

Pub. Imp. _____
Govt. Gmt. _____
Emer. _____
IPO Required _____
P. Hmgs. _____
Pgs. 17
Filed: 12-10-02

Sponsored by: Whayne

First Reading: December 16, 2002

Second Reading: December 16, 2002

COUNCIL BILL NO. 2002-346

SPECIAL ORDINANCE NO. 24290

AN ORDINANCE

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AUTHORIZING the City Manager, on behalf of the City of Springfield, to enter into a two-year lease agreement with option to renew for an additional three years and an option to purchase with the Springfield Community Center, Inc., for the building at 619 North Benton Avenue, provided that the Springfield Community Center will be furnished replacement office space in the Creamery Building in the Jordan Valley Park; amending the budget for the City of Springfield, Missouri, in the nondepartmental budget for the fiscal year 2002-2003 in the amount of \$41,542; and declaring an emergency.

WHEREAS, this amendment to the budget provided for the City of Springfield, Missouri for the fiscal year 2002-2003 has been approved and recommended by the City Manager of the City of Springfield.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows:

Section 1 - That the City Manager, on behalf of the City of Springfield, Missouri, is hereby authorized to enter into a two-year lease agreement with option to renew for an additional three years and an option to purchase with the Springfield Community Center, Inc., which lease shall be substantially in form and content as that document attached hereto and incorporated herein by reference as Exhibit I.

Section 2 - In recognition of the Community Center's support of the need for the Community Health Center of Springfield, the City Council authorizes the City Manager to

30 amend the Arts Council's lease with the City for the Creamery so that the Arts Council can
31 lease appropriate space in the Creamery Building upon approval by the Missouri
32 Development Finance Board. The City Manager is further authorized to enter into a
33 sublease for all or part of the premises.

34 Section 3 - That the budget for the fiscal year 2002-2003 of the City of Springfield,
35 Missouri, is hereby amended in the accounts and in the amounts as shown on Budget
36 Adjustment No. 0208, a copy of which is attached hereto and incorporated herein by
37 reference as Exhibit II.

38
39 Section 4 - The Council finds that the budget adjustment made in Section 3 above
40 has been recommended by the City Manager and further finds that an emergency exists
41 and the budget adjustment herein made is necessary to meet the pressing need for
42 payment of current expenses of the City government.

43
44 Section 5 - The City Manager is directed to cause the appropriate accounting entries
45 to be made in the books and records of the City. In the event additional funding is provided
46 under this grant by the grantor, the Finance Director of the City is hereby authorized to
47 adjust this appropriation by an amount not to exceed 20% of the sum shown in Exhibit A.

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49 Section 6 - The City Council finds and declares that this bill is an emergency
50 because it relates to providing needed pubic health services; therefore, this ordinance shall
51 be in full force and effect from and after passage.

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54 Passed at meeting: December 16, 2002

55
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57 Thomas A. Carlson
58 Mayor

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60
61 Attest: Brenda M. Carter, City Clerk

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63
64 Approved as to form: [Signature], City Attorney

65
66
67 Approved for Council action: [Signature], City Manager

EFFECTIVE DATE TERMINATION DATE ADDENDA DATES CONTRACT NO.

NAME, ADDRESS & PHONE OF CITY NAME, ADDRESS & PHONE OF LESSOR

City of Springfield
840 Boonville
Springfield, MO 65802
(417) 864-1000

Springfield Community Center, Inc.
618 N. Benton
Springfield, MO 65806
(417) 866-6319

Lease Agreement with Option to Purchase

This Lease Agreement with Option to Purchase entered into this 17 day of December , 2002 by and between the Springfield Community Center, Inc., of 618 N. Benton Avenue, Springfield, Missouri 65806, a Missouri benevolent corporation, hereafter "Lessor" and the City of Springfield, Missouri, a municipal corporation, of 840 Boonville Avenue, Springfield, Missouri 65801, hereafter "Lessee",

WITNESSETH:

1. Premises: The Lessor does hereby lease to the Lessee, and the Lessee does hereby take as Lessee, the building and improvements owned by Lessor at 618 N. Benton Street in the City of Springfield, legally described on Exhibit A attached hereto, said premises containing approximately 14,937 square feet of rental space.

2. Term: The initial term of this lease shall commence on December 21, 2002, ("commencement date"), subject to Lessee's option to purchase, and shall end on December 31, 2004 ("expiration date"), unless sooner terminated as provided for herein. Lessee shall have the right to extend this lease for an additional three (3) year term, provided Lessee shall furnish written notice of its intent to extend this lease to Lessor not later than ninety (90) days before the expiration of the initial term. This lease shall be not be effective unless it is approved by the Trustee for the Industrial Development Authority, Series 1998 Revenue Bonds for the Springfield Community Center, Inc Project.

3. Rent: Lessee shall pay monthly rent, payable in advance to a trust account designated by the City for this purpose. Rent shall be considered paid when it is deposited in the trust account by the Lessee. Funds in the trust account shall be used solely for the purpose of paying principal and interest on bonds issued by the Industrial Development Authority of Greene County for the premises or costs to relocate the Community Center offices to the Creamery building as determined by Lessee and the Arts Counsel which costs shall include rehabilitation of space in the Creamery or until Lessee and Lessor otherwise agree to use of the rent payments for another purpose. Lessor covenants

and agrees that rental received from Lessee hereunder shall first be applied to the outstanding mortgage indebtedness on the building and improvements before it is used for any other purpose. The rent shall be used to calculated as follows:

A. Lessee shall pay to Lessor for the use of 5,000 square feet of the upper floor by the federally funded dental clinic starting with the commencement of this lease the monthly rent of Three Thousand Three Hundred and Thirty Three Dollars and Thirty Three Cents (\$3,333.33). The rent is calculated by multiplying the 5,000 square feet by the annual rental rate of \$8 per square foot divided by twelve.

B. Beginning in the month when the Lessee begins to use the lower level, or the part of the upper floor not leased by the federally funded dental clinic Lessee shall pay to Lessor rent based upon the annual rental rate of Eight Dollars (\$8) per square foot for the lower level floor space to be occupied by Women and Infants Clinic (WIC) and 2,674 square feet on the upper floor not leased by federally funded dental clinic . The agreed monthly rental shall be Six Thousand Six Hundred Twenty Four Dollars and 66 cents (\$6,624.66), calculated by multiplying the 7,263 square feet of rentable space on the lower level floor of the building and 2,674 of rentable space on the upper floor to be occupied by the Lessee by the annual rental rate of \$8 per square foot divided by twelve. This rent shall be in addition to the rent set forth in paragraph 3.A.

C. Rent due for any partial month of occupancy shall be prorated.

D. As additional consideration for this agreement, provided that Lessor shall observe and perform its covenants hereunder, Lessee agrees to make available to Lessor a sublease from the Springfield Regional Arts Council to Lessor office space in the Creamery Building at Jordan Valley Park, for a two year term at nominal rent of One Dollar (\$1), upon approval of the Missouri Finance Development Board not later than April 15, 2003. If Lessee exercises its option to purchase the leased premises from Lessor, as granted herein, Lessor shall make available a sublease of such office space to Lessor at said nominal rent for an additional period of eight (8) years, either directly, or indirectly through the Springfield Regional Arts Council or other sub-lessee. In the event the Lessee extends this lease for an additional three years the Lessee agrees to make available a sublease of such office space to Lessor at said nominal rent for an additional period of three (3) years, either directly, or indirectly through the Springfield Regional Arts Council or other sub-lessee Until approval is obtained from the Missouri Finance Development Board the Lessor shall have the right to continue to occupy a portion of the lower level for use as office space.

4. Certain Obligations of Lessor: Lessor represents, covenants and agrees as follows:

A. That it has good title to said premises and good right to make this lease, under property authority of its Board of Directors, and that this lease is prior to any liens or encumbrances whatsoever, excepting the lien for current taxes and the liens of the deeds of trust recorded in Book _____, Page _____ in the office of the recorded of deeds of Greene County, Missouri.

B. That it will put the Lessee in possession of said premises and the Lessee, paying the rent hereby reserved and observing and performing the covenants and conditions herein contained on its

part, shall peaceably hold and enjoy the leased premises during the term hereof, without any interruption by the Lessor or any other person rightfully claiming through the Lessor.

C. That Lessor will discharge all liens that may be established with priority over this lease and will not permit the sale of the premises under any lien which it is obligated to discharge. Lessor shall pay any general real estate taxes or special assessments levied against the property.

D. That if the Lessee is required to pay any lien for the protection of this lease that the Lessor will, on demand, repay the same to Lessee with interest at the rate of 6% (Six per cent) per annum from the date of advancement until paid, and if payment is not made upon demand, the Lessee may deduct such advancement from the rent due hereunder until the same has been fully paid, or from the purchase price to be paid to Lessor, if Lessee exercises its option herein granted to purchase the premises.

E. That Lessee shall covenants that all external and internal elements of the building an improvements shall be in good condition and working order, in compliance with all applicable building codes and regulations when Lessee takes possession, including the roof, outside walls, glass, building heating, air conditioning, electrical and plumbing systems. If any such items are not then in good repair, Lessee shall repair or replace the same as required at Lessor's expense. During the term of the lease, Lessee shall be responsible for repair, replacement and maintenance of such items. At the termination of the Lease, Lessee shall give up and deliver the demised premises to Lessor in as good a condition as at the beginning of the term, ordinary wear and tear, and damage by fire or other insured casualty only excepted, removing all signs and surrendering all original and duplicate keys, and repairing and restoring any damages to the premises resulting from the removal of trade fixtures, equipment and signs.

F. That Lessor warrants and represents to Lessee that the building and improvements, and the premises upon which they are situated are free from the presence of any hazardous substances to the best knowledge, information and belief of Lessor. As used herein "hazardous substance" includes any asbestos, lead paint, toxic mold, radon, radioactive material, petroleum compounds or toxic, explosive, corrosive, flammable, infectious, carcinogenic, mutagenic or other similar substance or material, which is recognized as hazardous by the United States, the State of Missouri or the City of Springfield.

G. In the event that Lessor shall default in the performance of its obligations under the lease, and shall fail to cure the default within thirty (30) days after written notification thereof by Lessee, the Lessee shall have the right to terminate the lease and to vacate the premises without liability to Lessor for further rent from the date the notice of default is given, or Lessee may expend moneys to cure the default, and deduct any sums so expended from its obligation to pay rent and/or from the required purchase price due from the City for the property, in the event City exercises its option to purchase. Nothing contained herein shall constitute a waiver of any other or additional legal or equitable remedies available to Lessee in the event of such default by Lessor.

5. Certain Obligations of Lessee: Lessee represents, covenants and agrees as follows:

A. That this agreement and the execution hereof by the proper officers of the City has been duly authorized by ordinance of its City Council.

B. That it will pay the rent at the time and in the manner herein provided.

C. That it will during the term of this lease use the leased premises for governmental purposes or by non-profit activities qualified under Section 501 (c) (6) of the Internal Revenue Code under contract with the City of Springfield, and for no other purposes. Lessee shall, at its expense, comply with all laws, rules, regulations and ordinances applicable to its operations and occupancy of the premises. Lessee shall have the right to sublease all or a portion of the leased premises, or to make an assignment of this agreement to other governmental entities or non-profit entities qualified as set forth above without the consent of Lessor. Any other assignment or sublease by City of all or any portion of the premises shall require Lessee's written consent.

D. That it will pay for all utility services, including electricity, gas, sewer, water, trash disposal and telecommunications and cause such services to be registered in its name. Lessee shall furnish its own janitorial services.

E. That Lessee shall keep the interior and exterior premises neat, clean and in good order free from trash, litter and debris. Lessee shall keep the parking lot and all walks free from ice and snow.

F. That Lessee shall not place, use or maintain on the premises any hazardous materials in violation of any federal or state law or regulation.

6. Alterations: Lessee shall not make any alterations in or additions to the leased premises without Lessor's written consent and if requested by Lessor shall furnish Lessor with plans and specifications for the proposed improvements, together with copies of all contracts relating thereto and the identity of contractors performing the work. Lessor may require such contractor policies of insurance and bonds relating to the work as it deems necessary. Lessee agrees to indemnify and hold Lessor harmless from any and all claims, costs, or liabilities arising from such alterations or additions. Lessee shall pay all costs of the alterations or additions and shall furnish Lessor with contractor's and subcontractor's affidavits, lien waivers and other proof of payment for all labor and materials used in connection with the work, in form satisfactory to Lessor. Lessee is responsible for insuring that all alterations or additions are completely finished in a good and workmanlike manner, in compliance with city building codes and applicable federal, state and local laws. Lessee shall not commit waste, overload, damage or deface the leased premises, or do any act, or bring or keep anything on the leased premises, which might void any insurance thereon, or require an increase in premiums for fire and extended casualty coverage. All alterations and additions shall at Lessor's option become its property and remain on the leasehold upon termination of this lease, without compensation or allowance to Lessee.

7. Rights of Entry Reserved to Lessor: Lessor reserves the right to have access to the Premises at all reasonable times during business hours upon prior notice to Lessee, and at any time in the event or an emergency as required to make repairs and to show the premises during the last six months of the lease term.

8. Insurance:

A. By Lessor: Lessor agrees to carry standard fire and extended coverage insurance upon the building with endorsements in an amount of not less than the full insurable replacement value of the building and with all risks endorsements, including coverage for vandalism, malicious mischief, damage by fire, windstorm, tornado, hail, explosion, riot, civil commotion, damage from aircraft, vehicles, smoke or earthquake, sprinkler damage, flood and other special extended perils as may be insured against under the broad form of uniform fire and extended coverage clause in effect from time to time in the State of Missouri, with endorsements for coverage of "all risks" perils and the aforesaid specific perils with an insurance company acceptable to Lessee. The proceeds from any loss covered by such policies of insurance shall be used for the repair or the replacement of the building and improvements, unless waived by Lessee. The policy shall name Lessor, Lessor's mortgagees and Lessee as insured, as their interests may appear.

B. By Lessee: During the term of this lease, Lessee shall maintain at Lessee's expense, in full force and effect at all times, a policy of fire and extended coverage insurance on all Lessee's furniture, furnishings, trade fixtures, inventory and equipment located on the leased premises, with standard coverage. Such insurance shall be in the amount equal to one hundred per cent (100%) of the full insurable replacement value of such property of the Lessee and shall be issued by an insurance company acceptable to Lessor. The proceeds from any loss from such policies of insurance shall be used for the repair or replacement of the furniture, trade fixtures, inventory and equipment of Lessee. The policy shall name Lessor, and by endorsement Lessor's mortgagee, if any, as insureds, as their respective interests may appear.

Lessee may also provide, at its own expense, and keep in full force and effect during the lease term, a comprehensive policy of public liability insurance from an insurance company acceptable to Lessor, insuring Lessee, and Lessor as an additional named insured, against liabilities and costs of defense arising out of or based upon any and all personal injuries, death and property damages sustained and accidents occurring as an alleged consequence of any negligent act on the part of Lessee, its agents and employees, with a combined single limit of Two Million Dollars (\$2,000,000), or such higher limits as Lessor may from time to time reasonably request.

Lessee shall furnish Lessor with certificates of insurance evidencing coverages required under the lease within ten (10) days after the commencement date, and thereafter, when required by Lessor and shall be in a form satisfactory to Lessor.

C. Indemnification: Lessee shall defend, indemnify and hold harmless Lessor, its agents and employees, from all loss, damage, liability or expense, including attorney fees, resulting from any injury or death to any person, or any loss of, or damage to any property, to the such loss or damage is caused by the negligence or wrongful acts of Lessee, its agents and employees,.

D. Waiver of Subrogation: To the extent that a property loss, or business interruption loss, is covered by insurance and recovery is made for such loss by the party to this lease which is insured, Lessor and Lessee agree to and hereby mutually release each other from and against all claims,

demands, liabilities or obligations whatsoever arising therefrom, including loss of rents or profits, and waive all right of recovery against each other for any loss from perils insured against under their respective fire and extended coverage insurance policies, provided that this waiver shall not be applicable if it has the effect of invalidating any insurance coverage of Lessor or Lessee.

9. Destruction of the Premises:

A. Substantial Destruction: If the building facilities are destroyed by fire, the elements or other casualty, so as to render the leased premises unfit for occupancy, and if, in Lessor's and Lessee's joint judgment, the damage cannot be repaired within 180 days of work (during normal working hours) from the date of such damage, this lease shall terminate as of the date of such damage.

