

LEASE AGREEMENT
240 N. Pasadena Street
Centennial Way Surface Parking Lot Parking Spaces

THIS LEASE AGREEMENT (“Agreement”) is executed to be effective the 1st day of September, 2020 (“Effective Date”) by and between THE CITY OF MESA, a municipal corporation (“Lessor”), and Maricopa County, a political subdivision of the State of Arizona (“Lessee”). Lessor and Lessee may be referred to jointly as “Parties,” and each separately may be referred to as a “Party.”

RECITALS

A. Lessor has title of record to the real property and improvements (“Property”) located at 240 North Pasadena Street, Mesa, Arizona, 85201, Assessor Parcel Number 138-61-093, known as the Centennial Way Surface Parking Lot that is depicted in **Exhibit A** attached hereto.

B. The Property consists of a parking lot with both covered and uncovered parking spaces that are available for lease or license, and Lessee has previously leased parking spaces at the Property pursuant to that certain Parking Lease dated October 1, 1990 which expired on August 31, 2020.

C. Lessee owns that certain real property and improvements located at 245 North Centennial Way, Mesa, Arizona (APN: 138-61-092) (“Centennial Property”).

D. Lessee desires and Lessor is willing to enter into this Agreement for the leasing of parking spaces on the Property by Lessee for the parking of passenger motor vehicles by persons accessing the Centennial Property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants, conditions and agreements hereinafter and other good and valuable consideration, Lessor and Lessee agree as follows.

ARTICLE 1

LEASE OF PREMISES; MARICOPA COUNTY AS LESSEE

1.01 Leased Premises.

1.01.1 Definition of the “Leased Premises”. The term “Leased Premises” shall collectively mean the parking spaces depicted on **Exhibit A**, designated in the red and blue areas of the depiction, consisting of a total of ninety-one (91) parking spaces: forty-four (44) covered parking spaces and forty-seven (47) uncovered parking spaces (collectively “Parking Spaces”, or individually a “Parking Space”). The term “Leased Premises” does not include the interest of Lessor in public utility easements, dedicated rights of way, or the improvements therein, or Lessor’s interest in the Property not consisting of the Leased Premises, including Lessor’s interest in the areas depicted in **Exhibit A** that are not Parking Spaces.

1.01.2 Lease. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, upon and in consideration of the terms and conditions contained herein, the Leased Premises. Lessor hereby leases the Leased Premises to Lessee subject to: (i) all title limitations of record including, but not limited to, liens, encumbrances, easements, assessments, and restrictions; (ii) all operational and use restrictions and other terms, limitations, and conditions set forth in this Agreement; (iii) all applicable present and future laws, regulations, ordinances, resolutions, building restrictions and regulations, and zoning laws of the City of Mesa, and county, state, and federal bodies having jurisdiction; and (iv) the right of access by the City of Mesa to utility lines, telecommunication lines, cable lines, and other similar improvements when needed by the City of Mesa for repair or replacement.

1.02 Covenant of Quiet Enjoyment. As of the Effective Date, Lessor agrees that, so long as Lessee shall perform all of its obligations under this Agreement, Lessee shall peaceably have and enjoy the use of the Leased Premises without hindrance from Lessor or anyone claiming by or through them. Subject to the terms of this Agreement, Lessee shall have the exclusive right to occupy and use the Leased Premises.

1.03 Condition of Leased Premises. Lessee acknowledges, represents, and agrees that the Leased Premises are being provided "AS IS," and Lessee is not relying on any statement or representation of Lessor about the nature, condition or size of the Leased Premises. Lessee is solely relying upon its own inspection and investigation of the Leased Premises.

1.04 Adjustment of Leased Premises. The Parties may increase or decrease the size of the Leased Premises (i.e. the number of covered/uncovered Parking Spaces leased to Lessee at the Property) by mutual agreement in writing, executed by the Parties, and the Rental Fee (as defined in Section 4.01) will be modified accordingly based on the amounts set forth in Section 4.01.

1.05 Maricopa County as Lessee. The following sections of this Agreement refer to "Maricopa County" which is the governmental entity listed as the Lessee on Page 1, "Maricopa County, a political subdivision of the State of Arizona" and are intended to apply only to Maricopa County and remain in effect only so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property (collectively, the "Maricopa County Provisions"): 4.01.1(A)(ii), 10.05(B), 12.02.5, 12.09, 13.02, 17.01(B), 21.03(B), 21.04(A), and 26.08(C). The Maricopa County Provisions: (i) will be enforceable only by or against the legal entity of Maricopa County; (ii) cannot be assigned or transferred by Maricopa County; and (iii) shall be deemed null and void, and no longer of any force or effect if this Agreement is assigned by Maricopa County in accordance with Section 17.01(B), except for rights or obligations arising prior to such assignment. Notwithstanding the foregoing, Maricopa County shall also have all rights and responsibilities of the Lessee in this Agreement until such time as this Agreement expires or terminates, or is validly assigned by Maricopa County. ***Any successor or assignee, in becoming the Lessee under this Agreement, specifically waives any and all rights to enforce the Maricopa County Provisions.***

ARTICLE 2 USE OF LEASED PREMISES

2.01 Permitted Uses of Leased Premises. As of the Rent Commencement Date (as defined in Section 4.01) the Leased Premises, shall only be used by the Lessee in accordance with applicable law for the parking of passenger motor vehicles by persons accessing the Centennial Property, specifically employees, agents, service personnel, contractors, tenants, invitees, and guests of Lessee,

and Lessee is obligated to ensure the use of the Leased Premises by such persons is in accordance with this Agreement. The Leased Premises shall not be used for any other purposes without the prior written consent of Lessor; storage of equipment or materials is prohibited.

2.02 Hours of Use. The Parking Spaces shall be leased to Lessee for its exclusive use only for the hours of 6:00 a.m. to 6:00 p.m., Monday to Friday, except for holidays observed by Lessor; and a non-exclusive use of the Parking Spaces at all other times. Lessor shall not be required to enforce the exclusive use of the Parking Spaces by Lessee.

2.03 Conduct of Activities. Lessee shall use the Leased Premises and conduct its activities in a manner that will not materially interfere and detract from the value or appearance of the Leased Premises. Motor vehicles parked in the Parking Spaces must be of a sufficient size to safely park within the designated parking lines.

2.04 Nuisance Prohibited. Lessee shall not use the Leased Premises in any way which would create, or cause to be created, nuisances or hazards to the public health or safety and also not to use or permit any use of the Leased Premises, for any illegal or immoral purposes. Lessee agrees that the use of the Leased Premises shall be conducted in such a manner that meets the City of Mesa's Noise Ordinances.

2.05 Access to Leased Premises; Non-exclusive License. The Parties acknowledge that, in order to access the Leased Premises for the permitted use, motor vehicles must operate on portions of the Property not a part of the Leased Premises (i.e. vehicles will need to be driven through the parking lot entry points into the Property and lanes in the parking lot on the Property to reach the leased Parking Spaces). Lessor hereby grants Lessee a non-exclusive license during the Term (as defined in Section 3.01) over, across and through the Property in the areas designated for the operation of motor vehicles solely for the purpose of ingress and egress through the Property to the Leased Premises.

2.06 Tenants of the Centennial Property. Lessee will ensure that all terms, conditions and agreements contained herein are reflected in any lease agreement with any tenants of the Centennial Property binding tenants of the Centennial Property to same.

ARTICLE 3 TERM

3.01 Term. The term of this Agreement shall commence retroactively as of the Effective Date and shall continue for a period of time that is ten (10) years after the Rent Commencement Date (as defined in Section 4.01) ("Term"), unless otherwise canceled, renewed, extended or terminated as provided herein.

3.02 Extension. Provided that Lessee is not then in default of this Agreement and subject to the written approval of Lessor (which it may grant or deny in its sole and absolute discretion), this Agreement may be extended for up to three (3) renewal terms of a maximum of five (5) years each (each a "Renewal Term") on the same terms and conditions as in effect immediately prior to the then-current expiration, and such Renewal Term(s) shall become part of the "Term" of this Agreement; provided, however, that the Parties will re-negotiate the Rental Fee (Section 4.01 below) for any extension of the Term of this Agreement.

