

LEASE/MANAGEMENT AGREEMENT

This Lease/Management Agreement is made as of the 16th day of August, 2001, between the Town of Fountain Hills, a Municipal Corporation (hereinafter referred to as "The Town") and FOUNTAIN HILLS LOWER VERDE RIVER VALLEY MUSEUM & HISTORICAL SOCIETY, INC., an Arizona non-profit Corporation (hereinafter referred to as "The Museum Association").

RECITALS

A. The Town is the owner of that certain approximately 21,000 square foot building located within the Town of Fountain Hills, State of Arizona. (See Attachment "A")

B. Construction of such building has been financed in substantial part by the proceeds of a property tax bond issue passed by the voters of the Town of Fountain Hills, for the purpose of building a public library and museum.

C. Approximately 15,000 square feet of such building will be used by the Maricopa County Library District for the operation of a public museum in Fountain Hills.

D. Approximately 1,000 square feet of such building has been designated for use as a common lobby and restroom area for the museum and library.

E. The remaining area of approximately 5,000 square feet has been designated for use as a museum. Such area may hereinafter be referred to as the "Museum Site".

F. In addition to the Museum Site, an additional outdoor area adjacent to the Museum Site has been set aside for a patio and outdoor display area. (See Attachment "B") Such area may hereinafter be referred to as the "Museum Patio".

NOW, THEREFORE, the parties hereto agree as follows:

1. LEASE

The Town hereby leases to The Museum Association and The Museum Association hereby leases from The Town, the Museum Site and the Museum Patio. Such areas, together with the right

to use the lobby area in common with the library and the right to use adjacent parking and open areas in common with other municipal uses, shall collectively be referred to herein as the "Leased Premises".

2. TERM

The term of this Lease shall be 25 years, which term shall commence on August 16, 2001, and shall end on August 15, 2026. One year prior to the expiration of the 25 year term, the parties shall meet and during the 12 months immediately preceding the termination of the Lease shall negotiate and may enter into a renewal for an additional 25 year term provided that at the time of the renewal, neither party is in default of any of the terms and conditions of this Lease as it exists now or as it may be modified in the future.

3. RENT

The rent that The Museum Association shall pay to The Town shall be the sum of twenty-five dollars. Said rent shall be due and payable annually in installments of one dollar. The first installment of one dollar shall be paid at the time of the execution of this Lease and one dollar shall be due on the anniversary date for each of the next 24 years. The Museum Association shall have the right to prepay such rent.

4. USE OF THE LEASED PREMISES

(A) The Leased Premises shall be used for the maintenance and operation of a museum depicting the history of the Town of Fountain Hills, the Lower Verde River Valley, and other areas within the State of Arizona which, in the judgment of The Museum Association, shall be of general interest to the residents of and visitors to the Town of Fountain Hills.

(B) The Museum Association shall not conduct or permit to be conducted any unlawful or hazardous activity upon the Leased Premises. The use of the Leased Premises by The Museum Association is and will continue to be subject to all applicable laws and regulations of the State of Arizona and the Town of Fountain Hills.

5. CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS

(A) The Town shall construct and install within the Museum Site certain improvements for the initial operation of the Museum.

(B) The Museum Association shall construct and install within the Museum Site such permanent or removable displays and exhibits as it deems appropriate for the museum. In addition,

The Museum Association may install such additional lighting and other improvements as are necessary.

(C) The Town has agreed to provide to The Museum Association the sum of \$210,000 to pay for a portion of the cost of the displays and exhibits, lighting, or other permanent improvements to be installed by The Museum Association. The Museum Association shall be responsible for any additional costs of such items over and above such amount of \$210,000. The funding of such sum shall be made by The Town upon the written request of The Museum Association.

6. REPAIRS AND MAINTENANCE

The Town shall be responsible for all janitorial service to the Leased Premises as well as all maintenance and repair of the Leased Premises, except any exhibits of mechanical equipment of The Museum Association, and all mechanical fixtures such as heating, air conditioning, plumbing, and the like.