B. Restorable Destruction: If the leased premises are damaged in whole or part and if such damage can be repaired within 180 days of work (during normal working hours) from the date of such damage, Lessor shall repair such damage within said 180 days, and this lease shall continue in full force and effect. Lessee shall not be required to pay rent for any portion of time during which the premises are unfit for occupancy, unless the damage was caused by Lessee, or its agents or employees.

10. Condemnation:

A. Total Taking: In the event that the whole of the building facilities or the whole of the lease premises shall be taken by the exercise, or the threat of the exercise, of the power of eminent domain, then in such case this lease shall terminate as of the date of the taking of possession by or vesting of title in the condemning authority.

B. Partial Taking: If less than the whole of the leased premises shall be taken by eminent domain, or threat thereof, Lessee, may at its option, terminate this lease as of the taking date by giving written notice of its exercise of such option, if as a result of such partial taking the leased premises are no longer suitable for Lessee's permitted use. If Lessee does not exercise such option, the lease shall be terminated as of the taking date as to the portion of the leasehold taken, and this lease shall remain in full force and effect with respect to the portion not taken and rent shall be abated and reduced in the same proportion to which the reduced floor space bears to the total floor space prior to the taking. The partial taking of building and parking facilities which does not include any portion of the leased premises shall not give rise to any option to terminate the lease by Lessee.

C. Awards: All income, rent, settlements, awards, interest or other payments derived from any taking under the power of eminent domain, or under threat thereof, shall belong to and be the sole property of Lessor.

11. Liens: Lessee shall not incur any indebtedness or contract right giving a right to a lien of any kind upon the interest of Lessor in and to the leased premises and the property of which the leased premises is a part, and no person shall be entitled to any lien superior to the interest reserved

to the Lessor under this lease derived directly, or indirectly, through any acts or omissions of Lessee. Should any such lien be filed, Lessee shall caused the same to be discharged of record by no later than fifteen (15) days after filing. If Lessee fails to discharge such lien as provided, then Lessor, may, but shall not be required, to procure its discharge by payment of the amount claimed to be due. Any amount paid by Lessor in procuring the discharge of such lien, shall be additional rent, due and payable by Lessee to Lessor upon demand.

12. Default:

This lease is made on condition that if:

- (A). Lessee defaults in the timely and punctual payment of rent when due hereunder; or
- (B). Lessee defaults in the keeping or performance of any other covenant or obligation herein contained on Lessee's part to be kept or performed and Lessee fails to remedy the same within thirty (30) days after Lessor has given Lessee written notice specifying such default; or
- (C). Lessee defaults by abandoning occupancy of the premises prior to the end of the term; or
- (D). Lessee shall file a voluntary petition under the Bankruptcy Act, as amended, or an involuntary petition under the Bankruptcy Act, as amended, if filed against Lessee, and Lessee, after hearing is adjudged to be bankrupt, insolvent or unable to pay its debts as they mature; or Lessee makes an assignment for the benefit of its creditors; or a trustee or receiver, after hearing, is appointed or retained to take charge of and manage any substantial part of Lessee's assets; or any execution or attachment shall issue against Lessee whereupon the leased premises, or any part thereof, or interest of Lessee therein under this lease shall be taken or attempted to be taken and the same is not released prior to judicial sale thereunder

(each of the events described in this subparagraph being deemed a default under the provisions of this lease);

then Lessor may, at Lessor's election, or any time thereafter, and while such default shall continue, give Lessee written notice of intention to terminate this lease on a date specified therein, which date shall not be earlier than thirty (30) days after such notice is given, and, if all defaults have not then been cured on the date so specified, Lessee's right to the possession of the premises shall cease, and Lessor may, without further notice or demand, or the necessity of a court order, and without being guilty of any trespass, using such force as may be necessary, reenter and take possession of the leased premises, expel Lessee, and any persons thereon, removing any property and effects without liability therefore, and without prejudice to any judicial remedies for arrears of rent or unlawful detainer. Upon re-entry Lessor shall have the option to cancel the lease, but if the lease is not canceled, Lessee shall not be relieved of the obligation to pay rent for the full lease term. If the lease is not canceled, Lessor may re-let the premises as agent for and in the name of Lessee, applying the proceeds first to the payment of any expense as Lessor may be put to in re-entering and re-letting the premises,

including the costs of putting the premises in good order and condition for such purposes, and then to the payment of the rent as the same may from time to time become due, and then to the fulfillment of the other covenants and agreements of the Lessee herein contained, and the balance remaining, if any, shall be paid to Lessee, but if the rents collected shall be insufficient to pay the costs and expenses of Lessor occasioned by such default and the rent payable under this lease, then Lessee shall pay such difference to Lessor as the same accrues. Lessor shall also have and recover reasonable attorney fees incurred in securing possession of the premises and any judgment for rent and damages.

To the extent available under law, Lessor shall have a lien as provided by law on all the equipment, inventory, trade fixtures and furniture of Lessee situated on the leased premises as security for the payment of rent reserved and the performance of the agreements of this lease by Lessee, which lien Lessor may enforce by distress or attachment, and Lessee waives all exemptions not inconsistent with Lessee's present or future security agreements.

13. Transfer by Lessor and Limited Subordination

A. Transfer by Lessor: Lessor shall have the right to sell its interest in the building and improvements, and any and all rights it has as Lessor in and under this lease, subject to Lessee's option to purchase from the transferee as provided for herein, which shall not be extinguished by virtue of such transfer. Upon any transfer of ownership, Lessor shall immediately notify the Lessee of the name, address and phone number of the new owner. All the obligations in this lease on the part of the Lessor shall be binding upon the Lessor's successors and assigns during and in respect to their respective periods of ownership of the building and property.

B. Limited Subordination: This lease and all right of the Lessor hereunder shall be subject only to any deeds of trust, mortgage or other instruments of security which did prior to the date of this lease cover the building and property, or any interest of the Lessor therein, provided that Lessor shall not make any renewals, modifications, consolidations, replacements, extensions of any such deeds of trust, mortgages or instruments of security without the written consent of the Lessee and Lessee shall have no obligation to subordinate its interest in this lease or under its option to purchase as to any obligations.

14. Surrender; Holding Over and Removal of Property:

A. Surrender: Upon the termination of this Lease, for lapse of time or otherwise, Lessee shall immediately surrender possession of the premises to Lessor and deliver them to Lessor in as good repair and condition as at the commencement of Lessee's occupancy, reasonable wear and tear, and damage by fire or other casualty excepted. Lessor agrees to deliver to Lessor all keys to the premises and Lessor shall have the right to immediately enter into and take possession. If possession is not immediately surrendered, Landlord may take possession and expel or remove Lessee or any other person occupying any portion of the premises, by reasonable force if necessary, without incurring any liability thereto.

B. Holding Over: If Lessee shall continue to occupy the leased premises after expiration or

sooner termination of the lease, Lessee shall pay as liquidated damages for each month of continued occupancy an amount equal to twice the rent being paid for the month the lease expires or is terminated. No receipt of money by Lessor from Lessee after expiration or termination shall reinstate or extend this lease. Nothing contained herein shall be deemed to confer upon Lessee any right to hold over and Lessor may exercise in and all remedies in law or in equity to recover possession of the Premises and damages resulting from any such holding over.

C. Removal of Property: Upon the expiration or sooner termination of this lease, all of Lessee's furniture, furnishings, trade fixtures, inventory, equipment and other personal property and improvements remaining in the premises or on the property shall be deemed conclusively to have been abandoned by Lessee and may be appropriated, sold, destroyed or otherwise disposed of by Lessor without notice or obligation to compensate Lessee or to account therefor, and Lessee shall pay to Lessor on written demand all costs incurred by Lessor in disposing of any such abandoned property.

15. Waiver: No waiver of any breach of any covenant or agreement herein shall operate as a waiver of any subsequent breach of the same covenant and agreement, and in the event of breach the non-defaulting party may nevertheless accept from the other any payments or performance without waiving its rights and remedies provided for herein.

16. Option to Purchase: Lessor, its grantees, successors and assigns, hereby agree to give to Lessee, its successors and assigns, the exclusive right to purchase the real estate and improvements described in Exhibit A upon the terms and conditions hereinafter set out upon giving Lessor written notice within the term of this lease of the intent of Lessee to exercise this option:

A. The purchase price shall be the then fair market value of the property as determined based upon a written appraisal performed by a real estate appraiser with offices in Springfield Missouri who will be jointly selected by the Lessor and the Lessee. In the event the parties cannot jointly agree on appraiser, either party may apply to the Circuit Court of Greene County, Missouri for a judicial appointment of such an individual to be named by the court. The purchase price shall be paid to Lessor by certified check upon delivery of a general warranty deed conveying said real estate to the Lessee free and clear of liens and encumbrances, subject to the following.