ARTICLE 4 CONSIDERATION

4.01 Rental Fee. Lessee, in consideration of the foregoing, covenants and agrees to pay to Lessor, beginning September 1, 2020 (“Rent Commencement Date”), and on the first day of each following calendar month (“Due Date”), the monthly rental fee of **\$3,132.00** (“Rental Fee”), plus all taxes for the rental of the Leased Premises levied upon Lessee’s occupancy of the Leased Premises, as determined based on the following: (i) forty-four (44) covered parking spaces at \$37.00 per month for each leased covered Parking Space, for a total of \$1,628.00 monthly plus tax; and (ii) forty-seven (47) uncovered parking spaces at \$32.00 per month for each uncovered Parking Space, for a total of \$1,504.00.

4.01.1 Payment of Rental Fee. The Rental Fee shall be paid in lawful currency of the United States, either by check or electronic transfer.

A. Late Penalties.

i. General. If Lessee fails to pay any installment of the Rental Fee in full on or before the Due Date, Lessee shall be responsible for interest on the unpaid installment at the rate of twelve (12%) per annum from the Due Date until payment in full is made. In addition, in the event any installment of Rental Fee is paid more than twenty (20) days after the Due Date, a late penalty equal to ten percent (10%) of the amount of such delinquent installment shall be due and payable in addition thereto; provided, however, the two (2) initial installments of the Rental Fee may be paid late, without penalty, so long as payment in an amount constituting the first three (3) months of Rental Fees is received by Lessor within fifteen (15) days of the execution of this Agreement by Lessor and Lessee.

ii. Maricopa County. Notwithstanding the requirements of Section 4.01.01(A)(i), for so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property, then Maricopa County is exempt from the interest requirements for unpaid Rental Fee installments and the late penalty fee set forth in Section 4.01.1(A)(i).

B. Advance Payment Discount. Lessee, at its option, may pay the Rental Fee in advance on an annual basis in lieu of monthly payments. If Lessee makes payment in advance on an annual basis on or before September 1st for the period of September 1st through August 31st of the following year, Lessee will be entitled to a ten percent (10%) discount on the Rental Fee for the period paid.

4.01.2 Payment of Lesser Amount; Recovery of Balance. No payment to or receipt by Lessor of a lesser amount than that which is due and payable under the provisions of this Agreement at any time of such payment shall be deemed to be other than a payment on account of the earliest payment due, nor shall any endorsement or statement on any check or payment prejudice in any way Lessor’s right to recover the balance of such payment or pursue any other remedy provided in this Agreement or by law.

4.02 Payment Procedure. Lessor shall issue an invoice to Lessee at least thirty (30) days prior to the Due Date by mailing it to the address or email address provided in Section 26.01 of this Agreement. All payments shall be remitted to the Lessor to the address provided in Section 26.01 of this Agreement.

4.03 No City Expenses. Except as set forth herein related to Lessor's obligations under this Agreement, including those related to maintenance, insurance and the payment of any real property taxes as the owner of the Property, Lessee agrees to pay all expenses related to this Agreement or Lessee's use of the Leased Premises, and Lessee shall indemnify and save harmless Lessor from and against any and all expenses, taxes and insurance incurred by Lessor that are the obligation of Lessee to pay as specifically set forth herein.

4.04 Taxes. Lessee will pay, without notice (except as specifically provided), and without abatement, deduction or setoff, before any fine, penalty, interest or cost may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof, all sums, impositions, costs, expenses and other payments and all taxes including taxes on rents, leases or occupancy, Government Property Lease Excise Tax under the provisions of A.R.S. §§ 42-6201, *et seq.* ("GPLET") (subject to Section 4.05), and assessments, special assessments, enhanced municipal services district assessments, rates and charges, excises, levies, licenses and permit fees, and other governmental or quasi-governmental taxes or charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind or nature whatsoever which, at any time during the Term may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or with respect to, or become a lien on or encumbering, the Leased Premises, or any part thereof, or any appurtenances thereto, or any use or occupation of the Leased Premises, except for those taxes or charges for which Lessee may be exempt under applicable law.

4.05 Government Property Lease Excise Tax. It is the Parties' reasoned belief that this lease Agreement and any subleases entered into pursuant to this Agreement are not subject to excise tax liability and other restrictions imposed under the GPLET provisions of A.R.S. §§ 42-6201, *et seq.* because: (i) the Leased Premises are not a "government property improvement" as defined in in A.R.S. § 42-6201(2) because there is no building for which a certificate of occupancy was issued on the Property or the Leased Premises; and (ii) the Premises are being used for a governmental activity, entitling this Agreement to an exemption under A.R.S. § 42-6208(1). Lessee is solely responsible for ensuring that all subleases and assignments meet the exemption from GPLET. Further, Lessee disclaims all right to seek any abatement of tax pursuant to A.R.S. § 42-6209. If any excise or other tax applicable to subleasing the Leased Premises or assigning this Agreement becomes payable under GPLET or any subsequently-enacted statute, then Lessee is responsible for the payment of such tax.

ARTICLE 5 REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSEE

5.01 Lawfully in Arizona. Lessee is a political subdivision of the State of Arizona. Lessee has full power and authority to execute, deliver and perform this Agreement. To the best of Lessee's knowledge, the execution, delivery and performance of this Agreement does not, and will not, violate any provision of law applicable to Lessee and do not, and will not, conflict with or result in a default under any agreement or instrument to which Lessee is a party or by which it is bound.

5.02 No Defaults. To the best of Lessee's knowledge, Lessee is not in default: (i) in the payment of any of Lessee's indebtedness for borrowed money; and (ii) in any material respect under any order, writ, judgment, injunction, decree, determination, or award or any indenture, agreement, lease or instrument.

ARTICLE 6 LESSEE IMPROVEMENTS

6.01 Lessee Improvements on Leased Premises. Lessee shall not make any temporary or permanent improvements, additions or alterations to the Leased Premises without the prior written consent of Lessor, which consent may be given or withheld in Lessor's reasonable discretion.

6.02 Improvements, Construction and Maintenance. If Lessee is permitted to make improvements, they must submit plans to the Lessor which will be approved at Lessor's sole discretion. and Lessee will not commence work until such plans are approved. All Lessee improvements shall be constructed and maintained in a good and workmanlike manner in compliance with all laws, code, rules, regulations, and orders of all governmental authorities having jurisdiction thereof. Lessee shall, at Lessee's own expense, promptly remove from the Leased Premises all trash and debris which may accumulate in connection with any work in or on the Leased Premises.

6.03 Removal of Improvements. On or before the termination of this Agreement, whether by expiration or otherwise, Lessee, at Lessee's expense, shall remove any and all improvements to the Parking Facility made by Lessee. If removal of said improvements defaces or causes other damage to the Leased Premises or Property, Lessee, at Lessee's expense, shall replace or repair any such damage prior to termination or expiration of this Agreement, normal wear and tear excepted. If Lessee fails to remove the improvements by the termination or expiration of this Agreement, then the improvements shall be deemed abandoned to City and if such abandonment is accepted by City, the improvements shall become the sole and separate property of City at no cost to City.

ARTICLE 7 MECHANICS LIENS

7.01 Mechanics Liens. Lessee agrees to keep the Leased Premises free of any mechanics' or materialman's liens or other liens of any kind or nature for work done, labor performed, or material furnished thereon at the instance or occasion of Lessee, and Lessee further agrees to indemnify and save harmless Lessor from and against any and all claims, liens, demands, costs and expenses of whatever nature for any such work done, labor performed, or materials furnished.

7.02 No Agency. Lessee is not an agent of the Lessor, nor an employee of the Lessor, nor is Lessee, its agents, or employees authorized to act for or on behalf of Lessor as its agent, employee, representative, or otherwise, for any purpose including the constructing of any improvements at the Leased Premises, and neither Lessor nor Lessor's interest in the Leased Premises shall be subject to any such obligations incurred by Lessee.

