

AMERICAN FORK CITY COUNCIL
MARCH 2, 2021
WORK SESSION, SPECIAL SESSION AGENDA

NOTICE OF ELECTRONIC MEETING

In accordance with Resolution No. 2020-07-20R, Mayor Frost has determined that conducting meetings of the City Council with an anchor location, such as the City Council Chambers or Administration Conference Room, presents a substantial risk to the health and safety of those who may be present there. The following are facts upon which this determination has been made:

- Utah declared state of emergency on November 8, 2020 due to an increase in case counts of COVID-19, a virus outbreak that has been recognized by the World Health Organization, federal, state and local leaders as a pandemic.
- The Centers for Disease Control and Prevention (CDC) has stated that COVID-19 is easily spread from person to person between people who are in close contact with one another through respiratory droplets when an infected person coughs, sneezes, or talks. This virus can also be spread by people who are non-symptomatic.
- Federal, state, and local authorities recommend that individuals limit public gatherings, wear face masks, and follow social distancing guidelines.
- It is difficult to anticipate the number of attendees at any meeting in order to maintain social distancing to comply with State Phased guidelines. Further, regardless of the number of attendees, social distancing measures for Council, staff, and attendees will be difficult to maintain in the City Council Chambers and Administration Conference Room.
- COVID-19 continues to pose an immediate threat to the health, safety, and welfare of American Fork City residents.
- American Fork City can provide a way for the public to hear, or hear and view, open portions of City Council meetings and to provide a way to participate in public hearings.

While the written determination remains in effect, all City Council meetings will be conducted electronically. The meetings are broadcast live-streamed, and available at a later time, at <https://www.americanfork.gov/AgendaCenter>.

The American Fork City Council will meet electronically in a work session and special session on Tuesday, March 2, 2021, commencing at 4:00 p.m. The agenda shall be as follows:

WORK SESSION

The purpose of City Work Sessions is to prepare the City Council for upcoming agenda items on future City Council Meetings. The Work Session is not an action item meeting. No one attending the meeting should rely on any discussion or any perceived consensus as action or authorization. These come only from the City Council Meeting.

1. Discussion on crime prevention through environmental design.
2. Discussion on a lease agreement for property located at approximately 90 North Church Street.
3. Adjourn to Special Session.

SPECIAL SESSION

1. Review and action on approval of a lease agreement for property located at approximately 90 North Church Street.
2. Adjournment.

Dated this 26th day of February 2021.



Terilyn Lurker, City Recorder

- In accordance with the Americans with Disabilities Act, American Fork City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-763-3000 at least 48 hours in advance of the meeting.
- The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.

LEASE AGREEMENT

This Lease Agreement (hereinafter “Agreement”) is entered into by and between American Fork City Corporation, a Utah municipal corporation (hereinafter “Owner”), and Harrington Center for the Arts, a Utah nonprofit corporation (hereinafter, “Tenant”). This Agreement shall be binding and effective as of the date the last of the two parties signs the Agreement (hereinafter “Effective Date”).

RECITALS

WHEREAS, Owner owns a certain parcel of real property located in American Fork, Utah, which is more particularly described in Exhibit “A” (the “Property”), which is attached hereto and incorporated herein by this reference; and

WHEREAS, Tenant is preparing to redevelop its property adjacent to the Property as set forth in the concept plans attached hereto as Exhibit B;

WHEREAS, Tenant desires to lease from Owner the Property, subject to the terms and conditions contained in this Agreement; and

NOW THEREFORE, in consideration of the promises, covenants, and conditions herein contained, and in further consideration of the execution of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner, and Tenant agree as follows:

AGREEMENT

1. Leasehold.
 - (a) Owner hereby leases the Property to Tenant for the express purpose or purposes set forth in this Agreement, subject to the terms and conditions contained herein, and subject to any other interest of record as of the Effective Date with respect to the Property. The Tenant accepts said lease of the Property.
 - (b) Any prior agreements between Owner and Tenant, with respect to the Tenant’s lease of the Property and any previous or prospective purchase, whether written or verbal, are hereby mutually rescinded.

2. Lease Term.
 - (a) The term of this Agreement shall be for a period not to exceed three (3) years beginning on the Effective Date (hereinafter, “Lease Term”) for the purpose of parking and preparing development plans for future purchase and expansion of the Harrington Center for the Arts.
 - (b) Upon termination of the Agreement by any of the methods described, Tenant shall return the Property to Owner in good condition, ordinary wear and tear and damage by casualty or condemnation excepted. Any and all buildings, utilities, fixtures, equipment, signs, and other personal

property of any nature, including light fixtures, shall at the termination of the Agreement become a part of the realty and shall not be removed from the Property.

3. Consideration. In exchange for the lease of the Property, the Tenant shall:

- (a) Pay Owner an annual amount, on or before May 1 of each year, of Ten Dollars (\$10.00).

