5

AGENDA INFORMATION FORM
FOR THE
TONOPAH TOWN BOARD
November 18, 2022

AGENDA ITEM:

Discussion deliberation and possible action to renew Outdoor Mural Space Lease Agreement with Tonopah Main Street for one (1) year in the amount of $4,800.00.

PETITIONER:

Joe Westerlund, Town Manager
PO Box 151
Tonopah, NV 89049

775-482-6336
tpu.joe@gmail.com

BACKGROUND OF ACTION ITEM REQUESTED:
See Lease Agreement attached.

FISCAL IMPACT:
4,800

Please note: Due to positing requirements, all agenda items must be turned in by 12:00 p.m. five working days (Wednesday) prior to the day of the scheduled meeting or by 12:00 p.m. six working days (Tuesday of the prior week) if a holiday falls on Friday or Monday prior to the meeting.

NOTE: The days in parentheses are for regularly scheduled Town Board meetings (the second and fourth Wednesday of the month).

In order to facilitate the review and consideration of an agenda item presented to the Tonopah Town Board/Library Board of Trustees, please include all documents or any relevant material or information with your request.

JM Westerlund — **Signature**

11-1-22 — **Date**

Request taken by: Mills

11.1.22 — **Date**

Date of Meeting: 11/18/2022

775-482-4017
TonopahMainStreet@gmail.com
www.TonopahMainStreet.com

112 St. Patrick Street
P.O. Box 82
Tonopah, NV 89049

Outdoor Mural Space Lease Agreement

1. DESCRIPTION: The Lessor ***Tonopah Main Street*** hereby leases and grants to Lessee ***Town of Tonopah*** the right to erect one (1) sign for a mural onto the "mural billboard" (14' x 28') without illumination, located at 101 N. Main Street, Tonopah, Nevada, commonly known as "Union Plaza".

2. USE: The "mural billboard" will be used exclusively for one mural. Lessee agrees that the design of the mural will not include content that may be false, misleading, deceptive, offensive to the moral standards of the community, may induce a violation of existing law, may result in the creation of new laws or regulations designed to restrict outdoor advertising or the outdoor advertising industry, or which in any way reflects adversely on the character, integrity or standing of any person or business.

3. TERM: The term will commence on December 1, 2022 and continue to November 30, 2023.

☑ Lease for 1 year – Paid in Full at Beginning of Lease Term; Advance Rate: $4,800.00 (equals discounted rate of $400/month)

4. BILLINGS AND PAYMENTS: Payment must be made in advance, payable by personal check, cashier's check, or money order to *Tonopah Main Street, P O Box 82, Tonopah, NV 89049*.

5. DEFAULT: If Lessee fails to deliver to Tonopah Main Street any payment when due or fails to perform any other obligation herein, or bankruptcy, receivership, or other insolvency proceedings are commenced by or against it (collectively "default"), Lessor may terminate this agreement without notice.

6. LOSS OF DISPLAY AND INTERRUPTION OF SERVICE: Lessee acknowledges that Tonopah Main Street's billboard location may be subsequent to the terms and conditions of various ground lease contracts and state or local permits.

Lessor agrees that its officers, employees, or any other persons acting on behalf, shall not place or maintain any object or structure which would materially obstruct the view of the Lessee's sign from Tonopah Main Street unless required to do so to comply with applicable laws. If visibility of Lessee's sign is materially obstructed or materially impaired in any way or if the value of such sign is materially diminished by reasons of diversions or reduction of vehicular traffic, or if the use of any such sign is prevented or restricted by law, or stolen, the Lessee may at its option terminate the lease and receive adjustment for all periodic rent paid for the unexpired term.

7. IMDEMNIFICATION: Except to the extent of Tonopah Main Street's negligence or willful misconduct, the Lessee shall indemnify, defend and hold the Lessor and its officers, directors, employees, and agents harmless from any and all damage, loss, cost, expense, liability and claims, including without limitation, reasonable attorneys' fees and court cost, arising from the existence of the sign on the property including acts of God and acts of its agents, employees or others employed in the construction, maintenance, repair or removal of the signs on the property, and any default on the part of the Lessee to be performed pursuant to the terms of the Lease.