7. UTILITIES

The Town shall be responsible for and pay for all utilities related to the Leased Premises including, but not limited to, water, gas, electricity, sewer, trash removal, and basic cable television. The Museum Association shall be responsible for installing and paying for its own telephone system, and any computer equipment, data lines, internet service, and/or premium cable service that The Museum Association should elect to install.

8. INSURANCE

The Museum Association shall obtain and maintain coverage for comprehensive general liability in limits of at least \$1,000,000.00 combined single limit covering liability, and property damage, autos owned and non-owned. A certificate shall be provided annually to The Town giving evidence of required coverages.

The Museum Association, should it acquire employees, shall obtain Workers Compensation insurance in conformance with Arizona Statutes. Certificate of Coverage shall be provided to The Town.

The Museum Association shall be responsible for purchase and maintenance of any insurance covering physical loss to displays, exhibits, and temporary enhancing lighting.

Insurance companies used to meet these requirements must be licensed or approved by the State of Arizona. They must have a current A.M. Best Co. rating of at least B+.

In the event of a casualty that destroys or substantially impairs use of the Leased Premises, The Town and The Museum Association shall meet and determine the best course of action to perpetuate the mission and goals of both parties.

9. PERMITS AND LICENSES

Nothing contained in this Lease shall exempt The Museum Association and/or any user of the Leased Premises from the requirement that they obtain any and all required state, county, or town permits or approvals.

10. INCOME AND FEES

The Museum Association has the authority, with the approval of The Town, to establish reasonable admission fees to the Museum. The Museum Association shall use any admission fees it receives for the admission to the Museum, and any net income it may receive from the sale of books, maps, or other museum-related items for the maintenance and improvement of museum exhibits, educational programs and other museum-related activities. Museum tours sponsored by the Town of Fountain Hills or by the Fountain Hills Unified School District shall be exempt from such admission fees.

11. WASTE

The Museum Association shall not use nor permit uses within the Leased Premises which could constitute waste on the Leased Premises, a public or private nuisance or any act which is unlawful in any manner.

12. STATUS OF MUSEUM EMPLOYEES

The Museum Association understands and agrees that none of the terms and conditions of this Lease contemplate or imply the creation of an employer/employee relationship and that all employees, agents, contractors, subcontractors and volunteers of The Museum Association are independent contractors in terms of their relationship to The Town.

13. ANNUAL REPORT

No later than March 31st of each year beginning in 2002, The Museum Association shall prepare and deliver to The Town an annual report on attendance and activity. The Museum Association President and the Town Manager shall meet subsequent to the report delivery and discuss those issues in which The Museum Association and The Town can work together to assist in the continued development of the Museum.

14. DEFAULTS

If either The Town or The Museum Association shall be in default in the performance of any of the obligations set forth herein, then the non-defaulting party may send notice to the defaulting party, in writing, setting forth the condition of default and demanding that the default be cured within 90 days. Should the default not be cured within the 90 day period, then the non-defaulting party may seek any remedy available in equity and/or law including but not limited to termination of this Lease. This default provision shall apply to the entire contract except the provisions regarding payment of insurance premiums and notice of cancellation. In the instance of all insurance required hereunder, the ability to cure shall be limited to 30 days, and if The Town is obligated to pay either a renewal or obtain additional insurance to replace cancelled insurance, the cost therein borne by The Town shall become an immediate obligation of The Museum Association and shall be due and payable in full within 10 days of a receipt by The Museum Association of notice of payment by The Town.

15. RIGHTS UPON TERMINATION

The Town and The Museum Association agree and acknowledge that in the event that this Lease terminates at the end of its full term or any extension thereof, then title to all permanent improvements within the museum shall vest in The Town and The Museum Association will have no right to any compensation unless said compensation is specifically agreed to be due to The Museum Association at such termination. If the Agreement should terminate for any reason prior to the end of the full term or any extension thereof, then the parties shall meet and agree upon an amount of compensation, if any, due to The Museum Association or have its rights hereunder determined by a competent court of law. Should the Leased Premises or the contents thereof be partially or totally condemned for public purpose through the exercise of the power of eminent domain by anyone other than The Town, the parties agree that the proceeds of the condemnation shall be divided in an equitable manner to be determined by agreement of the parties.

