



RESOLUTION 2009-063

A RESOLUTION DIRECTING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE SHERWOOD HISTORICAL SOCIETY FOR THE MORBACK HOUSE

WHEREAS, the City recognizes the importance of preserving our historical heritage; and

WHEREAS, the Sherwood Historical Society is attempting to preserve a part of the City's heritage known as the Morback House; and

WHEREAS, the City owns the structure and property and has previously leased said structure and property to the Sherwood Historical Society; and

WHEREAS, the Historical Society and the City have verbally agreed to the terms of the lease in Attachment A;

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

The City Manager is authorized to enter into a lease agreement with the Sherwood Historical Society for the Morback House as described in Attachment A

Duly passed by the City Council this 4th day of August 2009.


Keith S. Mays, Mayor

ATTEST:


Sylvia Murphy, City Recorder

LEASE

This Lease is between the City of Sherwood, a municipal corporation of the State of Oregon (City), and the Sherwood Historical Society, Inc., an Oregon non-profit corporation (Society).

FINDINGS

- A. City is the owner of the real property located at 22552 SW Park St, Sherwood, Oregon, known as the Morback House.
- B. The purpose of the Society is to collect, preserve, exhibit and publish historical and cultural information and artifacts relating and pertinent to the Sherwood area.
- C. The Society wishes to enter a lease to renovate, maintain and operate the Morback House as a Historic Center (Center) and meeting place of historical and cultural significance to the area. The Society provides access for interested persons and the general public, including students, school and local community groups.
- D. The Society is familiar with the real property and knows of its present condition and is aware of the necessity to repair and renovate the property to a condition that meets current building code and safety standards for public buildings.

LEASE

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- 1. City leases to the Society in consideration of the obligations in this Lease the premises described as follows:

The real property and building known as the Morback House located at 16289 SW 1st Street, Sherwood, Oregon, with the legal description:

A portion of Lot 3 and 4 of Block 3, from the plat of "Smockville", a plat of record with the Washington County Surveyor's Office. Located in the Southwest ¼ of the Northwest ¼ of Section 32, Township 2 South, Range 1 West, of the Willamette Meridian, in the City of Sherwood, Washington County, Oregon.

TERM

- 2. The term of this Lease is five years beginning August 1, 2009, and ending as of July 31, 2014.
- 3. City agrees to review this Lease and the progress of the Center and notify the Society by April 1st whether it will enter into a new Lease upon mutually agreed terms. The City will enter into a new Lease with Society upon mutually agreed conditions if all obligations of this Lease have been met. The City does not anticipate that it will be necessary, but it retains the right to move the building to another location within the City. If it is not possible because of age or other good reason to move the building, this Lease will terminate.

RENT

4. The Society will pay to the City rent of \$1.00 per month upon execution of this Lease, and on each anniversary of this Lease. The lease is payable annually on the first day of the term of the lease.
5. The Society will conscientiously and consistently maintain the property for historical and cultural purposes.

USE

6. The Society will maintain the Morback House property to meet the City occupancy and use requirements to ensure the preservation and maximum public benefit from the Morback House.
7. The Society's principal goals for the Morback House are to display articles and objects of historical and cultural significance for the Sherwood community. They also are for office space, records and artifact storage. The goals will benefit the general public and interested persons and groups including area schools and community groups. Morback House will provide meeting facilities for promoting its goals and objectives, and for related social events. The selection of objects and materials for display is in the discretion and under the control of the Society.
8. The Society will at its own cost maintain in good condition all portions of the property, including all buildings, exhibits, windows, landscaping, and grounds, except for mowing. The City will be responsible for mowing the premises.
9. The Society may solicit donations. Openings for the general public will be on an established schedule, and organized visits by student groups will be given priority. The Society may use the Morback House exclusively for the Society's *own* meetings, gatherings, and events. The Society will only use the property for the purposes stated in this Lease.
10. The Society will annually submit to the City a detailed report of the operation and transactions of the Society in connection with its operation of the Morback House. This report will include a summary of the number of meetings and events. It must also state all revenues and costs, including an itemization of renovation and maintenance expenditures. This report is due by September 1 of each year during the term of this Lease.

CONSTRUCTION LIENS

11. The Society will pay all construction costs for the Morback House. The Society agrees to keep the property free and clear of all construction or other liens or encumbrances. The violation of this requirement is considered a breach. This Lease is subject to cancellation if a lien attaches to the property and is not removed within 30 days of notice, unless the City otherwise consents in writing.

UTILITIES

12. The Society will pay for all water and sewer service and charges to the property, including any System Development Charges and connection fees. The Society also will pay for all other utilities, including gas, electric and telephone service and solid waste collection.

PERSONAL PROPERTY AND RESPONSIBILITY

13. The Society may have in inventory or on display in the Morback House items or artifacts of historical significance that are on loan to the Society. The Society assumes all responsibility for the maintenance and protection of such items and will maintain appropriate insurance coverage. The City may also place on loan with the Society historical artifacts and documents for display by the Society at the Morback House. When such items are in the possession of the Society, it is responsible for them as for other loaned personal property and all properties on display.

14. The City gives to the Society all the personal property that was in or about the Morback House on November 5, 2003. If any of that property is ever sold, the proceeds from such sale will be only used for the benefit of Morback House.

INDEMNITY AND INSURANCE

15. The Society is responsible for any and all damages to the Society's property at the Morback House from any cause. The Society will hold the City harmless from all damages to any personal property occurring in or about the property and waives all claims against the City. The City is liable to the Society for damages resulting from specific acts of the City.

