

Sub-Lease

For a portion of the Hopi Building at Heritage Square

Between City of Flagstaff and the Flagstaff Metropolitan Organization

This Sub-Lease Agreement ("Sub-Lease") is made and entered into this _____ day of _____, 2020 by and between the City of Flagstaff, an Arizona municipal property corporation ("City") and the Flagstaff Metropolitan Planning Organization, an Arizona nonprofit corporation ("FMPO").

RECITALS

- A. The City of Flagstaff ("Tenant") and the Hopi Tribe Economic Development Corporation, a federally chartered corporation, wholly owned by the Hopi Tribe, a federally recognized Indian tribe, 5200 E. Cortland Blvd., Suite E200, Flagstaff, AZ 86004, ("Landlord") entered into an Office Lease Agreement and First Addendum to the Lease (hereafter collectively referred to as the "Lease"), attached hereto as Exhibit A, for the lease of 2806 square feet of office space, located at 6 E. Aspen Avenue, Suite 200, Flagstaff, AZ 86001, and depicted in Exhibit B, attached hereto and incorporated by reference the ("Premises") effective January 1, 2020; and
- B. City wishes to sublease a portion of the Premises to FMPO; and
- C. Landlord has consented to allow City to sublease space to FMPO, as set forth in the First Addendum to Lease dated January 1, 2020.

AGREEMENT

NOW THEREFORE, in consideration of the good faith negotiations and mutual promises between the Parties hereto and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the terms of the Sub-Lease as follows.

1. SUBLEASE. The City hereby subleases to the FMPO for its business operations, and FMPO hereby leases from City those areas of the Premises shown on the attached Exhibit B-1 of the Premises, as follows:

Office space #5
Office space #6
Office space #7
One Half of Desk Area

Collectively referred to as the "FMPO Areas".

2. COMMON AREAS. FMPO will also have the nonexclusive right to use the common areas of the Premises as shown on Exhibit B-1, which include:

The Kitchen (“K”)

The Conference room (“C”)

The shared restroom facilities used by all Landlord tenants.

The Conference Room may be reserved through a shared calendar on a first-come, first-served basis, or other fair and reasonable rules established by City and agreed to by the FMPO. The FMPO will have access to the conference room at least 12 hours per week on average. The City agrees that the City and other occupants including the FMPO will leave the conference room free of collateral materials when the conference room is not in use.

3. OTHER OCCUPANTS OF THE PREMISES. City will be occupying office spaces #3 and #4 and half of the front desk. City intends to sublease the office spaces #1, #2, and the storage area to the Downtown Business Alliance but reserves the right to sublease this space to others.

4. USES. FMPO may use the FMPO Areas and the Common Areas for all lawful purposes. FMPO has read the underlying Lease and will not engage in activities that will cause City to breach the underlying Lease. FMPO will conduct its business so as to cause minimal disturbance to other occupants of the Premises.

5. TERM. The Initial Term of the Sub-Lease shall be three (3) years, commencing on **January 1st, 2020**, and shall expire on **December 31, 2022** unless the option to extend is exercised, then the expiration date shall be **December 31, 2024**.

6. OPTION FOR EXTENDED TERM. FMPO shall have one (1) option to extend the Sub-Lease, for two (2) additional years (“Extended Term”), provided that the City has extended the underlying Lease, and provided that FMPO has met its obligations in a timely manner, has provided notice to City at least three (3) months prior to the expiration date of the Sub-Lease, and is not otherwise in default on its obligations of the Sub-Lease.

7. DEPOSIT. FMPO shall pay City \$1,667.00 (“the Deposit”) as its share of the \$5,000.00 Security Deposit on or before December 15, 2019. City will remit the Security Deposit to Landlord.

8. RENT. FMPO will pay monthly rent to City during the Initial Term, as set forth below. The rent shall be paid to City on or before the 1st day of each month. All rent shall be made payable to City of Flagstaff, and either hand delivered or mailed to the attention of the City Finance Director, 211 W. Aspen Avenue, Flagstaff, Arizona 86001.

