

VIII

R. C. No. 74 - 22 - 23. By PUBLIC WORKS COMMITTEE. August 15, 2022.

Your Committee to whom was referred Res. No. 47-22-23 by Alderpersons Dekker and Perrella authorizing the appropriate City Officials to execute a Lease Agreement between the City of Sheboygan, the Ellwood H. May Environmental Park Association of Sheboygan County, Inc., and the Sheboygan Area School District; recommends adopting the Resolution.

_____	_____
_____	_____
_____	_____
	Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

III

29

Res. No. 47 - 22 - 23. By Alderpersons Dekker and Perrella.  
August 1, 2022.

A RESOLUTION authorizing the appropriate City officials to execute a Lease Agreement between the City of Sheboygan, the Ellwood H. May Environmental Park Association of Sheboygan County, Inc., and the Sheboygan Area School District.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Lease Agreement, a copy of which is attached hereto and incorporated herein.

PD

Dean Dekker  
Mayor Perrella

I HEREBY CERTIFY that the foregoing Resolution was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

LEASE AGREEMENT

BETWEEN:

**City of Sheboygan**

("CITY")

**Ellwood H. May Environmental Park Association of Sheboygan County, Inc.**

("MPA")

AND

**Sheboygan Area School District (SASD)**

("SASD")

In consideration of CITY leasing certain premises within Ellwood H. May Environmental Park, a city park ("the Property") to SASD and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in consideration of the duty of MPA to provide youth and school education programs at the Property during the school year on behalf of the City, the Parties agree as follows:

**Leased Property**

1. CITY agrees to lease classroom space to SASD, specifically the Pavilion, and the Program Room within the Ecology Center at the Ellwood H. May Environmental Park located at 3615 Mueller Road, Sheboygan, WI 53083, for use by Warriner High School.
2. No animals are allowed to be kept in or about the Property.
3. Subject to the provisions of this Lease, SASD staff and students are entitled to park in designated areas on or about the Property.
4. In addition to park rules, all rules adopted by SASD and Warriner High School regarding smoking, use of drugs or alcohol, dress codes, and behavior apply to the use of Maywood's buildings and grounds.

**Term**

5. The term of the Lease commences at 8:00 a.m. on September 1, 2022 and ends at 3:00 p.m. on May 30, 2023.

**Rent**

6. Subject to the provisions of this Lease, the rent for the Classrooms is \$1,139.11 per month (the "Rent").

7. SASD will pay the Rent by check on or before the 15<sup>th</sup> of each and every month for the rental month to follow throughout the term of this Lease. Therefore, first payment should be made on or before August 15, 2021 for the rental month of September, 2021. Payment shall be made to MPA by the Environmental Park Director ("Director"). MPA is authorized to use said funds to perform any and all of its duties under the Memorandum of Understanding between MPA and the City ("MOU").

### Tenant Improvements

8. SASD may NOT make improvements or permanent changes to the Property without authorization from the Director.

### Utilities and Other Charges

9. SASD shall not be responsible for the payment of the utilities and other charges in relation to the Property, including electricity, water/sewer, internet, telephone, natural gas, garbage collection and alarm/security system.

### Insurance

10. SASD is hereby advised and understands that the personal property of SASD is not insured by the City or MPA for either damage or loss, and neither the City nor MPA assume any liability for any such loss.
11. SASD agrees that it shall hold harmless the City and its officers, employees, representatives, volunteers, and assigns, and MPA and its officers, employees, representatives, volunteers, and assigns, and shall indemnify and hold harmless all such persons or entities for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the lease.
12. SASD agrees that it shall furnish and maintain such liability insurance as will protect SASD, the City, MPA, and all of their officers, employees, representatives, volunteers, and assigns, from all claims for damage to property or bodily injury, including death, which may arise from the operations under the lease or in connection therewith. Such insurance shall provide coverage of not less than three million dollars (\$3,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon both the City and MPA. Failure to provide such insurance shall terminate the Lease.

### Governing Law

13. This Lease will be construed in accordance with and exclusively governed by the laws of the State of Wisconsin.

## Severability

14. If there is a conflict between any provision of this Lease and the provisions of law, such provisions of the Lease will be amended or deleted as necessary in order to comply with the law. Further, any provisions that are required by law are incorporated into this Lease.
15. The invalidity or unenforceability of any provisions of this Lease will not affect the validity of enforceability of any other provision of this Lease. Such other provisions remain in full force and effect.

## Amendment of Lease

16. This Lease may only be amended or modified by a written document executed by the Parties.

## Assignment of Lease

17. SASD shall not assign the Lease, or sublet or grant any concession or license to use the Property or any part of the Property. Any assignment, subletting, concession, or license, whether by operation of law or otherwise, will be void and will, at the City's option, terminate this Lease.

