

LEASE OF NEWTON FALLS CITY IMPROVEMENT CORP. PROPERTY

NEWTON FALLS COMMUNITY CENTER

Heritage Accord

THIS LEASE ("Lease") is entered into on March 3, 2020, by and between the City of Newton Falls Community Improvement Corp., an Ohio Municipal Community Improvement corp., with offices at 19 North Canal St, Newton Falls Ohio 44444, ("Landlord"), and Heritage Accord, a non-profit corp. organized under the laws of the State of Ohio, whose address is P.O. Box 82, Newton Falls Ohio, 44444 ("Tenant"). Landlord and Tenant may hereinafter be referred to as the "Parties".

WHEREAS, Heritage Accord, the Tenant, has been organized and formed initially for the sole purpose of restoring, preserving and maintaining the Newton Falls Community Center (the "Community Center") in order to both honor its historic original use and contributions as a United Service Organizations (U.S.O.) building and to facilitate the reopening of this building to the public for use as a community center; and

WHEREAS, Heritage Accord has provided to the City of Newton Falls Community Improvement Corp., the Landlord, a comprehensive Proposal dated September 27, 2019 for the renovation and preservation of the Community Center; with such Proposal, the Landlord and Tenant each acknowledging further agreed upon refinements may or will be required, being sufficient inducement for A) Landlord to engage in good faith with Tenant to facilitate its forgoing described goals for the Community Center; and for B) Tenant to commit in good faith to commit its resources and talents toward achieving those goals; and

WHEREAS, Landlord and Tenant now agree to enter into this Business Property Lease, (the "Lease") relating to that certain building located at 52 East Quarry St, Newton Falls, Ohio, commonly known as the Newton Falls Community Center (the "Building"); and

1. **Purpose.** The purpose of this agreement is to enable Heritage Accord to raise funds and engage contractors and suppliers to restore the community center to its former beauty and historic condition without cost to the taxpayers of the City of Newton Falls.
2. **Term.** The initial term of this Lease shall commence on the later of the date set forth above given or that date of formal approval of this Lease by the City Council of the City of Newton Falls and the Community Improvement Corp. (the "Commencement Date"), and shall expire on December 31, 2025. Tenant shall have an option to extend for additional three (3) year terms as set forth below in paragraph 4.

3. **Rent.** Tenant shall pay Landlord rent in the sum of \$1.00 per year. The first rental payment shall be one dollar (\$1.00) and payment is due on March 1, 2020 or upon execution of this lease, whichever event occurs last. Thereafter, rental payments in the amount of one dollar (\$1.00) shall be due on or before January 1 of each year during the term of this Lease.
4. **Renewal Option.** At the expiration of the initial term of this lease, Tenant shall have an option to continue to renew this Lease for multiple three (3) year terms by giving written notice of renewal to Landlord 90 days before expiration of the then current Lease term. Each renewal of this Lease shall be for a term of three (3) years. Each renewal shall be on the same terms and conditions as stated in this Lease.
5. **Leased Premises.** Landlord leases to Tenant the Building. In addition to the Building, Tenant shall have the right to use of the parking spaces in the adjacent parking lot and the natural area and grounds surrounding the Building. Together, the Building, the use of the adjacent parking spaces and natural area and grounds surrounding the Building are referred to as the "Premises".
6. **Permitted Use of Premises.**
 - A. Prohibited Activities. No activity shall be conducted on the Premises which does not comply with applicable Federal, State of Ohio and local laws, ordinances, and regulations.
 - B. Tenant's Use of Premises for Events. The Tenant may schedule and conduct events at the Premises with approval of the city manager which shall not be unreasonably withheld. City Administrative Code §151.01 is declared to be null and void. Tenant shall provide the office of the City Manager with a monthly notice of all events scheduled or intended to be scheduled, and within reasonable time for review and response by the City Manager, if desired. Approval of events by the City Manager or Landlord shall not unreasonably be withheld.
 - C. Landlord's Use of Premises for Events. The Landlord or the City of Newton Falls through the city manager may sponsor and conduct up to six (6) events per calendar year at the premises at no rental charge, facility or user fee to Landlord. In addition to that city may conduct council meetings or other such official meetings at no charge as long they do not conflict with other events. Each such event shall be of a duration of not more than one day. Payment of direct Out-of-Pocket costs and expenses of such events conducted by Landlord including, but not limited to, food, beverages, direct labor, supplies, outside rentals and advertising shall be the responsibility of the Landlord. Tenant shall cooperate with Landlord to schedule and facilitate the conduct of events scheduled by the Landlord. Landlord shall have the right to employ or use its own employees, vendors or other organizations in the conduct of its events. Requests by the Landlord for use of part or all of the Premises for the conduct of an event must be made in writing and delivered to the Tenant at least twenty-five (25) days in advance of the desired event date. The Tenant shall

