a debtor; assignment for the benefit of creditors of the interest of Tenant under this lease agreement; appointment of a receiver for the property or affairs of Tenant, where the receivership is not vacated within ten (10) days after the appointment of the receiver.

NOTICE OF DEFAULT

- B. Landlord shall give Tenant a written notice specifying the default and giving the Tenant ten (10) days in which to correct the default. If there is a default (other than for nonpayment of a monetary obligation of Tenant, including rent) that cannot be remedied in ten (10) days by diligent efforts of the Tenant, Tenant shall propose an additional period of time in which to remedy the default. Consent to additional time shall not be unreasonably withheld by the Landlord. Landlord shall not be required to give Tenant any more than three notices for the same default within any 365-day period.

REMEDIES

- C. In the event Tenant has not remedied a default in a timely manner following a Notice of Default, Landlord may proceed with all available remedies at law or in equity, including, but not limited to, the following:
- 1) Termination. Landlord may declare this lease to be terminated and shall give Tenant a written notice of such termination. In the event of termination of this lease, Landlord shall be entitled to prove, claim for and obtain judgment against Tenant for the balance of the rent agreed to be paid for the term herein provided, plus all expenses of Landlord in regaining possession of the premises and the reletting thereof, including attorney's fees and court costs,

crediting against such claim, however, any amount obtained by reason of such reletting.

- 2) Forfeiture. If a default is not remedied in a timely manner, Landlord may then declare this lease to be forfeited and shall give the Tenant a written notice of such forfeiture, and may, at the time, give Tenant the notice to quit provided for in Chapter 648 of the Code of Iowa.

18. **RIGHT OF EITHER PARTY TO MAKE GOOD ANY DEFAULT OF THE OTHER.** If default shall be made by either party in the performance of, or compliance with, any of the terms or conditions of this lease, and such default shall have continued for thirty (30) days after written notice thereof from one party to the other, the person aggrieved, in addition to all other remedies now or hereafter provided by law, may, but need not, perform such term or condition, or make good such default and any amount advanced shall be repaid forthwith on demand, together with interest at the rate of 9% per annum, from date of advance.

19. **SIGNS.**

- A. Tenant shall have the right and privilege of attaching, painting or exhibiting signs on the leased premises, provided only (1) that any sign shall comply with the ordinances of municipality in which the property is located and the laws of the State of Iowa; (2) such sign shall not change the structure of the building; (3) such sign, if and when removed, shall not damage the building; and (4) such sign shall be subject to the written approval of the Landlord, which approval shall not be unreasonably withheld.
- B. Landlord during the last ninety (90) days of this lease, or extension, shall have the right to maintain in the windows or on the building or on the premises either or both a "For Rent" or "For Sale" sign and Tenant will permit, at such time, prospective tenants or buyers to enter and examine the premises.

20. **MECHANIC'S LIENS.** Neither the Tenant nor anyone claiming by, through, or under the Tenant, shall have the right to file or place any mechanic's liens or other lien of any kind or character whatsoever, upon said premises or upon any building or improvement thereon, or upon the leasehold interest of the Tenant, and notice is hereby given that no contractor, sub-contractor, or anyone else who may furnish any material, service or labor for any building, improvements, alteration, repairs or any other part thereof, shall at any time be or become entitled to any lien on the premise, and for the further security of the Landlord, the Tenant covenants and agrees to give actual notice thereof in advance, to any and all contractors and sub-contractors who may furnish or agree to furnish any such material, service or labor.

21. **LANDLORD'S LIEN AND SECURITY INTEREST.**

- A. Said Landlord shall have, in addition to any lien given by law, a security interest as provided by the Uniform Commercial Code of Iowa, upon all personal property and all substitutions thereof, kept and used on said premises by Tenant. Landlord may proceed at law or in equity with any

remedy provided by law or by this lease for the recovery of rent, or for termination of this lease because of Tenant's default in its performance.

