

Sponsor Elliott Foster

RESOLUTION NO. 14-19

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF JACKSON TO ENTER INTO A LEASE AGREEMENT WITH THE SOUTHERN HILLS ARTS COUNCIL, AN OHIO NOT FOR PROFIT CORPORATION, FOR THE LEASE AND MAINTENANCE OF THE MARKAY CULTURAL ARTS CENTER LOCATED ON EAST MAIN STREET AND OWNED BY THE CITY AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jackson is the owner of the Markay Cultural Arts Center building located on East Main Street in the City of Jackson which has historical and cultural significance to the City but presently serves no other municipal purpose; and

WHEREAS, the Markay Cultural Arts Center building is in need of regular maintenance, improvements and continued management in order to be a benefit to the City of Jackson; and

WHEREAS, the Southern Hills Arts Council is an Ohio non-profit corporation that is well established in the City of Jackson and has shown itself to be uniquely qualified to manage, operate, preserve and maintain the Markay Cultural Arts Center at no additional cost to the City as it has done for many years; and

WHEREAS, in order for the Southern Hills Arts Council to operate, preserve and maintain the Markay Cultural Arts Center, it requires that it's rights and obligations be continued pursuant to a renewed lease agreement, a copy of which is attached hereto; and

WHEREAS, this matter constitutes an emergency so that the Southern Hills Arts Council can undertake the obligations set forth in the lease agreement to continue to operate, insure and maintain the premises.

THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE AUTHORITY OF THE CITY OF JACKSON, OHIO THAT THE MAYOR OF THE CITY OF JACKSON BE AND IS HEREBY AUTHORIZED TO EXECUTE THE LEASE AGREEMENT ATTACHED HERETO AS EXHIBIT A AND THAT THIS MATTER CONSTITUTES AN EMERGENCY NECESSARY TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE CITY FOR THE REASONS SET FORTH HEREIN.

In the event this Resolution receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Resolution shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

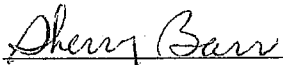
It is hereby found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that the deliberations of this Council that resulted in such formal actions were in a meeting open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 13th day of May, 2019.



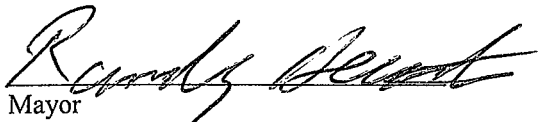
President of Council

ATTEST:



Clerk of the Legislative Authority

Approved this 13th day of May, 2019.



Mayor

LEASE AGREEMENT
(THE MARKAY CULTURAL ARTS CENTER)

This Lease Agreement (The Markay Cultural Arts Center) ("Lease") is made between the **City of Jackson** ("City"), an Ohio municipal corporation, and **Southern Hills Arts Council** ("Arts Council"), an Ohio non-profit corporation, under the following circumstances:

- A. The City owns certain real property known as The Markay Cultural Arts Center at 269-271 East Main Street in Jackson, Ohio, which includes a historically significant theater complex ("The Markay Cultural Arts Center"), of which the Arts Council has been in possession for several years;
- B. The legal description for The Markay Cultural Arts Center is attached as Exhibit A;
- C. The Articles of Incorporation for the Arts Council features the following purpose:

The purpose of the Council shall be to enhance the quality of life in Jackson County and surrounding area by encouraging and stimulating the practice and appreciation of the arts.
- D. Both parties desire for the Arts Council to retain possession of The Markay Cultural Arts Center for the purpose set forth above.

ACCORDINGLY, the parties in consideration of their mutual promises agree as follows:

- 1. Lease; Right-of-Way Reserved. The City hereby leases The Markay Cultural Arts Center to the Arts Council, and the Arts Council leases The

Markay Cultural Arts Center from the City. The leased property contains numerous and substantial leasehold improvements which the Arts Council made and paid for in previous years, and therefore owns.