Initial Term

YEAR	MONTHLY RENT (includes sales tax and utilities)
1	\$1915.00
2	\$1972.00
3	\$1972.00

If the option to extend is exercised the monthly rent shall be as follows.

Extended Term

YEAR	MONTHLY RENT (Includes sales tax and utilities)
4	\$2032.00
5	\$2032.00

9. LATE PAYMENTS. Any payment of rent not received within five (5) days after the due date shall be subject to a late charge of five percent (5%) of the delinquent amount or fifty dollars (\$50.00), whichever is greater, plus interest on the overdue amount at the rate of eighteen percent (18%) per annum from the due date until paid.

10. UTILITIES AND EXCESS CONSUMPTION. The rent includes utilities a for the Premises; provided, however, FMPO shall pay one third of any additional charges related to heating, ventilation and air condition that may assessed by the Landlord as a result of the use of the Premises outside of normal business hours of Monday through Friday 7:00 AM to 6:00 PM.

11. COMMUNICATIONS AND INTERNET. FMPO shall pay one third of the City's cost to provide telephone services and internet service to the Premises. City will separately invoice FMPO, and payment is due within 30 days from receipt of the invoice.

12. CLEANING. Cleaning responsibilities of the Premises includes vacuuming, dusting, taking out trash, and cleaning the Common Areas. Each Party and occupant of the Premises is responsible for cleaning its own office space, taking out its own trash and recycling, and washing its own dishes. Cleaning of the Common Areas will be shared. If City determines that cleaning is not satisfactory, it may charge actual reasonable costs for providing cleaning services as additional rent under this Sub-Lease.

13. PARKING. This Sub-Lease does not include any parking spaces. FMPO may use the parking garage located under the Landlord's facility in the same manner as any other member of the public.

14. TAXES. FMPO shall pay any and all taxes required by the government in relation to their business operations.

15. RETURN OF PROPERTY. Upon the expiration or earlier termination of this Sub-Lease, FMPO shall remove all personal property and trade fixtures from the Premises. Any damage resulting from such removal shall be paid for by the FMPO. FMPO shall return the Premises in good repair, ordinary wear and tear excepted.

16. RIGHTS RESERVED BY LANDLORD.

16.1 The Landlord retains the right to enter the Premises at all reasonable times for the purpose of inspecting the same; performing Landlord's maintenance and repair obligations under the Lease.

16.2 The Landlord or Landlord's agents may use a master key to enter the Premises at any time, when for any reason an entry therein shall be necessary or permissible.

17. DELIVERY AND ACCEPTANCE OF PREMISES. FMPO has inspected the Premises and accepts the property "as is" and without condition.

18. DAMAGE AND DESTRUCTION OF PREMISES. FMPO has read and agrees to comply with the requirements under Article 20: DAMAGE AND DESTRUCTION OF PREMISES Lease attached hereto as Exhibit A.

19. INDEMNIFICATION.

19.1 FMPO has read understands Article 18: ACCEPATANCE OF THE PREMISES, LIABILITY INSURANCE AND INDEMNIFICATION OF LANDLORD and hereby agrees that all merchandise, furniture, floor and wall coverings and personal property and fixtures belonging to FMPO and all persons claiming by and through FMPO which may be on Premises shall be at FMPO sole risk. FMPO hereby waives all claims against City and Landlord for loss or injury.

19.2 FMPO agrees to indemnify and to hold the Landlord and Tenant harmless and any mortgagee of Landlord harmless against all Claims arising from: FMPO possession, use, maintenance and repair of the Premises; any act or omission of FMPO or FMPO'S agents and employees; any default of FMPO under this Sub-Lease; or other acts or omissions which result in personal injury, loss of life or property damage sustained in and about the Premises.