22. **ENVIRONMENTAL.**

- A. Landlord. To the best of Landlord's knowledge to date:
- 1) Neither Landlord nor Landlord's former or present tenants are subject to any investigation concerning the premises by any governmental authority under any applicable federal, state, or local codes, rules and regulations pertaining to air and water quality, the handling, transportation, storage, treatment, usage, or disposal of toxic or hazardous substances, air emissions, other environmental matters, and all zoning and other land use matters.
 - 2) Any handling, transportation, storage, treatment, or use of toxic or hazardous substances that has occurred on the premises has been in compliance with all applicable federal, state and local codes, rules and regulations.
 - 3) No leak, spill release, discharge, emission or disposal of toxic or hazardous substances has occurred on the premises.
 - 4) The soil, groundwater, and soil vapor on or under the premises is free of toxic or hazardous substances.
 - 5) Landlord shall assume liability and shall indemnify and hold Tenant harmless against all liability or expense arising from any condition which existed, whether known or unknown, at the time of execution of the lease which condition is not a result of actions of the Tenant or which condition arises after date of execution but which is not a result of actions of the Tenant.
- B. Tenant. Tenant expressly represents and agrees:
- 1) During the lease term, Tenant's use of the property will not include the use of any hazardous substance without Tenant first obtaining the written consent of Landlord. Tenant understands and agrees that Landlord's consent is at Landlord's sole option and complete discretion and that such consent may be withheld or may be granted with any conditions or requirements that Landlord deems appropriate.
 - 2) During the lease term, Tenant shall be fully liable for all costs and expenses related to the use, storage, removal and disposal of hazardous substances used or kept on the property by Tenant, and Tenant shall give immediate notice to Landlord of any violation or any potential violation of any environmental regulation, rule, statute or ordinance relating to the use, storage or disposal of any hazardous substance.
 - 3) Tenant, at its sole cost and expense, agrees to remediate, correct or remove from the premises any contamination of the property caused by any hazardous substances which have been used or permitted by Tenant on the premises during any term or this lease. Remediation, correction or removal shall be in a safe and

reasonable manner, and in conformance with all applicable laws, rules and regulations. Tenant reserves all rights allowed by law to seek indemnity or contribution from any person, other than Landlord, who is or may be liable for any such cost and expense.

- 4) Tenant agrees to indemnify and hold Landlord harmless from and against all claims, causes of action, damages, loss, costs, expense, penalties, fines, lawsuits, liabilities, attorney fees, engineering and consulting fees, arising out of or in any manner connected with hazardous substances, which are caused or created by Tenant on or after the date of this lease and during any term of this lease, including, but not limited to, injury or death to persons or damage to property, and including any diminution of the value of any leased premises which may result from the foregoing. This indemnity shall survive the cessation, termination, abandonment or expiration of this lease.

23. **SUBSTITUTION OF EQUIPMENT, MERCHANDISE, ETC.**

- A. During its tenancy, the Tenant shall have the right to sell or otherwise dispose of any personal property of the Tenant situated on the premises, when in the judgment of the Tenant it shall have become obsolete, outworn or unnecessary in connection with the operation of the business on the premises; provided, however, that the Tenant shall, in such instance (unless no substituted article or item is necessary) at its own expense, substitute for such items a new or other item in substitution thereof, in like or greater value.
- B. Nothing herein contained shall be construed as denying to Tenant the right to dispose of inventoried merchandise in the ordinary course of the Tenant's trade or business.

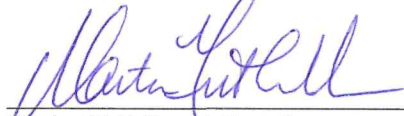
24. **RIGHTS CUMULATIVE.** The various rights, powers, options, elections and remedies of either party, provided in this lease, shall be construed as cumulative and no one of them as exclusive of the others, or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

25. **NOTICES.** Notices as provided for in this lease shall be given to the respective parties hereto at the respective addresses designated on page one of this lease unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such message shall be considered given under the terms of this lease when sent, addressed as above designated, posted prepaid, by certified mail deposited in a United States mail box.

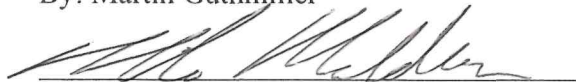
26. **PROVISIONS TO BIND AND BENEFIT SUCCESSORS, ASSIGNS, ETC.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties; except that if any part of this lease is held in joint tenancy,

- the successor in interest shall be the surviving joint tenant.
27. **CHANGES TO BE IN WRITING.** None of the covenants, provisions, terms or conditions of this lease shall be modified, waived or abandoned, except by written instrument duly signed by the parties. This lease contains the whole agreement of the parties.
28. **CONSTRUCTION.** Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.
29. **CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.

