



Legislation Text

File #: 59940, Version: 1

Fiscal Note

No City appropriation required.

Title

Authorizing the execution of a lease with Historic Blooming Grove Historical Society, Inc. for the purpose of maintaining and preserving the present historical value of the Dean House located at 4718 Monona Drive on a portion of the Monona Golf Course property. (15th AD)

Body

WHEREAS, the City of Madison (the "City") is the owner of the building commonly known as the Dean House (the "Building") located at 4718 Monona Drive, Madison, Dane County, Wisconsin, which Building is located on real property at 111 E. Dean Avenue (the "Property") owned by the City and legally described as follows:

Part of the Monona Golf Course property located within the Southwest $\frac{1}{4}$ of Section 16, T7N, R10E, City of Madison, Dane County, Wisconsin.

WHEREAS, the City and the Historic Blooming Grove Historical Society, Inc. (the "Lessee") are parties to a certain Lease dated July 28, 1993, pertaining to the Building and the Property which Lease was recorded with the Dane County Register of Deeds on August 11, 1993, as Document No. 2503904 (the "1993 Lease"); and

WHEREAS, the original 10-year term of the 1993 Lease was for the period from January 1, 1993 to December 31, 2003, and in accordance with the terms of the lease, the term has renewed automatically thereafter for one (1) year terms, such that the current 1993 Lease term is scheduled to expire on December 31, 2019; and

WHEREAS, the City and the Lessee desire to enter into a new lease for the Building on the Property leased under the 1993 Lease to allow for the Lessee's continued use of such premises.

WHEREAS, City Parks Division staff have reviewed and approve of the new lease arrangement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are authorized to execute a lease (the "Lease") with the Lessee, substantially on the following terms and conditions:

- 1. Leased Premises.** The City hereby leases to the Lessee the Building and limited surrounding lands located on the Property (collectively, the "Leased Premises"). The Leased Premises are depicted on Exhibit A, which exhibit is attached to and made a part of the Lease.
- 2. Term.** The Lease shall be for a term of ten (10) years, subject to early termination pursuant to the terms of the Lease. The Lease shall commence as of January 1, 2020 (the "Effective Date") and expire on December 31, 2029. The term "Lease Year" shall mean a full one (1) year period. The first Lease Year shall begin on the Effective Date. Each succeeding Lease Year shall begin on the anniversary of the Effective Date.
- 3. Rent.** The Lessee shall pay an annual rent of One Dollar (\$1.00). The first payment shall be due at the time of execution of the Lease and subsequent payments shall be due each successive year prior to the first day of January of each year the Lease is in effect, with no proration of the rent for any partial year the Lease may be in effect. All payments are to be made payable to the City Treasurer, and sent or personally delivered to the Economic Development Division at the address specified in Paragraph 29 of

the Lease.

4. Renewal. The Lease will automatically continue for successive terms of one (1) year each, unless terminated in accordance with Paragraph 22 of the Lease.
5. Use. The Lessee will occupy and use the Leased Premises solely for the purpose of maintaining and preserving the present historical value of the Building and activities as further described in this paragraph, and for no other purposes whatsoever without the City's prior written consent, which consent the City may withhold in its sole discretion. The Building is listed on both the City of Madison Landmarks and National Register of Historic Places, and all future renovation to the Building shall be consistent with the Building's historic nature. The Lessee will have the right to use the Building for public functions and fund raising activities. At its option, the City may use the Building and the surrounding leased area for uses determined by the City's Park Superintendent. Any City use of the Building and the surrounding leased area shall not conflict with activities scheduled by the Lessee.
6. Special Conditions.
 - a. No further or additional means of access other than those afforded at the above described property at the time of execution of the Lease shall be permitted or authorized. The written approval of the City's Park Superintendent is required prior to the Lessee's use of the parking lot or adjoining park land for the loading or unloading of supplies and equipment as part of any rehabilitation of the Leased Premises.
 - b. Any use of the golf course parking lot located in the Southeast quadrant of Dean Avenue and Monona Drive by the Lessee or its guests or invitees shall be prohibited unless approved as provided herein. The Lessee may request written approval for parking needs on a "per event" basis from the City's Park Superintendent. Said approval will not be unreasonably withheld, and shall be granted unless there is a conflict between the parking needs of the City and the Lessee. The Lessee may request approval for multiple events from the Board of Park Commissioners.
 - c. No additional buildings or other structures shall be erected upon the Leased Premises, with the exception that the existing Building identification sign and ground light, hitching post, historical marker and lamp post, all denoted on Exhibit A, are permitted.
 - d. The Lessee shall in no way encumber, or allow to be encumbered, the City's title to the Leased Premises.
7. Maintenance, Repairs and Replacements.
 - a. The Lessee shall be responsible for the cost of and contracting for all repairs in the Leased Premises during the term of the Lease.
 - b. The Lessee shall be responsible for the cost of and contracting for all replacements in the Leased Premises during the term of the Lease.
 - c. It shall be the Lessee's responsibility to supply and pay for the following services:
 - (1) Periodic inspection and maintenance of HVAC equipment
 - (2) Interior Building maintenance
 - (3) Exterior Building maintenance (including lamp post denoted on Exhibit A)
 - (4) Janitorial services
 - (5) Snow removal (front walkway to public sidewalk)

