



City of Hudson, Ohio

Staff Report

File Number: 22-104

Meeting Date: 10/18/2022

Version: 2

Status: Third Reading

In Control: City Council

File Type: Resolution

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WESTERN RESERVE COMMUNITY BAND FOR SPACE AT CITY HALL

Brief Description: A resolution authorizing the Interim City Manager to enter into a lease agreement with Western Reserve Community Band for space in Hudson City Hall.

Legislative History

22-0068 - Discussion Item on 7/26/2022 Workshop Agenda

Timing Considerations

None.

Fiscal Impact

Currently Budgeted (Account #, \$)

Supplemental Appropriation Required (Account #, \$)

Appropriation Not Required.

Suggested Action

The City Council authorizes the Interim City Manager to enter into an agreement with Western Reserve Community Band for space in Hudson City Hall.

Submitted By,

Thomas Sheridan, City Manager

RENTAL AGREEMENT

THIS LEASE AGREEMENT hereinafter known as the "Agreement" is entered into this 1st day of January, 2023, ("Effective Date") by and between City of Hudson, Ohio with mailing address at 1140 Terex Road, Hudson, Ohio 44236 (herein referred to as the "Landlord"), and Western Reserve Community Band with mailing address at 134 Blackberry Drive, Hudson, OH 44236 (herein referred to as the "Tenant")(collectively referred to herein as "the Parties").

WHEREAS, the Landlord desires to lease the Premises defined herein to the Tenant under the terms of the conditions as set forth herein; and

WHEREAS, the Landlord desires to lease the Premises defined herein for the Landlord under the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the covenants and obligations set forth herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **THE PREMISES.** In accordance with the terms and conditions of this Lease, the Landlord hereby agrees to lease to the Tenant and the Tenant hereby leases and takes from the Landlord the property described below together and hereinafter referred to as the "Premises:"

Address: City Hall
1140 Terex Road
Hudson, Ohio 44236

Floor and/or Office Number: Lower Level Storage Room (Room No. ###)

The space rented hereunder and designated in this Section 1 is subject to change within the sole discretion of the City Manager. An alternative location can be within City Hall or at another City-owned facility and shall be of similar floor space (i.e. square footage). In the event the City Manager determines that Tenant is going to be assigned different space under this Lease, the Tenant shall be provided at least one (1) month's advance notice of the need to move any stored equipment or supplies. Tenant's failure to move its personal property from the Premises then in use by the duly noticed date shall constitute default.

2. **PERMITTED USE.** Tenant agrees to continuously and at all times use and occupy the Premises during the Lease Term solely for the Permitted Uses as specified in this Section 2 and in Section 9 ("Permitted Use"). No other use or items shall be stored upon the Premises.

- Storage of sheet music, band equipment and supplies, only

Except as otherwise provided, no other use of City Hall, City of Hudson facilities or City of Hudson supplies (the "Property") is permitted. Use of other city areas and/or facilities must be reserved and approved in writing by the City Manager.

3. **LEASE TERM.** The term of this Lease shall commence on 1st day of January, 2023 and shall continue for one year ("Lease Term") and shall expire on the last day of the Lease term.
4. **RENEWAL.** The Tenant will have right to renew the lease for up to two (2) additional terms of one (1) year each (each being a "Renewal Term") by giving the Landlord a Notice of Renewal not later than 30 days but no earlier than 90 days, prior to the expiration of the Lease Term or Renewal Term, whichever is applicable ("Renewal Period"). Failure to provide such notice shall cause the Lease to terminate at the end of the then current term. A Renewal Term shall commence immediately upon the expiration of the Lease Term or the preceding Renewal Period. In the event of the renewal of this Lease, the terms and conditions of this Lease shall remain in full and effect for the duration of the Renewal Term unless otherwise agreed to in writing by the Parties.

5. **SECURITY DEPOSIT/RENT.**

- a. Tenant shall deposit with Landlord, upon delivery of an executed copy of this Lease to Landlord, a \$200 security deposit (the "Security Deposit") for the performance of all of Tenant's obligations hereunder. The Security Deposit shall be held by Landlord as security for the performance of Tenant's obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of a default, Landlord may use all or any part of the Security Deposit to pay delinquent payments due under this Lease, future rent damages, and the cost of any damage, injury, expense, or liability, without prejudice to any other remedy provided herein or provided by law.
- b. The Tenant shall pay the net amount of \$200 annually (herein after referred to as "Rent"). The rent shall be payable every 1st day of the applicable term ("Due Date"). This rate is subject to change with one (1) month's advance notice of any additional rent, which shall be applied on a pro rata basis for the remainder of the then current term while the whole amount will be due at the next Due Date. The failure to timely pay any applicable rent shall constitute default. In the event of termination by the Tenant during the Lease Term or any Renewal Period and the Tenant is not otherwise in default, after applying the cost of any damages, injury, expense, or other liability owed to the Landlord, the Tenant shall be entitled to a pro rata refund of Rent.