ARTICLE 8 MARKING OF PARKING SPACES

8.01 Marking of Parking Spaces. Lessee may, at Lessee's sole cost and expense, mark the Parking Spaces as restricted to tenants and guests of the Centennial Property from 6:00 a.m. to 6:00 p.m., Monday through Friday, except holidays recognized by Lessor. Such markings for Parking Spaces must be submitted to Lessor for approval as to design and location. Lessor will provide its approval in writing.

8.02 Maintenance of Markings. Maintenance of all Parking Space markings shall be at Lessee's sole cost and expense, performed in a commercially reasonable manner. In the event Lessee fails to maintain or repair the Parking Space markings in accordance with Article 8, then Lessor will have the right, but not the obligation, to perform any such maintenance or repairs of the Parking Space markings or remove the Parking Space markings at Lessee's sole expense. Said expense will be due and payable, as additional rent, within thirty (30) days after the date of the invoice in which Lessor bills Lessee for such expense.

ARTICLE 9 SERVICES AND UTILITIES

9.01 Utilities. Lessor is responsible for and shall pay for all utilities supplied to, used, or consumed in or on the Leased Premises including, without limitation, all water, sewer, gas, electric, and waste disposal services as and when the charges therefore become due and payable.

9.02 Lessor's Use of Utility Lines/Service. Lessor retains the right to the continued use for any utility lines and utility improvements and services (including, but not limited to, all uses allowed in a Public Utilities Facilities Easement under the Mesa City Code) as are presently on, under, over, or through the Leased Premises and the right to repair, maintain, and replace the same when necessary in Lessor's sole discretion including, but not limited to, any utility easements on the Leased Premises. Lessor shall conduct such repairs in such a manner and at such times as to not unreasonably interfere with Lessee's activities thereon.

ARTICLE 10 MAINTENANCE AND REPAIRS

10.01 Lessor's Maintenance and Repair Obligation. Lessor shall, at its own expense, be responsible for all repairs, maintenance and replacement obligations of any kind whatsoever related to the Leased Premises and any improvements thereon, except for those Lessee improvements authorized by Lessor pursuant to Article 6 and marking of Parking Spaces authorized by Article 8, both of which Lessee will have the sole cost and obligation to repair, maintain or replace.

10.02 Neat Condition. Lessee must keep the Leased Premises neat, clean, safe, sanitary and in an orderly condition at all times. This includes, without limitation, the prevention of the accumulation of any refuse or waste materials which might constitute a health or fire hazard or public nuisance.

10.03 Lessor's Right to Conduct Maintenance. In the event Lessee fails to maintain or repair the Leased Premises as per Article 6 (including approved future improvements) and Article 8, and all improvements thereon based on any Lessee obligations set forth in this Article 10, then Lessor will notify Lessee that if Lessee does not make such repairs within thirty (30) days, Lessor will have the right, but not the obligation, to perform any such maintenance or repairs at Lessee's sole expense; provided, however, no thirty (30) day notice will be required in the event Lessor reasonably determines that the maintenance or repairs needed constitute an emergency, affecting public health or safety. Said expense will be due and payable, as additional rent, within thirty (30) days after the date of the invoice in which Lessor bills Lessee for such expense.

10.04 Emergency Repairs. Within fifteen (15) days of the Effective Date, each Party shall provide to the other Party a list of names and telephone numbers for 24-hour emergency contact for the Leased Premises.

10.05 Damage to Leased Premises.

A. General. Damage and wear and tear not ordinary to the use of the Leased Premises, which is caused by Lessee's employees, agents, service personnel, contractors, tenants, invitees, or guests shall be repaired by Lessor at Lessee's sole expense. Said repair costs shall be due and payable within thirty (30) days after the date of the invoice in which Lessor bills Lessee for such costs. In the event payment for the repairs is not made within said thirty (30) days, Lessee agrees to be responsible for interest on the unpaid costs at the rate of twelve (12%) per annum from the date payment was due until payment in full is made. In addition, in the event payment is made more than twenty (20) days after the Due Date, a late penalty equal to ten percent (10%) of the amount of such delinquent shall be due and payable in addition thereto.

B. Maricopa County. Notwithstanding the requirements of Section 10.05(A), for so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property, then Maricopa County is exempt from the interest requirements for unpaid costs and the late penalty fee set forth in this Section 10.05(A).

ARTICLE 11 SECURITY

11.01 Security. Lessee acknowledges and understands that Lessor provides no security at or for the Leased Premises. Lessee agrees that Lessor shall have no obligation to provide security and that Lessor shall not be responsible for any damage or theft that may occur in, on or around the Leased Premises. Lessee's duty to Indemnify the Indemnified Parties (as those terms are defined in Section 13.01) outlined in Article 13 includes any third-party Liabilities (as defined in Section 13.01) relating to or arising out of security (including, but not limited to, lack of security, and types of security installed) for the Leased Premises and any employee, invitee, guest, or person in the Leased Premises.

ARTICLE 12 INSURANCE AND RISK OF LOSS

12.01 Coverage Required. As a condition precedent to the effectiveness of this Agreement, Lessee must procure and at all times maintain the following types and amounts of insurance for its operations at, and use of, the Leased Premises:

12.01.1 General Liability Insurance. General Liability insurance with minimum coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The policy shall include, at a minimum, coverage for bodily injury, property damage, personal injury, products/completed operations, and blanket contractual covering, including the liability assumed under the duty to Indemnify provisions of this Agreement (see Article 13 below). If environmental pollution or environmental hazards are excluded from the General Liability policy, a separate Pollution Insurance Policy shall be required with minimum coverage of \$1,000,000 each occurrence / aggregate.

12.01.2 Workers' Compensation Insurance. Lessee must maintain workers' compensation insurance to cover obligations imposed against Lessee by federal and state law.

12.02 Evidence and Requirements for All Insurance Coverages. Upon the Effective Date, Lessee must provide Lessor with a Certificate(s) of Insurance (using the appropriate ACORD certificate) signed by the Issuer with applicable endorsements. Lessor reserves the right to request additional copies of any or all of the policies, endorsements, or notices relating to the policies.

12.02.1 Lessee's Insurance Primary. Lessee's insurance will be primary of all other sources available. No policy will expire, be cancelled or materially changed to affect the coverage available without advance written notice to the Lessor.

12.02.2 Approval by Risk Manager. All insurance certificates and applicable endorsements are subject to review and approval by Lessor's Risk Manager.

12.02.3 Waiver of Subrogation. All insurance policies (whether or not required by this Agreement) must contain a waiver of subrogation in favor of the City of Mesa, its agents, officials, volunteers, officers, elected officials and employees; however, such waiver shall not apply to claims solely caused by the City's gross negligence or willful misconduct.

12.02.4 Insurance Company. All policies must be from a company or companies rated A- or better, authorized to do business in the State of Arizona.

12.02.5 Maricopa County. As Maricopa County, is a political subdivision that has self-insurance in excess of the limits required under Section 12.01, for so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property, then Maricopa County, Lessor agrees that it will not attempt to enforce the insurance requirements under Section 12.02 against Maricopa County.

12.03 No Limits on Indemnification. The procuring of such policies of insurance shall not be construed to be a limitation upon Lessee's liability or as a full performance on its part of the indemnification provisions of this Agreement.

12.04 Additional Insureds. The City of Mesa, its agents, officials, volunteers, officers, elected officials and employees must be named as additional insureds on all insurance policies (except workers' compensation), issued pursuant to this Article 12 during the entire Term of this Agreement, including any renewals and any extensions thereof.

12.05 Lessor's Right to Adjust Insurance. Lessor may reasonably adjust the amount and type of insurance Lessee is required to obtain and maintain under this Agreement as reasonably required by Lessor's Risk Manager. Lessor will consult with Lessee, prior to making any adjustment in insurance, in order to determine the cost feasibility of Lessee to obtain such adjusted insurance; however, if Lessor reasonably believes Lessee can afford such adjusted insurance, Lessee will be required to obtain such adjusted insurance.

12.06 Insurance by Lessor. In the event Lessee fails to procure any insurance required hereunder, Lessor may, upon written notice to Lessee, procure and maintain any or all of the insurance required of Lessee under this Article 12. Lessor shall itemize such costs and shall invoice Lessee for same. Said expense will be due and payable, as additional rent, within thirty (30) days after the date of the invoice in which Lessor bills Lessee for such expense.

