

## LEASE AGREEMENT

This lease agreement ("Lease") is made, between

Gemini Property Holdings, Inc. a domestic nonprofit corporation organized under the laws of Arizona, having its principal office at 963 East B Street San Luis, Arizona, and its mailing address of: P.O. Box 7170 San Luis, Arizona 85349 ("GEMINI"), and	the City of San Luis, a municipal corporation organized under the laws of Arizona, having its administrative office at San Luis City Hall 1090 East Union Street San Luis, Arizona, and its mailing address of P.O. Box 1170 San Luis, Arizona 85349 ("CITY").
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GEMINI and the CITY may be referred to singularly as the "Party" and collectively as the "Parties."

### RECITALS

- A. The CITY is a municipal corporation vested with all the powers to lease by A.R.S. § 9-240(B)(1) and A.R.S. § 9-241.
- B. The CITY is developing a permanent police station at the East Community Park and Fire Station 2 on County 24<sup>th</sup> Street, but it may be a few years before it is completed.
- C. The CITY would benefit from having a temporary police station to serve the eastern portion of the city near the East Community Park and Fire Station 2.
- D. GEMINI is willing to make its building and land surrounding it near the area of County 24<sup>th</sup> Street available to the CITY for a reasonable lease rate.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Lease, the Parties agree to the following.

### SECTION ONE. LEASED PREMISES

GEMINI leases to CITY and CITY hires from GEMINI for Lease Term, at the rental rate and upon the covenants and conditions set forth below in this Lease, the premises subject to this Lease more particularly described as lots 370 and 371 in the Bienestar 9B, Subdivision, which are designated by the Yuma County Assessor as APN 777-60-370 and APN 777-60-37, the lots (parcels) straddle Rachel Dodge Avenue and Avenue F, commonly known at the addresses of 293 Rachel Dodge Avenue and 285 Rachel Dodge Avenue, in San Luis, Yuma County, Arizona, which premises consist of two lots of real property totaling approximately twelve thousand square feet (12,000 sq. ft.) upon which a building sits of approximately two thousand five hundred square feet (2,500 sq. ft), (the "Leased Premises").

### SECTION TWO. TERM

The term of this Lease shall be for a period of three (3) full years commencing on June 1, 2023, and ending on May 31, 2026, plus any renewal term exercised under SECTION FOUR of this Lease ("Lease Term").

**SECTION THREE.**

**RENTAL**

CITY shall pay GEMINI without prior notice, or demand, as rent in advance, on the first day of each month during the Lease Term, \$2,500.00 per month.

**SECTION FOUR.**

**OPTION TO RENEW**

CITY shall have the option to extend the term of this Lease for a total of one (1) additional three-year (3-year) term following the expiration of the initial term as provided in SECTION THREE. CITY shall exercise its option by giving written notice of the exercise of the option to GEMINI no later than Friday, February 27, 2023, 2026. The monthly rent for the extended term shall continue at \$2,500.00. The additional term shall expire on May 31, 2029, unless earlier terminated.

**SECTION FIVE.**

**USE**

It is the intention that the CITY will use the Leased Premises as a temporary second police station. However, The CITY shall use the Leased Premises for any lawful purpose.

**SECTION SIX.**

**UTILITIES**

The CITY shall pay or provide for all water, sewage removal, solid waste collection, electricity, telephone, internet, janitorial, and all other materials and services which may be furnished to or used in or about the Leased Premises during the Lease Term.

**SECTION SEVEN.**

**TAXES**

GEMINI shall continue to pay the real property taxes on the Leased Premises and continuing for the entire Lease Term, discharged promptly as the same become due and before delinquency, all taxes, assessments, levies, excise or imposts, liens whether general or special, ordinary or extraordinary, imposed by any governmental or quasi-governmental authority pursuant to law directly as a result of ownership of the Leased Premises which may be levied, assessed, charged or imposed, or may be or become a lien or charge upon the Leased Premises or any part of the Leased Premises, or upon the leasehold or the estate created by this Lease, or upon GEMINI solely by reason of its ownership of the Leased Premises, including but not limited to any license or privilege fee or tax based or measured. GEMINI shall make all payments of all sums required by law for the property directly to the charging authority before delinquency and before any fine, interest, or penalty shall become due or be imposed by the operation of law for their nonpayment.