6. **EXPENSES/SUPPLIES.** The Parties agree that the Tenant shall, at no cost to the Tenant, have access to utilities and services deemed as basic to be provided by Landlord (i.e. the City Manager). Utilities and services in this Section 6 includes only HVAC and electricity.

7. **OBLIGATION OF THE TENANT.**

- a. The Tenant shall keep the Premises safe and in a clean, sanitary, neat and presentable condition.
- b. The Tenant shall inform the Landlord of any damage, need for repair, or ordinary wear and tear of any part of the Property. In its sole discretion, the Landlord will determine how to restore, repair and/or rectify any damages for which the Tenant shall be responsible to pay. **Failure to timely pay as determined by Landlord will vest Landlord with the right to terminate this Agreement immediately and without further notice.**
- c. Tenant shall provide to Landlord and name an emergency contact representative with full authority to act on its behalf and shall provide that individual's name, address, email, phone number, and cell phone number. This contact shall be available twenty-four hours a day, seven days a week.
- d. Tenant represents and warrants that it is non-profit 501(c)(3) classified organization in good standing and that no other office space in the City is available for use.

8. **OWNER'S UNILATERAL RIGHT TO ENTER.** The Tenant agrees that the Landlord, or the Landlord's representative, shall have the right without notice to enter the Premises for any reason at any time. Tenant may not change any locks or add any additional locks to the Premises. Further, Tenant agrees that the Landlord, or the Landlord's representative, shall have the right to remove contents to another area, and continue to store such contents at the sole cost and expense of the Tenant.

9. **USE OF SPACE; COMPLIANCE WITH LAW; WAIVER.**

- a. The Premises named herein shall be used by the Tenant solely for the purpose of storage. There shall be **NO HABITABLE OCCUPANCY** of the Premises by humans or pets of any kind for any period whatsoever and violation of these prohibitions shall be grounds for immediate termination of this Agreement. Tenant agrees not to conduct any unapproved business out of the Premises and further agrees that the Premises is not to be used for any type of workshop, for any type of repairs, or for any sales, renovations, decoration, painting, or other contracting. The Tenant agrees not to store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in the Premises or elsewhere on the property which would cause danger or nuisance to the Premises or any other portion of the Property. If hazardous substances are stored,

used, generated, or disposed of in the Premises or on the Property, or if the Premises or Property shall become contaminated in any manner for which the Tenant is directly or indirectly responsible, the Tenant shall defend, indemnify and hold the Landlord and its elected officials, appointed officials, employees, contractors and agents harmless from and against any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses, and any and all sums incurred or paid for settlement for any such claims, including any attorney's fees, consultant and expert fees, resulting from or arising out of any contamination by the Tenant, whether incurred during or after the lease term. The Tenant agrees that the Premises is not appropriate for the storage of jewels, furs, heirlooms, art works, collectibles or other irreplaceable items having special sentimental or emotional value to the Tenant and Tenant agrees not to store said items.

- b. The Tenant agrees that the Premises and Property will not be used for any unlawful purposes or contrary to any law, ordinance, regulation, fire code or health code and the Tenant agrees not to commit waste, nor to create a nuisance, nor alter, nor affix signs on the Premises or anywhere on the Property and will keep the Premises and the Property in good condition during the terms of this Agreement.
- c. The Tenant hereby waives any claim for sentimental or emotional value for the Tenant's property that is stored in the Premises or on the Property. The Tenant will defend, indemnify, and hold the Landlord and its elected officials, appointed officials, employees, contractors and agents harmless from and against any and all manner of claims for damages or lost property or personal injury and costs, including attorneys' fees arising from the Tenant's lease of the Premises on the Property or from any activity, work or thing done, permitted or suffered by the Tenant in the Premises or on or about the Property. **IN THE EVENT OF DEFAULT, TENANT HEREBY GRANTS LANDLORD THE IRREVOCABLE RIGHT TO REMOVE ALL PERSONAL PROPERTY AND PLACE IT IN ANOTHER COMPARABLE SPACE ALL AT TENANT'S COSTS. FURTHER, TENANT SHALL BE OBLIGATED TO PAY LANDLORD \$50 A DAY FOR STORAGE AT THE COMPARABLE SPACE. TENANT HEREBY WAIVES ANY AND ALL CLAIMS FOR PROPERTY DAMAGE RELATED TO SUCH MOVE AND STORAGE AT THE COMPARABLE SPACE.**