12.07 Lessee's Obligation to Restore. In the case of fire or other casualty caused or related to Lessee's use of the Leased Premises, that results in damage to or destruction of the Property or improvements thereon, or damage to or destruction of other property of Lessor, Lessee or third parties, then Lessee shall at its sole cost and expense proceed with reasonable diligence to repair, restore, replace, or rebuild the same as nearly as possible to their value, condition and character immediately prior to such damage or destruction. Lessee's obligation to pay the Rental Fee, and any other amounts owing under this Agreement, will continue regardless of any partial, substantial, or total destruction of the Property; provided, however, in such event, Lessee may terminate this Agreement with thirty (30) days written notice to Lessor. Such a termination will be deemed to be the end of the Term of this Agreement.

12.08 Risk of Loss. Lessee assumes all risk of loss to its personal property on the Leased Premises, including the damage, destruction, or theft of its vehicles parked at the Leased Premises or operated on the Property.

12.09 Maricopa County. For so long as Maricopa County is the Lessee under this Agreement, the owner of the Centennial Property, and Maricopa County maintains self-insurance at or above the insurance limits set forth in Section 12.01, then Maricopa County shall not be required to provide the ACORD Certificate in Section 12.02 or to meet the additional insured requirements of Section 12.04.

ARTICLE 13 INDEMNIFICATION

13.01 Indemnification by Lessee. Except as otherwise provided in Section 13.02 and Section 13.03, Lessee will pay, defend, protect, indemnify and save harmless (collectively, "Indemnify") individually and collectively Lessor and its officials, elected officials, employees, volunteers, and agents (collectively, the "Indemnified Persons"), for, from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and costs), causes of action (whether in contract, tort, or otherwise), suits, claims, demands, and judgments of every kind, character and nature whatsoever from third parties (collectively, the "Liabilities") directly or indirectly arising from or relating to , in whole or in part, any of the following:

A. Lessee's performance under this Agreement, or due to Lessee's, or its officers', directors', employees', agents', contractors', guests', invitees', tenant's or its sublessees' (collectively, including Lessee, "Lessee Parties") use, occupancy, or operation of, or activities on, the Leased Premises including, but not limited to, the following:

B. Any Liabilities, directly or indirectly arising out of or connected with the use, non-use, condition or occupancy of the Leased Premises or any part thereof, for any accident, injury to or death of any person or damage to property in or upon the Leased Premises during the Term of this Agreement;

C. Any breach or violation by Lessee Parties of any agreement, covenant, warranty, representation, or condition of this Agreement, or any other documents executed in connection with this Agreement;

D. Any violation by Lessee Parties of any contract, agreement or restriction relating to the Leased Premises or any part thereof;

E. Any violation by Lessee Parties of any law, ordinance, or regulation affecting the Leased Premises or any part thereof or the ownership, occupancy or use thereof during the Term of this Agreement; and

F. Any other Liabilities set forth in the terms of the Agreement.

The duty of Lessee to Indemnify the Indemnified Parties from Liabilities in this Section 13.01, shall not be applicable to Liabilities that are directly and solely the result of the gross negligence or willful misconduct of the Indemnified Parties.

13.02 Indemnification by Maricopa County. So long as the Centennial Property is owned by Maricopa County and Maricopa County is the Lessee under this Agreement (i.e. Maricopa County having not assigned its rights and obligations under this Lease), then the indemnification language in Section 13.01 shall not be enforced against Maricopa County and the following language shall control the responsibility of the Parties relating to indemnification: each Party (as the “Indemnitor”) will pay, defend, protect, indemnify and save harmless (collectively, “Indemnify”) individually and collectively the other Party and its officials, elected officials, employees, volunteers, and agents (collectively, the “Indemnified Persons”), for, from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and costs), causes of action (whether in contract, tort, or otherwise), suits, claims, demands, and judgments of every kind, character and nature whatsoever from third parties (collectively, the “Liabilities”) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Liabilities are caused by the willful misconduct or negligence of the Indemnitor, its officers, officials, agents, employees, or volunteers. The terms and conditions of this Section 13.02 are applicable solely and exclusively to Maricopa County as the Lessee, are not assignable or transferrable by Maricopa County, and in the event this Agreement is validly assigned by Maricopa County in accordance with its terms, this Section shall not apply to the assigned Lessee and any other future assignee or successor Lessee.

13.03 No Limits on Indemnification. The procuring of any policies of insurance shall not be construed to be a limitation upon Lessor’s liability or viewed as a full performance on its part of its duty to Indemnify required under this Agreement.

ARTICLE 14 ENVIRONMENTAL INDEMNIFICATION

14.01 No Hazardous Materials and Indemnity. Neither Lessee nor Lessor shall bring onto, generate, use store or dispose of in, on or about the Leased Premises or the Property any chemical or other substance that is considered hazardous, or through its use would create a hazardous waste as defined in Section 14.03 (“Hazardous Material”). In addition to and without limitation of any other indemnities or obligations in this Agreement, Lessee shall pay, indemnify, defend and hold the Indemnified Parties harmless against any loss or liability incurred by reason of any Hazardous Material on or affecting the Leased Premises, to the extent attributable to or caused by Lessee, its employees, agents, contractors, or anyone acting on Lessee’s behalf.

14.02 Remediation and Restoration. In addition to the requirements and indemnity in the above Section 14.01, if due to the actions or inactions of Lessee, its agents, contractors, or anyone acting on Lessee’s behalf, the presence of any Hazardous Material in or on the Leased Premises results in any contamination of the Leased Premises, Property groundwater, or any adjacent real property, Lessee shall: (i) promptly, and with best efforts, take all actions at its sole cost and expense as are

necessary to mitigate any immediate threat to human health; and (ii) undertake any action necessary to return the Leased Premises and/or Property groundwater, and other property, as applicable, to the condition existing prior to the introduction of any Hazardous Material. Additionally, Lessee shall first obtain the written approval of Lessor before initiating the remediation or restoration actions.

14.02.1 Reimbursement of Costs to Lessor. If Lessee fails to remediate and restore the Leased Premises, as herein required, Lessee shall reimburse Lessor for all costs incurred by Lessor for the remediation and restoration of the Leased Premises.

14.02.2 Survival. The indemnity, duty to defend, and hold harmless requirements and the remediation and restoration requirements of Article 14 shall survive the expiration or any termination of this Agreement.

14.02.3 Lessee Right to Terminate. If any Hazardous Substance or contaminated substances are discovered on the site and such materials are NOT attributable to or caused by Lessee, its employees, agents, contractors, or anyone acting on Lessee's behalf, Lessee has the right to terminate this Agreement immediately with written notice to Lessor that identifies and locates such Hazardous Substance.

14.03 Definition of Hazardous Material. As used in this Article 14, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste that is or becomes regulated by the United States, the State of Arizona, or any local government authority having jurisdiction over the Leased Premises. Hazardous material includes:

- A. Any "hazardous substance" as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code §§ 9601-9675), including all amendments thereto or successor statutes;
- B. "Hazardous waste" as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code §§ 6901-6992K), including all amendments thereto or successor statutes;
- C. Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic waste, substance, or material, now or hereafter in effect);
- D. Petroleum products;
- E. Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 United States Code §§ 2011-22976-4 including all amendments thereto or successor statutes;
- F. Asbestos in any form or condition; and
- G. Polychlorinated biphenyls (PCBs) and substances or compounds containing PCBs.

**ARTICLE 15
ENTRY BY LESSOR**

15.01 Entry by Lessor. Lessor reserves the right, without abatement of rent and other charges due hereunder from the Lessee, to enter upon or have its employees, agents, contractors and assignees enter upon the Leased Premises at any reasonable time, according to State of Arizona law, for any reasonable purpose, including: (i) the inspection of the Leased Premises to determine if the provisions of this Agreement are being complied with; (ii) to conduct environmental assessments and audits; (iii) to perform repairs or maintenance in accordance with Article 10; and (iv) any actions necessary to remediate, abate or cleanup any hazardous substances or environmental conditions at the Leased Premises in accordance with Article 14.

