

Pub. Imp. _____
Govt. Grnt. _____
Emer. _____ X _____
P. Hrngs. _____
Pgs. _____ 8 _____
Filed: _____ 2-17-04 _____

Sponsored by: Carlson

First Reading: February 23, 2004

Second Reading: February 23, 2004

COUNCIL BILL NO. 2004-053

SPECIAL ORDINANCE NO. 24508

AN ORDINANCE

1 AUTHORIZING the City Manager, or the Assistant City Manager, on behalf of the City of
2 Springfield, Missouri, to enter into an agreement with the Springfield Community
3 Center, Inc. and Advocates for a Healthy Community, Inc. whereby City leases
4 at the property at 618 North Benton Avenue will be cancelled in connection with
5 the sale of the property from the Springfield Community Center to Advocates for
6 a Healthy Community, and declaring an emergency.
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9
10 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows:

11
12 Section 1 - That the City Manager, or the Assistant City Manager, on behalf of the City of
13 Springfield, Missouri, is hereby authorized to enter into an agreement with the Springfield
14 Community Center, Inc. and Advocates for a Healthy Community, Inc. in substantial conformance
15 with Exhibit A and the terms and conditions set forth in the Explanation Sheet.
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17 Section 2 - That the City Council finds and declares that this ordinance constitutes an
18 emergency because it pertains to the immediate preservation of the public health, safety and
19 welfare. Therefore, this ordinance shall be in full force and effect from and after passage.
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22 Passed at meeting: February 23, 2004
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25 Thomas Carlson
26 Mayor

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29 Attest: Daniel S. G. City, City Clerk
30

31 Filed as Ordinance: February 23, 2004
32

33 Approved as to form: James J. M. Assistant, City Attorney
34

35 Approved for Council action: Annia, City Manager
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TERMINATION OF LEASE AND SUBLEASE AGREEMENTS

This Termination of Lease and Sublease Agreements is effective as of the ____ day of February, 2004, by and between Springfield, Missouri, a municipal corporation ("City"), and Springfield Community Center, Inc., a Missouri benevolent corporation ("Center") and Advocates for a Healthy Community, Inc., a Missouri nonprofit corporation doing business as Jordan Valley Community Health Center ("CHC").

WHEREAS, Center owns the property and improvements, including a building, located at 618 N. Benton, Springfield, Missouri, which property is legally described on Exhibit A, attached hereto and incorporated herein by reference, (the "Property"); and

WHEREAS, City and Center entered into that certain Lease agreement captioned "Lease with Option to Purchase" dated effective January 1, 2003 (herein the "Lease") wherein the property was leased to City by Center; and

WHEREAS, City and CHC subsequently entered into a Sublease Agreement dated effective January 1, 2004, (the "Sublease"), wherein 6454 Square feet on the upper level and 1,500 square feet on the lower level were leased to CHC; and,

WHEREAS, Center and CHC have entered into a contract for sale and purchase of the Property; and

WHEREAS, City and Center now desire to terminate the Lease in order that the property described in the Lease be unencumbered so that Center can consummate the sale of the Property to CHC; and

WHEREAS, City and CHC now desire to terminate the Sublease in order to release the City from its obligations under such Sublease.

NOW, THEREFORE, in consideration of the premises and the mutual agreements of the parties hereinafter contained, the parties hereto contract and agree as follows:

1. **Termination of Lease.** The Lease Agreement with Option to Purchase between Center and City is hereby dissolved, rescinded, cancelled and terminated effective as of the date of this agreement (the "Effective Date") and except for the mutual obligations under section 3. paragraph D. of such lease shall, have no further force and effect.

2. **Continuation of Section 3. D.** The mutual obligations of the Center and the City under section 3.D. of the Lease, to under which Center occupies space in the Creamery Building at Jordan Valley Park, shall continue until December 31, 2010, as though section 3. D. were a separate lease between the City and the Center on the same terms and conditions as provided in Section 3.D. and other provisions of the Lease applicable to Center's occupancy of space in the Creamery Building at Jordan Valley Park.

3. **Termination of Sublease.** The Sublease Agreement between City and CHC is hereby dissolved, rescinded, cancelled and terminated effective as of the date of this agreement (the "Effective Date") and is, as of such date, of no further force and effect.

4. **Mutual Release of City and Center.** Effective as of the Effective Date, except as specifically provided in section 2 of this agreement, Center hereby releases and discharges City and City hereby releases and discharges Center from any and all claims, demands, rights, causes of action, suits, liabilities, damages, losses, expenses, obligations and responsibilities of whatsoever kind or nature, actual or potential, past or present, known or unknown, under, arising out of, based upon or relating directly or indirectly to the Lease or any rights or responsibilities accruing therefrom. Center acknowledges that all rent and additional charges under the Lease, have been paid, and no additional monies are due and owing by City to Center under the Lease.

5. **Mutual Release of CHC and City.** Effective as of the Effective Date, City hereby releases and discharges CHC, and CHC hereby releases and discharges City from any and all claims, demands, rights, causes of action, suits, liabilities, damages, losses, expenses, obligations and responsibilities of whatsoever kind or nature, actual or potential, past or present, known or unknown, under, arising out of, based upon or relating directly or indirectly to the Sublease or any rights or responsibilities accruing therefrom. City acknowledges that all rent and additional charges under the Sublease have been paid, and no additional monies are due and owing by CHC to City under the Sublease.

6. **Entire Agreement.** This Agreement contains the entire agreement of the parties. No oral or written communication between the parties and or their agent survives the execution of this Agreement. The parties have intentionally expressed each term of their agreement in this writing, and further agree that no modification or supplementation to this writing may be made by other than a subsequent written agreement, dated and executed by both parties.

