

Meeting Date: 9/28/2010



Agenda Item # 46

# CITY COUNCIL AGENDA ITEM

Contact Name: Jamie Croteau Department Director: \_\_\_\_\_  
Department/Contact # \_\_\_\_\_ City Manager: Jamie Croteau

- Type of Item:
- |                          |                          |                                     |                     |
|--------------------------|--------------------------|-------------------------------------|---------------------|
| <input type="checkbox"/> | Public Hearing           | <input checked="" type="checkbox"/> | Resolution          |
| <input type="checkbox"/> | Ordinance First Reading  | <input type="checkbox"/>            | Discussion & Action |
| <input type="checkbox"/> | Ordinance Second Reading | <input type="checkbox"/>            | Council Approval    |

**Subject:** Wava's Hall Senior Center

**BACKGROUND:** In early 2002, construction on the Orange City Senior Center was completed. The city chose at that time to enter into a contractual relationship with the Council on Aging of Volusia County, Inc. (COA) to staff the center and provide programming to area seniors. The City's relationship with the COA has been a mutually beneficial and decidedly successful venture. Membership at the center has grown steadily since the doors opened and many accolades have been received from the senior community for the programming provided. The license agreement being presented for your approval would extend the City's relationship with the Council on Aging for additional two year period to expire on September 30, 2012. The license agreement can be renewed annually automatically through 2015 unless sixty days written notice is provided by either party.

**RECOMMENDATIONS:** It is recommended for Council to approve Resolution 622-10

**ATTACHMENTS:** Agreement

**FINANCIAL IMPACT:** The City's contribution is \$15,000 towards the Director of Wava's Hall salary.

Reviewed by City Attorney \_\_\_\_\_  
Reviewed by Finance Dept. \_\_\_\_\_  
Reviewed by: \_\_\_\_\_

<b>1<sup>st</sup> Discussion Date:</b> date.	<b>2<sup>nd</sup> Discussion Date:</b> date.	<b>Third Discussion Date:</b> date.	<b>Other Dates:</b> date.
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**RESOLUTION NO. 622-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO ENTER INTO A LICENSE AGREEMENT WITH THE COUNCIL ON AGING OF VOLUSIA COUNTY, INC. TO UTILIZE THE ORANGE CITY SENIOR CITIZENS' CENTER KNOWN AS WAVA'S HALL FOR PROVISION OF SENIOR CITIZEN ACTIVITIES/PROGRAMMING SERVICES; REPEALING ALL RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS** since March 15, 2002, Orange City has contracted with the Council on Aging of Volusia County, Inc. for the provision of senior citizens' programming at the Orange City senior citizens center known as "Wava's Hall."

**WHEREAS** it is the desire of the City Council to continue the contractual relationship between the City and the Council on Aging of Volusia County, Inc.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:**

**SECTION 1.** The City Council of the City of Orange City hereby authorizes the City Manager to enter into a License Agreement with the Council on Aging of Volusia County, Inc., for the provision of senior citizens' programming at the Orange City Senior Citizens Center building known as "Wava's Hall".

**SECTION 2.** That said License Agreement is hereby attached as Exhibit "A" and by reference incorporated herein with full force and effect as if fully set forth.

**SECTION 4.** That all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

**SECTION 5.** That this resolution shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

**ROLL CALL VOTE AS FOLLOWS:**

Gary Blair	_____	Jeff H. Allebach	_____
William O. Crippen	_____	Tom Abraham	_____
Anthony Pupello	_____	Tom Laputka, Vice Mayor	_____
Harley Strickland, Mayor	_____		

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.**

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
W. E. Reischmann, City Attorney

## **LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** is made and entered into by and between the **CITY OF ORANGE CITY**, a municipal corporation organized and existing under the laws of the State of Florida, with its principal place of business at 205 East Graves Avenue, Orange City, Florida, 32763, hereinafter referred to as “Licensor,” and the **COUNCIL ON AGING OF VOLUSIA COUNTY, INC.**, a Florida non-profit corporation, with its principal place of business at 160 North Beach Street, Daytona Beach, Florida 32114, hereinafter referred to as “Licensee.”

### **SECTION 1** **DESCRIPTION OF LICENSED PREMISES**

Licensor hereby grants a nonexclusive license to Licensee for the **Orange City Senior Citizens Center**, 200 North Holly Avenue, Orange City, FL 32763 for use by the **COUNCIL ON AGING OF VOLUSIA COUNTY, INC.** for its programs. The Licensee’s use of the Senior Citizens Center shall include use of all the furnishings.