LANDLORD:



Early Childhood Development
Orange City Area Health System
By: Martin Guthmiller



Early Childhood Development
MOC-FV School District
By: Michael Mulder



Early Childhood Development
City of Alton
By: Dale Oltmans



Early Childhood Development
City of Orange City
By: Earl Woudstra

TENANT:



Florence Crittenton Home of Sioux City,
Iowa, d/b/a Crittenton Center or The
Crittenton Center
By: Kim Scorza, CEO

MANAGEMENT AGREEMENT

- I. **The Parties.** This Consulting and Retainer Agreement (Agreement) is made effective as of August 15, 2024, by and between a business entity known as Florence Crittenton Home of Sioux City, IA, d/b/a Crittenton Center, with a mailing address of 600 4th Street, Ste. 100, Sioux City, IA 51101 (“Consultant”) and a 28E Agreement known as Early Childhood Development, with a mailing address of 1000 Lincoln Circle SE, Orange City, IA 51041 (“Client”). Client is overseeing an oversight organization responsible for coordinating early childhood daycare for Orange City and the surrounding area.

- II. **Services.** Consultant agrees to provide the following consulting services (“Services”) in the following areas as outlined in the *Childcare Center Assessment - Urgent/Transition* completed by Crittenton Center for Orange City Area Daycare and Preschool in June 2024, attached hereto and marked as Exhibit A:
 - a. Services and Programming
 - b. Administration and Operations
 - c. Human Resources
 - d. Finance
 - e. Contractual Agreements
 - f. Governance
 - g. Facility
 - h. Community and Family Engagement

- III. **Conditions Precedent.** The parties understand and agree that this agreement shall be legally enforceable only in the event the following conditions are met:
 - a. The Orange City Community Daycare Center agreeing to the termination of its lease for the current daycare facility located at 1103 Lincoln Circle SE, Orange City, IA 51041, and transferring all assets owned by it, including cash reserves in the amount of \$565,000 to Client.
 - b. The parties entering into a written 5-year lease wherein Consultant shall lease from Client the current daycare facility located at 1103 Lincoln Circle, SE, Orange City, IA 51041.

- IV. **Facility Improvements.** Client agrees to contribute \$250,000 towards the purchase and installation of the following items at the Orange City Area Daycare and Preschool (1103 Lincoln Circle, Orange City, IA 51041):
 - a. Camera System
 - b. Vehicles
 - c. Kitchen Updates
 - d. Three Season Outdoor Play Area
 - e. Additional Playground Equipment
 - f. Pedaling and Running Track
 - g. Turf on Playground

Consultant will provide Client invoices verifying the purchase of each of the above items and the amount of the purchase and Client will either pay the vendor directly, or reimburse Consultant for the amount of the purchase/s. Once the \$250,000 limit has been reached, Client's contribution towards additional capital purchases shall be determined by agreement of the parties.

- V. **Term.** The initial services shall commence on the date of execution of this agreement and end as of September 1, 2024. The term for the ongoing management of Orange City Area Daycare by the Crittenton Center shall commence on September 1, 2024, for a period of 5 years which may be extended for an additional 5 year period by agreement of the parties.

- VI. **Payment for Pre-Agreement Services.** In consideration for the initial services provided by Consultant prior to the management commencement date of this Agreement, the Client agrees to pay Consultant up to a total of \$40,000, based on the following rates:

- a. Services and Programming (\$100/hour for up to 40 hours for a total not to exceed \$4,000)
- b. Administration and Operations (\$100/hour for up to 40 hours for a total not to exceed \$4,000)
- c. Human Resources (\$100/hour for up to 50 hours for a total not to exceed \$5,000)
- d. Finance: (\$100/hour for up to 75 hours for a total not to exceed \$7,500)
- e. Contractual Agreements (included in items a.-d. above)
- f. Governance (\$150/hour for up to 10 hours for a total not to exceed \$1,500)
- g. Facility (\$100/hour for up to 80 hours for a total not to exceed \$8,000)
- h. Community and Family Engagement: (\$100/hour up to 100 hours for a total not to exceed \$10,000)

Upon completion of the initial services described above, Consultant shall submit an itemized invoice setting out each area of work performed, the hourly rate for said work, number of hours of said work and the total amount owed for said work. Client shall pay said invoice within 30 days of receipt of same.