7. **Counterparts/Multiple Originals.** This Agreement may be executed in counterpart signature pages, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Furthermore, this Agreement may be executed in multiple originals and shall be admissible in any proceeding, legal or otherwise, without the production of the other such originals. No distinction shall be made between a computer generated document and machine-copied documents, provided that the copies contain original signatures.

8. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and/or assigns of the parties hereto and the indemnification and covenants stated herein shall survive the termination of the Lease.

9. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri, and the captions of each paragraph hereof are for convenience purposes only and shall not be considered in the construction of this agreement.

10. **Conflict.** In the event of a conflict between the terms hereof and the Lease, the terms hereof shall control.

11. **Authorization and Consents.** Each party represents to all other parties that it is authorized to enter into this Agreement and has obtained all necessary approvals and consents for it to do so.

12. **Partial Invalidity.** If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each and every remaining term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the City, Center and CHC have agreed to the foregoing Agreement in its entirety as of the day and year first set forth above.

“CITY”: CITY OF SPRINGFIELD, MISSOURI.
a municipal corporation

By: _____
City Manager

“CENTER”: SPRINGFIELD COMMUNITY CENTER, INC.
a Missouri benevolent corporation

By: _____
Title _____

“CHC”: ADVOCATES FOR A HEALTHY
COMMUNITY, INC.
a Missouri nonprofit corporation

By: _____
Title _____

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this _____ day of February, 2004, before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of the City of Springfield, Missouri, a municipal corporation, that said instrument was signed and sealed on behalf of the city by authority thereof, and said _____ acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission expires:

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this _____ day of February, 2004, before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Springfield Community Center, a Missouri benevolent corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

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

Notary Public

My Commission expires:

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

On this ____ day of February, 2004, before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of Advocates for a Healthy Community, Inc., a Missouri nonprofit corporation doing business as Jordan Valley Community Health Center, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said _____ acknowledged said instrument to be the free act and deed of said corporation.

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

Notary Public

My Commission expires:

EXHIBIT "A"

Legal Description

That certain parcel of land located in Springfield, Greene County, State of Missouri, described as follows:

LOTS 68, 67 AND THAT PART OF LOT 66 OF BLOCK H OF HARWOOD, LISEBY AND BOYD'S ADDITION TO SPRINGFIELD LYING SOUTH OF THE RIGHT OF WAY OF CHESTNUT EXPRESSWAY AS DESCRIBED IN THE GREENE COUNTY MISSOURI RECORDER'S OFFICE IN BOOK 1793 ON PAGE 936, BOOK 1839 ON PAGE 2242, BOOK 1614 ON PAGE 739 AND BOOK 2080 ON PAGE 71.

MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF LOT 68 OF BLOCK H OF HARWOOD, LISEBY AND BOYD'S ADDITION THENCE ALONG THE EASTERLY RIGHT OF WAY OF BENTON AVENUE, NORTH 01° 30' 42" EAST, 214.70 FEET, TO A RIGHT OF WAY MARKER; THENCE ALONG THE SOUTHERLY RIGHT OF WAY OF CHESTNUT EXPRESSWAY NORTH 24° 07' 05" EAST, 60.88 FEET; THENCE NORTH 37° 38' 04" EAST, 56.45 FEET; THENCE SOUTH 75° 37' 49" EAST, 95.66 FEET; THENCE SOUTH 66° 23' 01" EAST, 67.73 FEET; THENCE SOUTH 00° 35' 18" EAST, 53.07 FEET TO A POINT ON THE WESTERLY LINE OF THE ALLEY; THENCE ALONG THE WESTERLY RIGHT OF WAY OF THE ALLEY, SOUTH 01° 36' 06" WEST, 214.38 FEET TO THE SOUTHEAST CORNER OF LOT 68; THENCE ALONG THE SOUTH LINE OF LOT 68 NORTH 89° 06' 21" WEST, 214.31 FEET TO THE POINT OF BEGINNING, ALL LYING IN THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 29 NORTH, RANGE 22 WEST.

7

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

EXPLANATION TO COUNCIL BILL NO. 2004 -

ORIGINATING DEPARTMENT: Law

PURPOSE: To authorize the City Manager to enter into an agreement with the Springfield Community Center, Inc. ("Community Center") the City's lease of the building at 618 N. Benton Avenue and the City's sublease of space in the building to Advocates for a Healthy Community, Inc. ("Advocates").

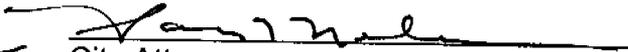
BACKGROUND INFORMATION: In January, 2004, the City entered into a Lease with Option to Purchase from the Community Center of its facility at 618 N. Benton Avenue. The intention of the City in entering into this arrangement was to serve as a "bridge" pending the acquisition of the building by a non-profit agency formed to provide dental and other medical care to low-income families in Springfield. Subsequently, the City subleased a portion of space in the building to the Advocates, a non-profit corporation formed for this purpose, which is operating a children's dental clinic in the facility. Community Center and Advocates have arrived at agreement for the sale of the property to Advocates and Advocates has now obtained the necessary financing to proceed. It is anticipated that the sale transaction will be closed by the end of February.

REMARKS: In order to consummate the sale, the existing lease and sublease of the building need to be canceled. The agreement to be approved provides for such cancellation and the mission of the City to facilitate the creation of a facility to provide needed dental and medical care for low-income families will have been accomplished.

Submitted by:

Approved by:

ASST.


City Attorney


City Manager