16. TERMINATION OF THE MUSEUM ASSOCIATION

In the event that the Museum Association shall cease to exist as an Arizona non-profit corporation, then, unless prior to such termination The Town shall have agreed upon the designation of a successor entity to the Museum Association, this Lease shall terminate and, subject to any third party rights, title to all museum exhibits and displays shall vest in the Town of Fountain Hills.

17. NON-WAIVER BY THE TOWN

The failure of The Town to insist upon strict performance of the terms, conditions and covenants of this Lease shall not constitute or be construed as a waiver or relinquishment of the Town's rights to thereafter enforce any such terms, conditions or covenants and that the same shall continue in full force and effect.

18. ASSIGNMENT

This Lease is not assignable by either party in whole or in part without the express written consent of the other party.

19. LIMITATIONS ON TOWN POWERS

The Museum Association understands, agrees and acknowledges that the term of this Lease is for 25 years, but that The Town does not and cannot enter into an agreement that is constituted as debt for any period exceeding the current fiscal year of The Town. Any requirement by The Town that funds would be expended or obligations incurred in the nature of a debt must be approved in the annual operating budget of The Town as adopted by the Town Council according to law, and any action by The Museum Association in any court of competent jurisdiction to require specific performance to pay any sums shall be barred by this Lease unless the sum was specifically authorized in the annual municipal operating budget.

20. NOTICES

Whenever this Lease requires that notice be given to a party to the Agreement, such notice shall be in writing and shall be made by personal delivery to the other party or sent by U.S. mail, postage prepaid, addressed as follows:

To The Town:

TOWN OF FOUNTAIN HILLS
P.O. Box 17958
Fountain Hills, Arizona 85269
Attention: Town Clerk

To The Museum Association:

FOUNTAIN HILLS & LOWER VERDE RIVER
VALLEY MUSEUM & HISTORICAL SOCIETY INC
P.O. Box 17445
Fountain Hills, Arizona 85269
Attention: President

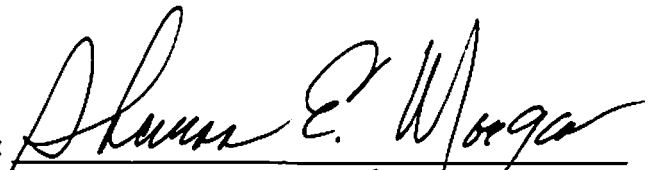
Either party may change its address for notices by advising the other party, in the manner set forth above.

20. LAWS

This agreement is subject to the law of the State of Arizona and specifically the provisions of A.R.S. § 38-511.

IN WITNESS WHEREOF, the parties have executed this Lease/Management Agreement as of the 16th day of August, 2001.

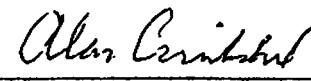
**TOWN OF FOUNTAIN HILLS,
A Municipal Corporation**

By: 
SHARON E. MORGAN, Mayor

ATTEST:


CASSIE HANSEN, Town Clerk

**FOUNTAIN HILLS & LOWER VERDE RIVER VALLEY
MUSEUM AND HISTORICAL SOCIETY
An Arizona Non-Profit Corporation**

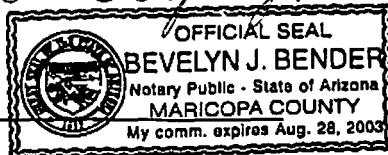
By: 
ALAN CRUIKSHANK, President

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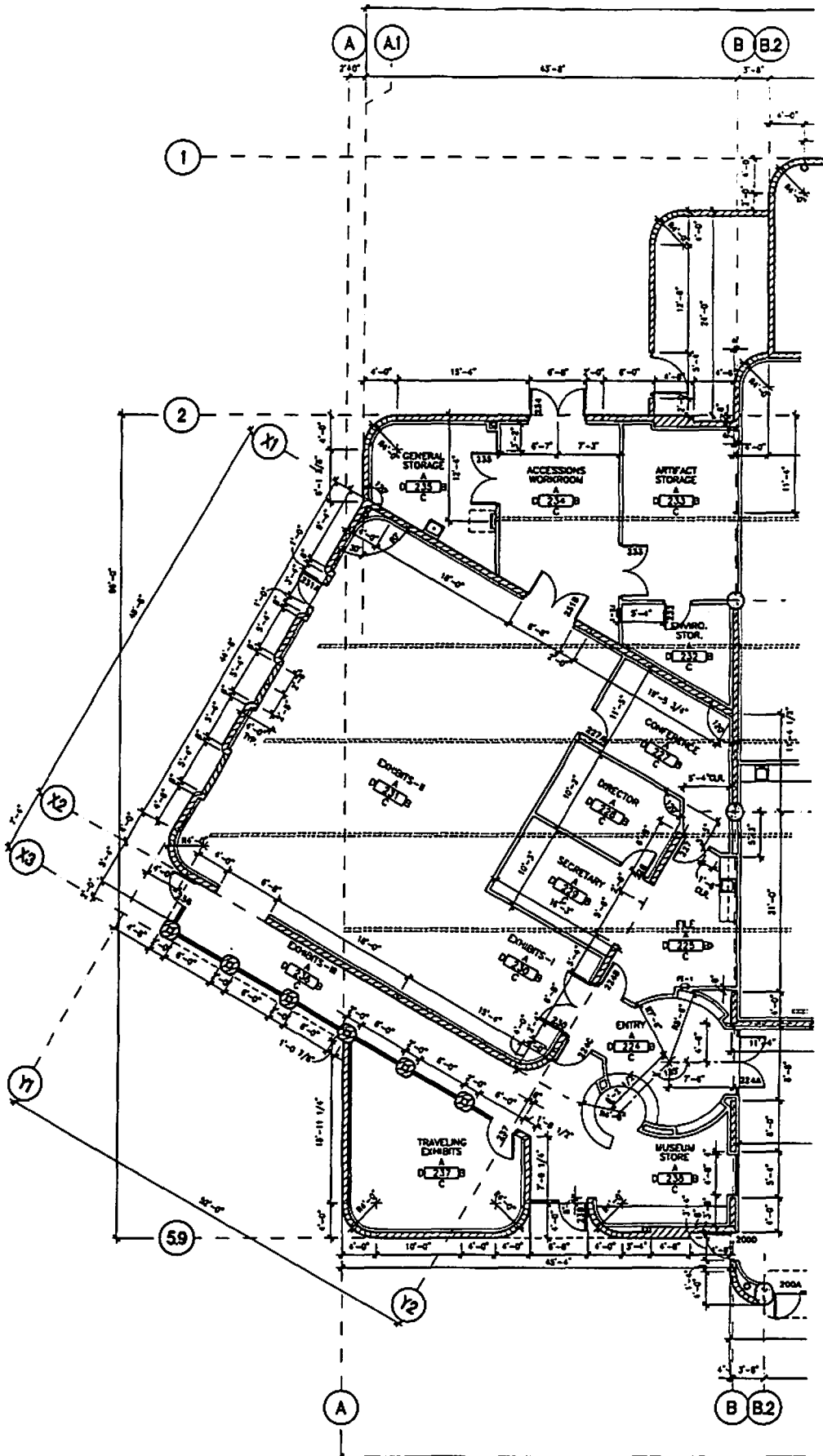
SUBSCRIBED AND SWORN TO before me by Alan Cruikshank, known to be the President of the
FOUNTAIN HILLS & LOWER VERDE RIVER VALLEY MUSEUM & HISTORICAL SOCIETY.

Notary Public

Beverly Bender

**My Commission Expires:**

MUSEUM FLOOR PLAN



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HDA Architects & Planners
400 N. Gilbert Road, Suite C-300, Gilbert, AZ 85234
TEL: (480) 830 5300 FAX: (480) 830 0600
MUSEUM FLOOR PLAN

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TOWN OF FOUNTAIN HILLS
NEW TOWN CENTER COMPLEX
130001 NORTH LAMONTANA DRIVE
FOUNTAIN HILLS, ARIZONA 85208