## Additional Clauses

18. Room assignments may need to be adjusted on occasion to meet program obligations scheduled prior to this Lease Agreement. In such cases, MPA staff will attempt to notify Warriner High School teaching staff at least one day in advance.
19. Should any party determine that the Lease needs to be terminated, SASD is obligated to complete rent payments through the month in which termination will occur.
20. The City and MPA are willing to permit use of lab equipment at the Property by Warriner High School students and staff as part of the curriculum, but with the understanding that coordinated equipment use is necessary to accommodate the other schools using the Property. Any equipment or rooms determined to have been damaged by students or staff of Warriner High School must be repaired or replaced at the expense of SASD.

## Damage to Property

21. In case the City and or MPA chooses not to rebuild or repair property damage at the Property not caused by the negligence or willful act of the Tenant or the Tenant's employees, students, or visitors, the City may end the Lease by giving appropriate notice.
22. Property and equipment damage caused by students or staff of Warriner High School will be repaired/replaced at the expense of SASD.

## Maintenance

23. SASD will, at its sole expense, keep and maintain the Property and appurtenances in good and sanitary condition and repair during the term of this Lease and any renewal of this Lease.
24. Major maintenance and repair of the Property involving anticipated or actual costs in excess of \$100.00 per incident not due to SASD's misuse, waste, or neglect of that of SASD's employees, students, or visitors will be the responsibility of MPA or their assigns.
25. SASD shall also perform the following maintenance in respect to the Property: Rooms must be maintained for use in meetings/programs at alternate times, and returned to an agreed upon arrangement at the end of each day that rooms are used.

## Care and Use of Property

26. SASD will promptly notify the Director of any damage to rooms or to any furnishings supplied by the City or MPA, or of any situation that may significantly interfere with the normal uses of the Property.
27. SASD will not engage in any illegal trade or activity on or about the Property.
28. The Parties will comply with standards of health, sanitation, fire, housing and safety as required by law.
29. The Parties will use reasonable efforts to maintain the Property in such a condition as to prevent the accumulation of moisture and the growth of mold. SASD will promptly notify the Director in writing of any moisture accumulation that occurs or of any visible evidence of mold discovered by SASD. MPA will promptly respond to any such written notices from SASD.
30. At the expiration of the term of this Lease, SASD will quit and surrender the Property in as good a state and condition as they were at the commencement of the Lease, reasonable use and wear and tear excepted.

## Rules and Regulations

31. SASD will obey all rules of Maywood and the City regarding the Property, including any rules related to the ongoing coronavirus pandemic.

## Address for Notice

32. For any matter relating to this tenancy, SASD may be contacted at the Property or through the phone number below:
  - a. Name: Sheboygan Area School District
  - b. Phone: 920/459-3500
33. For any matter relating to the tenancy, whether during or after this tenancy has been terminated, the City's address for notice is:
  - a. Name: Ellwood H. May Environmental Park Association of Sheboygan County, Inc.
  - b. Address: 3615 Mueller Road, Sheboygan, WI 53083
  - c. Phone: 920/459-3906

## General Provisions

34. All monetary amounts stated or referred to in this Lease are based in the United States dollar.
35. Any waiver by the City or MPA of any failure by SASD to perform or observe the provisions of this Lease will not operate as a waiver of the City's or MPA's rights under this Lease in respect of any subsequent defaults, breaches or non-performance and will not defeat or affect in any way the City's rights or MPA's rights in respect of any subsequent default or breach.
36. This Lease will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assigns, as the case may be, of each of the Parties. All covenants are to be construed as conditions of the Lease.
37. All sums payable by SASD to MPA pursuant to any provision of the Lease will be deemed to be additional rent and will be recovered by MPA as rental arrears.
38. Locks may not be added or changed without the prior written agreement of the Parties, or unless the changes are made in compliance with the Act.
39. SASD will be charged an additional amount of \$25.00 for each N.S.F. check or checks returned by SASD's financial institution.
40. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Lease. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.
41. The Lease may be executed in counterparts. Facsimile and emailed signatures are binding and are considered to be original signatures.
42. This Lease constitutes the entire agreement between Parties.
43. Time is of the essence in the Lease.

IN WITNESS WHEREOF Sheboygan Area School District, Ellwood H. May Environmental Park Association of Sheboygan County, Inc., and the City of Sheboygan have duly affixed their signatures on this \_\_\_\_ day of April, 2021.

**City of Sheboygan**

**Ellwood H. May Environmental Park Assoc.**

\_\_\_\_\_  
Ryan Sorenson, Mayor

\_\_\_\_\_  
Samantha Lammers, Director

\_\_\_\_\_  
Meredith De Bruin, City Clerk

**Sheboygan Area School District**

\_\_\_\_\_  
Seth Harvatin, Superintendent

Authorized by the City of Sheboygan pursuant to Res. \_\_\_\_-22-23.