

RESOLUTION NO. 34-10
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Gusham ON THE 20th
DAY OF September, 2010.

**A RESOLUTION RATIFYING THE ACTION OF THE CITY
MANAGER IN ENTERING INTO A REVOCABLE LICENSE
AGREEMENT FOR THE USE OF THE LEONARD E. STUBBS
MEMORIAL PARK AS A LOCATION FOR THE MIAMI VALLEY
FIREFIGHTER/EMS MEMORIAL.**

WHEREAS, the City of Centerville owns the Leonard E. Stubbs Memorial Park;
and,

WHEREAS, the City of Centerville negotiated a Revocable License Agreement
for the use of the Leonard E. Stubbs Memorial Park as a location for the Miami
Valley Firefighter/EMS Memorial; and

WHEREAS, the Miami Valley Firefighter/EMS Memorial Association, Inc., is a
not for profit organization established for the purpose of building and maintaining
a memorial to Miami Valley Firefighters and EMS personnel; and

WHEREAS, the City of Centerville negotiated this Revocable License for the sole
purpose of allowing the placement and maintenance of the memorial upon terms
acceptable to the City; and

WHEREAS, Council has the power to enter into such agreement by virtue of its
Charter and the provisions of Article VIII, Section 16 and Article XVIII, Section
3 of the Ohio Constitution;


NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY
RESOLVES:

Section 1: That Council hereby ratifies the action of the City Manager
in entering into a Revocable License Agreement with the
Miami Valley Firefighter/EMS Memorial Association, Inc.
and its artists, according to the terms and conditions set
forth in the Agreement, a copy of which is attached hereto,
marked Exhibit "A" and incorporated herein.

Section 2: That the City Manager is hereby authorized and directed to
do any and everything necessary to carry out the terms of
said Agreement.

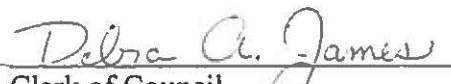
Section 3. This Resolution shall become effective at the earliest date allowed by law.

PASSED THIS 20th day of September, 2010.



Mayor of the City of Centerville,
Ohio

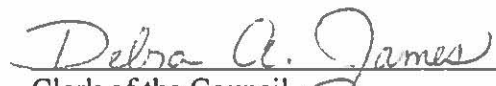
ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 34-10, passed by the Council of the City of Centerville, Ohio on the 20th day of September, 2010.



Clerk of the Council

Approved as to form, consistency
with existing ordinances, the Charter
and Constitutional Provisions.

Department of Law
Scott A. Liberman
Municipal Attorney

REVOCABLE LICENSE
FOR USE OF THE LEONARD E. STUBBS MEMORIAL PARK
AS LOCATION FOR
MIAMI VALLEY FIREFIGHTER/EMS MEMORIAL

Gregory B. Horn, the duly appointed and acting City Manager of the City of Centerville, Montgomery County, Ohio (hereinafter "City") acting pursuant to the authority granted him by the Council for the City of Centerville, for one dollar and other valuable consideration, hereby grants to The Miami Valley Firefighter/EMS Memorial Association, Inc., 444 W. Third St., Suite 20/231, Dayton, OH 45402, (hereinafter "Licensee") and Jon Barlow Hudson and Hudson Sculpture Ltd., 325 N. Walnut St., Yellow Springs, OH 45387 (hereinafter "Artist"), a revocable license (hereinafter "License") for Artist and Licensee to construct, maintain, and occupy an artistic sculpture and monument as a memorial (hereinafter "Memorial") on certain property owned by the City and located within The Leonard E. Stubbs Memorial Park (Premises). The Memorial and its location are depicted on Exhibit "A" and attached hereto and incorporated herein.

The Revocable License for Use granted to Licensee is subject to conditions as follows:

1. Licensee attests that it is and will at all times during the duration of this agreement, continue to remain a valid existing not-for profit entity duly registered with and authorized by the Ohio Secretary of State. Non-renewal, revocation, or expiration of Licensee's status as an entity with the Ohio Secretary of State will constitute grounds for a determination of abandonment of the Memorial, as stated herein. Licensee may assign this license to another not-for-profit entity upon the written consent of the City and said consent shall not be unreasonably withheld. City retains the right to determine that any assignee has the Funds available in an endowment as set forth in Paragraph 2, below.
2. Licensee attests that it has established an endowment fund ("Fund") established for the purposes of future maintenance and repair of memorial. Said Fund shall be maintained in an amount acceptable to the City. Further, Licensee shall allow City access to the Fund in the event that Licensee fails to respond to requests by the City to make repairs or perform maintenance. Licensee shall disclose the location of the Fund assets and execute a Power of Attorney for the City to have access to the Fund upon default of this License by Licensee.
3. This License is revocable at any time if the City Manager in his/her sole discretion, determines that said revocation is necessary to protect the public health, safety or welfare of the City. City shall provide Licensee and Artist with thirty (30) days written notice prior to the effective date of revocation. Said notice shall be mailed to the address stated above. In the event of revocation, Licensee agrees to release the Fund to the City for the purposes of

repairs and/or maintenance of the Memorial or, if the Memorial is to be removed, to be used for such removal, if necessary.