10. **ALTERATIONS AND IMPROVEMENTS.** No alterations to or improvements on the Premises shall be made by the Tenant without prior express consent of Landlord (i.e. City Manager) to the same in writing. The Tenant shall ensure compliance with any and all applicable laws, rules, ordinance and codes when undertaking any alteration or improvement to the Premises.

- a. **Unauthorized Alterations or Improvements.** In the event that the Tenant undertakes alterations or improvements relating to the Premises in violation of this Section, the same shall be considered a material breach of this Agreement and shall put the Tenant in default, vesting the Landlord the right to terminate the lease immediately and without further notice. The Landlord, in its sole discretion, may also require the Tenant to undo the alterations or improvements and restore the Premises to its condition prior to any unauthorized alteration or improvement at the sole expense of the Tenant.
- b. **Ownership of Alterations and Improvements.** In all cases of alterations, improvements, changes, accessories and the like that cannot be removed from the Premises without destroying or otherwise deteriorating the Premises or any surface thereof shall, upon creation, become the Landlord's property without need for any further transfer, delivery, or assignment thereof.

11. **COMMON AREAS.** The Landlord shall at times have exclusive management and control of the Common Areas and the unleased portion of City Hall for any purpose or in any manner that it deems necessary or appropriate. The Landlord reserves the right to remove, relocate or otherwise change or carry out any alteration or addition or other works to the Common Areas and the unleased portion of City Hall. The Landlord shall not be liable to Tenant for any damage incidental to the exercise of its rights under this section, provided that such damages is not accompanied by any gross negligence or bad faith on the part of the Landlord or its agents. The Tenant shall abide by the Landlord's rules and management of the Common Areas and any unleased portion of City Hall.

For the avoidance of doubt, “**Common Areas**” refers to those portions of the structure in which the Premises are located and areas surrounding the Premises including the remainder of the building, driveways, entrances and exits, pedestrian passageways, walkways, loading docks, landscaped and streetscaped areas, any on-site parking areas, facilities (such as elevators, and lifts), installations (such as doors, windows, electrical installations and wiring), water and drainage pipes, gas pipes, fire systems, security and air-conditioning facilities, and all other areas or improvements which may be provided by Landlord from time to time for the general use of tenants of the structure in which the Premises and located and areas surrounding the Premises and their respective employees, guests, patrons, suppliers, licensees and other invitees.

12. **TERMINATION.** Except as otherwise provided herein, this Agreement may be terminated by either party upon the giving of written notice at least thirty (30) days prior to termination.
13. **INSURANCE.** The Landlord is not required to provide any type of insurance which would protect the Tenant’s personal property from loss by fire, theft, or any other type of causality loss. It is the Tenant’s sole responsibility, at the Tenant’s expense, to secure such insurance to protect itself, its property and its employees/contractors/members/agents/representatives against all perils of whatever nature in an amount at least equal to the total value of all stored property. Insurance on Tenant’s personal property is strongly recommended by the Landlord. If Tenant fails to obtain insurance, then Tenant hereby agrees to defend, indemnify and hold the Landlord and its elected officials, appointed officials, employees, contractors and agents harmless and waives all claims against the Landlord and releases the Landlord and its elected officials, appointed officials, employees, contractors and agents from any and all related liability. Tenant automatically assumes all risk of assumes all risk of loss to stored property what would be covered by such insurance. Tenant shall make no claim whatsoever against the Landlord’s insurance in the event of any loss. The Tenant agrees not to subrogate against the Landlord in the event of loss or damage of any kind or from any cause. Tenant agrees and understands that Landlord and its elected officials, appointed officials, employees, contractors and agents are not insurers, are not affiliated with any insurance company, and do not act as any insurance company’s agent, broker, or solicitor.
14. **ASSIGNMENT AND SUBLETTING.** The Agreement is personal. Tenant shall not assign this Agreement or sublet the Premises to any other party.
15. **WAIVER OF CLAIMS, DEFENSE, AND INDEMNIFICATION.** Landlord and Landlord’s agents and employees shall not be liable whatsoever to any extent to Tenant or Tenant’s invitees, family, employees, agents or servants for any personal injury or death arising from Tenant’s use of the Premises for any cause whatsoever including, but not limited to, the active or passive acts or omission or negligence of the Landlord, Landlord’s agents, or employees. For the avoidance of doubt, the Landlord and its elected officials, appointed officials, employees, contractors and agents shall not be liable for any injury to the Tenant or any other persons or property entering the Premises occurring within the Premises during the Lease Term. Neither shall the Landlord and its elected officials, appointed officials, employees, contractors and agents be liable for any damages to the structure within which the Premises is located or any part thereof. Additionally, the Tenant hereby agrees to defend, indemnify and hold the Landlord and its elected officials, appointed officials, employees, contractors and agents harmless from for any and all claims or damages arising from the Tenant and/or its employees, members, agents and/or representatives’ use of the Premises.
16. **GOVERNING LAW/EXCLUSIVE VENUE.** This Agreement shall be governed by and its terms and conditions be interpreted according to the laws of the State of Ohio. The parties agree to submit to the exclusive jurisdiction of the courts located in the County of Summit, State of Ohio and waive any objections to venue or jurisdiction as to the same.
17. **SEVERABILITY.** Should any provision of this Agreement be found, for whatever reason, invalid or unenforceable, such nullity or unenforceability shall be limited to those provisions. All other provisions herein not affected by such nullity or dependent on such invalid or unenforceable provisions shall remain valid and binding and shall be enforceable to the full extent allowed by law.

