

**TOWN OF HERNDON, VIRGINIA
PUBLIC HEARING AGENDA
HERNDON COUNCIL CHAMBERS BUILDING
765 LYNN STREET
FEBRUARY 11, 2020
7:00 P.M.**

1. Call to Order
2. Pledge of Allegiance to the Flag of the United States of America

APPROVAL OF MINUTES

January 21, 2020	Town Council Work Session Draft Minutes
January 28, 2020	Town Council Public Hearing Draft Minutes

COMMENTS

3. Comments from the Town Manager
4. Comments from the Town Council
5. Comments from the Audience

PUBLIC HEARINGS

6. Resolution 20-G-08, to solicit public comment for consideration during the development of the Town Manager's proposed budget for Fiscal Year 2021
7. Ordinance 20-O-16, to approve and authorize the Mayor to sign a Lease Agreement between the Town and The Elden Street Players, for space at 717 Lynn Street

GENERAL

8. Resolution 20-G-09, to amend resolution 16-G-03, adopted January 12, 2016, which established a policy for the disbursement of town funds to non-profit organizations

Future Town Council Meetings

February 18, 2020	Town Council Work Session	7:00 p.m.
February 25, 2020	Town Council Public Hearing	7:00 p.m.
March 3, 2020	Town Council Work Session	7:00 p.m.
March 10, 2020	Town Council Public Hearing	7:00 p.m.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

FEBRUARY 11, 2020

Resolution- to solicit public comment for consideration during the development of the Town Manager's proposed budget for Fiscal Year 2021.

WHEREAS, each February, the Herndon Town Council conducts a public hearing to provide the opportunity for citizen comment for consideration during the development of the Town Manager's proposed budget; and

WHEREAS, the proposed budget will be available for public review after April 1 each year and a *Citizen's Guide to the Proposed Budget* is mailed to all Herndon residents during the first week in April; and

WHEREAS, Town Council will conduct public hearings on April 14 and 28, which are advertised in the Fairfax County Times newspaper and information on the Town Manager's proposed budget and public hearing agendas are posted on the Town's website – www.herndon-va.gov – after April 1, 2020.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby extends its appreciation to all citizens who have provided input and further encourages residents to participate in budget public hearings on April 14 and 28.

TOWN OF HERNDON, VIRGINIA

ORDINANCE

FEBRUARY 11, 2020

Ordinance- to approve and authorize the Mayor to sign a Lease Agreement between the Town and The Elden Street Players, for space at 717 Lynn Street.

BE IT ORDAINED by the Town Council for the Town of Herndon, Virginia that:

1. The Town Council approves a lease dated February 11, 2020, by which the Town would lease to The Elden Street Players certain space in part of the Town's building at 717 Lynn Street, Herndon, Virginia. The rent shall be \$1.00. The term shall be month-to-month from March 1, 2020 through February 28, 2023. The lease may contain certain other terms agreed to by the Mayor and Town Manager.
2. This ordinance shall be effective on and after the date of its adoption.

LEASE

THIS LEASE made on the 11th day of February 2020, by and between THE TOWN OF HERNDON, a municipal corporation (Landlord) and THE ELDEN STREET PLAYERS (Tenant).

Recitals

Landlord is the owner of a building located at 717 Lynn Street, Herndon, Virginia, called the "Depot."

Landlord and Tenant have agreed that Tenant will lease from Landlord, in consideration of the rent, and under the terms and conditions specified here, the "Waiting Room" in the Depot, the "leased premises." The "Waiting Room" is shown as "A" on the plan entitled "Herndon Depot & Museum," dated December 8, 1980, attached and incorporated by reference. The reference on the plan to the use of the "Waiting Room" is not applicable.

THEREFORE, the parties agree as follows in consideration of the mutual benefits and burdens of this lease.

1. Commencement and Ending Date of Term. Beginning March 1, 2020, Landlord leases the leased premises to Tenant according to the terms of this lease. The Tenant may remain in the leased premises on a month-to-month basis with the Tenant having the right to terminate the Lease upon 30 days prior written notice to the Landlord, and the Landlord having the right to terminate the Lease upon 90 days prior written notice to the Tenant. In any event, the term of this lease shall expire February 28, 2023.

2. Rent. Tenant shall pay Landlord on demand \$1.00 rent.

3. Use of Premises. Tenant shall use the leased premises only as an office and

for the recreational events described in paragraph 5 of this Lease. Tenant shall not display any signs or advertising on the premises other than the one identification plate approved by the Landlord. Access to the restrooms in leased premises shall be shared with the Herndon Historical Society. Access to the Herndon Historical Society premises must remain locked. Tenant shall be responsible for maintaining the access to the Herndon Historical Society premises in a locked condition at all times. Tenant is aware that temporary use of the premises may be required during the Herndon Festival. Tenant and Landlord both agree to cooperate in this regard to make the premises available as needed during the Herndon Festival each year.

