

**SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (IGA)  
AND  
OPERATING AND MAINTENANCE OPERATING AGREEMENT**

Downtown Phoenix Civic Space / A.E. England Building  
City Contract No. #119092- IGA-002

This Second Amendment to Intergovernmental Agreement (IGA) and Operating and Maintenance Operating Agreement, Downtown Phoenix Civic Space / A.E. England Building, City Contract No. # 119092-IGA-002 (this "**Amendment**") is made and entered into as of \_\_\_\_\_, 2020 (the "**Effective Date**"), between the ARIZONA BOARD OF REGENTS, a body corporate, acting for and on behalf of Arizona State University ("**ASU**"), and the CITY OF PHOENIX, a municipal corporation of the State of Arizona ("**City**").

**RECITALS**

A. The City and ASU have partnered on an ASU Campus in Downtown Phoenix (the ASU Downtown Phoenix Campus), each assuming certain obligations and responsibilities in the development and operation of that campus as described in the Master Lease and Operating Agreement (City Contract #119092) dated June 22, 2006 (the "**Lease**"), as amended by a First Amendment to the Lease dated March 14, 2014 (City Contract No. 119092-001) (the "**First Amendment to Lease**"), a Second Amendment to the Lease dated October 1, 2019 (City Contract #119092-002), and a Third Amendment to the Lease dated October 1, 2019 (City Contract #119092-003) (collectively referred to herein as the "**Master Lease**").

B. The City and ASU previously entered into an Intergovernmental Operating Agreement # 119092-IGA, dated July 24, 2009 (the "**Initial IGA**"), as amended by that certain First Amendment to Intergovernmental Agreement, dated September 11, 2012 (City Contract #119092-IGA-001) to address the use, operation, and maintenance of the Civic Space and A.E. England Building (the "**First Amendment**"; the Initial IGA and the First Amendment are referred to herein as the "**IGA**").

C. The construction of the Phase II Civic Space improvements (the "**Phase II Civic Space Improvements**") on the Downtown Post Office property on the real property legally described on Page 1 of **Exhibit "A"** and graphically depicted on Page 2 of **Exhibit "A"** attached hereto and incorporated herein by this reference (the "**F2 Parcel**") occurred on or about February 28, 2012. Pursuant to the First Amendment to Lease, the parties (i) amended the Master Lease to exclude the F2 Parcel and Phase II Civic Space Improvements from the Premises leased by the City to ASU pursuant to the Master Lease, and (ii) agreed to amend the IGA to reflect the parties' respective rights and obligations with respect to the F2 Parcel and the Phase II Civic Space Improvements.

D. The City and ASU desire to amend the IGA as more fully described below.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual obligations of the parties hereto, the City and ASU agree as set forth below:

## **AGREEMENT**

1. **Property Subject to IGA.** The parties agree that, unless the context expressly indicates otherwise, all references in the IGA and herein to "Civic Space", "Civic Space Park" and the "Park" shall be deemed to include the F2 Parcel and the Phase II Civic Space Improvements constructed thereon.

2. **ASU Use Rights Regarding the Phase II Civic Space Improvements.** The following Section G is added to the end of Section 4 of the Initial IGA:

G. Notwithstanding anything to the contrary contained herein, the parties agree that (a) ASU's officers, officials, agents, staff, employees, volunteers, and students shall have the right to use the Phase II Civic Space Improvements at all times that the Civic Space Park is open for use by the general public, (b) in addition to using the Phase II Civic Space Improvements for the Private Events permitted by Section 4(C) of the Initial IGA, ASU may use the Phase II Civic Space Improvements for other programs and events, subject to the prior approval of the City, and (c) so long as ASU does not interfere with any Special Events or Private Events hosted by the City at the F2 Parcel, ASU shall have the right to work with the City's Parks and Recreation Department, which is responsible for enforcement of Park rules and regulations, and the Parks and Recreation Department shall work cooperatively with ASU as any concerns arise relating to the use of the Phase II Civic Space Improvements.

3. **General.** The Recitals set forth on the first page hereof are incorporated herein as though fully set forth herein. Unless specifically stated otherwise in this Amendment, all capitalized terms herein shall have the same meaning as set forth in the IGA. Except as amended by this Amendment, the provisions of the IGA remain in full force and effect. In the event of any conflict between the IGA and the provisions of this Amendment, this Amendment shall control.

**[SEE NEXT PAGE FOR SIGNATURES]**

**IN WITNESS WHEREOF**, ASU and the City have caused their respective duly authorized representatives to execute this Second Amendment to Intergovernmental Agreement (IGA) and Operating and Maintenance Operating Agreement, Downtown Phoenix Civic Space / A.E. England Building, City Contract No. # 119092-IGA-002, on their behalf as of the Effective Date set forth on the first page hereof.

**CITY OF PHOENIX**, a municipal corporation of  
the State of Arizona

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

The above Amendment has been reviewed pursuant to A.R.S. § 11-952, by the undersigned attorney for City of Phoenix, Arizona, who has determined that it is in the proper form and is within the powers and authority granted to the City of Phoenix, Arizona.

\_\_\_\_\_  
City Attorney

**ARIZONA BOARD OF REGENTS**  
**acting for and on behalf of Arizona State**  
**University**

By: \_\_\_\_\_  
John P. Creer  
Vice President for University Real Estate  
Development, ASU

## EXHIBIT "A"

That part of RECORD OF SURVEY CENTRAL AVENUE AND FILLMORE STREET, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 950 of Maps at page 42, located within the Southwest quarter of Section 5, Township 1 North, Range 3 East, G&SRB&M, Maricopa County, Arizona, described as follows:

BEGINNING at the Southeast corner of said RECORD OF SURVEY CENTRAL AVENUE AND FILLMORE STREET, from which the monument line of Fillmore Street bears North 00° 11' 58" East a distance of 311.68 feet (record); thence North 89° 36' 08" West along the South line of said RECORD OF SURVEY CENTRAL AVENUE AND FILLMORE STREET, a distance of 199.02 feet;

thence North 00° 11' 58" East a distance of 57.77 feet;

thence South 89° 36' 08" East a distance of 8.42 feet;

thence North 00° 11' 58" East a distance of 11.50 feet;

thence South 89° 36' 08" East a distance of 109.00 feet;

thence North 00° 11' 58" East a distance of 15.30 feet;

thence South 89° 36' 08" East a distance of 21.35 feet;

thence North 00° 11' 58" East a distance of 36.85 feet;

thence South 89° 36' 08" East a distance of 60.25 feet to a point in the East line of said RECORD OF SURVEY CENTRAL AVENUE AND FILLMORE STREET;

thence South 00° 11' 58" West along said East line, a distance of 121.42 feet to the POINT OF BEGINNING.

Parcel contains a computed area of 17,158 square feet or 0.39 acres.

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Prepared WA Date 12-07-11 Checked RM

11-27

Downtown Civic Space Park

# EXHIBIT "A" GRAPHIC DEPICTION

