

LEASE AGREEMENT

Between

PREHAB OF ARIZONA, INC.

and

THE CITY OF MESA

Regarding

[REDACTED]

THIS LEASE AGREEMENT is made and entered into on this 29th day of October, 1996 by and between the City of Mesa, a municipal corporation as lessor (hereinafter known as "City") and PREHAB of Arizona, Inc., an Arizona non-profit corporation under the terms of Section 501(c)(3) of the U.S. Internal Revenue Code as lessee (hereafter known as "PREHAB").

WITNESSETH:

THAT WHEREAS, the City is the owner of the following described real property, including improvements legally described as:

(see attached Exhibit A)

The above-described property is also known as: [REDACTED]

1. NON-PROFIT:

1.1 PREHAB is a non-profit corporation that provides services to low and moderate income individuals and families in Mesa and desires to lease the property described herein.

1.2 **Lease:** The City agrees to lease the [REDACTED] property to PREHAB and PREHAB agrees to lease the [REDACTED] property from the City, subject to all of the covenants, terms and conditions hereinafter set forth.

2. TERM:

2.1 **Term.** The initial term of this lease shall be for twenty (20) years, commencing on November 15th, 1996, and expiring on November 30, 2016. The City may, at its sole discretion, offer to extend the term of this lease for two additional five (5) year terms. The City may exercise this option by giving written notice to PREHAB at least six (6) months, but no more than one (1) year, prior to the expiration of the initial term. PREHAB shall declare its intent to accept each extension term by conveying said intent to the City no later than six (6) months prior to the expiration of the initial lease in effect.

2.2 **Termination for Convenience.** PREHAB or the City shall have the right to terminate this lease at the end of five (5) years for any reason, without penalty, on six (6) months prior written notice to the other party at any time during the remaining term of this lease.

2.3 **Insolvency of Lessee.** Either (a) the appointment of a receiver to take possession of all, or substantially all of the assets of PREHAB, or (b) a general assignment of PREHAB to benefit of creditors, or (c) any action taken or suffered by PREHAB under any insolvency or bankruptcy act, if any such appointment, assignment or action continues for a period of thirty (30) days, shall constitute a breach of this Lease by PREHAB, subject to termination as herein provided.

3. RENT:

On the date of execution of this lease, PREHAB shall pay the City full rent of \$1.00 per year for the initial twenty (20) year term of the lease, in the amount of \$20.00.

4. USE:

4.1 **Use of Property.** PREHAB shall use the leased premises only as a residential shelter for youth and must meet all local licensing and occupancy requirements for such facility. PREHAB must further adhere to any federal requirements for use of the property as governed by the Community Development Block Grant (CDBG)

regulations described in 24 CFR Part 570. PREHAB's failure, or inability for any reason to use the leased premises for those purposes or PREHAB's failure to use the leased premises for a period of ninety (90) consecutive days, shall constitute a default within the meaning of this Lease Agreement.

4.2 **Subrecipient Agreement.** PREHAB and the City of Mesa have executed a separate Subrecipient Agreement that defines the record keeping and administrative requirements for the described use of this leased property located at [REDACTED]. "Exhibit A - Statement of Work" is referenced on allowable uses in conjunction with the Subrecipient Agreement, dated January 11, 1996 (Project #9852).

5. PERSONAL PROPERTY:

The personal property of PREHAB set forth in Exhibit B, attached hereto and incorporated herein by reference, as well as other personal property placed in the [REDACTED] facility during the term of this lease by PREHAB shall remain the property of PREHAB and may be removed from the [REDACTED] facility at any time during the lease term or upon the expiration or sooner termination of this lease, provided PREHAB shall repair any damage caused to the property by such removal. The City shall have no right to use such personal property of PREHAB unless the City obtains prior permission of PREHAB, which may be given or withheld at their sole discretion. The City shall be responsible for repairing or replacing any personal property of PREHAB that is damaged or destroyed while it is being used by the City. The City retains ownership of all personal property, appurtenances and equipment attached to or contained in the [REDACTED] facility, excepting those items outlined in Exhibit B. PREHAB may use said personal property, appurtenances and equipment, but may not remove them from the [REDACTED] facility without prior written permission from the City. PREHAB shall be responsible for repairing or replacing any of the personal property, appurtenances and equipment of the City that is damaged or destroyed while being used by PREHAB, and shall return the premises to the City in the same condition they were in at the inception of this lease, normal wear and tear excepted.