15.02 Waiver of Claims. Lessee hereby waives any claim for damage, injury, or inconvenience to or interference with Lessee's operations, any loss of occupancy or quiet enjoyment of the Leased Premises, and any other loss occasioned by Lessor's entry unless such claim is a direct result from Lessor's negligent or intentional misconduct. Lessor shall have the right to use any and all means which Lessor deems necessary to gain access to the Leased Premises and Lessee's personal property in the event of an emergency.

**ARTICLE 16
NON-DISCRIMINATION**

16.01 Non-Discrimination. Lessee, for itself, its officers, agents, employees, successors and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (a) no person on the grounds of race, color, national origin, age, disability, religion, sex, sexual orientation, gender identity and expression, veterans' status, marital status, or genetic information will be excluded from participation, denied the benefits of, or be otherwise subject to unlawful discrimination in the use of the Leased Premises; and (b) that in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, age, disability, religion, sex, sexual orientation, gender identity and expression, veterans' status, marital status, or genetic information will be excluded from participation in, denied the benefits of, or otherwise be subject to unlawful discrimination.

**ARTICLE 17
ASSIGNMENT, ENCUMBERING**

17.01 No Assignment.

A. General. Lessee may not sublet, transfer, assign, mortgage, pledge, hypothecate, allow use of or encumber the Leased Premises, or any part thereof, without Lessor's prior, written approval, which may be granted or denied in Lessor's sole, reasonable discretion. Any such transfer without said approval, whether voluntary or involuntary, will be void and will confer no right of occupancy upon said assignee or purchaser.

B. Maricopa County. Provided, however, notwithstanding the provisions of Section 17.01(A), if Maricopa County sells or conveys the ownership of the Centennial Property, then Maricopa County, at its sole discretion and without Lessor approval, is permitted to assign this Agreement one time to the successor owner of the Centennial Property so long as Maricopa County provides Lessor written notice of such assignment within fifteen (15) days of the sale or conveyance

and the successor owner assumes the obligations under this Agreement in accordance with Section 17.02. Following an assignment by Maricopa County in accordance with this Section 17.01(B), the Maricopa County Provisions will have no force or effect except for those liabilities or issues related to Maricopa County that arose prior to the assignment.

17.02 Assumption of Obligations. Any transfer or assignment of this Agreement that is approved by the Lessor must include a written agreement in which the transferee/assignee expressly agrees to the assignment and to perform all of the obligations of the Lessee under this Agreement, except for those obligations or rights set forth in the Maricopa County Provisions, which are specifically solely and exclusively given to Maricopa County as Lessee, as those obligations and rights are not transferrable or assignable.

17.03 Non-Subordination. Lessor's interest in the Property and this Agreement, as the same may be modified, amended or renewed, shall not be subject or subordinate to: (i) any mortgage now or hereafter placed upon Lessee's interest in this Agreement; or (ii) any other liens, encumbrances or other matters hereafter affecting Lessee's interest in this Agreement.

17.04 Liens and Mortgages. Except as may be permitted under the terms of the Agreement, Lessee shall not engage in any financing or other transaction creating any mortgage or deed of trust upon the Property or this Agreement, or place or suffer to be placed upon the Property any lien or other encumbrance, or suffer any levy or attachment to be made on Lessee's interest in the Leased Premises or this Agreement. Except as contemplated in this Agreement, any such mortgage or deed of trust, encumbrance, or lien shall be deemed to be a violation of this Section, constituting a failure by Lessee to comply with the terms of the Agreement, on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

ARTICLE 18 UNLAWFUL USE

18.01 No Unlawful Use. Lessee agrees no improvements shall be erected, placed upon, operated or maintained on the Leased Premises, nor shall business be conducted or operated thereon in violation of the terms of this Agreement, or any regulations, order or laws, statutes, by-laws or ordinances of any governmental body having jurisdiction there over.

18.02 Compliance with Applicable Zoning. Lessee agrees to meet all applicable zoning required to use the Leased Premises for the purposes stated in this Agreement.

ARTICLE 19 DEFAULT

19.01 Event of Default. The occurrence of any of the following shall constitute an event of default ("Event of Default") hereunder:

A. The filing of a petition by or against Lessee for adjudication as bankrupt or insolvent, or for its reorganization or for the appointment of a receiver or trustee of Lessee's property; an assignment by Lessee for the benefit of creditors or the taking of possession of the property of Lessee by any governmental officer or agency pursuant to statutory authority for the liquidation of Lessee.

B. Failure of Lessee to pay any installment of rent due or any other amount due from Lessee under this Agreement, provided that Lessee does not cure such failure within fifteen (15) calendar days after delivery by Lessor of a written notice of such failure.

C. Failure of the Lessee to perform any of its other obligations under this Agreement, provided that Lessee does not cure such failure within thirty (30) calendar days after delivery by Lessor of a written notice of such default; provided, however, if a cure of the default reasonably requires more than thirty (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

D. Failure of the Lessee, to pay any tax liability of Lessee under this Agreement that Lessee does not cure such failure within thirty (30) calendar days after delivery by Lessor of a written notice of such default; provided, however, if a cure of the default reasonably requires more than thirty (30) calendar days to complete and Lessor agrees, then the time to cure shall be extended so long as the cure is being diligently pursued.

E. Abandonment of the Leased Premises, as provided in Section 19.02 hereof.

F. The filing of any mechanic's, materialmen's, or other lien of any kind against the Leased Premises or Property because of any act or omission of Lessee which lien is not discharged by bonding or otherwise, within thirty (30) calendar days of receipt of actual notice thereof by Lessee.

G. The failure of Lessee to meet all of its material obligations under this Agreement, whether or not specifically designated as material, including Lessee's obligation to maintain all insurance coverage required by this Agreement (and any cure must cover any lapsed or uncovered period of time), provided that Lessee does not cure such failure within thirty (30) calendar days after delivery by Lessor of a written notice of such default; however, if a cure of the default reasonably requires more than thirty (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

19.02 Abandonment. If Lessee, prior to the expiration or other termination of this Agreement, relinquishes possession of the Leased Premises without Lessor's prior written consent, or fails to utilize the Leased Premises for a period of sixty (60) days, such occurrence will be deemed to be an abandonment of the Leased Premises and an event of default under this Agreement.

19.03 Waiver. There shall be no implied waivers. No express waiver by Lessor or Lessee of any breach or default by the other Party in the performance of its obligations under this Agreement shall be deemed to be a waiver of any subsequent default by Lessor or Lessee in the performance of any of such obligations, and no express waiver shall affect an Event of Default (Section 19.01) or Lessor Default (Section 19.04) in a manner other than as specified in the waiver. The consent or approval by Lessor or Lessee to or of any act by the other Party requiring Lessor's or Lessee's consent or approval shall not be deemed to waive or render unnecessary Lessor's or Lessee's consent or approval to or for any subsequent similar acts by the other Party.

19.04 Lessor Default. The following shall constitute a material default of this Agreement by Lessor (a "Lessor Default"): the failure of Lessor to perform any of its material obligations under this Agreement when Lessor does not cure such failure within thirty (30) calendar days after delivery by Lessee of a written notice of such default; provided, however, if a cure of the default reasonably

requires more than thirty (30) calendar days to complete, then the time to cure shall be extended so long as the cure is being diligently pursued.

19.05 Content of Default Notice. Any default notice tendered by either Party hereunder shall be deemed to be sufficient if it is reasonably calculated to put the other Party on inquiry as to the nature and extent of such default.

19.06 Obligations Unconditional. Lessee acknowledges and agrees—regardless of any event, occurrence or situation, whether foreseen or unforeseen, and however extraordinary—that it will perform its obligations under this Agreement. The terms of this Section 19.06 are not intended by the Parties to create an independent obligation and/or an independent cause for an Event of Default.

ARTICLE 20 TERMINATION

20.01 Termination for Default by Lessee. If an Event of Default occurs as defined in Section 19.01 of this Agreement, Lessor may, at its election, without prejudice to any other rights and remedies available to Lessor at law or in equity, after any applicable notice and cure period, terminate this Agreement and the tenancy created thereby. In such case, Lessee shall surrender the Leased Premises to Lessor pursuant to Article 22.