B. Within ten (10) days after the exercise of this option, Lessor shall furnish to Lessee a title insurance commitment from a title insurance company authorized to transact business in Missouri represented by Lincoln Land Title Company provided the insurance company is acceptable to Lessee and in form satisfactory to Lessee insuring title for the amount of the purchase price and showing merchantable title of record vested in Lessor. Lessee may at Lessee's expense obtain a survey prior to the Closing Date. Lessee shall pay the premium for the title policy. Lessee may, at Lessee's expense, have the title commitment examined, and if applicable, Lessee shall provide to Lessor in writing any valid objections to title and survey prior to the Closing Date, and Lessor shall make reasonable effort to correct any valid objections, and if not corrected, Lessee may waive the objections and close, or elect to terminate the contract to purchase without liability. At Closing, Lessor shall deliver a warranty deed and all other documents and funds reasonable necessary to complete the Closing, and Lessee shall deliver certified funds sufficient to satisfy Lessee's payment

obligations and all other documents necessary to complete the Closing. If a closing fee is charged it shall be shared equally by Lessor and Lessee Recording fees will be paid by the party for whom such fee is attributable.

C. The Closing contemplated herein shall take place within thirty (30) days of Lessee's exercise of the option at the offices of Lincoln Land Title Company, 3256 S. Fremont, Springfield, Missouri 65804, unless otherwise extended or agreed to by the parties in writing. Possession and delivery of the deed in return for the agreed consideration shall take place at the closing.

D. In the event that Lessee shall default under this agreement by refusing to close or tender the purchase price as required, Lessor shall have the right to either sue for specific performance or liquidated damages in the amount of Ten Thousand Dollars (\$10,000), at the option of Lessor, it being agreed that in the event of such default the actual damages to the Lessor would be difficult, if not impossible to ascertain. In the event that Lessor shall default under this agreement by refusing to close or tender a general warranty deed as required, Lessee shall have the right to sue for specific performance or liquidated damages in the amount of Ten Thousand Dollars (\$10,000), at the option of Lessee, it being agreed that in the event of default the actual damages to the Lessee would be difficult, if not impossible to ascertain. In any litigation, reasonable attorney fees may be awarded by the court to the prevailing party.

E. No provision of this contract is intended to or shall be merged into any deed transferring the property, and no such deed shall affect the provisions and covenants of this agreement.

F. Lessee's obligation to purchase upon exercise of the option granted to it herein is contingent upon the appropriation of funds for the purchase by City Council and approval of the City of Springfield Planning & Zoning Commission in conformity with Section 11.7 of the City Charter.

G. The closing shall be conducted in the manner required by the closing company with respect to escrow of the proceeds of sale pending the recording of instruments and final title examination.

17. Notice: All notice, demands and requests to be given hereunder shall be in writing, by certified or registered mail, or by personal delivery, or by facsimile transmission, to each of the following parties at the addresses below:

- A. Lessor: City Manager, City of Springfield, 840 Boonville, Springfield, Missouri 65802.
- B. Lessee: Executive Director, Springfield Community Center, Inc.

18. Survival of Obligations: All the parties duties and obligations, rights and remedies shall survive the termination of this lease, shall run with the property and leasehold, and shall be binding upon the parties and their respective successors in interest.

19. Entire Agreement: This lease represents the entire agreement of the parties and any changes, amendments or modifications hereof shall be contained in a writing signed by the parties.

20. Counterparts: This lease may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all which together shall constitute one and the same instrument.

21. Applicable Law and Venue: This agreement shall be governed, construed and enforced under the laws of the State of Missouri and venue in any litigation between Lessor and Lessee involving this agreement shall be laid exclusively in the State Circuit Court for Greene County, Missouri.

22. Recording: This agreement or a memorandum thereof may be recorded in the office of the Recorder of Deeds of Greene County, Missouri.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

SPRINGFIELD COMMUNITY CENTER, INC.
as LESSOR

BY: _____

Printed Name: _____

Title: _____

ATTEST:

SECRETARY

CITY OF SPRINGFIELD, MISSOURI. as LESSEE

BY: _____

Printed Name: _____

Title: _____

ATTEST:

CITY CLERK

Approved as to form:

Assistant City Attorney

Certification of Director of Finance

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and there is an unencumbered balance of appropriated and available funds to pay therefor.

