

RESOLUTION NO. 2009-040

SPONSOR Mr. Pry and Mr. Kostandaras

DATE March 2, 2009

COMMITTEE Planning

A Resolution authorizing the County Executive to execute a lease of approximately 250 square feet of office space at the County Building Department located at 1030 Tallmadge Avenue, Akron, Ohio for use by the City to process and issue zoning and building-related permits in the territorial jurisdiction of the City of Akron which must be obtained prior to the issuance of building permits, for an annual rent of one dollar (\$1.00), for the Executive's Department of Community and Economic Development, Division of Building Standards, and declaring an emergency.

WHEREAS, on November 24, 2008, pursuant to Ordinance No. 516-2008, the Council of the City of Akron authorized the Mayor and/or Service Director of the City of Akron to negotiate and execute an Agreement to authorize the County of Summit Department of Building Standards to exercise Building Code enforcement, inspecting and permitting authority within the City of Akron; and

WHEREAS, on December 1, 2008, pursuant to Resolution No. 2008-383, this Council authorized the County Executive to negotiate and enter into an Agreement with the City of Akron whereby the County would exercise Building Code enforcement, inspecting and permitting authority on behalf of, and within, the City of Akron; and

WHEREAS, on or about December 12, 2008, the Ohio Board of Building Standards granted the application of the City of Akron for certification of the County of Summit Department of Building Standards, pursuant to Section 3781.10(A) of the Ohio Revised Code, to exercise Building Code enforcement, inspection and permitting authority on behalf of, and within, the City of Akron; and

WHEREAS, this Council, pursuant to Resolution 2009-004 adopted on the 26th day of January, 2009, has approved a comprehensive Agreement whereby the County of Summit, Department of Building Standards will exercise Building Code review, inspection and enforcement authority on behalf of, and within, the City of Akron with the City of Akron continuing to review, process and issue a number of building-related permits as well as zoning certificates for every building project undertaken within the City; and

WHEREAS, to promote government efficiency and economy and for the convenience of builders, developers, contractors and the general public, the comprehensive Agreement seeks to create a centralized location for the submittal of required information and the processing and issuing of required permits for building projects within the City of Akron and the County of Summit; and

WHEREAS, the County of Summit currently has available office space at its Building Department located at 1030 East Tallmadge Road, Akron, Ohio which would be sufficient for the City and its employees to accept, review, process and issue those zoning and building-related permits which the City will continue to process; and

WHEREAS, this Council, after reviewing all pertinent information, finds and determined that it is in the best interest of the County of Summit and the interest of efficiency, economy and convenience to authorize the Executive to lease said space to the City of Akron.

NOW THEREFORE, BE IT RESOLVED, by the Council of the County of Summit, State of Ohio, that:

SECTION ONE.

The County Executive is hereby authorized to execute an Agreement with the City of Akron to lease approximately 250 square feet of office space at the County Department of Building Standards located at 1030 Tallmadge Avenue, Akron, Ohio. The space is to be used to process and issue zoning and building-related permits for an annual rent of One Dollar (\$1.00). A copy of the proposed Lease of Office Space is attached.

SECTION TWO.

This Resolution is hereby declared to be an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit, and for the further reason to ensure that the transition of building authority between the County of Summit and City of Akron is done in an orderly manner with minimal inconvenience to the public.

SECTION THREE.

Provided this Resolution receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided for by law.

SECTION FOUR.