not unreasonably withhold approval, cooperation or assistance. To resolve any scheduling conflicts between Landlord and Tenant, those events or activities scheduled by Tenant prior to receipt of Landlord's written request for such event date shall be given priority. Landlord's right to use of the Premises under this sub-paragraph is limited solely to official functions of the City of Newton Falls or the Community Improvement Corp. or theatrical or other events under the direction of the city manager and may not be assigned to third party individuals or organizations without the prior written consent of Tenant.

7. **Tenant's Duties to Premises and Community.** Tenant shall not perform any acts or carry on any practices which may injure the Premises or be a nuisance. Tenant shall keep the Premises under its control clean and free from rubbish at all times. Tenant shall, at its own expense, under penalty of forfeiture and damages, promptly comply with all laws, orders, regulations or ordinances of all Federal, State of Ohio, County and local municipal authorities affecting use of the Premises with respect to the cleanliness, safety, occupation and use of same.

8. **Maintenance, Repairs and Expenses.**

A. As to the Building: Tenant shall keep the Building in good order and repair as reasonably required to keep the Building in its current condition, normal wear and tear excepted. Tenant shall be liable for all damage to the Building caused by the negligence or willful acts of Tenant and Tenant's agents, representatives, officers, employees, invitees, and/or licensees. Tenant shall pay all costs and expenses incurred in repairing and maintaining the Building. Tenant shall provide and pay for heat to the Building. Tenant shall pay for all other utilities' service to the Building, including connection charges and meter costs.

B. As to the Parking Lot and Grounds: Tenant shall keep the parking lot and natural areas and grounds surrounding the Building in good order and repair as reasonably required to keep the parking lot and natural areas and grounds in their current condition, normal wear and tear excepted. Tenant shall be liable for all damages to the parking lot and natural areas and grounds caused by the negligence or willful acts of Tenant's agents, representatives, officers, employees, invitees, and/or licensees.

As to periodic mowing and maintenance of the natural areas and grounds of the Premises and as to snow removal as may be required from the sidewalks and parking lot contained within the Premises, the Parties recognize the Landlord has performed these duties as part of its obligation to provide these services to all of the many properties owned by the City of Newton Falls and to do so utilizing, to the extent available, city personnel and city equipment. For the joint benefit of the Parties, periodic mowing and maintenance of the natural areas and grounds of the Premises and snow removal from the sidewalks and parking lots shall continue to be performed

by the Landlord at no cost to the Tenant. These maintenances of grounds, sidewalks and parking lot by Landlord shall be at such times in such amounts as to fully comply with relevant regulations and ordinances enacted by the City of Newton Falls. All other maintenance cleaning, trash and construction debris removal shall be the responsibility of Tenant.

9. **Landlord's Rights of Entry.** Landlord shall have the right to enter the Premises at any time during regular business hours and upon reasonable notice. Landlord shall be provided the names, addresses and phone numbers of all agents of Tenant possessing a key to the Premises. Tenant shall not unreasonably hinder or delay Landlord's entry into the Premises but shall reasonably comply and assist with all such requests by Landlord for entry.
10. **Alterations.** Any requests by Tenant to make renovations, repairs or alterations to the Premises shall be made in writing and delivered to the City Manager and the Landlord. Landlord shall approve all such requests made by Tenant provided that such requests are determined by the City Manager to be reasonable. Those renovations, repairs and alterations of the Premises as outlined in the Tenant's Proposal to the City of Newton Falls dated September 27, 2019, for the renovation and preservation of the Community Center as described hereinabove are deemed to be reasonable and permitted by Landlord and City Manager without further written request as otherwise required herein.
11. **Acceptance of Occupancy.** At the commencement of the original term, the Leased Premises are constructed, finished, and equipped as memorialized and described in the DeSalvo Report dated April 11, 2016 which report is incorporated by reference as if fully set forth herein. The City Manager may, in writing, supplement the DeSalvo Report to include additional information or to make note of changed conditions. Tenant has inspected the Premises and acknowledges it takes possession in an "AS IS" condition. Current contents of the Building will remain during the term of the Lease. Any and all furniture or contents of the Building **under the control of the Landlord** or its agents, employees or officials which may have been removed and stored off the Premises prior to the Commencement Date of this Lease shall be returned to the Building except that remaining plastic folding chairs and tables shall remain property of the city and stored at an off-site location.
12. **Trade Fixtures.** All movable equipment installed by Tenant in connection with the activities conducted by it on the Premises shall remain the property of Tenant and shall be removed by Tenant at the expiration of this Lease unless otherwise agreed upon by the Parties. Tenant shall timely repair any damage caused by such removal and restore the Premises to its condition on the Commencement Date. All Tenant's personal property, including trade fixtures, on the Premises shall be kept at Tenant's sole risk and Tenant shall acquire such policy or policies of insurance thereon as Tenant in its best judgment shall

