

Lease Agreement

THIS AGREEMENT, made and entered into this _____ day of _____, by and between the City of Great Falls, Montana, a municipal corporation hereinafter referred to as “Lessor” and Children’s Museum of Montana, Inc., herein referred to as “Lessee”, collectively referred to as the “Parties”.

WITNESSETH:

Leasehold

That Lessor, for and in consideration of the rents to be paid and the covenants to be performed by Lessee, does hereby lease and let unto the Lessee a portion of city-owned property commonly known as 22 Railroad Square, Great Falls, Montana, along with the immediately adjacent parking spaces, to be used exclusively for the purpose of housing a children’s museum and associated activities.

Term

The term of this lease shall be for five years beginning from and after the 1st day of December, 2018. The Lessee may terminate this agreement before November 20, 2023 by giving Lessor at least sixty days’ prior written notice of termination.

Rental

In consideration of the terms and conditions herein, Lessee shall pay to Lessor, One Dollar (\$1.00) for each year of the lease of said premises, which shall be due on December 1 of each year that the lease is in effect.

Covenants of Lessee

A. Lessee does hereby covenant and agree with Lessor that the Lessee will:

1. Use and occupy said premises in a careful and proper manner and not commit any waste thereon;
2. Not use or occupy said premises for any unlawful purpose and will conform and obey all present and future laws, ordinances, and all rules and regulations of all governmental authorities or agencies, respecting the use and occupation of the premises;
3. Not assign the lease, sublet the premises, or any part thereof, without the prior written consent of the Lessor, which shall not be unreasonably withheld;
4. Not use or occupy said premises or permit the same to be used or occupied, for any purpose deemed hazardous on account of fire or otherwise;

5. Keep and maintain the leased premises, including but not limited to, the building and improvements, electrical, plumbing, HVAC, roof, windows and doors, and all appurtenances thereto, including, sidewalks adjacent thereto and parking lots, in good condition and repair, except as set forth in paragraph B.1. below;
6. Notify Lessor of any damage to the Leased premises within forty-eight hours after Lessee's knowledge of such damage;
7. Not require Lessor to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the leased premises or any improvements thereon, whether or not resulting from the negligence of Lessee, its employees, agents, or invitees. Said repairs, replacements, renewals or improvements shall be the sole responsibility of Lessee;
8. Agree that if Lessee at any time should fail, neglect or refuse to fulfill its obligation to repair and maintain the leased premises, Lessor may, but need not, enter the leased premises and make such repairs or alternations as in its opinion it may deem necessary, and may charge the costs of the same to Lessee to be paid upon the first day of the following month as part of the rental, and should said costs not be so paid, this Lease Agreement shall be considered in default;
9. Make no alterations or additions in or to said premises without consent of the Lessor and the costs and maintenance of any and all such alterations or additions shall be the sole responsibility of the Lessee, provided, however, that under no circumstances shall Lessee be permitted to destroy or break the main frame of the leased premises, without the prior written permission of Lessor;
10. Acknowledge familiarity with the condition of said leased premises and agree that no representation, statement or warranty, expressed or implied, has been made by or on behalf of Lessor as to such condition. In no event shall Lessor be liable for any defect in such property or for any limitation on its use. The taking of possession of the leased premises shall be conclusive evidence that Lessee accepts the same "as is" and that the leased premises were in good condition at the time possession took place;
11. Accept the leased premises in the condition in which they exist at the date of taking possession, without representation or warranty, express or implied, in fact or by law, by Lessor, and without recourse to the Lessor as to the nature, condition or unsuitability thereof, or as to the uses to which the Premises may be put;
12. Pay all charges for utilities used, rendered or supplied upon or in connection with the leased premises in a timely manner;
13. Throughout the term of this Lease Agreement, maintain in effect, and provide annual evidence of, personal liability insurance covering the leased premises in the amount of One Million Dollars (\$1,000,000.00) for injury to or death of any one person, in the amount of Two Million Dollars (\$2,000,000.00) for injury to or death of any number of

persons in one occurrence, and property damage liability in the amount of at least Five Hundred Thousand Dollars (\$500,000.00). Such insurance shall specifically insure Lessee against all liability assumed by it hereunder, as well as liability imposed by law, and shall insure both Lessor and Lessee, but shall be endorsed so as to create the same liability on the part of the insurer as though separate policies had been written for Lessor and Lessee;

