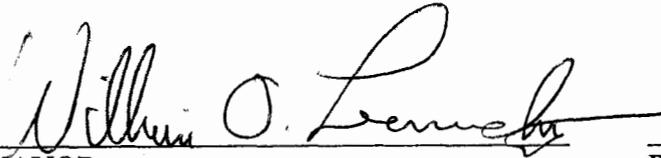


RESOLUTION NO. R-2005-23

A RESOLUTION AUTHORIZING THE MAYOR OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE TO SIGN A NEW LEASE AGREEMENT WITH THE HAMILTON COUNTY BOARD OF EDUCATION FOR THE SIGNAL MOUNTAIN ELEMENTARY SCHOOL FOR A TWENTY (20) YEAR PERIOD COMMENCING ON AUGUST 1, 2005 THROUGH JULY 31, 2025.

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BE IT RESOLVED by the Town Council of the Town of Signal Mountain, Tennessee that the Mayor is authorized to sign a new Lease Agreement with the Hamilton County Board of Education for the Signal Mountain Elementary School for a twenty (20) year period commencing on August 1, 2005 through July 31, 2025 pursuant to the terms of the proposed Lease Agreement which is attached hereto.

  
MAYOR

  
RECORDER

July 11, 2005  
DATE

July 11, 2005  
DATE

PAN/kac

**LEASE AGREEMENT**

THIS LEASE AGREEMENT, (hereinafter referred to as "Lease"), made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between HAMILTON COUNTY BOARD OF EDUCATION, (hereinafter referred to as "Landlord"), and THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, (hereinafter referred to as "Tenant").

WHEREAS, the Hamilton County Board of Education owns a parcel of property located at 809 Kentucky Avenue, Signal Mountain, Tennessee, better known as "the old Signal Mountain Elementary School" (hereinafter referred to as "the Building"); and

WHEREAS, the Town of Signal Mountain requests to lease said Building for use as a community arts center; and

WHEREAS, the Building is located within an established residential community of the Town of Signal Mountain; and

WHEREAS, maintenance and security will be needed for the Building; and

WHEREAS, the Town of Signal Mountain has agreed to provide security and maintenance services for the Building, and to pay for all utilities, insurance, and any miscellaneous costs associated with the use of the Building.

THEREFORE, the parties have entered into the following

**LEASE AGREEMENT**

**ARTICLE 1  
DEFINITIONS**

For the purposes of this Lease Agreement, the following definitions shall apply:

- (a) **Building:** The Building is located at 809 Kentucky Avenue, Town of Signal Mountain, Hamilton County, Tennessee.
- (b) **Premises:** The real property described in Exhibit A (attached hereto) identified as State Tax Map No. 108I-A-007 consisting of approximately 5.2 acres.
- (c) **Landlord:** Hamilton County Board of Education.

- (d) Tenant: Town of Signal Mountain, Tennessee.
- (e) Term: Term is twenty (20) years as approved by the Hamilton County School Board.
- (f) Rent: One (\$1.00) Dollar annually. Beginning August 1, 2005. Due and payable to Landlord.
- (g) Commencement Date: August 1, 2005.
- (h) Permitted Use of the Premises: Non-Profit Community Arts Center, Signal Mountain, Tennessee.

## **ARTICLE 2 PREMISES**

Tenant leases the Premises from the Landlord for the term and upon the conditions and covenants set forth in this Lease.

## **ARTICLE 3 TERM**

- 3.1 The Term of this Lease shall commence on the 1<sup>st</sup> day of August, 2005 (the Commencement Date). The Lease shall be for a period of twenty (20) consecutive years beginning on the date as stated above; provided, however, if the Commencement Date is not the first day of a month, the initial term shall begin the first business day of that month and shall continue for a period of twenty (20) years thereafter.
- 3.2 Tenant shall give Landlord written notice within at least three (3) months prior to the expiration of the term, if it desires to renew the Lease or purchase the Premises.

## **ARTICLE 4 USE**

The Tenant shall use the premises solely for the specified permitted use as set forth above and for no other purpose. If the Tenant shall discontinue the permitted use for a period of sixty (60) consecutive days, the Landlord, at its sole discretion, may terminate the Lease Agreement. The Tenant shall not use or allow the premises to be used for any unlawful purposes or in any manner that will constitute waste, nuisance, or unreasonable annoyance to the Landlord or any adjoining property owner, including contaminating waste that may violate the Environmental Waste Act or other applicable local, state, or federal laws or regulations. Tenant shall also be responsible for any asbestos abatement of hazardous material, if any, that is required during the term of this lease or any holdover tenancy.

