

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is executed between the North Ogden City, a municipal corporation ("Landlord"), and North Ogden Historical Museum, a Utah non-profit corporation ("Tenant").

Landlord recently acquired for the purpose of future park expansion a parcel of real property adjacent to its North Ogden Park that contains an existing residential dwelling. Tenant finds that the residential dwelling provides a desirable structure and location to house its museum operations. Landlord has not yet developed a master plan to incorporate the new parcel into the existing park but finds that leasing the property to Tenant, at least on an interim basis, is a good use, compatible with ongoing park activities.

Landlord recognizes that Tenant fulfills an important public purpose of preserving and presenting the history of North Ogden; it finds that Tenant's activities provide a substantial benefit to citizens of North Ogden and lessen Landlord's cost and burden of shouldering this responsibility itself. Landlord concludes that leasing the premises to Tenant for less than market rate is justified due to the cost savings and intangible benefits Tenant provides

In consideration of the mutual covenants and agreements of the parties as set forth below, it is agreed as follows:

1. LEASED PREMISES:

Landlord hereby leases and lets to Tenant, and Tenant hereby rents from Landlord the real property located at 545 E 2750 N, North Ogden, Utah with any structures, improvements, easements and rights of way thereon or pertaining thereto and all fixtures, equipment and personal property as described at Exhibit "A" to this Lease, by reference made a part hereof ("the Leased Premises").

2. TERM:

The term of this Lease shall be ten (10) years, beginning on the date of execution of this Lease and ending on first day ten years thereafter; however, Landlord or Tenant may terminate the lease at any time, with or without cause, after giving the other party at least One-Hundred and Eighty (180) days notice prior to termination. If at the end of the initial ten (10) year term, Tenant is still in possession of the Leased Premises and in full compliance with the terms of this Lease, Tenant may renew the Lease upon the same conditions for an additional five (5) year term.

3. RENT:

Tenant provides a valuable service to Landlord by researching, preserving, and presenting the history of North Ogden City while independently raising the funds for its activities. The Leased Premises is adjacent to a key North Ogden City park and Community Services Center which creates a great opportunity to present and interpret North Ogden City's history for the public; Landlord finds substantial value in this arrangement. The Leased Premises consists of approximately 1/2 acre which requires landscape care and maintenance. Tenant agrees to pay as rental to Landlord the historical services described in this paragraph, as well as maintenance of the landscape, except the area immediately adjacent the natural spring in the rear yard of the leased premises, throughout the term of this lease or until the City incorporates the yard area of the Leased Premises into its city park.

4. LIMITATION ON PERMITTED USE:

Tenant shall use the Leased Premises exclusively for the charitable and educational museum purposes described in this Lease, its articles of incorporation and in compliance with any conservation easement recorded in connection with the Leased Premises, under penalty of forfeiture and damages. Tenant shall not use the Leased Premises for any other purpose without the express, prior written consent of Landlord.

5. FIRE AND CASUALTY INSURANCE:

5.1 Types of coverage. Landlord shall provide at its own expense property insurance for the structures of the Leased Premises and those contents that belong to Landlord. It shall be the responsibility of the Tenant to insure any and all equipment, furniture, fixtures and other personal property belonging to Tenant. Tenant shall insure and keep insured Tenant's leasehold improvements against the perils of fire, lightning, the "Extended Coverages," vandalism and malicious mischief in an amount sufficient to provide recovery of not less than ninety percent (90%) of the replacement value of the Tenant's leasehold improvements. Such insurance shall be made payable to Landlord. Tenant shall be responsible for any damage to the premises as a result of forced entry into Tenant's space or burglary thereof. Such insurance provided for hereunder shall be in a company or companies acceptable to Landlord and shall be procured and paid for by Tenant, and said policy or policies will be delivered to Landlord. Such insurance may, at Tenant's election, be carried under any General Blanket Insurance Policy of Tenant; provided, however, that a satisfactory Certificate of Insurance, together with proof of payment of the premium, shall be deposited with Landlord.

5.2 Use of insurance proceeds. Upon Landlord's written request, Tenant agrees to reinvest all insurance proceeds received from the loss or damage or

destruction of said leasehold improvements to rebuild said improvements in a manner satisfactory to Landlord, regardless of whether or not Tenant elects to terminate this Lease as herein provided. In the event Tenant elects to terminate this Lease, and providing said leasehold improvements are not rebuilt, Tenant does hereby assign all of his right, title and interest in the insurance proceeds covering leasehold improvements to Landlord. Tenant shall be allowed to retain any insurance proceeds paid for loss of Tenant's personal property.

5.3 Insurability of Leased Premises. Tenant will not permit the Leased Premises to be used for any purpose which would render the insurance thereon void or cause cancellation thereof or the insurance risk more hazardous or increase the insurance premiums in effect at the time just prior to the commencement of the term of this Lease. Tenant will not keep, use or sell, or allow to be kept, used or sold in or about the Leased Premises, any articles or material which are prohibited by law or by standard fire insurance policies of the kind customarily in force with respect to premises of the same general type as those covered by this Lease. Tenant further agrees to pay to the Landlord on demand, any increase in insurance premiums on the premises, resulting from any cause whatsoever, over those premiums in effect at the time just prior to the commencement of the terms of this Lease.

6. LIABILITY INSURANCE:

Tenant shall maintain public liability and property damage insurance, with an endorsement in favor of Landlord covering the use of the Leased Premises with limits of not less than Five Hundred Thousand Dollars (\$500,000.) as to claims for injury or death to any one person; not less than One Million Dollars (\$1,000,000.) for the total claims for any one occurrence. Tenant shall provide Landlord with sufficient evidence of such coverage. Upon execution of this Lease and at any time upon request of Landlord, Tenant agrees to indemnify and hold harmless Landlord of and from any and all claims of any kind or nature arising from Tenant's use of the Leased Premises during the term hereof, and Tenant hereby waives all claims against Landlord for damage to goods, wares, merchandise, or for injury to persons in or upon the Leased Premises, from any cause whatsoever except to the extent the damage or injury is caused by Landlord's sole negligence.

In the event Tenant fails to obtain such insurance, Landlord may, at Landlord's option, purchase all or any part of such insurance and the cost thereof shall be due immediately upon Tenant's receiving notice from Landlord of such payment.

7. MAINTENANCE AND REPAIRS:

As the entity primarily in possession of the Leased Premises, Tenant will keep and maintain it in good repair and appearance. Where any condition poses an imminent risk of injury or damage to person, property or the structures and facilities of the Leased Premises, Tenant shall immediately take all action reasonably necessary to avoid such damage or injury. In regard to all other types of maintenance or repair issues Tenant will be responsible to provide and pay for maintenance of the Leased Premises grounds, structures and facilities, including janitorial service and landscape maintenance. During periods of inclement weather, Tenant will provide routine removal of snow and ice from drives, parking areas and walkways; during hours of operation of the Leased Premises and between times of snow and ice removal provided by Landlord, Tenant shall keep all walks and driveways reasonably clear of all snow or ice. Any proposed alteration to the buildings or grounds of the Leased Premises that will affect the structure, appearance, historic or architectural quality or function of the Leased Premises requires the prior approval of Landlord which may be withheld for any reason.

8. CONDITION OF THE LEASED PREMISES:

Tenant accepts the Leased Premises in the condition they are in at the time of taking possession of said premises. Tenant agrees, if, during the term of this Lease, Tenant shall change the usual method of conducting Tenant's business on the Leased Premises, or should Tenant install thereon or therein any new facilities, or should new laws and regulations be imposed, Tenant will, at the sole cost and expense of Tenant, make alterations or improvements in or to the Leased Premises which may be required by reason of any federal or state law, or by any municipal ordinance, or regulation applicable thereto. Landlord makes no warranties regarding the condition, fitness, or merchantability of Leased Premises, either express or implied. Any proposed alteration that will affect the structure, appearance, quality or function of the Leased Premises requires the prior approval of Landlord, which may be withheld for any reason.

9. LIAISON COMMITTEE:

In view of the fact that, it is necessary for Landlord and Tenant to work cooperatively together; therefore, Landlord and Tenant shall appoint a Liaison Committee. Members of the Liaison Committee shall consist of the following: from Landlord: (1) the City Manager; and (2) the Director of Community Services or their designees; and, from Tenant: (1) the President or designee. The Liaison Committee will meet regularly, but at least four times per year.