20. INSURANCE.

20.1 Upon taking possession of the Premises and thereafter, FMPO shall, at its sole cost and expense, maintain comprehensive liability insurance, including, without limitation products liability and contractual liability endorsements, against Claims for personal injury, death, or property damage occurring in, upon, or about the Premises and in the hallways, elevator, and stairwells and on any sidewalks or patio areas directly adjacent to the Premises and building. The limits of liability of such insurance shall not be less than Two Million Dollars (\$2,000,000)

26. SAVING CLAUSE. If any term or provision of this Lease or any application thereof shall be declared or held to be invalid or unenforceable, then the remaining terms and provisions of this Lease shall not be affected thereby.

27. CHOICE OF LAW. This Sub-Lease shall be governed by and construed under the laws of the State of Arizona, and the parties agree that jurisdiction shall be deemed to be Coconino County, Arizona.

28. ATTORNEY'S FEES. In the event that any action is filed in relation to this Sub-Lease, each Party will have all remedies available at law, and the unsuccessful party in the action shall pay to the successful party, in addition to all other sums that either party may be called upon to pay, a reasonable sum for the successful party's attorney's fees.

29. THIRD PARTY BENEFICIARIES. This agreement is entered into for the benefit of and may only be enforced by the Parties.

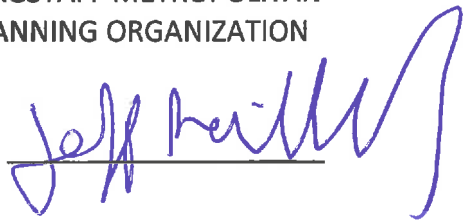
30. ENTIRE AGREEMENT. This Sub-Lease serves as the entire agreement between the Parties and may be modified only by a writing signed by both parties.

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

CITY

FLAGSTAFF METROPOLITAN
PLANNING ORGANIZATION

By: _____
Coral Evans, Mayor

By:  _____

Attest:

By: _____
Stacy Saltzburg, City Clerk

Approved as to form:

By: _____
City Attorney's Office

combined single limit or in such higher amounts as Landlord may require. All such policies of insurance shall name the Landlord and Tenant as additional insured.

20.2 FMPO'S insurance shall be maintained with an insurance company qualified to do business in the state of Arizona and have a current A.M. Best manual rating of at least A or better. The insurance policy will contain an endorsement stating that the insurance will not be canceled nor will the carrier fail to renew or materially change the policy without first giving City thirty (30) days written notice.

21. ASSIGNMENT. This Sub-Lease is a personal right to FMPO and shall not be assigned without the prior approval of City and Landlord, which shall not be unreasonably withheld.

23. HAZARDOUS MATERIALS. FMPO shall comply with all requirements as listed in the Lease Agreement under ARTICLE 33: ENVIRONMENTAL MATTERS.

24. NOTICES. Any communications between City and FMPO, and notices provided herein to be given or made, shall be given or made by hand delivery or mailing to the addresses below.

City
Attention: City Manager
211 W. Aspen Avenue
Flagstaff, Arizona 86001

With a copy to:
Attention: Real Estate Manager
211 W. Aspen Avenue
Flagstaff, Arizona 86001

Flagstaff Metropolitan Planning Organization
Attn. Executive Director
[6 E. Aspen Avenue?? MWSW address??]
Flagstaff, Arizona 86001

With a copy to:
Mangum Wall Stoops & Warden, PLLC
Attn: Brandon J. Kavanagh
112 N. Elden Street
Flagstaff, Arizona 86001

25. ACKNOWLEDGEMENT. FMPO acknowledges that this Sub-Lease is subject to the terms and conditions of the Lease which may or may not be specifically called out in this agreement and knowingly enters into this agreement with City.

Attachments:

Exhibit A Lease and First Addendum to Lease

Exhibit B-1 Premises map, showing Areas and other areas

S:\Legal\Civil Matters\2019\2019-256 Park Flag Hopi Building Lease\Sublease-1 10-31-19.docx