6. UTILITIES, CUSTODIAL SERVICES AND MAINTENANCE:

- 6.1 **Maintenance, Repairs and Alterations.** PREHAB agrees during the term hereof, at its own expense, to keep in good order and repair, the entire leased premises and all improvements thereon. PREHAB shall have the right to improve, reconstruct, or alter the improvements on the leased premises after first securing the written permission of the City, which will not be unreasonably withheld.
- 6.2 **Utilities.** PREHAB agrees that it will at all times during the term of this Lease Agreement, pay for all utilities, including irrigation, of every nature used on the leased premises before the charges therefor become delinquent.
- 6.3 **Mechanic's Liens.** PREHAB agrees that it will save and hold the City harmless from any claim or demand of any nature whatsoever against PREHAB by reason of any mechanic or materialman's liens arising out of any improvement or work done on the leased premises for PREHAB.

7. DEFAULT:

The parties agree that in the event at any time a default shall be made by PREHAB in the payment of any rent herein provided on the day same becomes due and payable, or in the event PREHAB shall fail to perform any of the covenants herein contained to be kept and performed by PREHAB, any such default continues for a period of thirty (30) days after written notice of such default shall have been received by PREHAB, then and in any or either of such events it shall be lawful for the City, at its election, to declare the term of this Lease ended and this Lease cancelled and the City shall have the right to re-enter and take possession of said premises, provided, however, that any such default shall be deemed cured or same be corrected within thirty (30) days after written notice by PREHAB, in which event this Lease and its terms and conditions shall continue in full force and effect, the same as though no default has been made.

8. TAXES AND INSURANCE:

- 8.1 **Taxes.** PREHAB agrees to pay all taxes of every nature levied or assessed on the property and leasehold interest described herein during the term of this Lease Agreement and on all personal property of PREHAB placed upon the leased premises.

8.2 **General Insurance Responsibility.** PREHAB agrees that it will at all times during the term of this Lease Agreement provide in full force and effect commercial general liability insurance, including personal injury and blanket contractual liability insurance coverage in an amount of not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) if there be an aggregate coverage. Liability insurance shall identify the specific address of [REDACTED] as covered under all such policies. PREHAB shall also provide Worker's Compensation Insurance at all times during which any employees of PREHAB are on the premises for any purpose. The Worker's Compensation Insurance shall include employer's liability protection in the same limits as the comprehensive general liability policy. PREHAB shall cause the City to be named as an additional insured on all such policies within the provision that said policies are primary to any insurance or self-insurance of the City. PREHAB shall furnish copies of the policies of insurance in all instances as described above to the City. All policies shall contain a notice that the City be notified of any cancellations, non-renewal or material alterations of the policy terms thirty (30) days in advance of such action by the carrier.

8.3 **Fire Insurance Responsibility.** The City agrees that during the term of this Lease Agreement it will annually consider whether to provide structural fire insurance for [REDACTED], and that the extent and manner of provision of said insurance, if authorized, may be included in a funding agreement with PREHAB, separate from this Lease Agreement. If funding for structural fire insurance coverage is not provided by the City, it shall be PREHAB's responsibility to secure and maintain said insurance on [REDACTED] facility, to the City's satisfaction.

9. **PROPOSITION 200:**

PREHAB shall abide by the requirements for a smoke free facility as described in Exhibit C and shall restrict smoking only to such areas as allowed under Proposition 200 unless and until such requirements are eliminated or revised by the City Council.