4. Policy Compliance. Tenant shall comply with all policies regarding the use of Town buildings, including the prohibition of alcohol and the use of recreational drugs or tobacco, as well as the Town building key policy.

5. Recreational Programing Responsibility. Tenant shall, in conjunction with the Town of Herndon Parks and Recreational Department produce at least three performances on the Town Hall Square during the months of May to September each year.

6. Utility Charges. Landlord shall maintain and pay the cost of all utilities except telecommunications on the leased premises.

7. Liability Insurance. Tenant shall keep in effect a policy of bodily injury and property damage liability insurance with respect to the leased premises in commercially reasonable amounts, as determined by Landlord. The policy shall name the Town of Herndon as an additional insured.

8. Hold Harmless of Landlord. Tenant shall hold harmless Landlord, its officers, agents, and employees from any and all claims, actions, damages, liability and expense, including reasonable attorney's fees, in connection with loss of life, personal injury or damage to property arising from any occurrence in, upon, or at the leased premises, or the occupancy or use by Tenant of the leased premises or any part thereof.

9. Default. Tenant shall be in default upon failure to perform any term of this lease for more than five days after written notice of such failure shall have been given to Tenant or after Tenant's abandonment of the leased premises.

10. Rights and Remedies on Default. Landlord shall have the following rights on default of Tenant, which shall be cumulative, none excluding any other right allowed by this lease or by law.

a. Landlord may enter the leased premises and repossess the leased premises and remove Tenant and any others who may be occupying the leased premises and remove any property.

b. Landlord may seize, remove and sell all of the personal property and fixtures of Tenant on the leased premises or remove and store such property at the cost of and for the account of Tenant.

11. Waste or Nuisance. Tenant shall not commit any waste or nuisance upon the leased premises.

12. Maintenance by Tenant. Tenant accepts the leased premises including the improvements and any equipment in the leased premises in their existing condition. Tenant shall at all times keep the leased premises in a clean and sanitary condition and in

good repair. If Landlord is required to make any repairs by reason of Tenant's negligent or intentional act or omission, Tenant shall pay to Landlord the cost of the repairs as additional rent within ten days after written notice. Landlord shall be responsible for roof, structural integrity of the building, and replacement and repair of utility systems except telecommunications related to the leased premises. Tenant shall return the leased premises to its original condition prior to Tenant's vacation of the premises, normal wear and tear excepted.

13. Notification of Hazard. Tenant and Landlord shall give immediate notice to the other in case of fire, accident, or defect in the leased premises or in any fixtures or personal property comprising the leased premises.

14. Alterations and Improvements. Tenant shall not make or cause to be made any alterations to the leased premises without first obtaining Landlord's written consent.

15. Removal of Improvements and Restoration by Tenant. All alterations made by Tenant shall remain the property of Tenant for the term of the lease. Landlord and Tenant shall agree in writing prior to the installation of any fixture in which Tenant will retain title to the fixture at the expiration of the lease. If Tenant retains title, Tenant will remove the property at the expiration of the term of the lease and leave the leased premises in the same condition as at the commencement of the lease. If Landlord acquires title, the property will remain part of the leased premises and Tenant shall not have any obligation to remove it. Absent such written agreement, Landlord shall have the option upon expiration or termination of the term of this lease to retain the alterations as a part of the leased premises, or to require Tenant to remove all the alterations and

restore the leased premises to the same condition as at the commencement of the lease. If Tenant fails to remove such alterations and restore the leased premises as requested by Landlord, then Landlord may remove them and restore the leased premises and Tenant shall pay Landlord's costs as additional rent.

16. Loss and Damage. Landlord shall not be liable for any loss or damage to property of Tenant located on the leased premises. Landlord shall not be liable for any injury, death, or damage to persons or property associated with Tenant resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, snow, or leaks from any part of the leased premises. Landlord shall not be liable for any latent defect in the leased premises or in the building of which they form a part. All property of Tenant kept or stored on the leased premises shall be so kept or stored at the risk of Tenant and Tenant shall hold Landlord harmless from any claims arising out of damage to the same, including subrogation claims by Tenant's insurance carrier.

17. Right of Entry. Landlord shall have the right to enter the leased premises during normal business hours to examine the same upon reasonable notice, either oral or written. Landlord shall have the right to make such repairs, alterations, improvements or additions as may be reasonably necessary and to temporarily close doors, entryways, and other spaces and to interrupt or temporarily suspend utility and other building services and facilities, without the same constituting an eviction of Tenant in whole or in part.

18. Quiet Enjoyment. Upon the observance of all Tenant's obligations of this lease, Tenant shall peaceably and quietly hold and enjoy the leased premises.

19. Surrender of Premises. At the expiration or termination of the term of this

lease, Tenant shall surrender the leased premises in the same condition that the leased premises were in at the commencement of this lease, reasonable wear and tear excepted, and shall surrender all keys for the leased premises to Landlord.

20. Assignment and Subletting. Tenant may not assign this lease without prior written consent of Landlord. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law.