- (6) Window cleaning
- (7) Mowing and upkeep of landscaping items. Notwithstanding the foregoing, upon written notice to the City sent via regular mail to the address specified in Paragraph 29, the Lessee may elect to have the City mow the lands comprising the Leased Premises. In such event the Lessee shall pay to the City an annual fee of Five Hundred and 00/00 Dollars (\$500.00) for such service, with payment made payable to the City Treasurer and sent or personally delivered to the Economic Development Division at the address specified in Paragraph 29.
- (8) Trash and recycling disposal
- (9) Repair and maintenance of the Building identification sign denoted on Exhibit A, including any needed repair or replacement of the underground electric service or ground light for said sign.
- (10) Repair and maintenance of the historical marker denoted on Exhibit A.

For the purposes of the Lease, interior and exterior Building maintenance are defined as keeping the Building and personal property in good repair; replacing all broken glass, fixtures, and fittings with material of the same size, style, and quality of that broken, damaged, or misplaced; and keeping the Building and personal property in a clean and good condition consistent with Paragraph 6 of the Lease.

- d. No exterior storage of materials, equipment or vehicles is permitted on the Leased Premises, including the patio area, except the temporary and orderly placement of items in conjunction with maintenance, repair or construction activities.
 - e. The City shall make all repairs and replacements necessitated by any peril covered by standard fire and extended coverage insurance policy, subject to the provisions of Paragraph 35 of the Lease.
 - f. The City shall not be liable for any damage done or occasioned by or from plumbing, gas, water, steam or other pipes, or sewage or the bursting, leaking or running of any cistern, tank, water closet or waste pipe, in, above, upon or about the Building or the Leased Premises nor for damage occasioned by water, snow, or ice being upon or coming through the roof, skylight, trap door or otherwise.
 - g. The City authorizes the Lessee to use the appropriate tools and fasteners to attach temporary wall hangings and the like to the walls and ceilings. This authorization does not relieve the Lessee of responsibility for any damages that may result.
 - h. All personal property stored or kept by the Lessee on the Leased Premises shall be at the sole risk of the Lessee.
 - i. Except as provided in this Subparagraph, the Lessee shall not use, serve, drink, sell or keep on the Leased Premises alcoholic beverages of any kind whatsoever. In the event the Lessee is hosting an event and desires that alcoholic beverages be served, then the Lessee or the caterer it engages must comply with City alcohol licensing laws.
 - j. The Lessee shall be required to obtain a City of Madison Park Event Permit for events that include amplified sound.
8. Construction or Remodeling.
- a. No construction, modification, improvement, alteration, redecoration, or remodeling of the exterior of the Building or grounds of the Leased Premises shall be undertaken without prior written

approval of plans and specifications therefor by the City's Preservation Planner in accordance with Madison General Ordinance (MGO) Chapter 41, and the City Park Superintendent or the Superintendent's designee.

- b. Any construction, modification, improvement, alteration, redecoration, or remodeling of the interior of the Building shall be consistent with the Building's historic nature and is subject to the prior review and written approval of the City's Preservation Planner in accordance with MGO Chapter 41.
 - c. In all cases, the Lessee is responsible for following all applicable ordinances, codes, statutes, and laws, and obtaining all permits required for any construction activity.
 - d. Any construction, modification, improvement, alteration, redecoration, or remodeling of either the exterior or interior shall remain for the benefit of the City, unless otherwise provided in the City's written approval.
9. Real Estate Taxes. Should any City of Madison Ordinance or State of Wisconsin Statute require that the Property be subject to real estate taxes or assessments, the Lessee shall be liable for the Lessee's proportionate share of all such real estate taxes and assessments on a prorata square foot basis as the area of the Leased Premises bears in relation to the Property.
10. Personal Property Taxes. The Lessee shall pay, before delinquency, all municipal, county and state or federal taxes assessed against any leasehold interest of the Lessee or any fixtures, furnishings, equipment, stock-in-trade or other of the Lessee's personal property of any kind owned, installed or used in or on the Leased Premises for the Lessee's sole benefit.
11. Utilities. The Lessee shall be solely responsible for and promptly pay all charges for water, gas, heat, electricity, sewer, storm water and any other utility used upon or furnished to the Leased Premises.
12. Assignment and Subletting. The Lessee shall not assign the Lease nor sublet the Leased Premises, or any portion thereof, without the prior written consent of the City, which consent the City may withhold at its sole discretion.
13. Right of Entry. The City or its representatives shall have the right to enter upon the Leased Premises at any reasonable time for the following purposes:
- a. To make any inspection it may deem expedient to the proper enforcement of any term or condition of the Lease or in the exercise of its municipal powers.
 - b. For the purpose of performing work related to any public improvement provided that the City or its representatives restore the Leased Premises to a condition equivalent to that which existed on the date the City initiated the installation of the public improvement. The Lessee agrees to waive any loss of access and to hold the City harmless for any damages resulting from loss of visitor donations during the period of installation of the public improvement.
14. Termination.
- a. The City shall have the right, at its sole option, to declare the Lease void, terminate the same, reenter and take possession of the Leased Premises under the following conditions:
 - (1) By giving the Lessee a minimum of thirty (30) days' written notice of termination, upon or after any one of the following events:

- i. The filing by the Lessee of a voluntary petition in bankruptcy.
- ii. The institution of proceedings in bankruptcy against the Lessee and the adjudication of the Lessee as bankrupt pursuant to such proceedings.
- iii. The taking by a court of competent jurisdiction of the Lessee's assets pursuant to proceedings brought under the provisions of any federal or state reorganization act.
- iv. The appointment of a receiver of the Lessee's assets.
- v. The divestiture of the Lessee's estate herein by other operation of law.
- vi. The abandonment by the Lessee of the Leased Premises ,except in connection with its surrender to an assignee or other party succeeding to the Lessee's interest hereunder, subject to Paragraph 13 of the Lease.
- vii. The use of the Leased Premises for an illegal purpose.
- viii. The failure of the Lessee to pay when due any monetary sums due pursuant to the terms of the Lease.
- ix. In the event the Lessee defaults in the performance of any other term or condition of the Lease.

The termination shall not be effective, if within such thirty (30) day period, the event giving rise to the City's right to terminate ceases to exist. In the event of a breach of a term, covenant or condition of the Lease which requires more than the payment of money to cure and which cannot, because of the nature of such default, be cured within said thirty (30) days, then the Lessee shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the Lessee immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.

- (2) In the event that the Lessee fails to maintain insurance as required by the Lease, the City may elect to: (a) immediately terminate the Lease and cause the removal of all personal property installed upon the Leased Premises at the sole expense of the Lessee; or (b) purchase or pay for any insurance coverage required by the Lease and charge the Lessee the cost of same as additional rent. Any amount paid by the City hereunder shall be repaid by the Lessee to the City upon demand, together with interest thereon at the rate of twelve percent (12%) per annum.
- (3) By giving the Lessee a minimum of thirty (30) days written notice of termination in the event the Lessee defaults in the performance of any term or condition of the Lease other than those as set forth in Subparagraphs 22.a.(1) and 22.a.(2). Notwithstanding the foregoing, if such default is not a health or safety violation and cannot, because of the nature of the default, be cured within said thirty (30) days, then the Lessee shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the Lessee immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.

- (4) By giving the Lessee a minimum of one hundred eighty (180) days written notice of termination in the event the Leased Premises, at the sole discretion of the City, are desired for any public use or purpose.
- (5) If the whole or any part of the Leased Premises shall be taken by Federal, State, county, city, or other authority for public use, or under any statute, or by right of eminent domain, then when possession shall be taken thereunder of the Leased Premises, or any part thereof, the term hereby granted and all rights of the Lessee hereunder shall immediately cease and terminate, and the Lessee shall not be entitled to any part of any award that may be made for such taking, nor to any damages therefor.

Failure of the City to declare the Lease terminated upon the breach or default of the Lessee for any reason set forth in Subparagraph 22.a of the Lease shall not operate to bar or destroy any right of the City to terminate the Lease for any subsequent breach or default of any term or condition of the Lease.

- b. The Lessee shall have the right, at its sole option, to terminate the Lease by giving the City a minimum of one hundred eighty (180) days written notice of termination and by complying with Paragraphs 24 and 25 of the Lease.

15. Damage and Destruction. In the event the Leased Premises is damaged to the extent that it is rendered untenable, in whole or in part, the City is not obligated to repair or rebuild the Leased Premises and may elect to terminate the Lease upon giving notice of such election in writing to Lessee within thirty (30) days after the event causing the damage. Notwithstanding the foregoing, the City shall consult with the Lessee before making such determination, but the City reserves the right to make the final decision.
16. Historic Preservation. In all actions relating to the Leased Premises, the Lessee shall comply with all applicable provisions of Subchapter II, Historic Preservation, of Chapter 44, Wisconsin Statutes, and all federal laws and regulations applicable to properties listed on the National Register of Historic Places, and MGO Chapter 41.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute, deliver and record such documents and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution in a form to be approved by the City Attorney.