**ARTICLE 5  
TENANT'S OBLIGATIONS**

The Tenant covenants and agrees to provide security for the building to the same degree (i.e., manpower) as the Tenant provides to other buildings in the Town of Signal Mountain owned by the Tenant. The Tenant is given permission to erect fencing and gates and/or lighting necessary to secure this objective to either the building or property. Further, the Tenant will provide reasonable, regular, and routine maintenance necessary to keep the building clean and usable at a level equal to or exceeding the conditions existing on the premises on the commencement of this Lease, including that maintenance required to keep operative the fire alarm, electrical system, utilities, heating, ventilation and air conditioning systems. Further, the Tenant agrees to keep the exterior envelopes (i.e., doors, windows, etc.) reasonable secure from the elements and to bear any miscellaneous costs associated with use of the building. Any damage to the premises resulting from the breach of any covenant or conditions contained herein shall be the sole obligation of the Lessee to replace or repair and if not completed within a reasonable time period, the Lessee herein grants the Landlord the right to remedy said breach and replace or repair the damages and seek recovery from the Lessee. Further, the Tenant is responsible for replacing and/or repairing to the extent necessary any and all items in or on the building, including, without limitations, the boiler, piping, HVAC, and/or roof.

**ARTICLE 6  
WAIVER**

Acceptance by the Landlord of any breach of any covenant or condition of this Lease Agreement shall not constitute a waiver of any other future breach, regardless of the knowledge thereof.

**ARTICLE 7  
HOLDOVER PROVISION**

If the Tenant shall remain in possession of the leased premises after the expiration date of the term of this Lease, such possession shall be as a month-to-month tenant. During such month-to-month tenancy, the same terms and conditions shall remain in effect as were in effect during the last month of the preceding term and the provisions of this Lease shall be applicable as were it in effect during the last month for which there was a term in place.

**ARTICLE 8  
RELATIONSHIP OF THE PARTIES**

It is understood and agreed that the relationship of the parties hereto is strictly that of Landlord/Tenant and that the Landlord has no involvement in the Tenant's business and the Tenant has no involvement in the Landlord's business and this Lease and the relationship between the two parties shall not be construed as a joint venture nor a partnership. The Tenant is not and shall not be deemed to be an agent or representative of the Landlord.

**ARTICLE 9  
ASSIGNMENT AND SUBLETTING**

The Tenant shall not assign this Lease nor any interest therein nor sublet or assign the leased premises or any part thereof or any right or privilege pertinent thereto, nor permit the occupancy or use of any part of the leased premises by any person or entity other than the Tenant, its employees and day-to-day guests without the prior written consent of the Landlord.

**ARTICLE 10  
INDEMNIFICATION AND INSURANCE**

The Tenant hereby agrees to indemnify the Landlord against and hold the Landlord harmless from any and all claims, demands and/or causes of action for: (1) loss of or damage to the leased premises or property with coverage limited to demolition and certain clean-up costs (not to exceed \$300,000.00) and assets thereon, and/or (2) for injury or death to any person or for any cause whatsoever during the term of this Lease and any extension thereof caused by negligence of Tenant. Further, Tenant shall pay Landlord's costs to defend (including attorney's fees) any such claims, demands, or causes of action. The Tenant agrees during the term of this lease and any extensions, renewals or holdovers to take out and maintain insurance that is to be placed with Tennessee admitted insurers or a pooling organization or its re-insurer rated B+X or better by A.M. Best's rating service or as approved by Hamilton County's Risk Manager at its sole cost and expense public liability and personal injury growing out of the use of or occurrence on or about the leased premises with liability for personal injury and property damages in amounts not less than the limitation of liability as set out in the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101, *et seq.*, as amended from time to time. The Landlord shall be named as coinsured on all such policies and shall be provided by the Tenant with a certificate of insurance showing the coverage to be in effect and provided with a thirty (30) day written notice prior to cancellation. Any failure or non-coverage of such policy or judgment that exceeds the policy limits shall not affect the indemnification or hold harmless provisions of this paragraph. The Landlord is a governmental entity and, as such, is subject to the statutory limits imposed under the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101, *et seq.* However, the sole consideration for this Lease is the security which the occupancy by the Tenant of the building will provide for the building.

**ARTICLE 11  
UTILITIES**

The Tenant shall pay any charges for electricity, water, gas, sewage, heat, telephone, or other utilities which may be used, rendered or supplied upon or in connection with the leased premises.

**ARTICLE 12  
LANDLORD'S COVENANT**

Landlord covenants that the Landlord has good title to the leased premises, that it is unencumbered and that Landlord is under no disability which would impair the Landlord's right to enter into this Lease. The Tenant, upon the performance of all the terms and conditions thereof, shall have the quiet enjoyment of the leased premises during the term of the Lease thereof, including any renewal terms without the hindrance by or disturbance of the Landlord or anyone else claiming under the Landlord. The Tenant shall, upon the termination of this Lease, if it is not in default hereunder, removed from the leased premises all improvements, trade fixtures, structures and equipment provided any damage or other injury to the leased premises resulting from the removal shall be adequately repaired and the leased premises fully restored by the Tenant. All such items not removed promptly by the Tenant upon termination of this Lease shall become the property of the Landlord.