20.02 Termination for Default by Lessor. In the event of a Lessor Default under Section 19.04, Lessee may, at its election, without prejudice to any other rights and remedies available to Lessee at law or in equity, terminate this Agreement and the tenancy created thereby. In such case, Lessee shall surrender the Leased Premises to Lessor pursuant to Article 22.

20.03 Lessor's Damages Relating to Termination. Lessor shall be entitled to recover from Lessee all damages incurred by Lessor by reason of an Event of Default (except for punitive, indirect, consequential, or lost profits.)

ARTICLE 21 REMEDIES

21.01 Lessor Remedies: Event of Default. Upon the occurrence of an Event of Default, Lessor shall, subject to any cure or notice period set forth herein, have the immediate right to resort to any and all legal remedies or combination of remedies which Lessor may desire to assert in law or in equity, including specific performance or termination of this Agreement, except that Lessee shall not be liable for indirect, special, consequential, or punitive damages. The various rights, elections, and remedies of Lessor contained in this Agreement shall be cumulative, and no one of them shall be construed as exclusive of any other or of any right, priority or remedy allowed or provided by law or in equity.

21.02 Vacating of the Leased Premises. Lessee shall peaceably quit the Leased Premises upon written notification to Lessee of Lessor's intent to terminate the Agreement as a remedy for an Event of Default and re-enter the Leased Premises. Lessor shall use reasonable efforts to mitigate costs to Lessee in Lessor's re-entry of the Leased Premises.

21.03 Election to Terminate.

A. General. No action of Lessor shall be construed as an election to terminate this Agreement unless written notice of such intention is given to Lessee. Lessee agrees to pay as additional rent all attorney's fees and other costs and expenses incurred by Lessor in enforcing any of Lessee's obligations under this Agreement. Any amount due from Lessee to Lessor under this Agreement which is not paid when due will bear interest at the highest rate allowed by Arizona law.

B. Maricopa County. Notwithstanding the requirements of Section 21.03(A), for so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property, then Maricopa County is exempt from the interest requirements set forth in Section 21.03(A).

21.04 Lessee Remedies: Lessor Default.

A. Maricopa County as Lessee. Upon the occurrence of a Lessor Default under this Agreement, for so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property, then Maricopa County shall, subject to any cure or notice period set forth herein, have the immediate right to resort to any and all legal remedies or combination of remedies which Lessee may desire to assert in law or in equity, including specific performance or termination of this Agreement, except that Lessor shall not be liable for indirect, special, consequential, or punitive damages. The various rights, elections, and remedies of Lessee contained in this Agreement shall be cumulative, and no one of them shall be construed as exclusive of any other or of any right, priority or remedy allowed or provided by law or in equity. .

B. Assigned Lessee. If this Agreement has been validly assigned by Maricopa County to a new Lessee, then upon the occurrence of a Lessor Default under this Agreement, subject to any cure or notice period set forth herein, the assigned Lessee's sole and exclusive remedies shall be seeking specific performance from Lessor and termination of this Agreement. Lessee shall not seek, and hereby specifically waives any right to any other remedies, including damages from Lessor for loss of profits, loss of any other revenue, loss of business opportunity, loss of good will, or loss due to business interference.

ARTICLE 22 SURRENDER OF LEASED PREMISES

22.01 Surrender of Leased Premises; Normal Wear and Tear. Upon expiration, default by Lessee or termination of this Agreement by Lessee or Lessor, Lessee's right to occupy the Leased Premises and exercise the privileges and rights granted under this Agreement shall cease, and Lessee shall surrender the same and leave the Leased Premises free of trash and debris, in good condition, free of Lessee's personal property, except for normal wear and tear or as otherwise provided for in this Agreement. Any property not removed by Lessee within thirty (30) days after the expiration or termination of this Agreement shall become a part of the Leased Premises, and ownership thereof shall vest in Lessor. Lessee shall, however, remain financially liable to Lessor for the costs of repairs to the Leased Premises incurred as a result of Lessor's removal and/or relocation of property formerly belonging to Lessee and not otherwise removed from the Leased Premises as provided herein, and shall remit to Lessor payment for such costs within thirty (30) business days of Lessee's receipt of Lessor's invoice therefor.

22.02 Voluntary Surrender. Lessee must, on the last day of the Term of this Agreement, or upon any termination of this Agreement, truly surrender and deliver the Leased Premises along with any fixtures (other than trade fixtures), and permanent improvements then located on the Leased Premises, into the possession and use of Lessor, without fraud or delay and in good order, condition

and repair, free and clear of all liens and encumbrances other than those existing on the Effective Date of this Agreement, if any, without any payment or allowance whatsoever by Lessor.

ARTICLE 23
SALE OF LEASED PREMISES, SUBORDINATION AND ESTOPPEL CERTIFICATE

23.01 Sale of the Leased Premises. If there is a sale or other conveyance by Lessor of its interest in the Leased Premises, Lessor shall be automatically freed and released from all liability accruing from and after the date of such sale or conveyance as respects the performance of any covenant or obligation on the part of Lessor contained in this Agreement to be performed. Upon such a sale or conveyance, the covenants and obligations contained in this Agreement on the part of Lessor shall be binding on its successors or assigns. Lessor and any of its successors in interest agree not to disturb or otherwise interfere with Lessee's possession of the Leased Premises for the unexpired Term of the Agreement, except as otherwise provided herein. From and after such sale or conveyance, Lessee shall be bound to such successor or assign who becomes the new "Lessor" under this Agreement; and Lessor shall attorn to such successor or assign as its Lessor, said attornment to be effective and self-operative without the execution of any further instruments on the part of either party

23.02 Subordination. Within thirty (30) days after written request of Lessor, or any first mortgage or first deed of trust beneficiary of Lessor, Lessee shall, in writing in substantially the same form as **Exhibit B** which is attached hereto and made a part hereof ("Subordination Agreement"), subordinate its rights under the Agreement to the lien of any first mortgage or first deed of trust, or to the interest of any lease in which the Lessor is lessee (collectively, "Lien/Lease") and to all advances made or hereafter to be made thereunder. However, before signing the Subordination Agreement, Lessee shall have the right to obtain from any lender or lessor requesting such subordination, an agreement in writing providing that, as long as Lessee is not in default hereunder, the Agreement shall remain in effect for the full Term. The holder of any security interest in the Property may, upon written notice to Lessee, elect to have the Agreement prior to its security interest regardless of the time of the granting or recording of such security interest. In the event of any foreclosure sale, transfer in lieu of foreclosure or termination of the Lien/Lease, Lessee shall attorn to the purchaser or the transferee as the case may be, and recognize that party as Lessor under the Agreement, provided such party acquires and accepts the Property subject to the Agreement.

23.03 Estoppel Certificates. Within thirty (30) days after written request from Lessor, Lessee shall execute and deliver to Lessor or Lessor's designee, a written statement in substantially the same form as **Exhibit C** which is attached hereto and made a part hereof certifying: (i) that the Agreement is unmodified and in full force and effect, or is in full force and effect as modified and stating the modifications; (ii) the amount of base consideration and the date to which the base consideration and additional consideration have been paid in advance; (iii) the amount of any security deposited with Lessor; and (iv) that Lessor is not in default hereunder or if Lessee is claiming Lessor to be in default, stating the nature of any claimed default. Any such statement may be relied upon by a purchaser, assignee, or lender.

ARTICLE 24
HOLDING OVER

24.01 Holdover. In the event Lessee shall lawfully hold possession of the Leased Premises after the Term herein created, then such holding over shall be considered a tenancy from month to month and governed by the same conditions and covenants as contained in this Agreement.

ARTICLE 25 CONDEMNATION

25.01 Entire or Partial Condemnation. If the whole or any part of the Leased Premises shall be taken or condemned by any competent authority for any public use or purposes during the Term of this Agreement, this Agreement shall terminate with respect to the part of the Leased Premises so taken, and Lessee reserves unto itself the right to claim and prosecute its claim in all appropriate courts and agencies for any award or damages based upon loss, damage or injury to its Agreement hold interest (as well as relocation and moving costs) without impairing any rights of Lessor for the taking of or injury to the Lessor's interests.

