

ORDINANCE NO. 55-2018 (As revised 5/22/18)
INTRODUCED BY: Mayor Roche & All Members of Council

**AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT WITH
GREENWOOD FARM HISTORICAL, CULTURAL & ARTS ASSOCIATION,
INC. AND AMENDING ORDINANCE NO. 47-2008.**

WHEREAS, by Ordinance No. 47-2008 of this Council, the Greenwood Farm Historical, Cultural & Arts Association, Inc. ("GWFA") was authorized to be established "for the purpose of operating, maintaining, restoring and programming of the use of the Greenwood Farm properties pursuant to articles of incorporation and under a lease agreement to be authorized by this Council";

WHEREAS, GWFA was established as a non-profit corporation in Ohio and has assisted the City with renovations and repairs to the City-owned Greenwood Farm properties and on occasion programmed its use for public events in conjunction with the City, but not to the extent originally contemplated in 2008 when GWFA was established; and

WHEREAS, GWFA does not permanently occupy the premises known as Greenwood Farm as originally contemplated by Ordinance No. 47-2008 and, therefore, a lease agreement between the City of Richmond Heights and GWFA was never necessary and remains unnecessary but a license agreement authorizing the occasional and temporary use of the premises is advisable.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: This Council authorizes the Mayor to enter into a license agreement with the Greenwood Farm Historical, Cultural & Arts Association, Inc. for the use of the City's Greenwood Farm Properties as provided for under the terms and conditions of the "License Agreement" attached hereto and incorporated herein as Exhibit A.

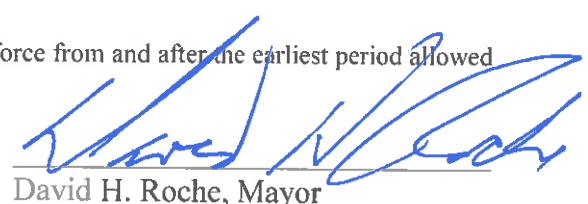
Section 2: Ordinance No. 47-2008 of this Council is hereby amended to repeal only the following language in Section 1 of that Ordinance which states: "...pursuant to any lease agreement that may be entered into between the City of Richmond Heights and such non-profit corporation".

Section 3: This Council ratifies as being authorized the Greenwood Farm Historical, Cultural & Arts Association, Inc.'s uses of the City's Greenwood Farm properties from the Association's inception in 2008 to date.

Section 4: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance 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.

Section 5: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: May 22, 2018



David H. Roche, Mayor

APPROVED: May 22, 2018



Eloise Cotton-Henry
President of Council

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council

LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is entered into this 22 day of May, 2018, by and between the City of Richmond Heights, an Ohio municipal corporation, whose mailing address is 26789 Highland Road, Richmond Heights, Ohio, 44143-1429 (hereinafter the "City"), and Greenwood Farm & Historical, Cultural & Arts Association, Inc., an Ohio non-profit corporation, whose mailing address is 1932 Service Corp, 1301 East 9th Street, Suite 3500, Cleveland, Ohio 44114 (hereinafter the "Licensee").

WITNESSETH:

WHEREAS, the City owns certain real property known as Greenwood Farm at or about 264 and 266 Richmond Road, Permanent Parcel Nos. 661-10-8005 and 661-10-8040, and one contiguous vacant parcel to the original Greenwood Farm recently acquired by the City, and known as Permanent Parcel No. 661-08-042, in the City of Richmond Heights, Ohio (hereinafter all three parcels are collectively referred to as "Greenwood Farm" in this Agreement).

WHEREAS, pursuant to Ordinance No. 47-2008, the Council of the City of Richmond Heights authorized the formation of Licensee, a non-profit corporation organized and existing pursuant to the laws of the State of Ohio, for the purpose of the non-exclusive operation, maintenance, restoration, renovation and programming of the use of Greenwood Farm.

WHEREAS, Licensee has requested permission from the City to periodically use Greenwood Farm for community programs, events and activities, fundraising events to support and assist in the maintenance and renovation of Greenwood Farm, its Association and Board meetings, and volunteer work sessions to assist with the maintenance, restoration and renovation of Greenwood Farm.

