

LICENSE AGREEMENT

This LICENSE AGREEMENT, entered into this _____ day of _____, 2018, between COCHISE COUNTY, State of Arizona (hereinafter, “the COUNTY”) and the CITY OF BISBEE, COCHISE COUNTY, (hereinafter, “the CITY”).

RECITALS

WHEREAS, the COUNTY owns and controls certain real property known as the former County Juvenile Detention Facility on Tovreaville Road, Bisbee, Arizona, Tax Parcel # 102-14-002A, with a legal description set forth on Exhibit A hereto (the “Subject Premises”); and

WHEREAS, the County has not used the Subject Premises for several years, and does not have a current or proposed use for the Subject Premises; and

WHEREAS, after City Hall burned down in 2017, the City has a need for space, and desires to utilize the Subject Premises; and

WHEREAS, the County and City have authority to enter into this License pursuant to A.R.S. 9-241 and 11-251.

NOW, THEREFORE, the parties agree as follows:

I

LICENSE OF PREMISES

The COUNTY hereby grants to the CITY a license to use the Subject Premises.

II

TERMS OF AGREEMENT

The effective date of this AGREEMENT shall be _____, 2018, and shall remain in effect through _____, 2043 [insert a date 25 years from the effective date]. The CITY shall have an option to renew for twenty-five (25) additional years.

III

PURPOSE OF AGREEMENT

The CITY intends to use the Subject Premises as in interim CITY HALL, but the CITY may use the Subject Premises for any purposes, so long as such purposes are permitted by law.

IV

CONSIDERATION

In consideration of the COUNTY's license of the subject premises, the CITY agrees to pay, as rent the sum of ONE DOLLAR (\$1.00) in lawful U.S. currency, payable on the effective date of this AGREEMENT and upon each anniversary date thereof, and further agrees to comply with such other terms and conditions as may be specified in this AGREEMENT.

V

CONDITION AND SUITABILITY OF SUBJECT PREMISES

The COUNTY makes no representations or warranties as to the condition of the Subject Premises as of the effective date of this AGREEMENT or at any other time, and further makes no representations or warranties as to the suitability of the Subject Premises for use of by the CITY. The CITY takes the Subject Premises as is.

VI

SCOPE OF LICENSE

Property interests conveyed pursuant to this AGREEMENT consist solely of a license to use the real property comprising the Subject Premises as described herein.

VII

REPAIRS, MAINTENANCE AND IMPROVEMENTS

The CITY shall be fully responsible for all repairs, maintenance and improvements within the boundaries of the Subject Premises except as expressly provided herein. The CITY will maintain the Subject Premises in as good a condition as when it takes possession.

VIII

UTILITIES

The CITY shall be solely responsible for obtaining and maintaining all utility services to the Subject Premises. It is expressly agreed that upon the effective date of this Agreement the COUNTY shall no longer have responsibility for CITY sewer service and the CITY shall no longer bill the COUNTY for such service.

IX

ALTERATIONS AND IMPROVEMENTS

The CITY may make such alterations and improvements as it deems necessary for full use and enjoyment of the leased premises.

X

INTERESTS AFFECTING USE AND ENJOYMENT

COUNTY is unaware of any liens, encumbrances or other interests that would interfere with the CITY's use and enjoyment of the Subject Premises. The CITY shall have full use and enjoyment of the Subject Premises, undisturbed by the COUNTY, so long as the CITY's uses are permitted by law and the CITY maintains the Subject Premises in good condition.

XI

SURRENDER OF PROPERTY UPON EXPIRATION OF AGREEMENT

Upon expiration of this AGREEMENT, in the event that a new Agreement is not entered into by the parties pursuant to terms of Section II, above, the CITY shall surrender the Subject Premises to the COUNTY in the same condition in which it received the Subject Premises or, in the alternative, with all improvements removed so that the Subject Premises are vacant land. Upon such surrender, the CITY shall remove any personal property, and all buildings, improvements, or fixtures constructed or placed by the CITY upon the Subject Premises, within ninety (90) days following expiration of this AGREEMENT, unless otherwise agreed by the parties. If the CITY fails to do so, the COUNTY, at its option, may remove any and all such property and the CITY shall be liable to the COUNTY for the cost of doing so.