- VII. **Management of Daycare.** Consultant will assume management operations of the Orange City Area Daycare and Preschool ("OCADP") effective 9/1/2024. Specifically, items of management operations that Consultant will do as a part of its management of OCADP are noted below:

- a. For children that need childcare beyond preschool hours, make preschool a part of childcare.
- b. For children that do not need childcare beyond preschool hours, implement a morning session and an afternoon preschool session for one classroom.
- c. All eligible OCADP staff would have access to Crittenton Center benefits, including health and dental insurance, 403b retirement program with agency match, life and AD&D insurance, short-term and long-term disability insurance,

- flexible spending accounts, paid holidays, paid vacation time, paid sick time, and professional development opportunities.
- d. Crittenton staff will identify and apply for additional funding streams that can support childcare services, including Early Childhood Iowa, DECAT, Community Foundations, United Way, other grants, etc. These grants may include funds for operations or capital expenses.
 - e. Under contractual agreements, Crittenton Center will develop a Preschool Agreement with MOC-FV as noted in the *Childcare Center Assessment - Urgent/Transition* completed by Crittenton Center for Orange City Area Daycare and Preschool in June 2024. This agreement will also include a review of Mid-Sioux-Early Head Start Contract to move from a 9 month to 12 month contract.
 - f. The MOC-FV Food Contract will be evaluated with a goal of providing all food services at the center.
 - g. Lawn care and snow removal will be the responsibility of Crittenton.
 - h. Cleaning and minor maintenance of the facility will be the responsibility of Crittenton.
 - i. Major maintenance and/or additions to the center will be the responsibility of the ECD, with an understanding that Crittenton assists with any applicable grant applications, fund raising and administration.
 - j. Crittenton Center will have the authority to enter in contracts for operational needs including local, state, federal grants, foundations, and other business agreements.
 - k. For any structural changes to the facility, a written agreement between ECD and Crittenton Center will occur.
 - l. Crittenton Center will pursue contracts with area businesses to purchase childcare slots.
 - m. Crittenton Center will immediately implement Option A of the Community and Family Engagement recommendation with a goal of increasing enrollment and eliminating wait lists.
 - n. Client will receive quarterly financial statements from Consultant for the Crittenton Center Child Development and Preschool Center which Consultant shall operate at 1103 Lincoln Circle, Orange City, IA 51041.

VIII. **Contingency Fee.** There shall not be a contingency fee basis as a part of this Agreement.

IX. **Retainer.** No retainer is required.

X. **Expenses.** The Consultant shall be responsible for all expenses related to providing the Services under this Agreement. The Consultant will be required to pay for their internal expenses which include, but are not limited to, supplies, equipment, operating costs, business costs, employment costs, taxes, Social Security contributions and/or payments, disability insurance, unemployment taxes, and any other internal costs that may or may not be in connection with the Services provided by the Consultant.

XI. **Return of Records.** Upon termination of this Management Agreement and the Lease Agreement, the Consultant shall deliver all records, notes, and data of any nature that are

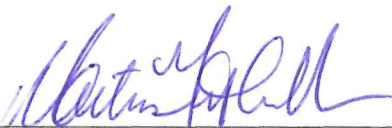
in the consultant's possession or under the Consultant's control and that are of the Client's property or related to Client's business upon request of the Client.