### **SECTION 2** **TERM OF LICENSE**

This license agreement shall commence on October 1, 2010 and shall renew automatically on October 1 of the following years; 2012, 2013, 2014 and 2015 unless sixty days written notice is provided by either party. During the term of this agreement, the Licensee shall have use of the licensed premises (as described in paragraph 1 above), on Monday through Friday of each week between the hours of 8:00 a.m. and 6:00 p.m. and may, upon 15 days written notification and

approval of the City Manager, use licensed premises after 6:00 p.m. weekdays and anytime on weekends.

### **SECTION 3**

#### **CONSIDERATION FOR GRANTING LICENSE**

Licensee agrees in consideration for the Licensor granting it the use of the licensed facility (in lieu of making a cash payment for said use) to employ, at its expense and pay all fringe benefits, the equivalent of a half-time Program Coordinator for the Senior Center. Services beyond half-time, but not to exceed 20 hours per week, shall be billed quarterly, not to exceed 1,040 hours (maximum \$15,000) annually, to the City. Said employee shall develop and coordinate activities, trips, special events, and educational programs for senior citizens utilizing the **Orange City Senior Citizens Center**. The Licensee shall actively seek sources of funding to reduce the City's subsidy.

### **SECTION 4**

#### **FEES AND REVENUES**

Revenues (fees and client contributions) for Licensee-managed Federal and State grants, including, but not limited to, Counseling, Energy Assistance, Congregate Dining, Home Delivered Meals and Transportation, and for Council on Aging Fund-raising activities, including but not limited to Senior Trips and the Annual Walk for Meals on Wheels, shall be retained by the Licensee. Licensee shall also retain fees and revenues generated from memberships, activities and classes for the sole purpose of continued programming. Any Council on Aging recommended changes to the existing membership fee structure will be submitted to the City for approval.

**SECTION 5**  
**MAINTENANCE AND UTILITIES**

Licensor shall provide all janitorial services, maintenance, repairs, and utilities, excluding telephone and internet, for the licensed premises. Licensee shall endeavor to maintain the premises in a clean, sanitary and attractive condition at all times. The Licensor retains the right to inspect the premises at any time without notice to the Licensee.

**SECTION 6**  
**SURRENDER OF PREMISES**

Licensee agrees to surrender the premises at the expiration of this License Agreement in as good condition as they were at its commencement, reasonable use and wear and damages of the elements excepted.

**SECTION 7**  
**ASSIGNMENT**

This license agreement may not be assigned without the written permission of the Licensor.

**SECTION 8**  
**ALTERATION TO THE BUILDING**

This Licensee shall not make any alterations to the licensed premises without the prior written consent of Licensor, under penalty of forfeiture and damages. Any such alteration shall then become the property of the Licensor.

**SECTION 9**  
**USE OF PREMISES**

Licensee agrees not to occupy or use the premises, or permit the same to be occupied or used for any business except for activities for senior citizens in Orange City and the surrounding vicinity without the advance written consent of Licensor under penalty of forfeiture and damages.

**SECTION 10**  
**DEFAULT**

If Licensee defaults under this agreement by failing to provide the consideration described herein, or default occurs in the performance of any of the agreements contained in this License Agreement, and such default is not cured within thirty days from the date written notice of such default is delivered to Licensee by Licensor, then at the option of Licensor, this agreement shall terminate; and Licensor shall and may reenter the premises and remove all persons from them.

**SECTION 11**  
**INSURANCE**

1. **Liability Insurance.** Licensee hereby agrees, at all times during the term hereof, to obtain, maintain and keep in force, comprehensive general public liability insurance against claims for personal injury, death or property damage occurring in, on or about the licensed premises, with aggregate single limit coverage in an amount not less than ONE MILLION DOLLARS (\$1,000,000). Licensee shall name Licensor as an additional insured on the aforesaid policy of insurance. Licensee shall present proof of said insurance to Licensor's City Manager upon request. Licensee additionally agrees that Licensor has the right to notice before

cancellation of any insurance policies, and upon cancellation, Licensor has the right to immediately terminate this Agreement.

2. **Workers' Compensation Insurance.** Licensee shall purchase and maintain workers' compensation insurance for all its employees as required by Florida law and present proof of said insurance to Licensor's City Manager upon request.

