

RESOLUTION NO. 38-10
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER James Singer ON
THE 18th DAY OF October, 2010.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO
ENTER INTO A LEASE AGREEMENT BETWEEN THE CITY
OF CENTERVILLE AND THE CENTERVILLE-
WASHINGTON TOWNSHIP HISTORICAL SOCIETY.

WHEREAS, The City of Centerville, the lessor, desires to enter into a
lease agreement with the Centerville-Washington Township Historical Society,
the lessee, for the use of the buildings and land known as the Asahel Wright
Complex, located at 26 North Main Street, for a period of five (5) years;

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1. That the City Manager be and is hereby authorized to enter
into a Lease Agreement between the City of Centerville and the Centerville-
Washington Township Historical Society for the use of the buildings and land
known as the Asahel Wright Complex for a period of five (5) years, a copy of
which is attached hereto, incorporated herein and marked as Exhibit "A".

Section 2. This resolution shall become effective immediately upon
passage.

PASSED THIS 18th day of October, 2010.

C. Mark Keup
Mayor of the City of
Centerville, Ohio

ATTEST:

Debra A. James
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. 38-10, passed by the Council of the City of Centerville, Ohio on the 18th day of October, 2010.

Debra A. James
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

LEASE AGREEMENT

This Lease Agreement is made and entered into this ___ day of _____, 2010, at Centerville, Montgomery County, Ohio, by and between the City of Centerville, an Ohio municipal corporation, hereinafter called Lessor, and the Centerville-Washington Township Historical Society, an Ohio non-profit corporation, hereinafter called Lessee. This Lease Agreement replaces and supercedes a lease agreement between the same parties entered into on October 25, 2005.

ARTICLE ONE

DEMISE, DESCRIPTION, USE, TERM, AND RENT

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, that certain property, hereinafter called the Leased Premises, situated in the City of Centerville, Montgomery County, Ohio, and described as follows:

The buildings and land known as the Asahel Wright Complex, 26 North Main Street, Centerville, Ohio, more particularly described as follows:

All of that certain tract of land situated in the City of Centerville, County of Montgomery and State of Ohio, and being the south one-half (S/2) of Lot 63 of the consecutive numbers of lots of the revised plat of said City formerly known as the south one-half (S/2) of Lot 3 on Aaron Nutt's plat, Book 1, Page 20; together with twenty (20) feet taken by parallel lines off the west end of the south one-half (S/2) of Lot 68 of the consecutive numbers of lots on the revised plat of the City of Centerville, said Lot 68 formerly have been Lot 8 on Aaron Nutt's said plat of the town of Centerville as recorded in Plat Book 1, Page 20 of the Plat Records of Montgomery County, Ohio.

To be used only for the conduct of activities of the Centerville-Washington Township Historical Society and the business and events normally incident thereto and for no other purpose, for the term of five (5) years commencing on the ___ day of _____, 2010 and ending on the ___ day of _____, 2015.

ARTICLE TWO

RENT

Lessee shall pay Lessor at 100 West Spring Valley Road, Centerville, Ohio, 45458, or at such other place as the Lessor shall designate from time to time in writing, as rent for the Leased Premises, the sum of One Dollar (\$1.00) per year commencing on the date of commencement of the Lease and continuing each year thereafter during the term or any renewal period.

ARTICLE THREE CONDITION AND REPAIR

Lessee has examined and knows the condition of the Leased Premises and has received the same in good order and repair and agrees that no representations as to the condition or repair have been made by Lessor that are not herein expressed, and that Lessee will keep said premises in good repair, and will keep said premises and appurtenances in a clean, safe, and healthy condition according to the city ordinance and the direction of the proper public officers during the term of this Lease at Lessee's own expense. Lessee shall be responsible for the payment of all expenses incurred in connection with all normal maintenance, cleaning, and painting and for any repairs up to the first \$2,500.00 for each repair and up to an aggregate total of \$10,000.00 in any one calendar year. Lessor shall be responsible for the payment of any and all repairs to the extent that any exceeds \$2,500.00 or to the extent that the annual aggregate exceeds \$10,000.00. All improvements shall require the prior written consent of the Lessor and shall be paid for by Lessee.