- XII. **Disputes**. If any dispute arises under this initial Agreement or final Lease Agreement, the Consultant and Client shall negotiate in good faith to settle such dispute. If the parties cannot resolve such dispute themselves, then either party may submit the dispute to mediation by a mediator approved by both parties. If the parties cannot agree with any mediator or if either party does not wish to abide by any decision of the mediator, they shall submit the dispute to arbitration by any mutually acceptable arbitrator, or the American Arbitration Association (AAA). The costs of the arbitration proceeding shall be borne according to the decision of the arbitrator, who may apportion costs equally or in accordance with any findings of fault or lack of good faith of either party. If either party does not wish to abide by any decision of the arbitrator, they shall submit the dispute to litigation. The jurisdiction for any dispute shall be administered and decided upon the Client.
- XIII. **Liability Insurance**. The Consultant agrees to bear all responsibility for the actions related to themselves and their employees or personnel under this Agreement. In addition, the Consultant agrees to obtain comprehensive liability insurance coverage in case of bodily injury, personal injury, property damage, contractual liability, and cross-liability. In addition, the Consultant shall be required to have liability insurance equal to a single-limit of \$1,000,000.00.
- XIV. **Legal Notice**. All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in-person or deposited in the United States Postal Service via Certified Mail with return receipt.
- XV. **Waiver of Contractual Right**. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- XVI. **Independent Contractor Status**. The Consultant, under the code of the Internal Revenue Service (IRS), is an independent contractor and neither the Consultant's employees nor contracted personnel, or shall be deemed, the Client's employees.
- XVII. **State and Federal Licenses**. The Consultant represents and warrants that all employees and personnel associated shall comply with federal and state, and local laws and regulations requiring any required licenses, permits, and certificates necessary to perform the services under this Agreement.
- XVIII. **Indemnity**. Consultant shall release, defend, indemnify, and hold harmless the Client and its officers, agents, and employees from all suits, actions or claims of any character, name, or description, including, but not limited to, reasonable attorney's fees, brought on account of any injuries or damage, or loss (real or alleged) received or sustained by any person, persons, or property, arising out of services provided under this Agreement or


Consultant's failure to perform or comply with any requirements or this Agreement, including, but not limited to, any claims for personal injury, property damage, or infringement of copyright, patent, or other proprietary rights. Client reserves the right to retain whatever funds which would be due to the Consultant under this Agreement until such suits, action, or actions, claim or claims for injuries or damages as foresaid shall have been settled and satisfactory evidence to that effect furnished.

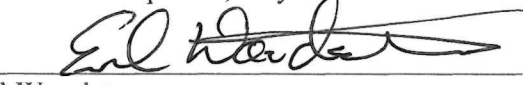
- XIX. **Confidentiality & Proprietary Information**. The Consultant acknowledges that it will be necessary for the Client to disclose certain confidential and proprietary information to the Consultant in order for the Consultant to perform their duties under this Agreement. The Consultant acknowledges that disclosure to a third party or misuse of this proprietary or confidential information would irreparably harm the Client. Accordingly, the Consultant will not disclose or use, either during or after the term of this Agreement any proprietary or confidential information of the Client without the Client's prior written permission except to the extent necessary to perform the Services on the Client's behalf.
- XX. **Assignment and Delegation**. The Consultant may assign rights and may delegate duties under this Agreement to other individuals or entities acting as subcontractors ("Subcontractor"). The Consultant recognizes that they shall be liable for all work performed by the Subcontractor arising out of services provided under this Agreement and shall hold the Client harmless of any liability in connection with their performed work arising out of services provided under this Agreement. The Consultant shall be responsible for any confidential or proprietary information that is shared with the Subcontractor in accordance with this section. The Consultant shall ensure that Subcontractors use commercially reasonable means to prevent misuse or wrongful disclosure of the Client's confidential and proprietary information.
- XXI. **Governing Law**. This Agreement shall be governed under the laws of the State of Iowa.
- XXII. **Severability**. This Agreement shall remain in effect in the event a section or provision of this is unenforceable or invalid. All remaining sections and provisions shall be deemed as legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.
- XXIII. **Entire Agreement**. This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between the Client and Consultant. This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

Consultant's Signature  Date 8/29/2024
Printed Name: Kim Scorza, CEO
FOR: Florence Crittenton Home of Sioux City, IA, d/b/a Crittenton Center

Client's Signature  Date 8/19/24
Printed Name: Martin Guthmiller
FOR: Early Childhood Development, Orange City Area Health System

Client's Signature  Date 8/19/24
Printed Name: Michael Mulder
FOR: Early Childhood Development, MOC-FV School District

Client's Signature  Date 8/20/24
Printed Name: Dale Oltmans
FOR: Early Childhood Development, City of Alton

Client's Signature  Date 8-19-2024
Printed Name: Earl Woudstra
FOR: Early Childhood Development, City of Orange City