ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve License Agreement with St. Charles Arts Council for Use of City Hall Office Space
Presenter:	Brian Townsend

Please check appropriate box:

	Government Operations		Government Services
	Planning & Development	X	City Council

Estimated Cost:	N/A	Budgeted:	YES		NO	

If NO, please explain how item will be funded:

Executive Summary:

This matter was reviewed by the Government Operations Committee on 1/3/11. At that time, there was a request to modify the document to allow for termination of the agreement without cause, upon delivery of a 120-day notice. The attached license agreement has been modified to reflect this.

Additionally, there have been some minor changes to the list of furnishings and the diagram showing the layout of the space.

Attachments: *(please list)*

Resolution
License Agreement

Recommendation / Suggested Action *(briefly explain)*:

Recommend that a Resolution be approved authorizing the Mayor and City Clerk to execute a License Agreement between the City of St. Charles and the St. Charles Arts Council.

For office use only	*Agenda Item Number:* IIA27

2011-5

City of St. Charles, Illinois
Resolution No. _____

A Resolution Authorizing the Mayor and City Clerk of the City of St. Charles to Execute a License Agreement Between The City of St. Charles and St. Charles Arts Council

Presented & Passed
by the City Council on _____

BE IT RESOLVED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, that the Mayor and City Clerk be and the same is hereby authorized to execute that certain License Agreement, in substantially the form attached hereto and incorporated herein as Exhibit "A", by and on behalf of the City of St. Charles.

Presented to the City Council of the City of St. Charles, Illinois this ____ day of _____, 2011.

Passed by the City Council of the City of St. Charles, Illinois this ____ day of_____, 2011.

Approved by the Mayor of the City of St. Charles, Illinois this ____ day of _____, 2011.

_____
Mayor Donald P. DeWitte

Attest:

_____
City Clerk

Council Vote:

Ayes:_____

Nays:_____

Abstain:_____

Absent:_____

LICENSE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2011, by and between the City of St. Charles, Kane and DuPage Counties, Illinois, an Illinois municipal corporation (the "Licensor" or "City"), and the St. Charles Arts Council, an Illinois not-for-profit corporation (the "Licensee");

WITNESSETH

WHEREAS, the Licensor is the owner of the St. Charles City Hall/Municipal Center located at 2 East Main Street, St. Charles, Illinois (the "Property"); and,

WHEREAS, there is certain vacant office space located on the Property that the Licensor does not currently utilize, as more specifically described on Exhibit "A" attached hereto and incorporated herein (the "Office Space"), as well as certain office equipment that the City does not currently utilize, as listed on Exhibit "B" attached hereto and incorporated herein ("Equipment"); and

WHEREAS, the Licensee was organized for the purpose of promoting arts activities within the City with the goal of enhancing the cultural environment in the City, as well as promoting economic development in the City; and,

WHEREAS, Licensee requires office space and equipment in order to conduct its activities; and,

WHEREAS, Licensor is desirous of granting a license to Licensee, and Licensee is desirous of being granted a license from Licensor, for Licensee to utilize the Office Space and Equipment, pursuant to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and of the terms and conditions hereinafter contained, the sum of One Dollar ($1.00), and other good and valuable considerations, the adequacy and sufficiency of which the parties hereto hereby acknowledge the parties hereto hereby agree as follows:

Section 1. Incorporation of Recitals. The preambles set forth hereinabove are incorporated herein as substantive provisions of this Agreement as if fully set out in this Section 1.

Section 2. Grant. Licensor agrees to grant, and does hereby grant, to Licensee, a license to use the Office Space and Equipment for the term of this Agreement for the purpose of conducting its activities as contemplated by its Articles of Incorporation.

Section 3. Exclusive Grant. The privilege granted herein is exclusive; provided, however, that Licensor reserves the right at any time to enter upon the Office Space.

Section 4. Liens. Licensee, its officers, agents, contractors, volunteers and/or employees, shall not suffer to permit any mechanic's lien, judgment lien or other lien of any nature whatsoever to attach or be against the Property, the Office Space, or the Equipment or any portion thereof. Should any such lien be filed, the Licensor shall have the right to contest same.

Section 5. Condition and Upkeep: Use. Licensee has examined and knows the condition of the Office Space and Equipment and has received the same in good order and repair, and acknowledges that no representations as to the condition and repair thereof have been made by Licensor prior to all the execution of this Agreement that are not herein expressed; Licensee will keep the Office Space and Equipment in good repair, normal wear and tear excepted; and upon the termination of this Agreement, in any way, will yield up the Office Space and Equipment to Licensor, in good condition and repair, ordinary wear excepted and will deliver the keys therefor at the Property.

Licensee will not allow the Office Space or Equipment to be used for any purpose that will increase the rate of insurance thereon, nor for any purpose other than that hereinbefore specified, and will not permit the Office Space or Equipment for any unlawful purpose, or for any purpose that will increase the fire hazard of the Property. The Licensee will not permit any alteration of the Office Space except by written consent of the Licensor; all alterations to the Office Space shall remain for the benefit of the Licensor unless otherwise provided in said consent.

Section 6. Access. Licensee, its officers, contractors, agents, volunteers and/or employees, shall at all times have the right of access to the Office Space and such other areas of the Property as are necessary to access the Office Space. The Licensee, its officers, contractors, agents, volunteers and/or employees shall also have access to other areas of the Property as follows: (a) conference and meeting rooms shall be available during normal business hours provided that said rooms are not in use by, or needed by, the City, and (b) use of conference and meeting rooms during non-business hours shall be available on the same basis as the City makes such rooms available to other non-City users, by scheduling in advance and pursuant to the City's policy.

Section 7. Assignment. Licensee shall not assign or otherwise transfer its right in whole or in part under this Agreement without the express written consent of Licensor.

Section 8. Insurance. Licensee shall procure and maintain at its sole and exclusive expense, comprehensive personal injury, workman's compensation and property damage insurance in such amounts as Licensee deems necessary and Licensor deems satisfactory to adequately cover all operation under the exercise of the privileges herein granted. Evidence of insurance shall be provided by Licensee to Licensor.

Section 9. Hold Harmless and Indemnification. Licensee hereby indemnifies, releases and holds Licensor harmless, and agrees to defend Licensor from any and all liability, causes of action, suits, damages or demands of whatever nature arising out of the conduct of Licensee, its officers, contractors, agents, volunteers and/or employees under the exercise of the privileges herein granted. This indemnity is intended as a full and complete general indemnity and shall include Licensee's responsibility for any attorney's fees incurred by Licensor in defense of any claims or actions brought by third parties against Licensor as a result of the privileges granted to Licensee herein.

Licensor hereby indemnifies, releases and holds Licensee harmless, and agrees to defend Licensee from any and all liability, causes of action, suits, damages or demands of whatever

nature arising out of the conduct of Licensor, its officers, agents and/or employees regarding the License Area. This indemnity is intended as a full and complete general indemnity and shall include Licensor's responsibility for any attorney's fees incurred by Licensee in defense of any claims or actions brought by third parties against Licensee as a result of the privileges granted to Licensor herein.

Section 10. Financial Responsibility/No Third-Party Beneficiaries. Licensor shall have no financial responsibility or obligation to Licensee or any third party as a result of Licensor's granting the privileges described herein to Licensee. This Agreement creates no rights, title or interest in any person or entity whatsoever (whether under a third party beneficiary theory or otherwise) other than the Licensee and the Licensor.

Section 11. No Lease or Easement. Licensee expressly acknowledges that nothing herein is intended to create a corporal or possessory interest of Licensee and, accordingly, this Agreement shall not be construed as a lease, easement or any other interest running with the land. Neither this Agreement nor any summary or memorandum thereof shall be recorded with any public authority.

Section 12. Relationship of the Parties. Under no circumstances shall this Agreement be construed to create a relationship of agency, partnership, joint venture, or employment between the Licensor and the Licensee.

Section 13. Term. Unless otherwise terminated pursuant to Section 14, this Agreement shall remain in effect until December 31, 2011; provided, however, upon mutual agreement of the parties hereto, this Agreement may be renewed for up to two (2) consecutive one-year periods.

Section 14. Termination. If the Licensee breaches any of the provisions of this Agreement, or abandons or vacates the Office Space, the Licensor may declare this Agreement terminated upon thirty (30) days written notice to the Licensee. In addition, the Licensor may, for any reason and in its sole discretion, declare this Agreement terminated upon one hundred twenty (120) days written notice to the Licensee.

Section 15. Damage and Destruction. Licensor and its officers, contractors, agents and/or employees shall not be liable or responsible to Licensee for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, or court order, or for any damage or inconvenience which may arise from this Agreement.

Licensor and its officers, contractors, agents and/or employees shall not be liable for any damage occasioned by failure to keep the Office Space or Equipment in good repair, nor for any damage done or occasioned by or from plumbing, electricity, gas, water, sprinkler, steam or other pipes or sewerage of the bursting, leaking or running of any pipes, tank or plumbing fixtures, in, above, upon or about Property or Office Space nor for any damage occasioned by water, snow or ice being upon or coming through the roof, windows or otherwise.

Section 16. Miscellaneous. This Agreement sets forth the entire understanding of the parties, and may only be amended, modified or terminated by a written instrument signed by the parties unless herein otherwise provided. Either party's waiver of any breach of failure to enforce any of the terms or conditions of this Agreement, at any time, shall not in any way affect, limit or waive that party's right thereafter to enforce or compel strict compliance with every term and condition hereof.

Section 17. Effective Date. This Agreement shall become effective upon execution by both parties hereto.

Section 18. Governing Law. This Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois.

Section 19. Notices. All notices hereunder shall be in writing and must be served either personally or by registered or certified mail to:

A. Licensor at:

St. Charles Arts Council
2 E. Main Street
St. Charles, Illinois 60174
Attn: President

B. Licensee at:

City of St. Charles
2 E. Main Street
St. Charles, Illinois 60174
Attn: City Administrator

C. To such other person or place with either party hereto by its written notice shall designate for notice to it from the other party hereto.

Section 20. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be and shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date first above written.

CITY OF ST. CHARLES

By:_____
Mayor

ATTEST:

_____
City Clerk

ST. CHARLES ARTS COUNCIL

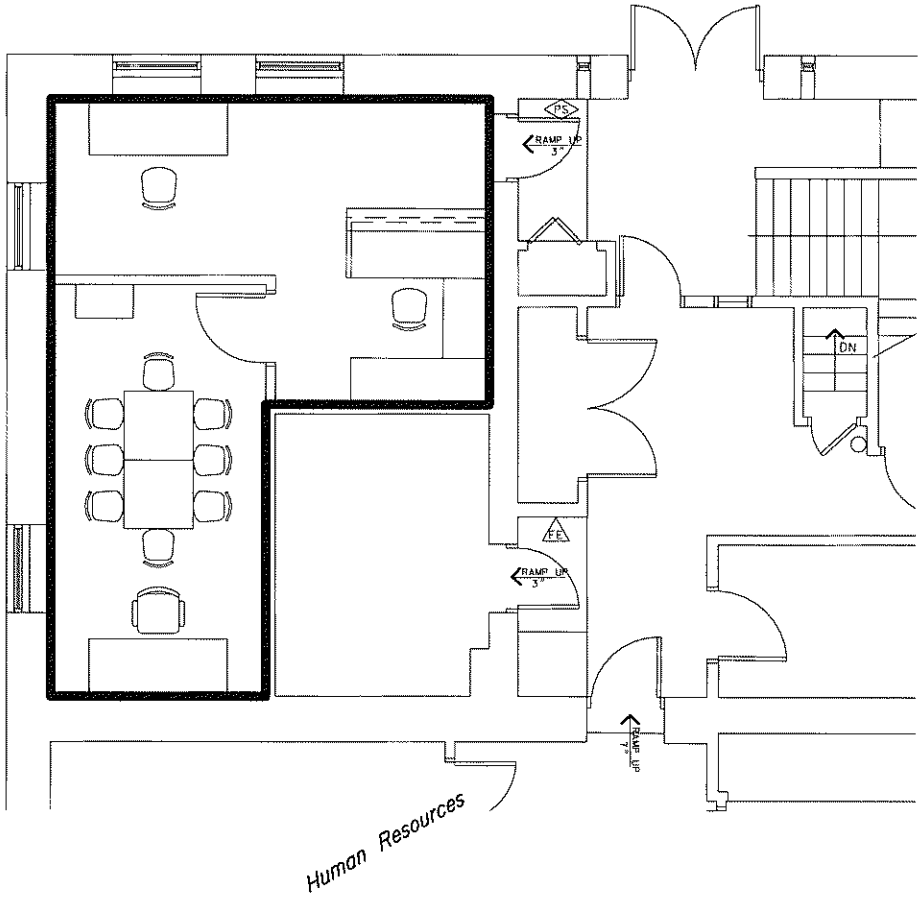
By:_____
President

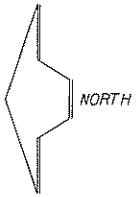
ATTEST:

_____

_____

NORTH RIVERSIDE AVENUE





SCALE FEET

0 8 16

Date: January 14, 2011
File: Economic-Development.dgn

EXHIBIT "B"

DESCRIPTION OF OFFICE EQUIPMENT

One (1) Full Desk Sets Include:

- "C" Shaped Countertop (including side panels) as shown on the plan.
- Two Overhead Shelves w/ locking doors, task light and pin board back. These sit on top of the counter.
- One (1) 2-drawer locking File Cabinet (under countertop)
- One (1) 3-drawer locking File Cabinet (under countertop). This includes 1 lower file drawer and 2 upper office equipment drawers.
- One (1) Pencil Drawer (mounted under countertop)
- One (1) Chair

Two (2) Small Desk Set Includes:

- 6' x 3' Single Countertop (including side panels) as shown on the plan.
- One (1) 2-drawer locking File Cabinet (under countertop)
- One (1) 3-drawer locking File Cabinet (under countertop). This includes 1 lower file drawer and 2 upper office equipment drawers.
- One (1) Chair

Two (2) 3'X3' Tables (Conference Room)

Eight (8) Conference Table Chairs

One (1) Bookshelf

Two (2) Work-Station Computers with MS Office Software

Two (2) Monitors

Two (2) IP Telephones