25.02 Continuation of Agreement. In the event of a taking of less than all of the Leased Premises, this Agreement shall continue in effect with respect to the portion of the Leased Premises not so taken; the Rental Fee shall not be adjusted except if the taking materially affects Lessee's use of the Leased Premises and in such event the Rental Fee shall be equitably adjusted as agreed to by the Parties. Provided, further, however, if the taking is so material that the remaining part of the Leased Premises cannot feasibly be used or converted for use by Lessee for the uses contemplated by the Agreement, Lessee may, at its option, terminate this Agreement within ninety (90) days after such taking by serving upon Lessor at any time within said ninety (90) day period, a thirty (30) day written notice of Lessee's election to so terminate accompanied by a certificate of Lessee that the remaining part of the Leased Premises cannot feasibly be used or converted for use by Lessee.

25.03 Temporary Taking. If the temporary use of the whole or any part of the Leased Premises or the appurtenances thereto shall be taken, the Term shall not be reduced or affected in any way. The entire award of such taking (whether paid by way of damages, rent, or otherwise) shall be payable to Lessee, unless the period of occupation and use by the condemning authority shall extend beyond the date of expiration of this Agreement, in which event the award made for such taking shall be apportioned between Lessor and Lessees of the date of such expiration.

25.04 Notice of Condemnation. In the event any action is filed to condemn the Leased Premises or Lessee's leasehold estate or any part thereof by any public or quasi-public authority under the power of eminent domain, either Lessor or Lessee shall give prompt notice thereof to the other Party. Each Party shall have the right, at its own cost and expense, to represent its respective interest in each proceeding, negotiation or settlement with respect to any taking or threatened taking and to make full proof of its claims. No agreement, settlement, conveyance or transfer to or with the condemning authority affecting Lessee's leasehold interest shall be made without the consent of Lessee, which shall not be unreasonably withheld.

ARTICLE 26 GENERAL PROVISIONS

26.01 Notices. All notices to be given by either Party to the other, shall be given in writing and shall be addressed to the Parties at the addresses hereinafter set forth or at such other address as the Parties may hereafter designate. Notices and payments to Lessor, and notices to Lessee shall be deemed properly served when given by personal delivery, or delivered by recognized national "overnight" courier service (such as UPS or FedEx) or by United States certified mail (return receipt requested), with all postage and other deliver charges prepaid to the addresses stated below. Any notice shall be deemed to have been received two (2) business days after the date of mailing, if given by certified mail, or upon actual receipt if personally delivered.

To Lessor: City of Mesa
20 E. Main Street
P.O. Box 1466
Mesa, AZ 85211-1466
Attn: Kim Fallbeck, Real Estate Services

To Lessee: Maricopa County Adult Probation Dept.
620 W Jackson St Suite 3098
Phoenix, AZ 85003
Attn: APD Chief of Administration

With a copy to: Maricopa County Real Estate Dept.
Attn: Director
2801 W. Durango Street
Phoenix, AZ 85009

Invoices to Lessee shall be sent to:
Superior Court Finance
201 W. Jefferson
CCB, 4TH Floor
Phoenix, AZ 85003

26.02 Amendments. This Agreement sets forth all of the agreements and understandings of the Parties and is not subject to modification except in writing, signed by the Parties.

26.03 Successors; Joint Liability. The covenants herein contained will, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all the Parties hereto; and all of the Parties hereto will be jointly and severally liable hereunder.

26.04 Time is of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.

26.05 Independent Legal Relationship. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between Lessor and Lessee. Except as expressly provided herein, no term or provision of this Agreement is intended to or shall be for the benefit of any person not a Party hereto, and no such other person shall have any right or cause of action hereunder, except that the Indemnified Parties may individually enforce the duty of Lessee to Indemnify if any Liabilities are levied against them.

26.06 Authority. The person executing this Agreement on behalf of, or as a representative for the Lessee warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of the Lessee and that this Agreement is binding upon the Lessee in accordance with the terms and conditions herein.

26.07 Governing Law. Any dispute with respect to this Agreement and the rights and duties created by this Agreement will be governed by the laws of the State of Arizona and litigated in a court

of competent jurisdiction in Maricopa County, Arizona. The Parties will not raise, and hereby waive, any defenses based on venue, inconvenience of forum, or lack of personal jurisdiction in any action or suit brought in accordance with this Agreement. *The Parties acknowledge that they have read and understand this clause and agree voluntarily to its terms.*

26.08 Termination under A.R.S. § 38-511 or for Non-Appropriation.

A. A.R.S. § 38-511. This Agreement is subject to termination by Maricopa County and City pursuant to A.R.S. § 38-511.

B. Non-Appropriation. Lessor and Maricopa County are governmental agencies which rely upon the appropriation of funds by their respective governing bodies to satisfy its obligations. If Lessor or Maricopa County reasonably determines it does not have funds to meet its obligations under this Agreement, Lessor or Maricopa County will have the right to terminate the Agreement without penalty on the last day of the fiscal period for which funds were legally available. In the event of such termination, Lessor and Maricopa County each agrees to provide written notice of its intent to terminate thirty (30) calendar days prior to the stated termination date.

C. Enforceability. The above Subsections (A) and (B) are only enforceable by Maricopa County for so long as Maricopa County is the Lessee under this Agreement and the owner of the Centennial Property; however, the above Subsections (A) and (B) will be enforceable by Lessor throughout the Term.

26.09 Binding Agreement. This Agreement shall be considered to be the only agreement between the Parties hereto pertaining to the Leased Premises. It is understood that there are no oral agreements between the Parties affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the Parties with respect to the subject matter hereof, and none shall be used to interpret or construe this Agreement.

26.10 Survivability. All warranties, representations, and duties to Indemnify or otherwise indemnify, defend, and hold harmless shall survive the termination, cancellation, or expiration of this Agreement. Additionally, all obligations which reasonably should survive shall survive including the removal of Lessee improvements, Lessee obligation to repair damage to the Leased Premises, Lessee obligation to pay the Rental Fee and any other fees or costs pursuant to this Agreement.

26.11 E-Verify Requirement. To the extent applicable under A.R.S. § 41-4401 and A.R.S. § 23-214 are applicable, Lessee represents and warrants compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements of A.R.S. § 23-214(A). A breach of Lessee's warranty under this Section 26.11 will be deemed a breach of this Agreement and may result in the termination of this Agreement by Lessor; however, Lessee will not be deemed to have materially breached this warranty if it establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A. Pursuant to A.R.S. §§ 41-4401 and 23-214, Lessor retains the legal right to randomly, with reasonable notice, inspect the papers and records only related to this requirement of any employee who works under this Agreement or on the Leased Premises to ensure compliance with the above-mentioned laws.

26.12 Execution of Agreement Documents. Lessee has full power and authority to execute, deliver and perform this Agreement.

26.13 Governmental Capacity. Any approvals Lessee is required to obtain from Lessor under this Agreement are in addition to and separate from approvals Lessee must obtain from the City of Mesa in its governmental capacity including, but not limited to, applicable approvals required under the City of Mesa Building Code or Zoning Ordinance. Notwithstanding anything in this Agreement to the contrary, this Agreement does not affect the City of Mesa in its governmental capacity.

26.14 No Personal Liability of Officials of Lessor or Lessee. None of the covenants, stipulations, promises, agreements and obligations of Lessor or Lessee contained herein shall be deemed to be covenants, stipulations, promises, agreements or obligations of any official, officer, agent or employee of Lessor or Lessee in his or her individual capacity, and no recourse shall be had for the payment for any claim based thereon or any claim hereunder against any official, officer, agent or employee of Lessor or Lessee.

26.15 Severability. If any provision of this Agreement is declared void or unenforceable (or is construed as requiring Lessor to do any act in violation of any applicable law, including any constitutional provision, law, regulation, City Code or City Charter), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits to the Parties as if such severance and reformation were not required. Unless prohibited by any applicable law, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

26.16 Waiver. Waiver of any breach of any term, conditions or covenant herein contained shall not be deemed to be a waiver of any subsequent breach of any term, covenant or condition herein.

