



City of Santa Fe, New Mexico

Memorandum



DATE: April 10, 2024

TO: John Blair, City Manager

FROM: Timothy Farrell, Property Development Manager, Public Works Department TF
Terry Lease, Asset Development Manager, Office of Economic Development TL

VIA: Johanna Nelson, Director, Office of Economic Development JN

Re: Approval of License Agreement for Temporary Use of a Portion of Market Station City Office Condo

ITEM AND ISSUE:

The City will grant CloudTop (“Licensee”) use of a portion of the second floor, along with shared use of the restrooms, of the City-owned real property known as 500 Market Station.

BACKGROUND AND SUMMARY:

CloudTop is hosting an event called The CloudTop Comedy Festival and wishes to use a portion of the Market Station City Office Condo as a meeting location and break area for the vendors and volunteers during the festival. CloudTop will pay the City of Santa Fe \$300.00 for the use of the Premises.

ACTION REQUESTED: The Office of Economic Development respectfully requests your review and approval of License Agreement for the Temporary Use of a Portion of Market Station City Office Condo.

ATTACHMENTS:

License Agreement
Certificate of Insurance
Summary of Contracts

**LICENSE AGREEMENT
FOR TEMPORARY USE OF A PORTION OF MARKET STATION CITY OFFICE
CONDO**

This LICENSE AGREEMENT (“License”) is made and entered into as of the date of the last signature (“Effective Date”), by and between the **CITY OF SANTA FE, a municipal corporation (“City”)**, and **CLOUDTOP, a New Mexico 501(c) 3 corporation (“Licensee”)**, (collectively, the Parties and each individually a Party).

WITNESSETH:

In consideration of Licensee’s promises herein, the City hereby grants the Licensee a License to enter on, use and occupy the Premises and property (as herein defined) of the City as provided herein.

1. PREMISES.

The City grants Licensee use of a portion of the second floor, along with shared use of the restrooms (as shown on Exhibit A) of the City-owned real property known as 500 Market Station, located within the Santa Fe Railyard at 500 Market Station (the Premises). The Premises are provided to Licensee in its current broom clean, “as is” condition, and Licensee acknowledges they have inspected and understand and accept the condition of the Premises.

2. TERM.

This License Term shall commence on May 6, 2024, and shall continue through May 12, 2024, (the Term).

3. LICENSE FEE.

Prior to the commencement of the Term, Licensee shall pay the City a “License Agreement Fee” of Three Hundred Dollars (\$300.00).

4. CONDITIONS OF USE.

Licensee’s use of the Premises shall at all times be in compliance with the provisions of this License including the following conditions of use:

A. Permitted Use. The CloudTop Comedy Festival features free shows by professional and aspiring comedians (“CloudTop Event”). Use of the Premises is restricted to the temporary use of the Premises as a meeting location and break area for the vendors and volunteers directly associated with the CloudTop Event. No other use of the Premises is allowed without the written consent of the City. Access to the Premises will be from 9 AM to 5 PM May 6 – 8, 9 AM to 12 AM May 9 - 11, and 9 AM – 12 PM May 12. Licensee will keep the entry doors at the lower level to the Premises locked or attended to ensure only CloudTop staff and volunteers are permitted access to the City property and Premises.

B. Utilities. The cost of Licensees use of electric, water and gas are included in this License.

C. Solid Waste. Licensee shall, at all times during its use of the Premises, keep the Premises free of trash and debris emanating from its operations. Licensee shall remove and dispose, at Licensee sole cost and expense, all solid waste generated from Licensee's operations at the Premises.

D. Signage. Temporary directional and wayfinding signage directly associated with the CloudTop Event may be used in conjunction with this facility. No other signage is allowed on the exterior of the Premises.

E. Security. Licensee shall keep the Premises secured against unauthorized entry during the License Term.

F. Code Compliance. Licensee's use of the Premises shall at all times be in compliance with all applicable Codes, Regulations, and Rules be they City, County, State, or Federal. This includes but is not limited to the City's Municipal Code.

G. Modification of City Property. The Licensee shall not make any modification to the Premises without providing the City a formal request that includes proper documentation of any requested modification prior to the alteration.

H. Repairs and Maintenance. Licensee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises. Licensee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs, replacements that arise during the Term of this License that are a result of Licensee's use of the Premises. Repairs and replacements required to be made by the Licensee shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises.

5. END OF TERM.

Licensee shall vacate the Premises on or before May 12, 2024 by 12 PM, and deliver the Premises vacant and in broom clean condition. Licensor and Licensee will mutually inspect the Premises on, or immediately after, May 12, 2024, and any damage or repairs required, which were caused by Licensees occupancy, will be documented and Licensee will undertake the required repair in a timely and professional manner, not to exceed 30 days.

6. NO INTEREST CREATED.

Licensee acknowledges that no interest or estate of any kind whatsoever in the Premises is conveyed by this License or by occupancy or use of the Premises pursuant to the License. This License shall not be assigned by Licensee.