determine.

13. **Non-discrimination.** Tenant shall refrain from discrimination on the grounds of age, disability, national origin, race, religion (creed), genetics, sex or sexual orientation in its employment practices, in its occupancy and operation of the leased Premises and in offering and providing services to the public.
14. **Taxes, Assessments and Levies.** The Parties expect that there will be no liability for real and personal property taxes or assessments levied and made, if any, by the City of Newton Falls against the Premises during the term of this Lease. However, if any Federal, State of Ohio or Trumbull County taxes are levied on the real or personal property, payment shall be the sole responsibility of Tenant.
15. **Financial and Information Reporting.** Tenant shall provide to Landlord within thirty (30) days of its filing, a copy of the Annual IRS Form 990 or applicable equivalent.
16. **Building Casualty Insurance.** Tenant shall cause the Premises to be insured against loss or damage under a policy or policies of fire and extended coverage insurance, including "additional perils."
17. **Commercial General Liability Insurance.** Tenant, at its sole cost and expense during the term of this Lease, shall maintain and keep in effect commercial general liability insurance in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) for injury to or death of one person, or not less than Two Million and 00/100 Dollars (\$2,000,000.00) for injury to or death of more than one person, in any one accident or occurrence and in an amount not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for each occurrence of property damage. The policy or policies of such insurance shall be written so as to include Landlord and the City of Newton falls within the protection thereof. Tenant agrees to deliver to Landlord, within fifteen (15) days after the receipt of a request, either a duplicate original or certificate of all policies procured by Tenant in compliance with its obligations hereunder, together with evidence of payment thereof, and including an endorsement which states that such insurance may not be canceled except upon ten (10) days written notice to Landlord. Tenant may, at its option, bring its obligation to insure under this paragraph within the coverage of any so-called blanket policy or policies of insurance which it may now or hereafter carry, by appropriate amendment, rider, endorsement or otherwise; provided, however, that the interest of Landlord shall thereby be as fully protected as it would otherwise be if this option to Tenant to use blanket policies were not permitted.

18. Insurance – General Provisions.

- A. Each policy as required by Landlord under the terms of this lease shall be endorsed as follows: "The insurer agrees that fifteen (15) days prior to cancellation or reduction of amount or coverage of this policy, written notice will be mailed to the City of Newton Falls, Ohio."
- B. A copy of each insurance policy as required by Landlord under the terms of this lease shall be submitted to the Director of Law for review and approval as to form and sufficiency and deposited with the City Manager.
- C. In the event the Tenant is unable to obtain the insurance policies and coverages required by Landlord under the terms of this lease due to legal title to the Premises being in the name of the Landlord, then Landlord agrees to obtain the policies and coverages, the cost of which shall be immediately repaid to the Landlord or on such terms as the Landlord may agree.

19. Destruction of Premises. If an event occurs in which the Premises are damaged or destroyed, in whole or in part, either Party shall have the right to terminate this Lease, effective as of the date of the event, by giving the other party written notice of termination within ten (10) calendar days after the occurrence of the event. If the notice is given within that time period, this Lease shall terminate, and rent shall be adjusted between the parties to the date of the occurrence of the event. If the notice is not given within the required period, this Lease shall continue and Tenant shall repair the Premises. If either Party elects to terminate this Lease because of destruction of the premises, Tenant shall, at its sole expense, demolish and remove any remaining portion of the Building, fill as required and return the land to the grade of the adjacent property.

20. Indemnity. Tenant agrees to indemnify and defend Landlord and the City of Newton Falls against and hold Landlord harmless from any liability, loss, damage, cost, or expense (including attorney fees) based on any claim, demand, suit, or action by any person or entity with respect to any personal injury (including death) or property damages, from any cause with respect to Tenant's use of the Premises and resulting from the acts or omissions of Tenant or its employees, agents, and invitees.