4. Use of Property.

- (a) During the Lease Term, tenant may use the Property in any manner consistent with its intent to prepare its development plans, and consistent with all terms of this Agreement;
- (b) Owner agrees to sign all necessary documentation to allow Tenant to proceed with its development applications for the Property;
- (c) Tenant may not develop the property or construct any vertical improvements without first purchasing the Property, which is subject to the surplus of the Property by the City after proper notice, consideration, and action by the City Council. The parties understand this Agreement does not obligate the City to surplus the property, as necessary public notice has not been provided;
- (d) To the extent improvements are constructed on the Property by Tenant, Tenant shall, at all times, and at its own expense, maintain and keep such improvements in good condition and appearance; provided, however, that Owner shall be responsible for any and all damages caused to the Property by Owner's negligence and that of Owner's invitees, patrons, or guests;
- (e) Owner shall have the right to continue use of the Property for parking during Lease Term.

5. Surplus of Property

- (a) If Tenant secures the necessary financing for the purchase of the Property at fair market value, and the associated development and construction of Phase 1 of the Project, and has the necessary development plans prepared for approval in accordance with applicable building codes, parking requirements, and development regulations during the Lease Term, Owner agrees to properly notice the Property for consideration of surplus.
- (b) Lease Term shall immediately terminate upon Surplus of the Property by Owner.

6. Mutual Representations and Warranties.

- (a) The Owner represents and warrants that:
 - (i) the signatory on behalf of the Owner has the authority to bind the Owner to this Agreement;

- (ii) the Owner has not sold, assigned, or otherwise transferred any interest in the Property or other subject matter contemplated by this Agreement except that previously provided to Tenant;
 - (iii) the Owner has the right, power, legal capacity, authority, and means to enter into and perform this Agreement;
 - (b) Tenant likewise represents and warrants that:
 - (i) the signatory on behalf of the Tenant has the authority to bind the Tenant to this Agreement;
 - (ii) it is a duly organized nonprofit corporation in the State of Utah and has all necessary authority to conduct business in the state.
- 7. Attorney's Fees and Costs. Each party shall bear its own attorney's fees and costs incurred in connection with the execution and performance of this Agreement. However, if any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, or to seek damages as a result of a breach hereof, the prevailing party in such action shall be entitled to recover reasonable attorney's fees, legal costs, and other collection fees and costs incurred by said prevailing party in connection with the suit, both before and after judgment, in addition to any other relief to which such party may be entitled.
- 8. Binding Effect. This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, legatees, representatives, successors, allowable transferees, and allowable assigns.
- 9. Further Assurances. The Owner and the Tenant mutually agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement.
- 10. Assignment; Sublease. Tenant shall not assign or transfer this Agreement, or any interest therein, and Tenant shall not sublet the Property or any portion thereof, without the prior written consent of the Owner.
- 11. Amendments. This Agreement may not be modified, amended, or terminated except by an instrument in writing, signed by each party hereto. Agreements to reasonable requests for modifications will not be unreasonably withheld, conditioned, or delayed.
- 12. Duplicate Originals. This Agreement may be executed in duplicate originals, each of which shall be deemed to be an original, and all of which shall be deemed to constitute one and the same instrument.
- 13. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Utah, regardless of any choice or conflict of law rules or.
- 14. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions of this Agreement shall nevertheless be construed, performed, and enforced as if the invalidated or unenforceable provision had not been included in this Agreement.

15. Third-Party Beneficiaries. This Agreement is not meant to create any rights or benefits (whether intended or incidental) for any third party. Only the named parties hereto may enforce the terms and conditions of this Agreement.

16. Entire Agreement. All agreements, covenants, representations, and warranties, express or implied, oral or written, of the parties concerning the subject matter hereof are contained solely in this Agreement. No other agreements, covenants, representations, or warranties, express or implied, oral or written, have been made by any party to any other party concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants, and warranties concerning the subject matter hereof are merged herein. This is an integrated agreement.

WHEREFORE, Owner and Tenant voluntarily enter into this Agreement, as evidenced by affixing their respective signatures below:

Owner:

Tenant:

 American Fork City Corporation
 By: Bradley J. Frost
 Its: Mayor

HARRINGTON CENTER FOR THE ARTS
 By:
 Its:

Dated: _____

Dated: _____

Attest:

 City Recorder

Dated: _____

EXHIBIT "A"



N CENTER ST

N CHURCH ST

Description

Beginning at the northeast corner of Utah County lot #02:031:0040 (Harrington School parcel) and bearing $N89^{\circ}18'41''W$ 152.83 feet; thence $N00^{\circ}10'52''E$ 63.61 feet; thence $S89^{\circ}18'41''E$ 153.41 feet; thence $S00^{\circ}41'19''W$ 64.63 feet to the point of beginning. (area = 9,894.81 sqft or .23 acres)



1 inch = 45 feet

EXHIBIT "B"