WHEREAS, it is in the best interest of the City to enter into this License Agreement to enhance utilization of Greenwood Farm for the benefit of the residents of, and visitors to, the City of Richmond Heights and to receive assistance, both financially and in-kind, from Licensee to maintain, restore and renovate Greenwood Farm.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

1. License for Use. In consideration of the covenants and agreements hereinafter set forth, the City hereby grants to Licensee a license for the use of Greenwood Farm free of charge for the purpose of permitting Licensee to periodically use Greenwood Farm for Licensee's Association and Board meetings, community programs, events and activities, fundraising events and volunteer work sessions to support and assist with the maintenance, restoration and renovation of Greenwood Farm, provided that advance written notice is given to the City's Mayor or the Mayor's designee for such uses, other than work sessions/activities and Licensee's Association and Board meetings. In the event of a conflict of proposed events to be held at Greenwood Farm, the City has the sole discretion to decide

which event takes precedence. This License for Use shall not be construed to grant Licensee possession of Greenwood Farm.

2. **Area of Use.** Licensee shall be entitled to use the entire real property at Greenwood Farm, both the grounds and buildings, for the uses set forth in Section 1 of this Agreement, subject to: (a) the notice requirement in Section 1 above; (b) other uses that have been authorized by the City; and (c) subject to any safety and/or security measures that may be required by the City.
3. **Term.** The initial term of this Agreement shall be for a period of ten (10) years, commencing as of April 1, 2018 through March 31, 2028 (hereinafter, the "License Term"). After the initial ten (10)-year term, this Agreement shall automatically renew for one (1)-year terms (each term also being a "License Term") during subsequent years, unless the City or Licensee terminates the Agreement pursuant to Section 4 below.
4. **Termination.**
 - a. The City may terminate this Agreement at any time during the License Term, or any renewal term, for a violation or breach of the terms of this Agreement by giving Licensee thirty (30) days advance written notice to the Licensee's Board. Upon such termination, any costs of repairs and/or restoration of damage to Greenwood Farm caused by Licensee, other than normal wear and tear, shall be at the sole expense of Licensee.
 - b. The City may terminate this Agreement upon twenty-four (24) hours advance notice to Licensee for good cause, as reasonably determined by the City, which may include but is not limited to: the sale of alcoholic beverages to minors or intoxicated persons (whether any criminal charges are ever brought or successfully prosecuted); failure to keep areas of Greenwood Farm in a clean and neat condition; persistently loud and annoying noise from events or activities, persistent misbehavior by invitees; inadequate traffic control causing safety issues or activity that causes a public nuisance. Upon such termination, any costs of repairs and/or restoration of damage to Greenwood Farm caused by Licensee, other than normal wear and tear, shall be at the sole expense of Licensee.
 - c. The City may terminate this Agreement at any time, and without cause, upon three (3) months advance written notice to Licensee.
 - d. Licensee may terminate this Agreement at any time with advance written notice to the City.
5. **Insurance.** Licensee shall maintain and keep in full force throughout the term of this Agreement commercial general liability insurance against all claims for

personal injury, death or property damage occurring at Greenwood Farm with minimum limits of coverage of One Million Dollars (\$1,000,000.00) per occurrence and an annual aggregate amount of One Million Dollars (\$1,000,000.00). Licensee shall furnish to the City a certificate(s) of insurance evidencing these coverages and limits no later than the commencement of the License Term and at such additional times as may be requested by the City. Such policies shall have endorsements which name the City as an additional insured and shall be non-cancelable for any cause without first giving the City thirty (30) days prior written notice.

6. **Indemnification.** Licensee shall indemnify, defend, keep and hold the City and its officers, agents, and employees free and harmless from liability for any and all damages, loss, or penalties of any kind whatsoever incurred as a result of Licensee's use of Greenwood Farm pursuant to this Agreement. The aforesaid damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omission, theft, fire, and all other damages arising out of Licensee's exercise of its rights under this Agreement, regardless of whether any act or omission complained of is authorized, allowed or prohibited by this Agreement. Such indemnification shall include, but not be limited to, reasonable attorney's fees and costs.
7. **Improvements and Equipment.**
 - a. Licensee shall not make any permanent improvements to the Licensed Area, without the prior written consent of the City.
 - b. Licensee may install standards or fencing with the prior written approval of the City.
 - c. After the expiration or termination of the License Term, Licensee shall remove from Greenwood Farm any items of personal property it owns and shall repair and restore to their previous condition any and all damaged areas of Greenwood Farm that were caused by Licensee's use of Greenwood Farm. Upon such expiration or termination, any costs of repairs and/or restoration of damage to Greenwood Farm caused by Licensee, other than normal wear and tear, shall be at the sole expense of Licensee.
 - d. Licensee acknowledges that all fixtures and personal property purchased for and/or donated to Greenwood Farm by Licensee or by others through the efforts of Licensee are owned by the City for use at the Greenwood Farm properties. After the expiration or termination of the License Term, fixtures and items of personal property donated to the Greenwood Farm buildings and lands by Licensee or donated by others through Licensee's efforts shall remain at Greenwood Farm.