ARTICLE FOUR USE AND OCCUPANCY

The Lessee will use and occupy said premises and appurtenances in a careful, safe, and proper manner, and will at Lessee's expense comply with the direction of the proper public officers as to the use, repair, and maintenance thereof; and Lessee will not allow said premises to be used for any purpose or in any way that will increase the rate of insurance thereon, nor for any purpose other than that herein before specified, nor to be occupied in whole or part by any other person except as herein specified; and will not bring or suffer to be brought into or upon said premises any substance or force that will improperly increase the hazard of fire in or on said premises; and will not permit any transfer by operation of law of Lessee's interest in said premises acquired through this lease; and will not permit said premises to be used for any unlawful purpose or in any way that will injure the reputation of the same; and will not permit any alteration of or upon any part of said demised premises, except by written consent of Lessor; and will not permit the filing of any lien against the premises arising out of the activities of the Lessee. All alterations and additions to said premises shall remain for the benefit of the Lessor unless otherwise provided in said written consent. In the event any lien is filed against the premises in violation of this provision, the Lessee agrees to cause the removal of same and to indemnify the Lessor for any loss or damage occasioned thereby.

The premises shall be used by the Lessee and such other persons or organizations, on a temporary basis, that the Lessee deems appropriate. Such temporary use is subject to the terms and conditions as approved by the Lessee's Board of Directors; and all such temporary use shall conform to the terms and conditions of this lease.

While this Lease is between the City of Centerville and the Centerville-Washington Township Historical Society, the parties understand and agree that the Lessee will make every

reasonable effort to accommodate the space needs of the Landmark Foundation without rental charge to this organization.

ARTICLE FIVE SURRENDER UPON EXPIRATION

The Lessee agrees that it will deliver up and surrender to the Lessor possession of the premises hereby leased upon the expiration of this Lease, any renewal thereof, or its termination in any way, in as good condition and repair as the same shall be at the commencement of said term (loss by fire, hazard, and ordinary wear and tear excepted) and deliver the keys at the office of the Lessor.

ARTICLE SIX FREE ACCESS OF THE LESSOR

The Lessor shall have free access to the premises at all reasonable times for the purpose of examining same or to make any alterations or repairs to the building that the Lessor may deem necessary and, during the last ninety (90) days of the term of this Lease, for the purpose of exhibiting said premises and putting up the usual notice "to rent" or "for sale," which notice shall not be removed, obliterated, or hidden by the Lessee.

ARTICLE SEVEN DEFAULT BY LESSEE

If Lessee fails to pay within thirty (30) days any installment of the rent provided for herein, or if there is a failure to perform any other requirement contained as a term or condition of this Lease and if such failure is not cured within sixty (60) days after written notice, such failure shall constitute a breach of this Lease and shall give rise to the remedies described herein.

The following remedies shall be cumulative at the option of the Lessor, and the mention herein of any particular remedy or right shall not preclude Lessor from any other remedy or right available at law or equity.

1. Lessor may file suit against Lessee to enforce this Lease and thereby collect any and all sums of money due from Lessee, leaving the premises in possession and without ending the term of, or otherwise terminating this Lease.

2. Lessor may re-enter the premises and repossess the same without further notice so as to dispossess and remove the Lessee and its property from the premises either by force or otherwise, without necessity of notice or legal process with reasonable care to be exercised in the removal, transportation, and storage of any property of Lessee. (In the alternative, this re-entry and possession may be effected through an action in forcible entry and detainer under Ohio statutes and on the basis of the notice required by those statutes.) Any such re-entry and repossession of the premises under this paragraph (2) shall have the affect of terminating Lessee's right to occupy the premises and thus terminating the Lease between Lessor and Lessee or Lessee's liability for any other damages as a result of the breach of contract which will have occurred through the breach of the Lease.

3. Should the Lessee be placed in bankruptcy, or receivership, or otherwise become in like proceedings, it shall be lawful for, and the Lessee does hereby grant permission to the Lessor, its successors and assigns, to enter into the premises without hindrance or obstruction of any kind, and especially without any obstruction that could result from Lessee's implication and legal action, and further, under any such conditions, the Lessor may repossess and enjoy the said premises as in the first and former estate and thereupon all conditions that require performance on the Lessor's behalf as set forth in this Lease, except for the conditions contained in this article shall, at the Lessor's option, cease, terminate, and become utterly void.