4. Upon termination of this License, and during the thirty day notice period provided above, Licensee shall cause the Memorial to be removed and the Premises to be restored to its condition prior to construction of the Memorial at the sole cost and expense of Licensee. City Manager and/or his/her agent shall be the sole determiner of whether the Premises have been returned to an appropriate condition.
5. At all times that the Memorial is located upon City property, Licensee shall maintain, clean, polish, paint, repair, and otherwise provide any necessary upkeep at Licensee's sole cost. Said repairs must be made promptly.
6. Licensee shall be responsible for all utilities provided on the Premises for the Memorial, at Licensee's sole cost.
7. Licensee and/or Artist shall be responsible for all damage whatsoever caused to City property around the Premises by way of the transportation, set up, use of cleaning/polishing agents, paints or other chemicals, transit of chemicals/personnel/equipment to and from the Memorial's location, and any other damage caused or exacerbated by the Memorial itself or the maintenance and/or service thereof, including but not limited to vandalism to the Memorial. Artist's responsibility is limited to the initial construction of the Memorial only.
8. The City, upon any reasonable justification and for cause, after thirty (30) days' written notice of termination of this License as contemplated herein, may determine that Licensee has abandoned the Memorial. Upon such determination, City Manager may engage in any reasonable means to keep, maintain, remove, destroy, or otherwise dispose of the Memorial, including but not limited to the sale of the Memorial or parts thereof. Licensee expressly represents that in any agreement Licensee has with Artist or any other third party to construct or maintain the Memorial, Licensee has sufficiently exempted and held City harmless from any liability of any kind whatsoever to Artist or any third party for such removal or destruction thereof in accordance with the terms herein. Artist herein agrees that in the event this License is revoked and the Memorial is abandoned, Artist shall hold City harmless from any liability of any kind for sale, removal, destruction or any other action conducted by the City.
9. When constructed, the Memorial shall meet all applicable requirements of law. Licensee shall, at its sole cost, engage in any repairs, alterations or other maintenance necessary to bring the Memorial into compliance with any law and shall indemnify the City for any costs or liabilities incurred by any such violations.

10. Licensee shall be permitted to place one sign, plaque, or other similar type of identifying structure to display solely the title of the work, date of completion, Artist's name, notice of copyright and the identification of Licensee. No other signage shall be permitted on or around the Memorial other than signage that is part of the display or artwork as approved by the City. No other logos, corporate identifiers, names or other advertising shall be permitted on the Memorial or Premises, other than logos, corporate identifiers, names or other advertising that is part of the display or artwork approved by the City, without the express written consent of the City Manager.
11. Licensee shall save and hold the City harmless of any and all liability, claims or expenses of any kind caused by or growing out of the construction, maintenance, placement, operation, relocation, discontinuance, or abandonment of the Memorial and/or this License. Licensee shall maintain an insurance policy, naming the City as an additional insured. Artist shall save and hold the City harmless of any and all liability, claims or expenses of any kind caused by or growing out of the construction of the Memorial.
12. The City may modify this License upon thirty (30) days prior written notice to the Licensee and/or Artist at the address as stated herein.
13. The Memorial shall not interfere with any public use of Premises without the express written consent of the City Manager. Licensee may not hold any meetings, ceremonies, or other events of any kind on the Premises without the express written consent of the City Manager and any other officials deemed necessary by the City Manager.
14. Licensee and/or Artist shall not cause any damage to any trees, grass, or other natural vegetation located on City property, and shall exercise all reasonable means to preserve the park atmosphere and natural setting surrounding the Premises and the Memorial.
15. This License shall not be recorded.

Executed this 25th day of AUGUST, 2010 by Gregory B. Horn, as City Manager for the City of Centerville, County of Montgomery, State of Ohio.

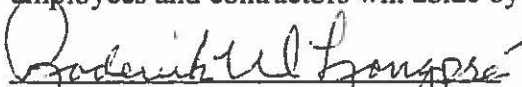
CITY OF CENTERVILLE,

By: _____

Gregory B. Horn
City Manager

ACKNOWLEDGEMENT AND ACCEPTANCE

The undersigned duly authorized representative of Licensee and the Artist hereby acknowledges receipt of this Revocable License and agree that The Miami Valley Firefighter/EMS Memorial Association, Inc., its officers, agents, employees and contractors and Jon Barlow Hudson and Hudson Sculpture, Ltd., its officers, agents, employees and contractors will abide by its terms.



THE MIAMI VALLEY FIREFIGHTER/
EMS MEMORIAL ASSOCIATION, INC.



JON BARLOW HUDSON

By: Roderick W. Longpre

Its: Secretary/Treasurer

HUDSON SCULPTURE, LTD.

By: Jon B. Hudson

Its: Sculptor