21. Indemnification. Subject to Tenant's right to appeal in good faith and obtain a final order from a court of competent jurisdiction, Tenant's indemnification described above specifically includes, but is not limited to, the direct obligation of the Tenant to promptly perform any remedial or other activities required or ordered by any administrative agency or government official, or which are otherwise necessary to avoid injury or liability to any person or property, to prevent the spread of any pollution and/or contamination, or to permit the continued safe use of the Premises.

22. **Assignment and Subletting.** Tenant may not assign, sublet, hypothecate, mortgage or otherwise transfer or convey its interest, or any portion of its interest, in the Premises without the prior written consent of Landlord. Any zoning change must be approved by City Council through the City Manager.
23. **Default and Reentry.** If Tenant neglects or fails to perform its obligation to pay rent when due; or, if Tenant neglects or fails to observe or perform or cure the failure of performance of any other covenants in this Lease to be observed and performed on its part for 90 days after written notice by Landlord of the default: Landlord may terminate the Lease, reenter and take possession of the Premises and seek to re-let the Premises on any terms that Landlord, in its sole discretion, deems advisable. In addition to Landlord's other rights and remedies as set forth in this Lease and without waiving any of those rights, if Landlord deems any repairs necessary that Tenant is required by the terms of this lease to make or if Tenant is in default in the performance of any of its obligations under this Lease or to cure such failure within ninety (90) days of written notice of such failure, Landlord may, on failure of Tenant to meet the obligation, make or cause repairs to be made and defaults to be cured and shall not be responsible to Tenant for any loss or damage that occurs by reason of that action, and Tenant agrees that it will immediately on demand pay Landlord's reasonable costs for such curing as additional rent under this Lease.
24. **Tenant's Possession and Enjoyment.** Tenant, on payment of the rent at the time and in the manner stated above and on performance of all the covenants and obligations provided herein, shall and may peacefully and quietly have, hold, and enjoy the Premises for the term of this Lease, save and except to the extent modified by the provisions of Paragraph ^{6c}~~5c~~ of this Lease.
25. **Surrender of Premises.** Tenant shall surrender the Premises to Landlord at the expiration of this Lease in the same condition as at the Commencement Date, excepting normal wear and tear.
26. **Notices.** Any notice required under this Lease shall be in writing and sent by registered or certified mail, return receipt requested, to the addresses of the parties set forth in this Lease or to another address that a party substitutes by written notice; and notice shall be effective as of the date of first attempted delivery. Notice shall be deemed effective if mailed accordingly:
- TO LANDLORD NEWTON FALLS COMMUNITY IMPROVEMENT CORP.:
David Lynch, City Manager
City of Newton Falls
19 North Canal Street
Newton Falls, Ohio 44444


TO TENANT:

Steven L. Simpson
Heritage Accord
P.O Box 82
Newton Falls, Ohio 44444

27. **Grants and Grant Writing.** Landlord shall not unreasonably, delay, restrict or withhold Tenant's rights to request and receive grant funding. Whenever required by the grant process, Landlord, as legal owner of the Premises, must sign any grants within five (5) business days from the date presented to the Landlord for signature provided such grants contain no conditions or impose no actions on either the Tenant or the Landlord which do not meet with the approval of the City Manager. The Landlord shall not unreasonably delay or deny approval of a grant, and, if not approved, the Landlord through its City Manager shall provide all reasons for the denial.
28. **Waiver.** The failure of the Landlord to enforce any covenant or condition of this Lease shall not be deemed a waiver of its right to enforce each and every covenant and condition of this Lease. No provision of this Lease shall be deemed to have been waived unless the waiver is in writing
29. **Binding Effect.** This Agreement shall be binding on and insure to the benefit of the parties to this Lease and their respective successors and permitted assigns.
30. **Effective Date.** This Lease shall be effective as of the Commencement Date as defined in Paragraph 2.


WITNESS the signatures of the Parties to this Lease, dated as shown below:

CITY OF NEWTON FALLS


By: David M. Lynch, agent for Newton Falls
Community Improvement Corp.

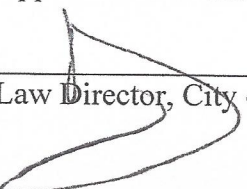
3/3/20
Date

HERITAGE ACCORD


By: Connie Smith Talcott, President

3/9/20
Date

Approved as to form by:


Law Director, City of Newton Falls, Ohio

3/3/2020
Date