3. **Acts Causing Cancellation.** No use shall be made or permitted to be made of the premises, or acts done, that will cause a cancellation of any insurance policy covering the premises, or any part of the premises; nor shall Licensee permit to be kept or used, in or about the premises, any article prohibited by the standard form of fire insurance policies. Licensee shall, at its sole cost, comply with all requirements pertaining to the managed premises, of any insurance organization or company, necessary for the maintenance of insurance, as herein provided, covering any building and appurtenances at any time located on the premises.

4. **Fire Inspection.** The licensor will forward a copy of its signed annual Fire Inspection Report to the licensee.

## **SECTION 12** **NECESSARY FURNISHING AND RECREATIONAL EQUIPMENT**

Licensee's use of its own furnishings and recreation equipment at the premises shall be at its own risk. Licensee waives any right to bring a claim for damages or negligence against Licensor, and holds Licensor harmless for any loss or destruction of any or all of Licensee's furnishings and recreational equipment arising out of fire, flood, theft, vandalism, riot, civil disturbance, or any other cause.

**SECTION 13**  
**INDEMNITY**

Licensee covenants and agrees to hold harmless and indemnify the Licensor from any and all liability that might arise from the interest created in this License Agreement, and from the use and care of the said property described herein and licensed by the Licensee.

**SECTION 14**  
**NOTICE**

All notices to be given with respect to this Agreement shall be in writing. Each notice shall be sent by registered or certified mail, postage prepaid and return receipt requested, to the party to be notified at the address set forth herein or at such other address as either party may from time to time designate in writing.

Every notice shall be deemed to have been given at the time it shall be deposited in the United States mail in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

**SECTION 15**  
**SEVERABILITY**

Should any term, covenant, condition, provision, sentence or part thereof of this Agreement be held invalid or unenforceable by any court of competent jurisdiction, the remaining terms and provisions shall, nevertheless, remain in full force and effect.

**SECTION 16**  
**CONSTRUCTION**

The headings and subheadings used throughout this Agreement are for convenience only and have no significance in the interpretation of the body of this Agreement.

**SECTION 17**  
**ATTORNEY'S FEES AND COSTS**

In any litigation arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

**THE CITY OF ORANGE CITY** and **COUNCIL ON AGING OF VOLUSIA COUNTY, INC.** agree and declare that it is their intent that the aforesaid Sections constitute the complete and final expression of their agreement.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

SIGNED SEALED AND DELIVERED  
IN THE PRESENCE OF:

Licensee:  
COUNCIL ON AGING OF  
VOLUSIA COUNTY, INC.

\_\_\_\_\_  
Signature of Witness #1

By: \_\_\_\_\_  
President of the Board  
of Directors

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Joe Pinello  
Print or type name

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Print or type name

STATE OF FLORIDA  
COUNTY OF VOLUSIA

I HEREBY CERTIFY that before me the undersigned duly authorized by law to administer oaths and take acknowledgements, did personally appear \_\_\_\_\_ well known to me to be the President of the Board of Directors of Council on Aging of Volusia County, Inc., who acknowledged that as such President of the Board of Directors and for and on behalf of the Council on Aging of Volusia County, Inc., has executed the foregoing License Agreement on the date and year herein written.

\_\_\_\_\_  
Signature

Notary Stamp: \_\_\_\_\_

\_\_\_\_\_  
Print or type name

**ACCEPTED BY THE CITY OF ORANGE CITY**

Licensors:  
**CITY OF ORANGE CITY**

By: \_\_\_\_\_  
Jamie Croteau, City Manager

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Deborah J. Renner, CMC  
City Clerk

Mailing Address: 205 E. Graves Ave.  
Orange City, FL 32763

Approved as to form and legality for use  
and reliance by the City of Orange City:

\_\_\_\_\_  
William E. Reischmann, Jr.  
City Attorney

**STATE OF FLORIDA  
COUNTY OF VOLUSIA**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010 by Jamie Croteau and Deborah J. Renner, City Manager and City Clerk respectively of the City of Orange City, Florida, who are personally known to me and they acknowledged executing the same freely and voluntarily under authority vested in them and that the seal affixed thereto is the true and corporate seal of the City of Orange City, Florida.

\_\_\_\_\_  
Signature

Notary Stamp: \_\_\_\_\_

\_\_\_\_\_  
Print or type name