2. Term. The term of this Lease shall be ten years from the date when this Lease is fully signed. This term may be extended by renewal as provided in this Lease and shall be subject to earlier termination as provided in this Lease.

3. Rent. The rent for this Lease shall be One Dollar per year, payable when the Lease is fully signed, and at annual intervals thereafter during the term. This rent shall remain One Dollar per year during any and all renewals of the term. The Arts Council may pay the rental for the entire extended lease term in advance when the Lease is fully signed.

4. Renewals of the Term. This Lease shall automatically renew for successive periods of ten years for each automatic renewal unless the Arts Council serves written notice of nonrenewal upon the City at least sixty days before the commencement of the next upcoming renewal term. This Lease may not in any event be renewed for more than four renewal terms. The Arts Council may at its expense remove its leasehold improvements at the termination of the lease.

5. Permitted Uses of The Markay Cultural Arts Center. The Arts Council shall have exclusive possession of The Markay Cultural Arts Center for any use allowed by the purpose as stated above. These uses may include but shall not be limited to the following: headquarters for the Arts Council; facility space for arts classes, lectures, and the like; performances of all kinds in the auditorium; and showing motion picture films of any kind, with or without an admission price.

6. Maintenance. The Arts Council shall at its expense maintain The Markay Cultural Arts Center in good condition. This duty to maintain includes all repairs, whether major or minor, to all structures, windows, roofs, heating, air conditioning, plumbing, and the like.

7. Utilities. The Arts Council shall pay for all utilities used in The Markay Cultural Arts Center, including electric, water, sewer, trash pickup, heating and cooling, and internet.

8. Real Estate Tax. The Arts Council shall pay any and all real estate taxes which may be assessed and levied upon The Markay Cultural Arts Center. The parties intend for The Markay Cultural Arts Center to remain exempt from real estate tax.

9. Indemnification. During the term of this Lease, including any renewals, the Arts Council at its expense shall obtain and carry comprehensive general liability insurance in limits referred to as \$1,000,000 aggregate, \$1,000,000 each accident, and \$250,000 property damage, with respect to The Markay Cultural Arts Center. The policies shall cover liability for occurrences in or at The Markay Cultural Arts Center, including structures, stairs, stage, sidewalks, parking areas and entranceways. The Arts Council shall produce proof of this insurance upon the City's request.

10. Casualty Loss. The Arts Council shall repair damage caused by fire or some other casualty, to the extent that the damage can be repaired.

11. Parking Areas, Sidewalks and Common Areas. During the winter season the Arts Council shall keep parking areas, sidewalks, and common areas free of ice and snow.

12. Termination without Cause. The Arts Council may terminate this Lease without cause upon six months' written notice delivered to the City.

13. Termination with Cause. The City may terminate this Lease in the event the Arts Council fails to cure a breach of the Lease within ninety days after receiving notice of the breach. In addition, the City may terminate this Lease upon six months' written notice to the Arts Council in the event the Arts Council dissolves or becomes permanently defunct.

14. Notice Addresses. Notice to the City may be made by mailing or delivering the notice to Office of the Mayor, Municipal Building, 145 Broadway Street, Jackson, Ohio 45640, or whatever other address the City provides to the Arts Council.

Notice to the Arts Council may be made by mailing or delivering the notice c/o SHAC President/Director, PO Box 149, Jackson OH 45640, or whatever other address the Arts Council provides to the City.

15. Capacity to Lease. The City warrants that it has received authority from its City Council to enter this Lease. Also, the City warrants that no other lease or leasehold relationship applies to or encumbers The Markay Cultural Arts Center, or any portion of The Markay Cultural Arts Center.

The Arts Council warrants that it has received authority from its governing authority to enter this Lease.

16. Assignment of Lease. The Arts Council may not assign any of its rights in this Lease without the City's consent, which shall not be unreasonably withheld. Purchase, merger, or any transformation of the Arts Council shall constitute an assignment for purposes of this provision.

