

ORDINANCE NO. 6203

**AN ORDINANCE AUTHORIZING THE LEASE OF GOLDEN HEART
PLAZA TO FESTIVAL FAIRBANKS**

WHEREAS, the City of Fairbanks owns Lots 3 and 4, Block 4, Fairbanks Townsite (also known as "Golden Heart Plaza") and the improvements thereon, as shown on attached Exhibit A, Real Estate Lease; and

WHEREAS, Festival Fairbanks, a not-for-profit community agency, has for many years promoted the public use, management, and maintenance of Golden Heart Plaza, all of which benefit the City of Fairbanks, its residents, and visitors; and

WHEREAS, management of the Plaza by Festival Fairbanks is deemed consistent with the provisions of Fairbanks General Code Chapter 70, Article III, Golden Heart Plaza; and

WHEREAS, leasing the Plaza property to Festival Fairbanks provides the basic rights necessary for it to legally and effectively manage the Plaza; and

WHEREAS, Festival Fairbanks has requested a lease for the management purposes stated above; and

WHEREAS, FGC Sec. 70-44 provides that the City may lease real property without public offering whenever the lessee is a not-for-profit organization; and

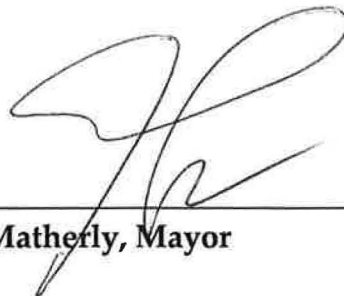
WHEREAS, the lease of the Plaza property is in the best interest of the community.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. That a lease instrument, substantially in the form shown in attached Exhibit A, is hereby authorized by the Council for the purposes stated herein, providing for a term of three years.

SECTION 2. That the Mayor's execution of the lease must take place not less than 30 days after the effective date of this ordinance, as prescribed by Charter Section 8.3 and FGC Sec. 70-56.

SECTION 3. The effective date of this ordinance is the 30th day of April 2022.




Jim Matherly, Mayor

AYES: Rogers, Cleworth, Therrien, Clark, Marney, Gibson
NAYS: None
ABSENT: None
ADOPTED: April 25, 2022

ATTEST:

APPROVED AS TO FORM:



D. Danyielle Snider, MMC, City Clerk



Paul Ewers, City Attorney

EXHIBIT "A" to ORDINANCE No. 6203

REAL ESTATE LEASE

WHEREAS, the City of Fairbanks, a municipal corporation of the State of Alaska, 800 Cushman Street, Fairbanks, Alaska 99701, hereinafter called Lessor, as trustee for the public and pursuant to Ordinance No. 6203, hereby authorizes lease of the property described below under the conditions stated; and

WHEREAS, Festival Fairbanks, Inc., 514 Second Avenue, Fairbanks, Alaska 99701, hereinafter called Lessee, hereby enters into this lease of the property described below under the conditions stated.

NOW THEREFORE, Lessor and Lessee, in consideration of the rent specified and of the mutual covenants and agreements expressed herein, agree as follows:

1. Lease of Property. The Lessor leases to Lessee, and Lessee leases from Lessor, the real property located at Fairbanks, Alaska, more particularly described as follows:

Lots 3 and 4, Block 4, Fairbanks Townsite, also known as "Golden Heart Plaza", and the improvements thereon, as shown on the attached "Lease Exhibit 1".
2. Term. The term of this Lease will be for three years, beginning April 13, 2022 and ending April 12, 2025.
3. Use. Lessee shall use the Property in compliance with FGC Sections 70-96 through 70-99, Golden Heart Plaza.
4. Rent. As compensation for use of the Property during the life of this lease, Lessee shall pay the sum of One Dollar (\$1.00) per year, paid in advance. Payments will be made at Lessor's Office of the City Clerk, 800 Cushman Street, Fairbanks, Alaska 99701.
5. Prohibited Uses. Lessee shall not use or permit the use of the Property or any part thereof in violation of any applicable law, ordinance, or regulation.
6. Maintenance and Expenses. Lessee shall perform routine cleaning associated with the leased Property proper, keeping the Property in a clean, safe condition, free of litter and debris. Lessee shall notify Lessor of hazards or safety concerns on or

about the Property in a timely manner. Lessor shall provide repairs or alterations as it deems necessary, at its expense.