8. **Cleaning, Maintenance, and Repair.** Licensee shall be responsible for all cleaning and routine maintenance of the grounds, buildings and any equipment at Greenwood Farm for, during or after any events and activities for which Licensee is the sole sponsor, as well as any necessary repairs of the buildings, equipment and facilities damaged by Licensee's use of Greenwood Farm.
9. **Permits and Approvals.** Licensee shall be responsible for obtaining all permits, licenses, and/or approvals that are required by governmental agencies for any of its uses of Greenwood Farm, other than the uses licensed herein. In the event Licensee intends to serve liquor at Greenwood Farm, Licensee shall be required to obtain the necessary permits from the State of Ohio.
10. **Conditions of Use.**
 - a. Licensee shall use Greenwood Farm in a careful, safe and proper manner and in compliance with all relevant federal, state and local ordinances, laws, rules and regulations.
 - b. Licensee shall not use Greenwood Farm or permit the same to be occupied or used for any purpose or business which is unlawful, contrary to this Agreement, or, in the City's reasonable judgment, is disreputable, immoral, or inappropriate.
 - c. Licensee shall not use or allow Greenwood Farm to be used for any purpose or in any way which will increase the rate of insurance on the property or for any purpose other than that specified in the Agreement.
 - d. Licensee shall not use any substance or perform any activity at the property that constitutes a fire hazard.
 - e. Licensee shall make appropriate provision for disposal of all trash, garbage or debris that is generated from Licensee's use of Greenwood Farm.
11. **Signs.** Any temporary or permanent signs at Greenwood Farm must be in accordance with all applicable laws and ordinances. Any permanent sign at Greenwood Farm must be approved in writing in advance by the City. .
12. **Assignment.** Licensee's interest hereunder is a personal interest which may not be assigned to any other party without the written consent of the City. Neither the license interest, nor any interest of Licensee in Greenwood Farm, nor any improvements or personal property thereon shall be subject to involuntary assignment, transfer, or sale by operation of law in any manner whatsoever, and any such attempted involuntary assignment, transfer or sale shall be void and of no effect and shall, at the option of the City, terminate this Agreement.

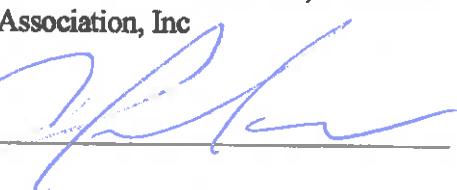
13. **Non-Waiver.** The failure of the City to enforce any of the rights granted to it by this Agreement by reason of a violation or breach by Licensee of any of the terms of this Agreement shall not be construed as a waiver of the power of the City to exercise any such rights as to any subsequent or different violation or breach.
14. **Severability.** In the event any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of any other term of this Agreement shall in any way be affected thereby.
15. **Survival of Covenants.** All promises made in this Agreement, including but not limited to indemnification and insurance provisions, shall survive the termination or expiration of this Agreement.
16. **Entire Agreement.** This written Agreement constitutes the entire understanding between the parties, superseding all previous negotiations, discussions and prior practices of the parties as to the use of Greenwood Farm and no modification or alteration of this Agreement shall be binding unless it is in writing and signed by both parties.
17. **Service.** Service of any communication required or permitted in this Agreement shall be made by personal service, electronic mail or certified mail, return receipt requested, at the addresses listed in the heading or at such other addresses as either party may provide in writing from time to time.
18. **Authorization.** Each person executing this Agreement warrants and represents that he or she is legally authorized to execute this Agreement on behalf of the legal entity for which he or she is signing.

CITY OF RICHMOND HEIGHTS, OHIO

By: 

David H. Roche, Mayor

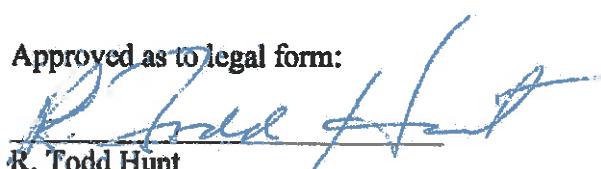
Greenwood Farm & Historical, Cultural & Arts Association, Inc

By: 

Print Name: Michael C. Casper

Title: GFW President

Approved as to legal form:


R. Todd Hunt
Director of Law
City of Richmond Heights, Ohio