

LICENSE AGREEMENT
THE CITY OF MILWAUKEE & DIVERSE AND RESILIENT, INC.
Regarding Office Space in 7630 West Mill Road, Milwaukee, WI 53218

This License Agreement, dated _____, _____, 2016, is entered into by and between the City of Milwaukee (“City”) and Diverse and Resilient, Inc. (“D&R”) for good and valuable consideration.

RECITALS

- A. The City owns 7630 West Mill Road, Milwaukee, Wisconsin 53218 (“Northwest Health Center”).
- B. D&R wishes to enter and occupy office space in the Northwest Health Center on a temporary basis for the purposes of providing testing for HIV and sexually transmitted disease, pursuant to the terms of the contract executed with the City on or around January 20, 2016, known as service contract # E0000014393.
- C. The City is willing to allow D&R, as a licensee, the right to use certain office space in the Northwest Health Center for the purposes of providing testing for HIV and sexually transmitted disease, pursuant to the terms of the service contract # E0000014393.

AGREEMENT

- 1. **Recitals.** The parties agree to the recitals above and to the terms and conditions herein.
- 2. **License.** City allows D&R a license to enter and occupy room(s) 122 (“Office Space”) in the Northwest Health Center during the following times, which may be amended at any time by either party upon 5 days notice according to the provisions set forth in paragraph 15, provided that any request by D&R to change the following times is subject to approval by the City:

Mondays between 12:15 p.m. – 4:00 p.m.
Tuesdays between 12:15 p.m. – 4:00 p.m.
1st, 2nd, and 4th Thursdays of each month between 3:00 p.m. – 6:00 p.m.

This license gives D&R temporary and qualified entry and occupancy rights that are personal privileges and that shall not be construed as giving D&R any interest or estate in the Northwest Health Center whatsoever (“License”). This is not a lease or other conveyance of any interest or estate in real property. D&R is not a tenant or lessee of the Northwest Health Center or of the City.

- 3. **As Is.** The Office Space in the Northwest Health Center is licensed to D&R on an As-Is, Where-Is basis, with all faults and defects, known or unknown, discovered or to be discovered, and with no representations or warranties, express or implied.

4. **Term.** Unless terminated sooner as herein provided, the term of this License (“Term”) shall begin on January 16, 2016, and shall end on December 31, 2016.
5. **License Fee.** No monetary fee.
6. **Use.** D&R shall have the right to use and occupy the Office Space, as licensee, only for the purposes of providing testing for HIV and sexually transmitted disease, pursuant to the terms of the service contract # E0000014393, and for security, clean-up and restoration as required hereunder.
7. **Improvements.** D&R is not allowed to erect any fixtures or permanent improvements in or on the Office Space.
8. **Insurance.** D&R shall, at its expense, obtain and maintain in place during the entire Term, insurance as described in strict compliance with **Exhibit A** attached hereto, and shall cause the City to be added as an additional insured on such insurance policy(ies). D&R shall – as a condition to it being able to use or enter the Office Space - provide to the City a Certificate of Insurance with the City of Milwaukee named as additional insured prior to commencement of the Term.
9. **Utilities.** D&R shall not be charged by the City for the cost of utilities associated with the Office Space. As part of this License, D&R is permitted to use normal and customary amounts of the utilities associated with the Office Space.
10. **Termination of Agreement.** Upon the expiration of the Term, or termination of this Agreement, D&R shall peaceably and quietly deliver, yield up, and surrender possession of the Office Space to the City in good and clean condition, and as called for herein. The City may terminate this Agreement at any time for any reason by giving at least five business days notice in writing to D&R.
11. **Indemnification and Defense of Suits.** Notwithstanding any references to the contrary in this License Agreement, D&R assumes full liability for all of its acts in the performance of this License Agreement. D&R will save and indemnify and keep harmless the City against all liabilities, judgments, attorneys fees, costs, and expenses which may be claimed against the City in consequence of the granting of this License Agreement to D&R, or which may result from the carelessness or neglect of (i) of D&R, its employees, officers, directors, volunteers, agents, contractors, subcontractor’s or invitees, or (ii) of any occupant or invitee of or at the Office Space, or of anyone claiming by, through, or under D&R. The City shall have the right to tender the defense of any claim or action at law or in equity to D&R or D&R’s insurer, and upon such tender it shall be the duty of D&R or D&R’s insurer to defend such claim or action without cost or expense to the City or its officers, agents, or employees.
12. **City Entry Rights.** The City may, without notice, enter the Office Space to inspect any part of the Office Space at any time.