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

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INTRODUCED February 9, 2009

ADOPTED March 2, 2009

Shawley R. Greer
CLERK OF COUNCIL

Nick Kostandaras
PRESIDENT OF COUNCIL

APPROVED March 2, 2009

Justin [Signature]
EXECUTIVE

March 2, 2009
ENACTED EFFECTIVE

Voice Vote: 10-0 YES: Crossland, Schmidt, Comunale, Poda, Smith
Crawford, Feeman, Rodgers, Shapiro, Kostandaras ABSENT: Prentice

**OPERATING AND OFFICE SPACE LEASE BETWEEN THE
COUNTY OF SUMMIT AND THE CITY OF AKRON**

THIS LEASE AGREEMENT (“Lease”) is entered into at Akron, Ohio as of the date signed by the County Executive, by and between the **COUNTY OF SUMMIT, OHIO**, hereinafter referred to as the “County,” having its principal place of business located at the Office of the Summit County Executive, 175 South Main Street, Akron, Ohio 44308, as duly authorized by Resolution No. _____ and **CITY OF AKRON, OHIO**, hereinafter referred to as the “City,” having its principal place of business located at the Office of the Mayor of the City of Akron, 166 South High Street, Akron, Ohio 44308.

WITNESSETH:

WHEREAS, County desires to lease the Premises (as hereinafter defined) to City and City desires to lease said Premises from the County;

NOW THEREFORE, in consideration of the mutual covenants and agreements to be performed by the parties and intending to be legally bound, County and City mutually agree as follows:

1. PREMISES

County hereby leases to the City approximately 250 square feet of office space (hereinafter referred to as the “Premises”) located at 1030 East Tallmadge Avenue, in the City of Akron, State of Ohio 44310 under such terms and conditions as are more fully set forth below.

2. TERM

The **OPERATING AND OFFICE SPACE LEASE** upon the Premises shall commence on the 2nd day of February, 2009, (the “commencement date”) and continue until terminated by default, operation of the law or as otherwise provided herein.

3. RENTAL

The charge for rental of the Premises is One Dollar (\$1.00) per year for each year of the Lease. The rent shall be due on the commencement date and be due each year thereafter on or before the anniversary of the commencement date. City has no right to set off from the Rent any amounts it may be owed.

4. DELIVERY OF RENTS

All Rents shall be sent to: Attention:
Director of Budget and Finance
County of Summit
175 South Main Street, 7th Floor
Akron, Ohio 44308

5. USE

- (a) The Premises shall be used by the City and their employees as an office to process and issue zoning and building related permits to the public. A list of zoning and building related permits to be issued by City is set forth in Exhibit "A" which is attached hereto and incorporated by reference. It is understood that City may hereafter authorize the issuance of additional permits or repeal a current permit requirement pursuant to City Council Resolution or Ordinance.
- (b) The Premises may be used for purposes incidental to the processing and issuance of zoning and building permits.
- (c) City shall not use or occupy any part of the Premises for hazardous or unlawful purposes. City and their employees shall not bring any hazardous substances into or onto the Premises nor allow any storage or dumping of any hazardous substances.
- (d) The office space leased herein shall be adjacent to or abut upon an area of the Building open and accessible to the public. The space shall remain locked at all times except as required for employee ingress or egress or as otherwise provided by this **OPERATING AND OFFICE SPACE LEASE**. The Office Space provided herein shall have separate locks and/or securing devices which shall be under the exclusive custody and control of City.
- (e) City shall not use the Premises for any other purpose not specifically set forth in this **OPERATING AND OFFICE SPACE LEASE** without the prior written consent of the County.

6. UTILITIES, MAINTENANCE AND REPAIRS

County shall be responsible for the payment of any utilities except as otherwise provided herein as well as maintenance, repair, replacement, remodeling or other alterations for or to the Premises during the initial term or any extension of this **OPERATING AND OFFICE SPACE LEASE**. County shall determine, in its sole discretion, the necessity

and extent of any maintenance, repair, replacement, remodeling or other alteration of the Premises.

County shall provide the Premises with reasonable access to utility services (outlets, fixtures, etc.) that City may require for the conduct of business at the Premises.

City is responsible for providing any furniture and all work equipment which may be needed by its employees working at the Premises. City is also responsible for the installation, maintenance, repair, upkeep, replacement and cost of any information technology it may utilize on the Premises including, without limitation, any telephone service, internet or computer service(s), facsimile and copier machines and such services shall be procured in the name of the City. In no event shall either party share such technology with the other party.

County shall make available to City employees and public patrons using the Premises to conduct routine business with City the common restrooms and common public parking facilities which are now used by County employees and the public.