All notices and other communication given hereunder by the parties shall be in writing and shall be delivered personally or by mail, postage prepaid, and the date of any notice by certified mail shall be deemed the date of certification thereof delivered or addressed to the parties as follows:

**LANDLORD:**

HAMILTON COUNTY BOARD OF EDUCATION  
OFFICE OF THE SUPERINTENDENT  
6703 BONNY OAKS DRIVE, BUILDING 200-1  
CHATTANOOGA, TN 37421

HAMILTON COUNTY REAL PROPERTY OFFICE  
4<sup>TH</sup> FLOOR MAYFIELD ANNEX  
123 EAST SEVENTH STREET  
CHATTANOOGA, TN 37402

**TENANT:**

THE TOWN OF SIGNAL MOUNTAIN  
OFFICE OF THE MAYOR  
1111 RIDGEWAY AVENUE  
SIGNAL MOUNTAIN, TN 37377

**ARTICLE 13  
DEFAULTS**

If there is a default by a substantial violation of this Lease, the Tenant shall cure the same within twenty (20) days, or either it be deemed a default in the performance of the covenants, agreements or conditions contained on the part of the Tenant by the Landlord after written notice to the Tenant, in the manner specified in Article 13, this Lease shall hereupon be terminated at the Landlord's option. The Landlord shall have the right to reenter or repossess leased premises

and dispose and remove therefrom the Tenant or other occupants thereof and their effects in a lawful manner without being liable for any prosecution thereof.

The Landlord shall have the right to perform certain environmental tests or studies or other such tests or studies upon the building as they may deem necessary.

All repairs, replacement, or maintenance shall be the responsibility of the Tenant which shall be done in compliance with all applicable local, state and federal rules, regulations and laws. Any such repairs, replacements or maintenance not performed may be repaired, replaced or maintained by the Landlord for which Tenant shall be fully responsible for reimbursing Landlord, all costs and expenses associated with same.

#### **ARTICLE 14 APPLICABLE LAW**

This Lease shall be construed and interpreted pursuant to the laws of the State of Tennessee. Should there be any provision thereof to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the legality, validity, and enforcement of the remaining provisions shall not be affected but shall continue in full force and effect. Any disputes between the parties and/or default by the Tenant may only be submitted to a court of competent jurisdiction in Hamilton County, Tennessee, and the prevailing party shall be entitled to recover all costs, expenses, and legal fees in bringing or defending such legal action.

#### **ARTICLE 15 PROPERTY TAX**

In event property taxes or other county, state, or municipal taxes are assessed on the Premises during the term or any holdover period, Tenant shall pay any such taxes.

#### **ARTICLE 16 BINDING EFFECT**

The terms and conditions of this Lease shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, assigns, and personal and legal representatives.

#### **ARTICLE 17 ENTIRE AGREEMENT**

The entire agreement between the parties hereto is contained in this instrument and it is expressly agreed that no obligation of the Landlord or the Tenant shall be implied in addition to those contained herein. Any amendment to this Lease must be in writing and signed by the parties hereto and adapted in the same fashion as this Agreement.

Nothing in this Lease shall be construed so as to give preference or special standing nor should this Lease be construed so as to exclude the Tenant should the Landlord elect to include the building in a request for sealed competitive proposals or RFP's at any time subsequent to the signing of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Lease on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, at Chattanooga, Hamilton County, Tennessee.

Attest:

HAMILTON COUNTY BOARD OF EDUCATION  
HAMILTON COUNTY, TENNESSEE (Landlord)

\_\_\_\_\_  
By: \_\_\_\_\_  
JESSE B. REGISTER, Superintendent

By: \_\_\_\_\_  
CHIP BAKER, Chairman

STATE OF TENNESSEE :  
COUNTY OF HAMILTON:

Before me, the undersigned authority, personally appeared JESSE B. REGISTER, Superintendent of the Hamilton County Board of Education, and CHIP BAKER, Chairman for the Hamilton County Board of Education, whose names are signed to the foregoing instrument bearing the date of \_\_\_\_\_, 2005, acknowledged the same before me in the County aforesaid.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
NOTARY PUBLIC AT LARGE

My commission expires: \_\_\_\_\_

Attest:

THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE  
(Tenant)

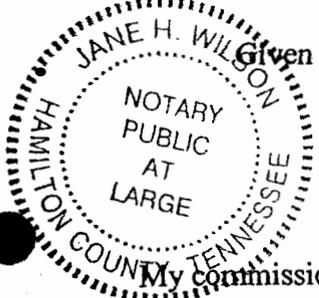
July 13 2005

By: William O. Leonard  
WILLIAM O. LEONARD, Mayor

STATE OF TENNESSEE :  
COUNTY OF HAMILTON:

Before me, the undersigned authority, personally appeared WILLIAM O. LEONARD, Mayor of the Town of Signal Mountain, Tennessee, whose name is signed to the foregoing instrument bearing the date of July 13<sup>th</sup>, 2005, acknowledged the same before me in the County aforesaid.

Given under my hand and official seal this 13<sup>th</sup> day of July, 2005.



Jane H. Wilson  
NOTARY PUBLIC AT LARGE

My commission expires: 3/22/08