**SECTION EIGHT.**

**INSURANCE AND WAIVER OF SUBROGATION**

A. GEMINI shall maintain, as the minimum coverage required of it by this Lease, a policy or policies of fire and property damage insurance in so-called "fire and extended coverage" policies and forms, insuring GEMINI against loss of rents and from physical damage to the building and other site permanent improvements or permanent fixtures for a period of not less than twelve (12) months per year starting June 1 of every year, for the Lease Term as defined in SECTION FOUR with coverage of not less than one hundred percent (100%) of the full replacement value of the building and improvements. GEMINI may elect to have additional insurance.

B. GEMINI shall not be required to cause such insurance to cover any personal property, movable fixtures, or movable improvements belonging to the CITY on the property during the Lease Term.

C. The CITY shall inform GEMINI in writing of any permanent fixtures it intends to install or permanent improvements it intends to make so that GEMINI may adjust its insurance coverage accordingly.

D. The CITY shall be solely responsible for any insurance coverage for its personal property, movable fixtures, or movable improvements on the Leased Premises during the Lease Term as defined in SECTION FOUR.

E. The CITY shall secure and maintain at its own expense during the Lease Term general liability coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) in the aggregate. The coverage of CITY's general liability insurance shall be in addition to any carried by GEMINI.

F. The parties to this Lease release each other, and their respective agents, employees, and contractors, from any claims for injury to any persons or damage to property that are caused by or result from risks insured against under any insurance policies carried by the parties and in force at the time of such damage, but only to the extent such claims are covered by such insurance. This release shall be in effect only so long as the applicable insurance policies contain a clause to the effect that this release shall not affect the right of the insured to recover under such policies. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against either party in connection with any damage covered by such policy so long as such waiver is available without unreasonable additional cost.

## **SECTION NINE.**

### **CONDITION OF PREMISES**

A. CITY shall maintain and keep the interior and exterior of the Leased Premises and every part of the Leased Premises and all appurtenances, in good condition and repair during the damage by fire, wind, earthquake, acts of God or the elements excepted.

B. The CITY agrees upon the expiration of the Lease Term or sooner termination to surrender the Leased Premises in the same condition as received, ordinary wear and tear and damage by fire, earthquake or act of God excepted.

C. GEMINI shall be held to the expense of any repair and maintenance standards as provided for in any statute or law which may be now or later enacted during the Lease Term.

**SECTION TEN.  
COMPLIANCE WITH LAWS**

A. CITY shall not commit or permit to be committed any waste upon the Leased Premises and shall not commit or permit to be committed any public or private nuisance, or any other act or thing prohibited by law. With respect to the CITY's use and occupancy of the Leased Premises, the CITY shall comply with all laws, ordinances, orders, and regulations of all governmental authorities, including the final judgment of a court of competent jurisdiction in any action or proceeding against CITY.

B. GEMINI shall abide by all laws as lessor and property owner.

D. This Lease is subject to cancellation for conflict of interest under A.R.S. § 38-511.

**SECTION ELEVEN.  
ALTERATIONS, ADDITIONS, AND IMPROVEMENTS**

A. Subject to the limitation that no substantial portion of the building on the Leased Premises shall be demolished or removed by the CITY without the prior, express, and written consent of GEMINI, may at any time during the Lease Term, subject to the conditions set forth below and at the CITY's own expense, make any alterations, additions, or improvements in and to the Leased Premises which includes the building. Alterations shall be performed in a satisfactory manner and shall not weaken or impair the structural strength or lessen the value of the building on the Leased Premises.

B. Before commencement of any work, all plans and specifications shall be filed with and approved by all government departments or authorities having jurisdiction and any public utility company having an interest in such matters, and all work shall be done in accordance with the requirements of local regulations. The plans and specifications for any alterations estimated to cost five thousand dollars (\$5,000) or more shall be submitted to GEMINI for written approval prior to commencing work.

C. All permanent fixtures and permanent improvements on or in the Leased Premises after the commencement of the Lease Term that may be installed during the Lease Term shall become part of the Leased Premises and the sole property of GEMINI, except that all movable fixtures, movable improvements, or personal property installed by the CITY shall be and remain the property of the CITY.

**SECTION TWELVE.  
LIENS**

CITY shall keep the Leased Premises and building of which the Leased Premises are a part, free and clear of any liens and shall indemnify and hold harmless GEMINI from any liens and

encumbrances arising out of any work performed or materials or labor furnished by or at the direction of CITY.

**SECTION THIRTEEN.  
ASSIGNMENT AND SUBLETTING**

CITY shall not sublet or assign any portion or interest in this Lease without first obtaining the written consent of GEMINI and GEMINI shall not unreasonably withhold such consent.