13. **Audit.** At any time during normal business hours and as often as the City, or if federal or state grants or aids are involved, as the appropriate federal or state agency may deem necessary, there shall be made available to the City or such agency for examination all of its records with respect to all matters covered by this License Agreement and related to the license of the Office Space, and D&R shall permit the City or such agency to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this License Agreement and relating to the license of the Office Space.
14. **Breach; Governing Law.** This Agreement, and all questions arising in connection herewith shall be governed by and construed in accordance with the internal laws of the State of Wisconsin. Venue for any action arising out of or in any way related to this License Agreement shall be exclusively in the City of Milwaukee for matters arising under state law and in federal district court in the eastern district of Wisconsin for matters arising under federal jurisdiction
15. **Notices; Contact Persons.** Notice required or permitted under this Agreement may be made only by the following methods: (1) by personal delivery to the recipient or the recipient's office at the address listed below; (2) by email to the recipient's email listed below; (3) by U.S. Mail addressed to the recipient at the address listed below and deposited in the U.S. Mail with sufficient postage. Notices given in accordance with these provisions shall be deemed given and received (1) when personally served or delivered to a person at the recipient's office at the address listed below, (2) if e-mailed during business days (Monday through Friday, excluding legal holidays) during business hours (8:30 a.m.- 4:30 p.m.) on days when Milwaukee's City Hall is open for business, or (3) if mailed, three business days after the postmark on such notice.

To the City:

City of Milwaukee Health Department
Attn: Paul A. Biedrzycki
841 N. Broadway, 3rd Floor
Milwaukee, WI 53202-3617
Phone: (414) 286-5787
Email: PBIEDR@milwaukee.gov

To D&R:

Diverse and Resilient, Inc.
Attn: Gerald Coon, PhD
President & CEO • Diverse & Resilient
2439 North Holton Street
Milwaukee, WI 53212
Phone: (414) 390-0444
Email: gcoon@diverseandresilient.org

The above-named persons shall also be the respective contact persons for City and D&R for purposes of this Agreement.

16. **Approvals.** Unless otherwise expressly provided for in this Agreement, all submissions to the City, and all approvals or consents required to be obtained from the City, shall be submitted to or obtained from City's contact person named above.
17. **Severability of Provisions.** If any of the terms or provisions contained herein are declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions and conditions of this Agreement shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.
18. **Captions.** The captions in this Agreement are for convenience and reference, and in no way define or limit the scope or intent of the various provisions, terms, or conditions.
19. **Binding Effect; Assignment.** The terms and conditions of this License shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns. D&R may not assign its rights or duties hereunder without City's prior written consent.
20. **Entire Agreement.** This writing constitutes the entire agreement between the parties hereto and may not be amended or altered in any manner except in writing signed by both parties.
21. **Non-Discrimination.** D&R agrees not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based on affiliation with or perceived affiliation with any of these protected categories. This requirement shall apply, but not be limited to, the following: tenure, terms or conditions of employment, promotion, demotion or transfer, recruitment or recruitment advertising, employment rules and policies, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. No person in the United States shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this License Agreement. The City and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964. D&R agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.*
22. **Open Records.** This License Agreement and certain documents relating hereto are, or may be, subject to Wisconsin's Open Records Law (see Wis. Stat. Ch. 19, Subch. II, and, esp. Wis. Stat. §19.36(3) which includes records produced or collected under this License). Both Parties understand that the City is bound by the Wisconsin Public Records Law, and as such, all of the terms of this License Agreement are subject to and