16. The Society will at its cost secure a Certificate of Insurance for the following amounts:

- General Liability - \$3,000,000 (which should include products, personal injury for each occurrence)
- Excess Liability - \$3,000,000 (each occurrence umbrella form)

The Society will be named as the insured and The City of Sherwood will be named as the Certificate Holder and Additional Insured.

17. Alcoholic beverages are not permitted on the property unless a special event or other appropriate license or permit is obtained from the Oregon Liquor Control Commission, and public liability insurance specifically covering the serving of such beverages is in effect. Insurance will be with an insurance carrier acceptable to the City, naming the City as an additional insured and a certificate of insurance will be furnished to the City in advance of any event.

ASSIGNMENT

19. The Society may not assign or encumber in any way its interest in this Lease or in the Morback House or sublease all or any part of the property. Society will not allow any other person or entity to occupy or use all or any part of the property without first obtaining City's written consent. Any assignment, encumbrance or sublease without the City's consent is void and, at City's election, may constitute a breach of this Lease. Any consent to an assignment, encumbrance or sublease is not a continuing or further waiver of this Lease or paragraph.

20. Any substantive amendment of the Society's by-laws, its dissolution, merger, consolidation or other reorganization is grounds for immediate cancellation of this Lease unless the City agrees to the change in writing.

21. No interest of the Society in this Lease is assignable or transferable by operation of law. An involuntary assignment constitutes a default by the Society and City has the right to terminate this Lease. This Lease is not an asset of the Society.

BREACH

22. The occurrence of any of the following constitutes a breach by Society:
- a. Failure to pay rent when due if the failure continues more than 10 days after notice has been given to the Society,
 - b. Abandonment and vacation of the property,
 - c. Failure to perform any other provision of this Lease if the failure is not cured within 30 days after notice to the Society. If the breach cannot be reasonably cured within 30 days, Society will not be in breach if the Society begins to cure the breach within the 30 day period, and diligently and in good faith continues to cure the breach.

CITY ENTRY ON PREMISES

23. The City, its agents and employees has the right to enter upon the property subject to this Lease at all reasonable times. This City has the right to enter the property immediately in the event of a fire or police emergency or a condition threatening immediate hazard to the public health, safety or welfare.

NOTICE

24. Any notice required by this Lease may be given by deposit in the U.S. Mail, first class with postage prepaid. If intended for the City addressed to Sherwood City Hall, 22560 SW Pine St, Sherwood, Oregon 97140. If intended for the Society addressed to Sherwood Historical Society, 22552 SW Park St, Sherwood, Oregon 97140. Any such notice is deemed delivered to addressee 48 hours after deposit in the mail.

WAIVER

25. Any waiver by City of any breach of this Lease by Society is a not continuing waiver, and will not prevent the City from declaring a default for any succeeding breach of the same provision.

MISCELLANEOUS

26. The Society will not overload the floors of Morback House to cause any undue or serious stress strain upon the building or any part of it. The Society will keep the property free and clear of rubbish, debris or obstruction. The Society will comply at its expense with all laws, rules and regulations of the City, Washington County, State of Oregon or other public authority relating to the use of the property.

ATTORNEYS FEES

27. If there is a legal action between the parties arising from or in connection with this Lease, the prevailing party is entitled to recover its costs and disbursements and attorney's fees as determined reasonable by the Court.

28. If either party becomes a party to any litigation concerning this Lease or the property by reason of any act or admission of the other party, the party that causes the other to become involved is liable to the other party for its reasonable attorney's fees and costs incurred in such litigation.

SURRENDER OF PREMISES – HOLDING OVER

29. On expiration of this Lease, the Society will surrender to the City all the property and all Society's improvements and alterations in good condition. The Society will remove all of its personal property from the property unless otherwise agreed in writing between the parties.

30. At the expiration of this Lease and any extension, the City may retain or dispose of any personal property left on the property as it sees fit. The City will have title to any personal property if City elects to retain. The Society waives all claims against the City for any damages resulting from the City's retention or disposal of any such personal property.

31. If the Society remains in possession of the property after expiration or termination of the term or any extension, such possession is deemed to be a month to month tenancy terminable on a 30 day written notice given by either party.

32. If a month to month tenancy is created, all provisions of this Lease except those pertaining to the term and option to extend the term apply.

GENERAL PROVISION

33. This Lease contains all of the agreements of the parties. The unenforceability, invalidity or illegality of any provision does not effect any other provision.

RIGHT OF FIRST REFUSAL

34. The City grants Society the right of first refusal to purchase the real property, house and buildings in the event of a sale. City agrees that before sale of the property to a third party City will notify Society in writing of the terms of any bona fide offer received by City that City intends to accept.

35. Society will have 30 days from date of that notice to provide City with its written offer to purchase the property on the same terms and conditions as the third party's offer. If Society makes such offer within that time, the City will sell the property to Society on those terms. If the Society fails to make such offer, the right of first refusal terminates as to that submitted third party offer.

36. Society will be allowed a credit against the stated purchase price for the actual money spent by Society for improvements to the property as shown in the verified Annual Reports of the Society to the City as provided by Section 11. However, the City will first recoup all costs of purchase and improvement expenses it has incurred for the property, including any funds expended to move the improvements to another location. The Society will not receive credit for time spent by Society volunteers or unpaid workers nor normal maintenance of the property.

This right of first refusal does not apply if the property is purchased or taken by a governmental agency for public purpose such as a street improvement.

CITY OF SHERWOOD

City Manager

City Recorder

SHERWOOD HISTORICAL SOCIETY

President

Secretary

Date Executed