7. SEPARATE EMPLOYEES

The parties acknowledge that those persons working at the Premises and processing and issuing zoning and building-related permits are employees of the City of Akron. County has no right to direct the manner or scope of their employment except for compliance with the terms and provisions of this **OPERATING AND OFFICE SPACE LEASE**.

8. INSURANCE

City shall procure Worker's Compensation insurance as statutorily required on behalf of any employees working at the Premises.

9. COUNTY'S ACCESS

County, including its agents, shall have access to the Premises at any time to examine the condition of same provided twenty-four (24) hour notice has been give to City, except such notice is not required for an emergency where time for such notice is not practicable.

10. ASSIGNMENT OF LEASE

City shall not assign this **OPERATING AND OFFICE SPACE LEASE** Agreement or any sub-part thereof without the prior written consent of the County. County may withhold its consent for any reason.

11. DEFAULT

The occurrence of any one of the following events shall constitute a default under this **OPERATING AND OFFICE SPACE LEASE** Agreement:

- (a) The failure of the City to pay rent as provided under this Agreement;
- (b) The decision of either party to terminate the underlying Agreement whereby the County will perform building department functions on behalf of and within the City of Akron, said Agreement being executed by the parties on or about the _____ day of _____, 2009;
- (c) The mutual decision of the parties to terminate or modify this **OPERATING AND OFFICE SPACE LEASE** Agreement;
- (d) The closure or relocation of the County Building Department from the property commonly known as 1030 East Tallmadge Avenue, Akron, Ohio, for any reason whatsoever;
- (e) County loss of certification or lawful authority to function as a Building Department regardless of reason.

12. REMEDIES UPON EVENT OF DEFAULT

Upon the occurrence of any event which constitutes a default under this **OPERATING AND OFFICE SPACE LEASE** Agreement, except the failure of the City to pay Rent as provided hereunder, this Agreement shall terminate and be for naught, void and of no effect.

- (f) If City should fail to pay Rent as required pursuant to this Agreement, County shall provide written notice to City of such failure and declare a default under this Agreement. City shall not be deemed in default if, within ten (10) days of receipt of such written notice, City cures or makes reasonable efforts to cure such a Default.
- (g) Both County and City retain those rights and remedies which may be available at law or equity concerning termination of this Agreement.

13. AUTHORIZATION

The parties signing this **OPERATING AND OFFICE SPACE LEASE** Agreement represent and warrant that they are authorized to enter into this Lease and bind their respective entities to the terms and conditions of this Lease.

14. SEVERABILITY

Each provision of this **OPERATING AND OFFICE SPACE LEASE** is intended to be severable. If any term or provision hereof is determined to be unenforceable by a court of competent jurisdiction for any reason whatsoever, then such term or provision shall be

severed from this Agreement and such term or provision shall not affect the validity of the remainder of this Agreement.

15. MODIFICATIONS

This **OPERATING AND OFFICE SPACE LEASE** contains the complete understanding between the parties who acknowledge that no other representations, oral or otherwise, have been made or relied upon. This Agreement may not be modified, altered, amended, supplemented or changed except upon the written consent of the City and the County and such modification, alteration, amendment, supplemental agreement or other change must be adopted by resolution or ordinance of each party's legislative body.

16. GOVERNING LAW

The parties acknowledge that this Agreement is governed by the laws of the State of Ohio. The parties further acknowledge that any suit touching upon or related to this Agreement shall be brought in the Court of Common Pleas of the County of Summit, Ohio.

IN WITNESS WHEREOF, the parties hereby sign this Agreement effective as of the date signed by the County Executive.

THE CITY OF AKRON

DONALD L. PLUSQUELLIC, Mayor

Date

RUSSELL M. PRY, Executive

Date

APPROVES AS TO FORM AND CORRECTNESS:

**MAX ROTHAL, Director of Law
City of Akron**

**RICHARD E. DOBBINS, Director of the Department of Law
County of Summit**