18. **BINDING EFFECT.** The terms, obligations, conditions and covenants of this Agreement shall be binding on Tenant, Landlord, their heirs, legal representatives and successors in interest and shall inure to the benefit of the same.
19. **LIMITED WARRENTY.** This Agreement contains the entire agreement of the Parties and no representation or agreements, oral, or otherwise, between the Parties not embodied herein shall be of any force of effect (except for written addendums agreed to between the Parties). The agents and employees of the Landlord are not authorized or permitted to make any warranties about the Premises, the Property, or any facilities referred to in this Agreement, including the Common Areas or any unleased space. The Landlord's agents' and employees' ORAL STATEMENT DO NOT CONSITUTE WARRANTIES and shall not be relied upon the by the Tenant. The entire agreement and understanding of the parties hereto are embodied in this writing and NO OTHER WARRANTIES are given.
20. **RULES.** The Tenant agrees to be bound by any Rules and Regulations for the facility as may be posted by the Landlord from time to time. All Rules and Regulations shall be deemed to be part of this Agreement and are incorporated herein.
21. **TENANT'S ACCESS.** Tenants shall have access to Premises by the following means:
- _____
- _____
- _____
22. **ENTIRE AGREEMENT AND MODIFCATION.** The Agreement and, if any, attached documents are the complete agreement between the Landlord and Tenant concerning the Premises. There are no oral agreements, understandings, promises, or representatives between the Landlord and the Tenant affecting this Agreement. All prior negotiations and understanding, if any, between the Parties hereto with respect to the Premises shall be of no force or effect and shall not be used to interpret this Agreement. No modification or alteration to the terms and conditions of this Agreement shall be binding unless expressly agreed to by the Landlord and the Tenant in a written instrument signed by both Parties.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties execute this Agreement as of this ___ day of _____, 2022.

Tenant

Landlord

Western Reserve Community Band

City of Hudson, Ohio

By: _____
Signature

By: _____
Signature

Printed Name: _____

Thomas Sheridan, City Manager

Date: _____

Date: _____

Approved as to form:

Marshal Pitchford, City Solicitor

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WESTERN RESERVE COMMUNITY BAND FOR SPACE AT CITY HALL.

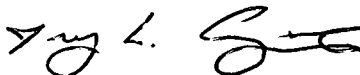
Be It Resolved by the Council of the City of Hudson, County of Summit, State of Ohio, that:

Section 1: The City Manager is authorized to enter into a lease agreement with the Western Reserve Community Band for the rental of storage space at City Hall. The agreement shall be in a form substantially similar to the agreement attached hereto as Exhibit "A" and in a form satisfactory to the City Solicitor.

Section 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: October 18, 2022


Jeffrey L. Anzevino, Mayor

ATTEST:


Aparna Wheeler, Clerk of Council

I certify that the foregoing Resolution No. 22-104 was duly passed by the Council of said Municipality on October 18, 2022.


Aparna Wheeler, Clerk of Council

First Reading: August 16, 2022
Second Reading: September 6, 2022
Third Reading: October 18, 2022