10. ALTERATION OF BUILDING AND INSTALLATION OF FIXTURES AND OTHER APPURTENANCES:

Tenant may, upon the recommendation of the Liaison Committee, after approval of Landlord (which may be withheld for any reason) at Tenant's sole cost and expense and in a good workmanlike manner, make such alterations and repairs to the Leased Premises as Tenant may require for the conduct of Tenant's activities without, however, materially altering the basic character or historical quality of the building or improvements, or weakening any structure on the Leased Premises. Tenant shall have the right, with the written permission of Landlord, to erect, at Tenant's sole cost and expense, such temporary partitions, including office partitions, as may be necessary to facilitate the handling of Tenant's business and to install telephones and telephone equipment and wiring, and electrical fixtures, additional lights and wiring and other trade appliances. All installations shall be done in a good workmanlike manner and conform to all applicable building codes. Tenant shall obtain all necessary permits. Any alterations or improvements to the Leased Premises, including partitions, all electrical fixtures, lights and wiring, shall, at the option of Landlord, become the property of Landlord, at the expiration or sooner termination of this Lease. Should Landlord request Tenant to remove all or any part of the above-mentioned items, Tenant shall do so prior to the expiration of this Lease and repair the premises. Temporary shelves, bins and machinery installed by Tenant shall remain the property of Tenant and may be removed by Tenant at any time; provided, however, that all covenants, including rent, due hereunder to Landlord shall have been complied with and paid. At the expiration or sooner termination of this Lease, or any extension thereof, Tenant shall remove said shelves, bins and machinery, and repair, in a good workmanlike manner, all damage done to the Leased Premises by such removal. Any proposed alteration that will affect the structure, appearance, quality or function of the Leased Premises requires the prior approval of Landlord, which may be withheld for any reason.

11. UTILITIES:

Tenant will pay for the cost of electrical and gas utilities provided to the Leased Premises.

12. COMPLIANCE WITH LAWS:

Tenant agrees not to violate any health, building or zoning laws, ordinances or regulations of any government authority applicable to the building on the premises, and shall obtain all required federal, state, and local licenses and shall comply with all federal, state, and local statutes and regulations as may apply. Tenant will at all times carry out its activities on said premises in a manner consistent with the terms and conditions of its mission

and this lease and will not permit said premises to be used at any time for any unlawful purpose or allow any nuisance to arise or exist on said premises.

13. SUBORDINATION:

Except as hereinafter provided, this Lease is and shall be subordinate to any Mortgage or Deed of Trust now or hereafter placed upon the Leased Premises by Landlord, to any and all advances made upon security thereof and to all renewals, replacements and extensions thereof. Tenant shall, upon request by Landlord, execute and deliver such instruments as may be reasonably necessary or convenient to evidence such subordination.

In the event of the sale of the premises, whether by Landlord, or upon foreclosure; or, upon the exercise of a power of sale under any such Mortgage or Deed of Trust; or, pursuant to a Deed in lieu of foreclosure, Tenant will attorn to the Purchaser, and recognize the Purchaser as the Landlord under this Lease. In such event, the Purchaser under any such sale shall have the power to terminate this Lease upon sixty (60) days written notice to Tenant.

14. WAIVER OF COVENANTS:

The failure of any party to enforce the provisions of this Agreement shall not constitute a waiver unless specifically stated in writing, signed by the party whose rights are deemed waived, regardless of a party's knowledge of a breach hereunder.

15. DEFAULT:

15.1 Landlord's Rights to Cure. If Tenant shall default in the fulfillment of any of the covenants and conditions hereof Landlord may, at its option, after thirty (30) days prior written notice of default to Tenant, cure such default for, and at the expense of, Tenant. Any amounts paid by Landlord to cure a default for Tenant, or any expense incurred or sum of money paid by Landlord by reason of the failure of Tenant to comply with any covenant, agreement, obligation or provision of this Lease or in defending any action to which Landlord may be subject by reason of any such failure or any reason under this Lease, shall be paid by Tenant to Landlord upon demand together with interest thereon at the rate of ten percent (10%) per annum.

15.2 Landlord's Right to Terminate. Landlord may terminate this Lease, with or without cause, by giving Tenant one hundred eighty (180) days notice.

16. FAILURE TO PERFORM COVENANT:

Any failure on the part of either party to this Lease to perform any obligation hereunder, and any delay in doing any act required hereby shall be excused if such failure or delay is caused by any strike, lockout, governmental restriction or any other similar cause beyond the control of the party so failing to perform, to the extent and for the period that such cause continues.

17. INDEMNIFICATION OF LANDLORD:

Tenant, as a material part of the consideration to be rendered to Landlord under this Lease, shall hold Landlord exempt and harmless from any damage or injury to any person, or the goods, wares and merchandise of any person, arising from the use of the premises by Tenant, or from the failure of the Tenant to keep the premises in good condition and repair, as herein provided.

18. TIME:

Time is of the essence of this Lease and every term, covenant and condition herein contained.

19. HOLDOVER:

If the Tenant shall hold over as a Tenant after the expiration of the then existing Lease term, then such tenancy shall be deemed to be on a month-to-month basis.