7. INSURANCE.

A. Comprehensive General Liability. Licensee, at its own cost and expense shall carry and maintain in full force and effect during the term of this License, comprehensive general liability insurance covering bodily injury, personal and advertising injury, and property damage liability, in a form and with an insurance company acceptable to the City with limits of not less than of \$1,000,000.00 per occurrence and \$1,000,000 in the aggregate against claims for which the City could be held liable under the New Mexico Tort Claims Act. Such insurance shall include broad form contractual liability coverage and be endorsed to provide that the City, Santa Fe Conservation Trust, Santa Fe Railyard Community Corporation, its directors, officials, officers, employees and agents are named as an additional insured for Licensee's operations hereunder. Licensee shall

furnish the City with a “Certificate of Insurance” and applicable endorsements prior to Licensees possession of the Premises.

B. Provisions Applicable to All Insurance Requirements.

- (a). **Acceptability of Insurers.** Unless otherwise reviewed and accepted by the City, all required insurance shall be placed with insurers with a current A.M. Best rating of not less than A- VII and be admitted to do business in the State of New Mexico, or approved by the Surplus Lines Association.
- (b). **Verification of Coverage.** Licensee shall furnish the City with certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates of insurance shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and approved by the City before Licensee performance under this agreement. Acceptance of Licensee’s Certificates of Insurance does not relieve Licensee of the insurance requirements, nor decrease the liability of Licensee under this Agreement. It is Licensee’s responsibility to ensure its compliance with these insurance requirements. Any actual or alleged failure on the part of the City to obtain proof of insurance required under this Agreement shall not in any way be construed to be a waiver of any right or remedy the City, in this or any regard.
- (c). **Primary and Noncontributory.** The insurance required to be maintained by Licensee shall be primary and any insurance or self-insurance maintained by the City shall not be required to contribute with it.
- (d). **Umbrella or Excess Insurance.** Any Umbrella or Excess insurance shall also apply on a primary and noncontributory basis for the benefit of the City, before the City’s own primary insurance or self-insurance shall be called upon to protect it as a Named Insured. Such Umbrella or Excess policy(ies) shall be endorsed to include the City, its directors, officials, officers, employees, and agents as additional insureds.
- (e). **Waiver of Subrogation.** Licensee shall obtain waiver of subrogation endorsements stating that Licensee and its insurers waive any and all rights of recovery against the City, its directors, officials, officers, employees, and agents.

8. INDEMNIFICATION.

Licensee shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys’ fees and costs on account of any suit, judgment, execution, claim, action or demand arising out Licensee’s use of the Premises, and/or the City’s issuance of this License.

9. NEW MEXICO TORT CLAIMS ACT.

Any liability incurred by the City of Santa Fe in connection with this License is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this License modifies or waives any provision of the New Mexico Tort Claims Act.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of this
10th day of April, 2024.

CITY OF SANTA FE:

LICENSEE: CLOUDTOP

John Blair
John Blair (Apr 10, 2024 18:15 MDT)
JOHN BLAIR, CITY MANAGER

Jessica Baxter
By JESSICA BAXTER – FOUNDER &
DIRECTOR

ATTEST:

GERALYN F. CARDENAS
GERALYN CARDENAS (Apr 10, 2024 18:16 MDT)
GERALYN F. CARDENAS, INTERIM CITY CLERK
XIV

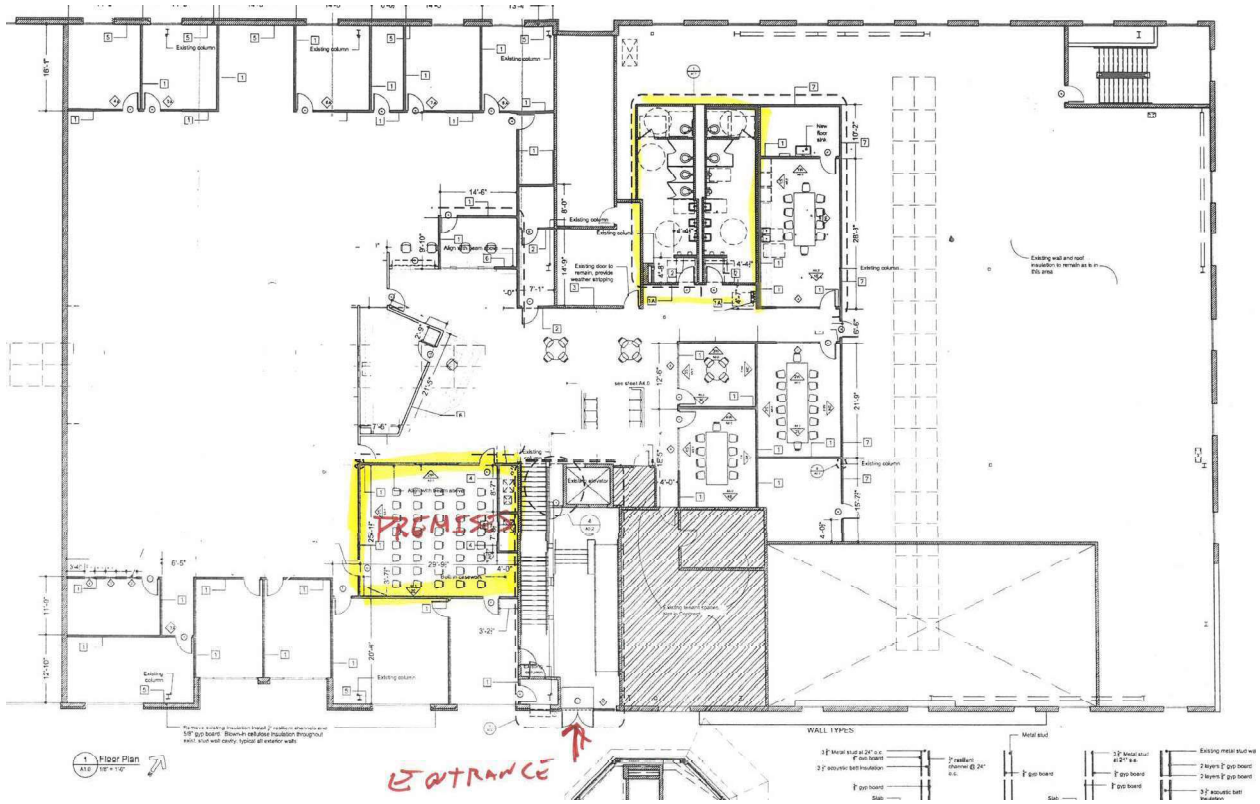
APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:

Marcos Martinez
Marcos Martinez (Apr 9, 2024 09:30 MDT)
MARCOS MARTINEZ, SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

Emily K. Oster
EMILY K OSTER, FINANCE DIRECTOR
Business Unit/Line Item 2122800.460350

Exhibit A





City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # _____

Contractor: **CloudTop**

Description: **License Agreement For Temporary Use of a Portion of Market Station City Office Condo**

Contract Agreement Lease / Rent Amendment

Term Start Date: **05/06/2024** Term End Date: **05/12/2024**

Approved by Council Date: _____

Contract / Lease: License Agreement

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: _____

Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

CloudTop is hosting an event called The CloudTop Comedy Festival and wishes to use a portion of the Market Station City Office Condo as a meeting location and break area for the vendors and volunteers during the festival. CloudTop will pay \$300.00 for the use of the Premises.

3. Procurement History: **License Agreements are exempt from procurement**

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. Funding Source: _____ Org / Object: **2122800.460350**

Andy Hopkins

Apr 10, 2024

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Terry Lease** TL Phone # **(505) 629-2206**

Email: **tjlease@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

Signature: *Timothy Farrell*

Email: tgfarrrell@santafenm.gov

Signature: 

Email: tjlease@santafenm.gov

Signature: *Johanna Nelson*

Email: jcnelson@santafenm.gov












24-0291 CloudTop

Final Audit Report

2024-04-11

Created:	2024-04-10
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAiUYyZec-DDnXO9aKN1lhI44gr4L6EZ7U

"24-0291 CloudTop" History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)
2024-04-10 - 9:50:13 PM GMT- IP address: 63.232.20.2
-  Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2024-04-10 - 9:51:28 PM GMT
-  Email viewed by EMILY OSTER (ekoster@santafenm.gov)
2024-04-10 - 10:45:17 PM GMT- IP address: 104.47.65.254
-  Document e-signed by EMILY OSTER (ekoster@santafenm.gov)
Signature Date: 2024-04-10 - 10:46:46 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to jwblair@santafenm.gov for signature
2024-04-10 - 10:46:47 PM GMT
-  Email viewed by jwblair@santafenm.gov
2024-04-11 - 0:14:37 AM GMT- IP address: 104.47.65.254
-  Signer jwblair@santafenm.gov entered name at signing as John Blair
2024-04-11 - 0:15:09 AM GMT- IP address: 216.207.130.218
-  Document e-signed by John Blair (jwblair@santafenm.gov)
Signature Date: 2024-04-11 - 0:15:11 AM GMT - Time Source: server- IP address: 216.207.130.218
-  Document emailed to GERALYN CARDENAS (gfcardenas@santafenm.gov) for signature
2024-04-11 - 0:15:12 AM GMT
-  Email viewed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
2024-04-11 - 0:16:04 AM GMT- IP address: 174.231.17.144
-  Document e-signed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
Signature Date: 2024-04-11 - 0:16:42 AM GMT - Time Source: server- IP address: 174.231.17.144

✔ Agreement completed.

2024-04-11 - 0:16:42 AM GMT