conditioned on the provisions of Wis. Stat. sec. 19.21 *et. sec.* D&R acknowledges that it is obligated to assist the City in retaining and producing records that are subject to the Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this License Agreement, and that D&R must defend and hold the City harmless from liability due to its fault under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after termination of this License Agreement.

23. **Conflict of Interest.** No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this License Agreement pertains, shall have any personal interest, direct or indirect, in this License Agreement. No member of the governing body of the City and no other public official the City who exercises any functions or responsibilities in the review or approval of the carrying out of this License Agreement shall have any personal interest, direct or indirect, in this License Agreement. D&R covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. D&R further covenants that in the performance of this License Agreement no person having any conflicting interest shall be employed. An interest on the part of D&R or its employee must be disclosed to the City.
24. **Signatures; Counterparts.** D&R represents to City that its signatories have been duly authorized to sign this document on D&R's behalf. Facsimile or PDF/email signatures shall be acceptable as originals. This License Agreement may be executed in counterparts, each of which, when taken together, shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the date first written above.

CITY: THE CITY OF MILWAUKEE

By: _____
Name Printed: _____
Title: _____
Date: _____

D&R: DIVERSE AND RESILIENT, INC

By: _____
Name Printed: _____
Title: _____
Date: _____

APPROVED AS TO FORM AND EXECUTION:

By: _____

Assistant City Attorney Andrea Fowler

Date: _____

1084-2016-71/224983

Exhibit A

CITY OF MILWAUKEE INSURANCE REQUIREMENTS

- A. The "City of Milwaukee" must be named as an additional insured.
- B. The insurance certificate must be an original and issued by companies licensed to do business in the State of Wisconsin or signed by an agent licensed by the State of Wisconsin. Electronic signatures are acceptable.
- C. A copy of the endorsement of Earlier Notice of Cancellation or Non-Renewal stipulation must be submitted with the Certificate of Insurance.

The City of Milwaukee shall be named as an additional insured with respect to liability coverage other than professional liability, and shall be provided with at least 30 days written notice of cancellation, non-renewal or material limitation of coverage of any and all insurance policies required by this contract, for any reason including non-payment of premium. This should be accomplished through the addition of an endorsement to the policy/policies providing Earlier Notice of Cancellation or Non-Renewal. Such endorsement must contain the following stipulation:

"We will mail notice of cancellation (including for nonpayment of premium), non-renewal or material limitation of coverage to the organization shown in the schedule. We will mail the notice at least 30 days before the effective date of the action."

A copy of the endorsement must be submitted with the certificate of insurance. A certificate of insurance evidencing such coverage shall be approved by the City Attorney and placed on file with the City of Milwaukee prior to commencement of work under this contract. The City Attorney reserves the right to examine and approve the actual policy of insurance before the City executes this Contract.

- D. The certificate holder shall be noted as:

City of Milwaukee
200 E. Wells Street, Room 601
Milwaukee, WI 53202

- F. Coverage Requirements.

Required?	COVERAGE	MINIMUM AMOUNT OF COVERAGE REQUIRED
Yes	Worker's Compensation (The City does require Worker's Compensation coverage for Sole Proprietorships)	Statutory Limits
Yes	Comprehensive General Liability	Bodily Injury: \$500,000 per occurrence \$1,000,000 aggregate Property Damage: \$500,000 per occurrence \$500,000 aggregate
Yes	Automobile Liability	Bodily Injury: \$500,000 per person \$1,000,000 per occurrence Property Damage: \$500,000 per occurrence
Yes	Professional Liability	\$1,000,000 per occurrence