Director of Finance

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this ____ of _____, before me personally appeared _____, to me personal known, who being by me duly sworn, did state that he is the _____ of the Springfield Community Center, Inc., a Missouri benevolent corporation, and that the foregoing instrument was signed on behalf of the said corporation under the authority of its Board of Directors; and the said _____ acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Springfield, Greene County, Missouri, the day and year first above written.

Notary Public

My Commission Expires: _____

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this ____ of _____, before me personally appeared _____, to me personal known, who being by me duly sworn, did state that he is the _____ of the City of Springfield, Missouri, and that the foregoing instrument was signed on behalf of the City under the authority thereof; and the said _____, acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Springfield, Greene County, Missouri, the day and year first above written.

Notary Public _____

My Commission Expires: _____

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CITY OF SPRINGFIELD, MO
BUDGET ADJUSTMENT

BA Number
0208

Revenues: TC24

Fund	Org	Acct.	Amount	Description	F/G
			21,667	Rent from Sublease of Community Center	

Net Revenue Adjustment 21,667

Expenditures: TC27

Fund	Org	Acct.	Amount	Description	F/G
			21,667	Lease Payment Community Center	
			19,875	Rent for Lower Level Community Center	

Net Expenditure Adjustment 41,542

Fund Balance

Fund	Fund Title	Amount
	Govt Plaza Capital Impv. Fund	(19,875)

EXPLANATION: Appropriate lease payments and revenue from sublease of the Community Center

REQUESTED BY:

APPROVED BY:

AUTHORIZATION:

Mary Murray 12/9/02 Mary Murray 12/9/02
DEPARTMENT HEAD DATE DIRECTOR OF FINANCE DATE

COUNCIL BILL _____

CITY MANAGER DATE

EFFECTIVE DATE _____

Aff. Agcy. Noticed _____
Emergency Required _____
P. Hrngs. Required _____
Fiscal Note Required _____
Board Rec. Required _____

EXPLANATION TO COUNCIL BILL NO. 2002 -

ORIGINATING DEPARTMENT: Law

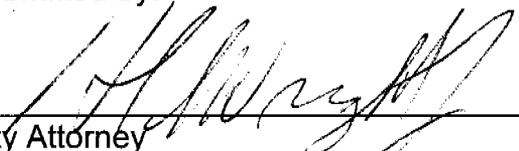
PURPOSE: Authorizing the City Manager, on behalf of the City of Springfield, to enter into a two-year lease agreement with an option to renew for an additional three years and an option to purchase with the Springfield Community Center, Inc., for the building at 619 North Benton Avenue, provided the Springfield Community Center will be furnished replacement office space in the Creamery Building in the Jordan Valley Park; amending the nondepartmental budget for 2002-2003 in the amount of \$41,542; and declaring an emergency.

REMARKS: Under this agreement the City would lease approximately 5,000 square feet of the Community Center building for two years at a rate of \$8 per square foot and sublease the upper floor to the federally-funded dental clinic. There is about 15,000 square feet leasable space in the building. The City would also relocate WIC offices to the lower level of the building around May or June, but would not be obligated to pay rent on the lower floor until this occurs. Offices of the Community Center would be relocated to the Creamery building in Jordan Valley Park in April of 2003, after approval of a sublease for space in the Creamery building between the Arts Council and the Community Center by the Missouri Development Finance Board.

The federally-funded dental clinic has asked the City to expedite this transaction so that they can move into the Community Center immediately; therefore, we have asked that this bill be considered as an emergency at the City Council meeting of December 16th. If final action is not taken at the meeting of December 16th, it will be almost a month before City Council can pass this bill. The Community Center is agreeable to expeditious action on this transaction, since immediate occupancy will also serve their interest.

The City has the right to renew the lease for an additional three years on the same terms and conditions, and an option to purchase the building at the fair market value as determined by an appraiser. The right to buy may be exercised at any time during the lease and may be assigned.

Submitted by:



City Attorney

Approved by:



City Manager