XII

INDEMNIFICATION

Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

XIII

ASSIGNMENTS OR TRANSFERS

The CITY shall not assign any rights or duties under this AGREEMENT and shall not, in any manner, transfer or convey any right, title or interest in the Subject Premises without the express written consent of the COUNTY. Any action which purports to affect any such assignment or transfer shall be void.

XIV

WAIVER

Waiver or the failure of either party at any time to require performance by the other of any provision hereof, shall in no way affect the party's subsequent rights and obligations under that provision. Waiver by either party of any breach or any provision hereof shall not be taken or held to be a waiver of any succeeding breach of such provisions or waiver of such provisions itself.

XV

STANDARD CLAUSES

This AGREEMENT is subject to cancellation pursuant to A.R.S. § 38-511, the provisions of which are incorporated herewith by reference.

The parties shall comply with all applicable state and federal laws that prohibit discrimination against any person based on race, religion, disability, color, age, sex, sexual orientation, or national origin.

In accordance with ARS § 35-393.01, the parties certify that they are currently not engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel.

The parties agree that any dispute arising under this Contract involving the sum of \$50,000 or less in money damages only shall be resolved by arbitration pursuant to A.R.S. § 12-1501 et. seq. The decision of the arbitrator(s) shall be final. In any action brought in Superior Court venue shall be in the Cochise County Superior Court.

Both parties to this AGREEMENT shall retain for inspection and audit by the State all books, accounts, reports, files, and other records relating to the performance of this AGREEMENT for a period of five (5) years after its completion. Upon request of either party to this AGREEMENT, a legible copy of all such records shall be produced at the administrative office of the requesting party or at the office of the State Auditor General. The original of all such records shall be available and produced for inspection of and audit when requested by either party or the Auditor General to verify the authenticity of the copy.

XVI

NOTIFICATION

Any notification due to either party under this AGREEMENT shall be as follows:

COUNTY:
County Administrator
1415 Melody Lane, Building G
Bisbee, AZ 85603

CITY:
City Manager
1415 Melody Lane, Building G
Bisbee, AZ 85603

XVII

ENTIRE AGREEMENT

This written AGREEMENT, and attachments hereto, constitute the entire Agreement between the parties with respect to the subject matter hereof, and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writing, agreements, and all other communications between the parties. It may not be released, discharged, changed or modified except by an instrument in writing,

signed by a duly authorized representative of each of the parties, except as specifically provided otherwise in this AGREEMENT.

XXII

APPROVAL BY THE PARTIES/WAIVER OF CONFLICT

Before this AGREEMENT shall become effective and binding upon the parties, it must be approved by the COUNTY's Board of Supervisors and by the CITY's Mayor and Council. In the event that either party fails or refuses to approve this AGREEMENT, it shall be null and void and of no effect whatsoever. Both parties acknowledge that this AGREEMENT was drafted by the County Attorney, which represents both the CITY and the COUNTY, and waive any conflict arising from that dual representation.

XXIII

RECORDATION

This AGREEMENT shall be recorded with the Cochise County Recorder.

IN WITNESS WHEREOF, the COUNTY has caused this instrument to be executed by the Chair of the Board of Supervisors and attested to by the Clerk of said Board; and the CITY has caused this AGREEMENT to be executed by its Mayor, and attested by the City Clerk, on the day and year first above written.

APPROVED:

COCHISE COUNTY BOARD OF SUPERVISORS

By: _____
Peggy Judd, Chair Date

ATTEST:

Arlethe Rios, Clerk of the Board

APPROVED:

CITY OF BISBEE

By: _____
David Smith, Mayor Date

ATTEST:

Ashlee Coronado, City Clerk

APPROVED AS TO FORM:

By: _____
Britt Hanson
Chief Civil Deputy, Cochise County Attorney
And City Attorney

EXHIBITS

A – Legal description of Subject Premises