**SECTION FOURTEEN.  
INDEMNIFICATION**

Each Party shall indemnify and hold harmless the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action liability, costs, or expense (including attorneys' fees, witness costs, and expert charges) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party or its agents, employees, contractors, subcontractors, or invitees.

**SECTION FIFTEEN.  
TERMINATION**

The CITY or GEMINI may terminate with or without cause this Lease with one-hundred and twenty (120) days' written notice.

**SECTION SIXTEEN.  
ATTORNEYS' FEES**

Should either Party commence any legal action or proceeding against the other based on this Lease, the prevailing party shall be entitled to a reasonable amount for attorney's fees, costs of court, witnesses, and experts.

**SECTION SEVENTEEN.  
DESTRUCTION**

In the event of total or partial destruction of the Leased Premises during the Lease Term from any cause actually covered by insurance then in full force and effect, CITY immediately shall give written notice of such destruction to GEMINI and GEMINI shall to the extent of such insurance proceeds promptly repair the same, provided such repairs can be made within sixty (60) days after such destruction, but such partial destruction shall in no way annul or void this Lease. If such repairs are not so insured or cannot be made within sixty (60) days of the date of such destruction, this Lease may be terminated at the option of either party upon 30 days' written notice to the other Party. CITY and GEMINI waive the provisions of the Arizona Revised Statutes that contradict this SECTION SEVENTEEN.

**SECTION EIGHTEEN.  
HOLDING OVER**

Any holding over after the expiration of the Lease Term by CITY with the consent of GEMINI shall be deemed to be a tenancy from month to month and except for the term of such tenancy shall be on the same terms and conditions specified in this Lease, as far as are applicable.

**SECTION NINETEEN.  
SALE OF PREMISES**

In the event of a sale or conveyance by GEMINI of GEMINI's interest in the Leased Premises, GEMINI shall be released from any future liability under this Lease, with the successor in interest to GEMINI to be solely liable to the CITY.

**SECTION TWENTY.  
NOTICE**

All notices or demands of any kind required or desired to be given by GEMINI or CITY under this Lease shall be in writing and validly given if delivered or refused delivery to the City Clerk for the City or to the Statutory Agent for GEMINI by personal delivery, by United States Postal Service, postage prepaid, certified mail, return receipt requested, addressed to mailing address in the first paragraph, or by any commercially reasonable means of receipted delivery..

**SECTION TWENTY-ONE.  
NO WAIVER**

No covenant, term or condition, or breach of this Lease shall be deemed waived, except by written consent of GEMINI and the CITY, and any waiver or the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition. Acceptance of all or any portion of rent at any time shall not be deemed to be a waiver of any covenant, term, or condition except as to the rent payment accepted.

**SECTION TWENTY-TWO.  
MISCELLANEOUS**

- A. The captions of the sections and paragraphs contained in this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any provision of this Lease.
- B. All of the terms, covenants, and conditions of this Lease shall be binding upon and inure to the benefit of the parties to this Lease and their heirs, executors, administrators, successors, and assigns, except that nothing in this provision shall be deemed to permit any assignment, subletting or use of the Leased Premises other than as provided for in this Lease.
- C. This Lease shall be governed and interpreted solely by the laws of Arizona. The venue shall be in a court of competent jurisdiction in Yuma County, Arizona.
- D. Time is of the essence of this Lease and each provision of this Lease.
- E. There are no third-party beneficiaries to this Lease, and no person or entity who is not a Party shall have any right or cause of action under this Lease.
- F. It is not intended by this Lease to, and nothing contained in this Lease shall create any agency, partnership, joint venture, or other similar arrangement between the Parties. The relationship is of lessor and lessee.
- G. GEMINI represents and warrants it is duly formed and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under Arizona laws. GEMINI and the CITY warrant to each other that the individuals executing this Lease on behalf of their respective Parties are authorized and empowered to bind the Party on whose behalf each individual is signing.

H. This Lease constitutes the entire Agreement between the Parties pertaining to the subject matter of this Lease. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are superseded, and merged in this Lease.

I. This Lease This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages may all be attached to a single instrument so that the signature of all Parties may be physically attached to a single document.

The parties have executed this Lease Agreement in Yuma County, Arizona the day and year first set forth above.

**City of San Luis, Arizona**

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Nieves Riedel, Mayor

**ATTEST:**

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Sonia Cornelio, City Clerk

**APPROVED AS TO FORM:**

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Kay Marion Macuil, City Attorney

**Gemini Property Holdings, Inc.**

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Marco Antonio Reyes, Director