14. Provide policies of insurance referred to in this Lease Agreement which shall be written in form satisfactory to Lessor and by insurance companies satisfactory to Lessor. Lessee shall pay all of the premiums and deliver evidence of such policies to Lessor;
15. In the event of failure of Lessee either to effect such insurance in the name hereinabove called for or to pay the premiums therefor, or to deliver evidence of said insurance to Lessor, agree that Lessor shall be entitled to, but shall have no obligation to, effect such insurance and pay the premiums therefor, which premiums shall be repayable to Lessor by Lessee with the next installment of rental due under this Lease Agreement, and Lessee's failure to repay the same shall carry with it the same consequences as failure to pay any installment of rental under this Lease Agreement;
16. Allow Lessor the right to enter the leased premises at all reasonable hours to examine the same or to make such repairs or temporary alterations as shall be deemed necessary for the safety or preservation of the leased premises. There shall be no rebate of rent nor liability for any loss of occupation or quiet enjoyment occasioned thereby. Lessor shall have the further right to exhibit the leased premises to prospective tenants or purchasers at all reasonable hours;
17. If alcohol is to be served on the premises, obtain prior written consent of Lessor, ensure that insurance coverage is obtained for such service, and comply with any and all laws, ordinances and regulations regarding such service;
18. Comply with all federal, state and local laws, ordinances, rules and regulations, including the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA;
19. Not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, national origin, or other class protected by state and/or federal law;
20. At the end of the Lease term, quit and surrender the premises hereby demised in as good condition as when received, reasonable wear and tear and damage by the elements excepted; and
21. Indemnify and save Lessor harmless from and against any loss, damage and liability occasioned by, growing out of, or arising or resulting from any default hereunder, or any tortious or negligent act on the part of Lessee or Lessee's agents or employees, and such indemnification shall survive the termination of the lease.

Covenants of Lessor

B. Lessor does hereby covenant and agree with Lessee that the Lessor will:

1. Provide snow removal and landscaping maintenance during the term of the lease;
2. Not permit or allow any use of the leased property, without consent of the Lessee that would interfere with Lessee's permitted use of the premises. Notwithstanding of the foregoing, general use of the leased parking spaces for said property for parking purposes shall not constitute interference with Lessee's use of the property
3. Allow for the removal of fixtures built by Lessee which are unique to its exhibits and functions as a children's museum, to be removed upon termination of this Lease, unless the removal will cause damage to the building structure. However, standard fixtures, such as counters, walls, plumbing, heating/cooling, electrical and the like shall remain property of the Lessor and not be disturbed upon termination.

Mutual Covenants

C. It is mutually agreed by and between the Parties that:

1. If Lessee shall pay the rental as hereinabove provided and shall keep, observe and perform all of the other covenants of this lease, Lessee shall, and may, peaceable and quietly, have, hold, and enjoy the said premises for the term of the leasehold;
2. Lessor is not and will never be liable to any creditor of Lessee or any claimant against the estate or property of Lessee for any debt, loss, contract or other obligation of Lessee. The relationship between Lessor and Lessee is solely that of landlord and tenant, and does not and never shall be deemed a partnership or joint venture;
3. This lease and all covenants and provisions herein contained, shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, provided that no assignment by, from, through or under Lessee in violation of any of the provisions hereof shall vest in the assigns any right, title or interest whatsoever;
4. For any notice contemplated by this Lease, service by mail shall be deemed complete when the notice is enclosed in an envelope, duly sealed, with postage prepaid and deposited in the United States Post Office or any regular depository thereof, or Hand-Delivered, and directed to Lessor or Lessee at the addresses hereinabove provided.:

- a. Children's Museum of Montana, Inc.
22 Railroad Square
Great Falls, Montana 59401, or

b. City of Great Falls
City Manager
P.O. Box 5021
Room 201, Civic Center
Great Falls, Montana 59403

5. Any holding over after the expiration of the term of this Lease Agreement with the consent of Lessor shall be construed to be a tenancy from month to month and shall otherwise be on the terms and conditions herein specified, so far as applicable.
6. If Lessee shall at any time be in default in the performance of any of the covenants or provisions of this lease, and Lessee shall fail to remedy such default within ten (10) calendar days after written notice thereof from Lessor, it shall be lawful for Lessor to enter upon the premises, and again, repossess and enjoy the same as if this lease had not been made, and thereupon this lease and everything herein contained on the part of Lessor to be done and performed shall terminate, without prejudice, except the right of the Lessor to recover from the Lessee all rent due up to the time of such entry.
7. The waiver by Lessor of, or the failure of Lessor to take action with respect to, any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or subsequent breach of same, or any other term, covenant or condition herein contained.
8. Time is of the essence of this Lease Agreement, and of each and every provision hereof.

IN WITNESS WHEREOF, the parties hereto have caused their hands and seals to be fixed the day and year first hereinabove written.

CHILDREN'S MUSEUM OF MONTANA, INC.

By: _____

Its: _____

CITY OF GREAT FALLS, MONTANA

Bob Kelly, Mayor

Attest:

SEAL OF CITY

Lisa Kunz, City Clerk

Approved as to Form*:

Sara R. Sexe, City Attorney

* By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.