ARTICLE EIGHT DESTRUCTION OR DAMAGE TO PREMISES

It is mutually agreed between the parties hereto that if the said premises shall without default or neglect on the Lessee's part be destroyed or so injured by the elements or other cause as to be unfit for occupancy and such destruction or injury could reasonably be repaired within ninety (90) days from the happening of said destruction or injury, then the Lessee shall not be entitled to surrender possession of said premises without the mutual consent of the parties hereto, but in case of any such destruction or injury, the Lessor shall repair the same with all reasonable speed and shall complete such repairs within ninety (90) days from the happening of such event.

ARTICLE NINE QUIET ENJOYMENT

The Lessor hereby covenants and agrees that if the Lessee shall perform all of the covenants and agreements herein stipulated to be performed on Lessee's part the Lessee shall at all times during said term have the peaceable and quiet enjoyment and possession of said premises without any manner of hindrance from Lessor or any person or persons lawfully claiming said premises.

ARTICLE TEN PARTIES RESPONSIBILITIES

It is agreed that Lessee shall pay for all interior cleaning expense, heat, gas, electric, water, sewer, and telephone utilities used in the space herein leased.

In accordance with Article III, it is agreed that Lessor shall keep the exterior of the building in a good state of repair and paint; keep the buildings insured against fire, liability, windstorm, and other casualty; and to pay all real estate taxes and assessments in connection with the property hereby leased and any charges in connection with sewer service.

It is agreed the Lessee shall be responsible for its own janitor service and the Lessor shall not be required to furnish same. It is further agreed that Lessee shall be responsible for the cost of any damages should the same result to the building or building equipment caused by Lessee's equipment, materials, employee's, invitees, licensees, patients or agents. It is further agreed Lessee shall abide by the rules and regulations of the insurance company or companies which carry insurance on the buildings; and that Lessee will also abide by all plat or zoning restrictions on the use of said premises and it will comply with all departments, bureaus, agencies, and governmental bodies of the City of Centerville, County of Montgomery, State of Ohio, and federal government of the United States, as to the use and occupancy of the premises herein leased.

ARTICLE ELEVEN NOTICES, SUCCESSORS, SEVERABILITY, and INTERPRETATION

Notices and communications with respect to this lease shall be sufficient if delivered in person or if sent by U.S. Registered Mail or Certified Mail, addressed to Lessor at 100 West Spring Valley Road, Centerville, OH 45459 and to Lessee at 89 West Franklin Street, Centerville, OH 45459.

The covenants and agreements contained herein shall be binding upon, and inure to the respective successors and assigns of the parties hereto and may not be changed in any way except by an instrument in writing, acknowledged, and witnessed by both Lessor and Lessee.

This lease contains the entire agreement of the parties, was mutually negotiated, agreed upon, and prepared by both the Lessor and the Lessee and no clause contained herein should be interpreted as having been the product or preparation of the Lessor or Lessee alone.

If any provision of this lease shall be declared invalid or unenforceable by a court of competent jurisdiction, the remainder of the lease shall continue in full force and effect.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS IN DUPLICATE
HEREOF, ON THE DATE AND YEAR FIRST ABOVE WRITTEN.

WITNESS:

CITY OF CENTERVILLE

By _____
Gregory B. Horn, City Manager

CENTERVILLE-WASHINGTON TOWNSHIP
HISTORICAL SOCIETY

By _____
President:

By _____
Secretary:

STATE OF OHIO
COUNTY OF MONTGOMERY, SS:

Before me a Notary Public in and for the said county and state personally appeared the
above named City of Centerville by Gregory B. Horn, City Manager, Lessor and Centerville-
Washington Township Historical Society by its President and its Secretary, Lessee who
acknowledged that they did sign the foregoing instrument and the same is their free act and deed.

WITNESS my hand and official seal at Centerville, Ohio, this ___ day of
_____, 2010.

NOTARY PUBLIC

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October 14, 2010