20. RIGHTS OF SUCCESSORS AND ASSIGNS:

The covenants and agreements contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective successors in interest and legal representatives, and except as otherwise expressly provided herein, nothing shall give Tenant any right of assignment.

21. ASSIGNMENT AND SUBLETTING:

Neither this Lease nor any interest therein, nor any property which is the subject matter of this Lease, may be assigned by the Tenant voluntarily or involuntarily by operation of law, and neither all nor any part of the Leased Premises shall be sublet by the Tenant without the prior written consent of the Landlord, which consent may be withheld for any reason by Landlord.

22. SURRENDER OF PREMISES:

Tenant agrees to surrender up the Leased Premises at the expiration, or sooner termination of this Lease, or any extension thereof, in the same condition, and Tenant shall remove all of its personal property. Tenant agrees to pay a reasonable charge for cleaning and removal of personal property should it be necessary for Landlord to restore or cause to be restored the premises to the same condition as when said premises were delivered to Tenant.

23. RIGHT OF ENTRY BY LANDLORD:

The Tenant, at any time during the term of this Lease, shall permit inspection of the Leased Premises during reasonable business hours by the Landlord or the Landlord's agents or representatives for the purpose of ascertaining the condition of the Leased Premises. Landlord shall not unnecessarily interfere with the use of the Leased Premises by the Tenant.

24. NOTICES:

Any notices or demand given or served by either party to this Lease to the other shall not be deemed to have been duly given or served, unless in writing, and forwarded by certified and/or registered mail, addressed as follows:

Tenant: North Ogden Historical Museum
545 E 2750 N
North Ogden, Utah 84414

Landlord: City Recorder
North Ogden City
505 E 2600 N
North Ogden, UT 84414

The person and place to which notices are to be mailed may be changed by either party by written notice to the other party.

25. MISCELLANEOUS PROVISIONS:

25.1 Relationship of Parties. Nothing herein contained shall be deemed or construed by the parties hereto, or by any third party as creating the relationship of principal and agent; or a partnership or a joint venture between the parties hereto it being understood and agreed that neither the method or computation of rent, nor any other provision contained herein, nor any actions of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of Landlord and Tenant.

25.2 Headings. The headings of the several articles and sections contained herein are for convenience only, and do not define, limit, or construe the contents of such articles and sections.

25.3 Void Provisions. Any provision of this Lease which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof; and, such remaining provisions shall remain in full force and effect unless such provision shall materially affect the covenants and obligation of this Lease. In such event, this Lease and all rights created herein may be terminated at the option of Landlord.

25.4 Integration. This Lease contains all of the agreements of the parties hereto, with respect to any matter covered or mentioned in this Lease; and, no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

25.5 Amendments. No provision of this Lease may be amended or added to, except by an agreement in writing signed by the parties hereto, or their respective successors in interest.

25.6 Governing Law. The terms of this Agreement shall be governed by and construed in accordance with Utah law.

25.7 Auction, Fire or Bankruptcy Sale. Tenant shall not conduct any auction nor permit any fire or bankruptcy sale to be held on the premises.

25.8 Representation Regarding Authority. The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

25.9 Review of Documents. The parties hereto represent that they have read and understand the terms of this Lease, and that they have sought legal counsel to the extent deemed necessary in order to protect their respective interests.

25.10 Keys and Locks. The Tenant shall not change locks or install other locks on doors without the written consent of the Landlord who agrees not to unreasonably withhold its consent. Tenant agrees to provide Landlord with copies of all new keys. Tenant upon the termination of the tenancy shall deliver to the Landlord all the keys to the offices, rooms and toilet rooms which have been furnished to or obtained by Tenant.

25.11 Signage: Landlord shall, at its own expense, install permanent signage that will include an acknowledgment of North Ogden City funding for the Museum. Said signage shall include the North Ogden City logo. After

recommendation by the Liaison Committee and subject to approval by Landlord, Tenant may install signs on the premises provided that such signage is performed in accordance with all applicable building, zoning and sign ordinances, rules and regulations and in harmony with the historic nature and mission of the Leased Premises. Tenant shall have no authority to enter into any agreement which requires period payments to use signs on the Leased Premises.

IN WITNESS WHEREOF, the parties have executed this Agreement on the ____ day of _____, 2011.

LANDLORD:

TENANT:

NORTH OGDEN CITY

NORTH OGDEN HISTORICAL MUSEUM

Richard G. Harris, Mayor

By: _____

Its: _____

Attest:

**S. Annette Spendlove, MMC
City Recorder**

Approved as to form:

Dave Carlson, City Attorney