17. General Provisions.

a. Transferee Responsibility. This Lease shall be binding upon the successors and assignees of the parties to the same extent as it is binding upon the parties themselves.

b. Authority to Lease. The governing body of each party has approved this Lease. No obligation under this lease may be assessed as individual liability against any Director, Officer, Council Member or other individual person associated with either party.

b. Ohio Law. This Lease shall be interpreted according to the law of Ohio.

c. Severability. If one or more provisions of this Lease are found to be invalid, illegal, or otherwise unenforceable, the remainder of this Lease shall be interpreted as if the invalid, illegal, or otherwise unenforceable provision or provisions were not in it.

d. Integrated Contract. This Lease constitutes the only agreement of the parties hereto and supersedes any prior understandings and written or oral agreements.

e. Amendments. This Lease may be modified or amended only by a writing signed by both parties.

f. Recording. Either party may at its expense record this Lease.

18. Execution of Lease. This Lease is executed in Jackson County, Ohio, by signing as indicated below as of _____, 20__.

CITY OF JACKSON:

SOUTHERN HILLS ARTS
COUNCIL:

By Randy Heath
Its Mayor

By Cortney Leach
Its President

STATE OF OHIO

COUNTY OF JACKSON

SS:

BE IT REMEMBERED, that on this ____ day of _____, 2019, before me, the subscriber, a notary public in and for said county, personally came Randy Heath, Mayor of the City of Jackson, Ohio, the Lessor in the foregoing Deed, and acknowledged the signing to be his and its voluntary act and deed. I have this day subscribed my name and affixed my seal.

STATE OF OHIO

COUNTY OF JACKSON

SS:

BE IT REMEMBERED, that on this ____ day of _____, 2019, before me, the subscriber, a notary public in and for said county, personally came Cortney Leach, the President of the Southern Hills Arts Council, an Ohio non-profit corporation, in the foregoing Deed, and acknowledged the signing to be her and its voluntary act and deed. I have this day subscribed my name and affixed my seal.

*Prepared by William C. Martin, Attorney at Law, Ohio Supreme Court Registration No. 6804,
P.O. Box 926, Jackson, Ohio 45640 (740) 286-8054*

EXHIBIT A

Real property situated in the City of Jackson, Jackson County, Ohio, and more particularly described as follows:

Part of Inlot 6 in the City of Jackson, beginning at the northeast corner of Inlot 6;

Thence south and along the east line of Inlot 6, 171.6 feet to the southeast corner of Inlot 6;

Thence west along the south line of Inlot 6 and parallel to Main Street 53.8 feet more or less to the southwest corner of the Markay Theatre building, which corner is also the southeast corner of the N.T. Cavett property, deeded by C.M. Martin et al. to N.T. Cavett by deed dated June 23, 1847, recorded Deed Book H, page 602;

Thence north and parallel to Broadway Street and along the west line of the Markay Theatre building 110.2 feet more or less to the southwest corner of a tract deeded by Jackson Amusement Company to Emma D. Shaw by deed dated June 16, 1937, recorded in Deed Book 110, page 345;

Thence east 17.96 feet more or less to the center of a partition wall in the building, being also the southeast corner of the Emma D. Shaw tract;

Thence north parallel to Broadway Street 60.54 feet more or less to the north line of Inlot 6;

Thence east along the north line of Inlot 6 36.04 feet more or less to the northeast corner of Inlot 6 and the point of beginning of the tract intended to be conveyed.

This description is based on the hypothesis that Main Street runs east and west in the City of Jackson.

Subject to the party wall privilege as set forth in a deed from Elihu Johnson to Richard Cavett by deed dated November 4, 1878, and recorded in Deed Book 10, Page 491, of the Deed Records of Jackson County. Also subject to certain rights granted to Emma D. Shaw to attach the sewer from the premises conveyed to her to the sewer of the Markay Theatre building and to convey sewage to the city sewer and also the right of way over the remainder of Inlot 6 for the conveyance of fuel gas and electric current through the conduits now existing, from the alley on the east side of Inlot 6 to the premises conveyed to Emma D. Shaw.

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