10. ASSIGNMENTS AND SUB-LEASES:

Neither PREHAB nor its successors may assign this Lease Agreement or sub-let all or any portion of the leased premises without first securing the written consent of the City, provided that any use of the leased property shall not be inconsistent with the purposes for which the [REDACTED] facility was provided, nor with the allowable uses as detailed in the federal Community Development Block Grant (CDBG) program as defined in 24 CFR Part 570.

11. WAIVER OF BREACH:

The parties agree that no waiver of any breach of any of the covenants herein contained shall be construed to be a waiver of any succeeding breach.

12. INDEPENDENT OPERATOR:

PREHAB shall at all times be an independent operator and shall not at any time purport to act as an agent of the City or any of its officers or agents.

13. INDEMNIFICATION:

PREHAB does hereby covenant and agree to indemnify, defend and hold the City, its employees, officers, contractors and agents, individually and collectively, from any and all fines, suits, claims, demands or actions of any kind, other than those caused by the willful or solely negligent conduct of the City, its officers, employees, contractors, or agents, arising out of or in connection with the use or occupancy of the [REDACTED] facility as outlined in this Lease Agreement.

14. NOTICES:

All notices pursuant to this Lease Agreement shall be addressed to PREHAB as follows: PREHAB Of Arizona, Post Office Drawer 5860, Mesa, Arizona 85211-5860, unless or until PREHAB notifies the City in writing of some other address. Any notice given by the City pursuant to this article shall be deemed to be received by PREHAB within three (3) working days after same is deposited in the United States mail, postage prepaid, addressed to PREHAB as above indicated.

All notices pursuant to this Lease Agreement shall be addressed to the City as follows: City of Mesa, Community Development Department, RC262, P.O. Box 1466, Mesa, Arizona 85201-1466, unless or until the City notifies PREHAB in writing of some other address.

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be executed the day and year first hereinabove written.

SIGNATURES

PREHAB of Arizona, Inc.:

For the City:



Janice Merrill, President



C.K. Luster, City Manager

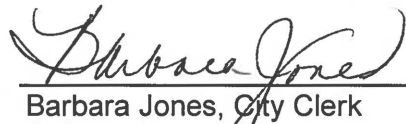
10-24-96

Date

10/25/96

Date

Attest:



Barbara Jones, City Clerk



10/29/96

Date

EXHIBIT A

Legal Description for [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT B

PERSONAL PROPERTY

[REDACTED]
Mesa, AZ 85203

The personal property owned by PREHAB of Arizona consists of all household furnishings; yard and garden tools, supplies, and equipment within the property at [REDACTED]. Household furnishings include all furniture; lamps; bedding; linens; cleaning equipment and supplies; telephones; electronics; kitchen stock including dishes, cookware, utensils, and microwave ovens; additional appliances used in the property such as refrigerators, freezers, washers and dryers; and other such personal furnishings provided by PREHAB for use by the occupants of the residence.

Because occupants may be given certain household items needed when they move into other residences, the inventory of personal property may fluctuate as occupants move into and out of the property and furnishings are replaced.

perprop.wpd

EXHIBIT C

Proposition 200- The No Smoking Citizen Initiative

As a result of the passage of Proposition 200, all properties owned by the City of Mesa including those that are leased to other entities are to be smoke free, effective July 1, 1996. What this means to nonprofit agencies is that all their employees and tenants must be notified that no smoking shall be allowed in City owned properties, and signage must be installed as required.

If the facility an agency leases from the City houses families or individuals that were occupying the property on July 1, 1996; the requirements do not apply to those occupants. However, any new tenants that reside in properties owned by the City that were not residents before July 1st must comply after that date. If there are any questions regarding posting signage at emergency shelters or other residential facilities where there is a confidentiality concern, agencies must call the City to discuss options.

Referenced herein is a brochure entitled "The City of Mesa Smoke-free Ordinance", dated May 1996, which provides further information about the requirements of Proposition 200. There are limited exceptions noted in the brochure for indoor and outdoor smoking areas provided that certain criteria are met. For further information about the requirements of Proposition 200, agencies should call the smokefree hotline at 644-2622.

exhsmok.wpd