8. DISPUTES: Both parties agree to resolve any claims or disputes that arise in good faith. If unsuccessful for any reason, Tonopah Main Street's sole option and upon written notice to Lessee, such claims or disputes may be submitted to formal mediation with each party to pay one-half of the costs. In the event of litigation, the venue of any action shall be in Tonopah, NV. This agreement shall be governed and construed in accordance with Nevada law, without regard to its conflict of laws and provisions. Tonopah Main Street shall not be liable for incidental or consequential damages, including lost profits, irrespective of cause or theory. If Tonopah Main Street places this agreement with a collection agency or an attorney for collection or enforcement, Lessee shall pay all costs and expenses resulting therefrom, including reasonable attorneys' fees.

9. AGENCY IS RESPONSIBLE: If this agreement is executed for Lessee by an agency, the Agency warrants and represents that it is fully authorized to enter into this agreement for and on behalf of Lessee. Agency hereby agrees to be jointly and severally liable with Lessee for the full and faithful performance of Lessee's obligations under this agreement.

10. BROKERING: Brokering of Tonopah Main Street's outdoor mural space is prohibited. Agency agrees that this agreement is executed on behalf of the lessee listed for the full term of the agreement.

11. MISCELLANEOUS PROVISIONS:

A. Payment includes mural space rental and maintenance (not to include illumination).
B. Maintenance will be provided for all repairs pertaining to the mural billboard and its structure only. Lessee will be liable for maintaining the mural thereon.
C. If any part of this agreement is found invalid or unenforceable, that part will be amended to achieve as nearly as possible the intent and economic effect of the original provision, and the remaining provisions shall continue in full force and effect.

12. RENEWAL: The intent to renew this agreement shall be provided by the Lessee, in writing, no later than 60 days before the expiration of this agreement.

IN WITNESS WHEREOF, LESSEE ACKNOWLEDGES THAT THIS DOCUMENT HAS BEEN READ, IS UNDERSTOOD, AND AGREES TO BE BOUND BY THE SAME

Accepted for: Tonopah Main Street	Accepted for: Town of Tonopah
By:	By:
Printed Name: Cheri Harper	Printed Name:
Title: Chair	Title:
Date Signed:	Date Signed:

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2. USE: The "mural billboard" will be used exclusively for one mural. ~~Lessee must provide a copy of the proposed design to Tonopah Main Street for approval. The current design is already approved. Upon acceptance by Tonopah Main Street, this agreement becomes effective on the date signed below between Tonopah Main Street and the Town of Tonopah, whom shall be pursuant to the terms and conditions set forth. Tonopah Main Street may reject any copy that Tonopah Main Street in its sole discretion determines is or~~ Lessee agrees that the design of the mural will not include content that may be false, misleading, deceptive, offensive to the moral standards of the community, may induce a violation of existing law, may result in the creation of new laws or regulations designed to restrict outdoor advertising or the outdoor advertising industry, or which in any way reflects adversely on the character, integrity or standing of any person or business. ~~Tonopah Main Street may cancel this agreement at any time by delivering 30 days' written notice to the customer. This agreement is non-cancelable by Lessee.~~

3. TERM: The term will commence on December 1, 2022 and continue to November 30, 2023.

- ☐ Lease for 1 year – Paid in Full at Beginning of Lease Term; Advance Rate: $4,800.00 (equals discounted rate of $400/month)
- ☐ ~~Lease for 1 year – Paid Monthly; Monthly Rate: $500.00~~

4. BILLINGS AND PAYMENTS: Payment must be made in advance, ~~no later than November 15, 2022,~~ payable by personal check, cashier's check, or money order to *Tonopah Main Street, P O Box 82, Tonopah, NV 89049*.

5. DEFAULT: If Lessee fails to deliver to Tonopah Main Street any payment when due or fails to perform any other obligation herein, or bankruptcy, receivership, or other insolvency proceedings are commenced by or against it (collectively "default"), Lessor may terminate this agreement without notice.

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Accepted for: Tonopah Main Street	Accepted for: Town of Tonopah
By:	By:
Printed Name: Cheri Harper	Printed Name:
Title: Chair	Title:
Date Signed:	Date Signed: