

**CITY COUNCIL MEETING**

**AGENDA ITEM X**



**CITY OF FRANKLIN**  
**COUNCIL AGENDA REPORT**  
*City Council September 10, 2012*

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**From:** Elizabeth Dragon – City Manager  
**Subject:** Bessie Rowell Community Center- Lease Head Start

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**Suggested Motions:**

1. Councilor moves:

“I move that the Franklin City Council authorize the City Manager execute the proposed lease with Head Start at the Bessie Rowell Community Center. ”

2. Mayor asks for a second, discussion, and calls the vote.

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**Discussion:**

The City Council approved the same terms for a lease with the Tiny Twister’s organization which is a 20yr commitment at the Bessie Rowell Community Center. The original lease was drafted by the City Attorney. The council has already approved the terms of the grant for both Tiny Twisters & Head Start.

These grants are for low and moderate income persons and therefore the funds used to renovate the space must benefit people who are in the low to moderate income category for the next 20yrs. This is not a difficult task to accomplish given the needs of the community if either of the organizations where to move out of the building during the next 20 years.

The only change in this lease language (except square footage) as compared to Tiny Twister’s lease- is the wording regarding capital contribution in 3 c. This was due to CAP’s restriction regarding making contributions to a Reserve fund. They are restricted where they are using Federal dollars during a grant period in a building that they don’t own. Therefore, this language was changed some to allow Head Start to contribute to capital expenditures each year.

**NON-RESIDENTIAL  
RENTAL AGREEMENT**

**City of Franklin, New Hampshire and  
Community Action Program Belknap-Merrimack Counties, Inc.  
(Head Start)**

This Non-Residential Rental Agreement is entered into by the City of Franklin, New Hampshire, a New Hampshire municipal corporation with a place of business at Memorial Hall, 316 Central Street, Franklin, New Hampshire 03235 (hereinafter referred to as the "Lessor") and the Community Action Program Belknap-Merrimack Counties, Inc. (Head Start), a New Hampshire nonprofit corporation with a place of business at P.O. Box 1016, 2 Industrial Park Drive, Concord, New Hampshire 03302-1016 (hereinafter referred to as the "Lessee").

1. **Leasable Space.** The Lessor hereby leases to Lessee and Lessee hereby leases from the Lessor, an area of approximately ( 4,360 ) square feet consisting of office and day care space as shown upon the attached plan and located in a portion of a municipal building owned by the Lessor, known as the Bessie Rowell Community Center, located at 12 Rowell Drive, Franklin, New Hampshire. The Lessee will also have access to common hallways, the Multi Purpose Room, Kitchen and existing outside Playground space as shown on the referenced plan.
2. **Term.** The term of this lease is twenty (20) years commencing July 1, 2012 and terminating on June 30, 2032. Continued lease of the facilities will be contingent upon continued funding by the United States Department of Health and Human Services or its successor.
3. **Leasehold Payment.** The Lessee shall pay the sum of One Dollar (\$1.00) per year as financial consideration for this Lease. Additionally, the Lessee shall pay a pro rata share of monthly operating expenses including but not limited to electricity, heat, water, sewer, snow removal, maintenance contract and similar items based upon:
  - A. The percentage of total building square footage directly and exclusively occupied (dedicated square footage) by the Lessor; and
  - B. Percentage of common area square footage allocated to all tenants based upon percentage of dedicated footage to total dedicated square footages; and
  - C. A Five Thousand Dollar (\$5,000.00) payment to the Bessie Rowell Community Center Capital Fund for building capital replacements and repairs.

The dedicated square footage and common area square footage are shown on the attached plan.

4. **Facility Use.** The Lessee's use of the Premises shall be primarily to provide day care services and related activities between the hours of 6:30 a.m. to 5:30 p.m. Monday through Friday. The Lessee may use the Premises for evening meetings associated with the primary program. The Lessee shall obtain, maintain and keep in force all licenses, inspections and permits required by any governmental authority in connection with the occupation or use of the Premises by the Lessee.

5. **Non Profit Status.** The Lessee shall maintain a tax-exempt and nonprofit status as may be permitted under the laws of the State of New Hampshire and the United States Internal Revenue Service.
6. **Custodial Services.** The Lessee shall provide general custodial services at its own expense and shall maintain the premises in a clean and orderly condition.
7. **Pedestrian Traffic.** The Lessee shall control traffic and conduct of all children, visitors and staff when on the Premises.
8. **Signs** The Lessee shall have the right to affix a sign or signs inside or outside the Premises, but such sign or signs shall have prior approval of the Lessor.
9. **Subleasing.** The Lessee may not sublet the Premises or assign this Lease.
10. **Maintenance.** Throughout the term of the Non-Residential Rental Agreement, the Lessee shall maintain the Premises in the same good condition as on the date of commencement of the term. The Lessee shall perform ordinary maintenance of the Premises.
11. **Facility Modification.** The Lessee shall not perform any demolition of any portion of the Premises or construct any improvements or other modifications to the Premises without the Lessor's prior written consent. Any such improvements or modifications shall become the property of the Lessor at the expiration of the term.
12. **Return of Premises.** Upon expiration of the term, the Lessee shall vacate the Premises, leaving the Premises broom clean and in the same good condition as on the date of commencement of the term, reasonable wear and tear excepted.
13. **Insurance.** The Lessee shall procure and maintain liability insurance covering the Premises with the Lessor named as an additional insured with limits not less than one million dollars (\$1,000,000) and shall provide copies of such insurance policies to the Lessor. This amount may be amended as required by the Lessor upon sixty (60) days notice to the Lessee in accordance with recommendations received by any insurance consultant (or equivalent) of the Lessor. The Lessor agrees to carry fire insurance on the Premises.
14. **Attorney's Fees.** In the event that either party incurs attorney's fees or other expenses in order to endorse its rights under this Non-Residential Agreement, the prevailing party shall reimburse the other for all such attorney's fees and other expenses.

**15. Covenants of the Lessee.**

A. **Utilities.** The Lessee agrees to bear the routine expense of all utilities that it desires within the leased premises including any initial connection and service fees with the exception of any specifically addressed separately in this document pursuant to the utility formula described in Section 3, above.

B. **Use of Premises.** The Lessee agrees that it will not engage in any business or activity which will adversely affect the Lessor's insurance for fire or other casualty or general liability and will further not engage in any activity not in conformance with local codes, regulations, ordinances or other state or federal statute or regulation.

C. **Storage of Hazardous Materials.** The Lessee covenants that it shall not store upon the premises any hazardous materials or any liquid, solid, or gas having a flash point of less than 300 degrees Fahrenheit or which is toxic or corrosive either singly or in combination with any other substance stored on the premises or which emits any form of radiation, including x-rays. Additionally, Lessee shall not store flammable or combustible liquids or gases on site at any time.

D. **Waste.** The Lessee shall not commit waste upon the premises and shall, at the expiration of the leasehold, surrender the premises in good condition, normal wear and tear excepted. In the event that the activities of the Lessee in making any interior or other alterations to the building have damaged the carpeting or other appointments provided by the Lessor, the Lessee shall arrange for the immediate replacement of same upon the surrender of the premises.

**16. Inspection and Security Surveillance.** The Lessor shall have the right of reasonable inspection of the entirety of the leased premises upon twenty-four hours notice to the Lessee. Further, the Lessor or its agents shall have the right of immediate access to the entirety of the leased premises in emergency circumstances. Lessee shall provide the Lessor with keys to all exterior and interior doorways in the portion of the premises controlled by the Lessee.

The Lessee acknowledges that the Lessor may install and utilize one or more electronic security/surveillance systems within any portion of the building or upon the exterior grounds, including those portions leased to the Lessee. Said system may include video surveillance and recording but shall not include audio without the express written permission of the Lessee or approval of a court of competent jurisdiction. Any recordings made by such systems may be utilized by the Lessor or appropriate law enforcement agencies for any legitimate purpose and may, upon request, be made available to the Lessee. Such request shall not be unreasonably denied.

**17. Walkways.** Winter maintenance of walkways accessing the leased premises shall be the responsibility of the Lessee.

**18. Destruction of the Premises.** In the event that the whole or any part of the leased premises is destroyed or damaged by fire or other casualty without the fault or negligence of the Lessee so that the leased premises are rendered unfit for use and occupancy, a

proportionate part of the rent shall be suspended or abated during the time period that the premises remain unfit for use and occupancy. If the Lessor fails to commence restoration of the premises to their prior condition within 30 days of the occurrence, and to diligently pursue such restoration to completion, the Lessee may terminate this lease by written notice sent to the Lessor within 45 days of the expiration of the 30 day period. Upon receipt of such notice by the Lessee, the Lessor shall have seven working days to immediately commence such repairs and shall follow same through diligently to their completion and the Lessor shall do so, the Lessee's right of termination shall be void.

19. **Access for Maintenance and Repairs.** The Lessor may enter the Lessee's premises upon reasonable notice to the Lessee for the purpose of undertaking maintenance, repair and renovation to the structure of the building and its utility systems at any reasonable time or times without any unreasonable interference with the business of the Lessee. Lessor shall attempt to minimize inconvenience and distraction to the Lessee and the Lessee agrees to cooperate with such repairs or alterations.
20. **Binding Effect.** All of the covenants, agreements and conditions contained herein shall be binding upon the parties and their successors, representatives and assigns.
21. **Merger Clause.** It is agreed that all representation, warranties, and covenants of the parties are contained herein and no statement or representation of any party shall be binding upon that party unless it is specifically enumerated herein.
22. **Amendment.** This document may be amended only by written instrument executed by the parties hereto.
23. **Notice.** Any notice required to be given by the Lessee to the Lessor shall be effective upon its delivery in writing to the office of the City Manager, 316 Central Street, Franklin, New Hampshire, 03235. Any notice required to be given by the Lessor to the Lessee shall be effective upon delivery to \_\_\_\_\_.
24. This lease was approved by vote of the Franklin City Council on \_\_\_\_\_, 2012.

**WITNESS OUR SIGNATURES** on the date first mentioned above.

Lessor:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Elizabeth Dragon, Franklin City Manager  
Duly Authorized

Lessee:

*Erin N. Roney*  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Community Action Program Belknap-  
Merrimack Counties, Inc. (Head Start)

By: *Ralph Littlefield*  
\_\_\_\_\_  
Ralph Littlefield, Executive Director  
Duly Authorized