26.17 Headings Not Controlling. Headings used in this Agreement are intended for convenience or reference only and shall not control or affect the meaning or construction of any provision of this Agreement.

26.18 Incorporation of Recitals. The recitals set forth herein are acknowledged by the Parties to be true and correct and are incorporated herein by this reference.

26.19 Incorporation of Exhibits and Attachments by Reference. All Exhibits and Attachments to this Agreement are fully incorporated as though set forth in the body of this Agreement.

26.20 Construction. The terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings. The Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Agreement or any earlier draft of the same.

26.21 Counterparts. This Agreement and any addendum may be executed in 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 the counterparts and the signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. The Parties agree that they may reflect and confirm their agreement to be bound hereby, and their execution and delivery of this Agreement, by transmitting a signed copy of the signature page hereof, by facsimile or email, to the other Party hereto.

26.22 Administration of Lease. The Assistant County Manager for Maricopa County, and the Real Estate Director for Maricopa County shall administer this Agreement for Maricopa County. The City of Mesa Real Estate Services Administrator shall administer this Agreement for Lessor. In the event this Agreement is validly assigned by Maricopa County in accordance with its terms, the assignee and all future assignee or transferee Lessees shall notify Lessor of the administrator of this Agreement for Lessee.

(SIGNATURES ON NEXT PAGE.)

L-7488
C-78-21-033-X--00

IN WITNESS WHEREOF, the Parties have fully executed this AGREEMENT as of the last date written below.

LESSOR:

CITY OF MESA
An Arizona Municipal Corporation

By: _____
Christopher J. Brady, City Manager,
or Designee

Attested By:

City Clerk

Approved as to Form:

City Attorney's Office

LESSEE:
Maricopa County, a political subdivision of the
State of Arizona

Chairman of the Board of Supervisors

ATTEST:

Clerk of the Board Date

APPROVED as to FORM:

Deputy County Attorney Date

Exhibit A

Leased Premises (Parking Spaces) at
240 N Pasadena Street
Centennial Way Surface Parking Lot

Total of ninety-one (91) Parking Spaces consisting of:
Blue: Forty-Seven (47) uncovered parking spaces
Red: Forty-Four (44) covered parking spaces

Depiction of location of Parking Spaces.



Exhibit B
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT
CERTIFICATE
for
LEASE AGREEMENT NO. L-7488

THIS AGREEMENT (“SNDA”) is executed by and between _____ (hereinafter referred to as “Lender”) and _____, a _____ (hereinafter referred to as “Lessee”),

WITNESSETH:

WHEREAS, Lessee has entered into a lease dated _____ (hereinafter referred to as “Lease”) for certain premises located at _____, said premises more particularly described in said Lease, and

WHEREAS, Lender has made a loan to Lessor, _____, in the sum of \$ _____ secured by a _____, on the Lessor’s interest in the premises (the “Security Agreement”) of which the leased premises are a portion, recorded in the official records of the Maricopa County Recorder’s Office, and

WHEREAS, Lessee has agreed to the subordination of the Lease to the Security Agreement on the condition that it is assured of continued use and occupancy of the premises under the terms of said Lease and this SNDA, and

WHEREAS, Lender agrees to such continued use and occupancy by Lessee provided that by these present Lessee agrees to recognize and attorn to Lender or purchaser in the event of foreclosure or otherwise.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, it is hereby mutually covenanted and agreed as follows:

1. In the event it should become necessary to foreclose the Security Agreement or Lender should otherwise come into possession of the premises, Lender will not join Lessee under said Lease in summary or foreclosure proceedings and will not disturb the use and occupancy of Lessee under said Lease so long as Lessee is not in default under any of the terms, covenants, or conditions of said Lease; and has not prepaid the rent except monthly in advance as provided by the terms of said Lease.
2. Lessee agrees that in the event any proceedings are brought for the foreclosure of any such Security Agreement it will attorn to the purchaser of such foreclosure sale and recognize such purchaser as the Lessor under said Lease. Said purchaser, by virtue of such foreclosure to be deemed to have assumed and agreed to be bound, as “Substitute Lessor”, by the terms and conditions of said Lease until the resale or other disposition of its interest by such purchaser, except that such assumption shall not be deemed of itself an acknowledgement of such purchaser of the validity of any then existing claims of Lessee against the prior Lessor. All rights and obligations herein and hereunder to continue as though such foreclosure proceedings had not been brought, except as aforesaid. Lessee agrees to execute and deliver to any such purchaser such further assurance and other documents, confirming the foregoing as such purchaser may reasonably request. Lessee waives the provisions of any statute or rule of law now or hereafter in effect which may give or purport to give it any right or election to terminate, except as expressly provided for in said Lease, or otherwise adversely affect the said Lease and the

obligations of Lessee thereunder by reason of any such foreclosure proceeding. Accordingly, from and after such event "Substitute Lessor" and Lessee shall have the same remedies against each other for the breach of an agreement contained in the Lease as Lessee and Lessor had before "Substitute Lessor" succeeded to the interest of the Lessor; provided however, that "Substitute Lessor" shall not be;

- a. liable for any act or omission of any prior lessor (including Lessor); or
 - b. subject to any offsets or defenses that Lessee might have against any prior lessor (including Lessor); or
 - c. bound by any rent or additional rent that Lessee might have paid for more than one month in advance to any prior lessor (including Lessor); or
 - d. liable for the return of any security deposit.
3. The provisions of this SNDA are binding upon and shall inure to the benefit of the heirs, successors and assigns of the parties hereto.
 4. The execution of this document is expressly authorized by Lessee in Sections 23.02 and 26.22 of the Lease.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

L-7488
C-78-21-033-X--00

IN WITNESS WHEREOF, this SNDA is effective the day and year first written below.

LESSEE: Maricopa County, a political subdivision of the state of Arizona

By: [Name] Date
Director, Maricopa County Real Estate Department

APPROVED as to FORM:

Deputy County Attorney Date

The terms of the above SNDA are hereby consented and agreed to by Owner/Lessor:

LESSOR: [Name]

[Name], [Title] Date

LENDER: [Name]

[Name], [Title] Date

Exhibit C

**TENANT ESTOPPEL CERTIFICATE
for
LEASE AGREEMENT NO. L-7488**

THE PURPOSE of this certificate is to confirm the current status of matters relating to the Lease described below. This Estoppel Certificate is for the benefit of the Lessor and _____, its successors and/or assigns (hereinafter "Lender") and for no other person or entity.

1. _____, is the Lessee or Tenant under a lease agreement (hereinafter the "Lease") with, _____ as Lessor dated _____, 20_____ covering the premises described as: a lease located at _____. The Premises are more fully described in the attached fully executed copy of the Lease agreement (and all amendments or modification thereto, if any) and Exhibit "_____" of said Lease agreement. Other than as set forth above, there are no other modifications or amendments to the Lease.
2. The Premises have been accepted by the Tenant; and the Tenant now occupies the Premises pursuant to the Lease terms. The commencement date for the term of the Lease is _____, 20_____.
3. The Lease will expire _____ unless terminated earlier as provided for in the Lease and is subject to an option to renew and the right to holdover.
4. Lessor has completed all tenant improvement work, if any, as required under the terms of the Lease.
5. Tenant claims that the Lessor has not performed the following Lessor's obligations as directed by the Lease: _____.
6. The current fixed consideration for the Premises is \$ _____ per month plus rental tax. Tenant has paid the current month's consideration in full. There are no other rents or other charges under the Lease which are due and unpaid at this time. Considerations are fully paid (if required by the Lease) through the last day of the month in which this Estoppel Certificate has been executed.
7. The Tenant has made no security deposit.
8. Except for rents (if any) which may be due under the Lease for the current month, there are no rents, offsets or credits against future accruing rents, or other charges which have been prepaid to the Lessor under the Lease.
9. Tenant has no right or option to purchase any portion of the real property upon which the Premises are situated.
10. Tenant has received no notice of a prior sale, transfer, assignment, hypothecation or pledge of said Lease or of the rents secured therein, except to Lender.
11. Tenant acknowledges that this Estoppel Certificate and the statements herein may be conclusively relied upon by the Lessor and other person(s) or entity (ies) named above in the first paragraph.