7. Termination. In the event of Lessor's sale or redevelopment of the property, Lessee's rights hereunder will terminate, and Lessee must vacate the property within 60 days of written notice.
8. Exculpation and Indemnity.
 - (a) *Exculpation of Lessor*: Lessor shall not be liable to Lessee for any damage to Lessee or Lessee's property from any cause. Lessee shall bear all risk of loss as to all personal property of the Lessee stored or remaining on or near the Property, including without limitation, inventory, equipment, fixtures, and employees' personal effects.
 - (b) *Indemnity*: Lessee shall defend and hold the Lessor harmless from all damages arising out of any damage or injury to any person or property occurring in, about, or on the Property.
 - (c) *Public Liability and Damage Insurance*: Lessee at its sole cost shall at all times maintain public liability and damage insurance with a single combined liability limit of \$1,000,000, insuring against all liability of Lessee and its authorized representatives arising out of and in connection with Lessee's use or occupancy of the Property. All public liability insurance and property damage insurance will insure performance by Lessee of the indemnity provisions provided herein. Lessor shall be named as an additional insured.
9. Prevention of Waste and Nuisance. Lessee shall not use the Property in any manner that will constitute waste, nuisance, or unreasonable annoyance to Lessor or the owners or occupants of adjacent properties. Violation or breach under this section will be determined at the sole discretion of the City Mayor.
10. Assignment and Sublease. Lessee shall not assign or sublet its rights under this Lease without written consent of Lessor, which consent will be at Lessor's sole discretion.
11. Liens. Lessee shall keep the Property free from any liens, including without limitation those liens arising out of any work performed, materials furnished, or obligations incurred by Lessee.

12. Consultation with Attorney. Lessee acknowledges that it has the right to review this Lease and all other documents relating to the Lease with its own attorney. Each party electing to have this Lease reviewed by an attorney shall bear the costs and expenses so incurred.
13. Right of Entry. Lessor and its agents and authorized employees have the right to enter the rented Property to examine it and to make repairs, alterations, improvements, or additions, as Lessor may deem necessary or desirable during Lessee's business hours. All such entry shall be preceded by 72-hour advance notice to Lessee, except that immediate entry will be allowed in event of emergency, as determined by the City Engineer.
14. Default. Failure to occupy and operate the Property for two consecutive weekends or failure to perform any provision of this Lease constitutes a default by Lessee. Upon Lessee's default, Lessor shall give Lessee 10 days' notice to cure the default. No default notice may be deemed a forfeiture or a termination of this Lease unless Lessor so elects in the notice.
15. Notice. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person must be in writing and either served personally or sent by prepaid, first-class mail, addressed to the other party at the address set forth in the introductory paragraph of this Lease. Either party may change its address by notifying the other party of the change of address.
16. Attorney's Fees. If Lessor brings or maintains an action for enforcement of any of the covenants, terms, or conditions of this Lease, Lessee shall pay all costs incurred by Lessor for such action, including attorney's fees in the event Lessee is found to be at fault.
17. Time of Essence. Time is of the essence of each provision of this Lease.
18. Successors. This Lease is binding on the parties and their successors.
19. Severability. The unenforceability, invalidity, or illegality of any provision will not render the other provisions unenforceable, invalid, or illegal.

FESTIVAL FAIRBANKS, INC.

CITY OF FAIRBANKS

Julie Jones
Executive Director

Jim Matherly
Mayor

ATTEST:

D. Danyielle Snider, MMC, City Clerk

ACKNOWLEDGMENT

State of Alaska)
) ss
Fourth Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____ 2022, before me the undersigned, a NOTARY PUBLIC in and for the State of Alaska, personally appeared **Jim Matherly**, the Mayor of the City of Fairbanks, and **D. Danyielle Snider**, the City Clerk of the City of Fairbanks, the municipal corporation named above, and they acknowledged before me that they executive the same for and on behalf of said Corporation.

IN WITNESS WHEREOF I have set my hand and seal.

NOTARY PUBLIC:
My Commission Expires:

ACKNOWLEDGMENT

State of Alaska)
) ss
Fourth Judicial District)

THIS IS TO CERTIFY that on this _____ day of _____ 2022, before me the undersigned, a NOTARY PUBLIC in and for the State of Alaska, personally appeared **Julie Jones** of Festival Fairbanks, Inc., the corporation named above, and she acknowledged to me that she executive the same for and on behalf of said Corporation as the Executive Director, under the authority of said Corporation so granted by the Board of Directors, as the free ad voluntary act and deed of said Corporation.

IN WITNESS WHEREOF I have set my hand and seal.

NOTARY PUBLIC:
My Commission Expires:

Return to:

City Clerk
City of Fairbanks
800 Cushman Street
Fairbanks, AK 99701