21. Binding on Successors/Assigns. All of the terms of this lease shall bind the successors and assigns of Landlord and Tenant, except where the assignment is ineffective due to lack of Landlord's consent.

22. Recitals. The recitals are part of this lease.

23. Custodial. Landlord shall provide routine custodial services for the leased premises.

THE ELDEN STREET PLAYERS

By: _____
Vicki Kile
President

TOWN OF HERNDON, VIRGINIA

By: _____
Lisa C. Merkel
Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

FEBRUARY 11, 2020

Resolution- to amend Resolution **16-G-03, adopted January 12, 2016**, which established a policy for the disbursement of town funds to non-profit organizations.

WHEREAS, the Town of Herndon recognizes the important contribution non-profit organizations make to the overall quality of life in Herndon; and

WHEREAS, under the Code of Virginia, localities may appropriate public funds ~~or in-kind resources~~ to any charitable or non-profit organization if the organization provides services to residents of the locality and if such organizations are not controlled in whole or in part by any church or sectarian society; and

WHEREAS, the Town Council must make informed decisions regarding disbursement of town funds.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby adopts the attached eligibility criteria and reporting requirements, as amended, for the disbursement of funds ~~or in-kind services~~ to **charitable or** non-profit organizations.

Amended Eligibility Guidelines and Reporting Requirements for Disbursement of Town Funds to Non-profit Organizations

Adopted by Resolution 20-G-09, February 11, 2020

Eligibility

- Organizations applying for funds ~~or in-kind services~~ must be community-based and provide services or activities in Herndon.
- Must be established for a minimum of two years.
- Must be chartered or incorporated through the Virginia State Corporation Commission.
- Must be a tax-exempt entity as determined by the federal Internal Revenue Service (IRS).
- Must provide an amount from other sources equivalent to 50 percent of the funds requested from the town and document how these funds will be raised. Herndon Community Television (HCTV) is exempted from this requirement as HCTV provides direct services to the government by acting as the town's public television access station.
- ~~• Fundraising events requesting labor or material support from the town must reimburse the town 100 percent for this in-kind support. Organizations that provide fundraising events that promote economic development in town may request town sponsorship in the form of labor or materials. The organization is responsible for reimbursing the town 50 percent of the cost of these in-kind services.~~
- ~~• Friday Night Live! will reimburse 50 percent of the with services from the Herndon Police Department and the Department of Public Works' (town's) costs not to exceed \$10,000. If there are 12 or fewer concerts due to cancellations, Friday Night Live! will reimburse 50 percent of the town's costs not to exceed \$7,500. The 50 percent would remain the same as long as Friday Night Live! is a free event to the public and the Town is listed as a major sponsor of the event.~~
- ~~• Organizations that received town funding or in-kind services of \$10,000 or greater in the current fiscal year must have submitted the required financial and operating reports before a new grant application will be considered.~~

Application Process

Application

All organizations applying for funds ~~or in-kind services~~ must submit a completed Non-Profit ~~Grant~~ **Donation** Request Application by the deadline for submission. Unless otherwise noted, the following documents must be submitted with all applications:

1. Transmittal Letter - All organizations applying for funds must submit a transmittal letter that includes the following information:
 - a. Purpose of the organization and description of its programs and activities.
 - b. Goals and objectives of the organization for the next fiscal year.
 - c. Major accomplishments the organization achieved in the Town of Herndon for the past calendar year.
 - d. Specific benefit(s) of the organization's services and activities to Herndon residents.
 - e. Amount of funding ~~or in-kind services~~ requested from the town.
 - f. Purpose for which donation will be used.
 - g. A brief statement of current fundraising activities.
 - h. Statement signed by the principal officer acknowledging that membership or participation is open to all residents and businesses in the town without regard to race, national origin, religion, or sex.
2. A budget detailing how the requested funds will be used. The budget should include a listing of services the organization provides the citizens of Herndon and the corresponding amount for each service.
3. A copy of the IRS tax exemption certificate. **
4. An up-to-date listing of names and affiliations of the principal officers and Board of Directors.
5. A copy of the organization's most recent financial report.

Organizations requesting \$5,000 or greater must also submit the following:

6. A copy of the certificate of incorporation. **

7. A copy of the most recent tax return or a copy of IRS form 990.

8. A copy of the organization's Annual Report.

** Organizations that previously applied for and received town funds ~~or in-kind services~~ in the current fiscal year do not need to resubmit items (3) and (6) under the "Application" section (above) unless there are changes or updates to these documents. If changes were made, please submit the most current version of the document(s) with the application.

Reporting Requirements

~~Organizations that received grant funding or in-kind services of \$10,000 or more from the Town of Herndon in the current fiscal year must provide a mid-year and a final (or annual) financial and operating report. The final (or annual) financial and operating report will also satisfy items (4) and (7) under the "Application" section (above) when requesting funding for the upcoming fiscal year. The following information should be provided in the reports:~~

- ~~• Summarize the specific programs and evaluate the organization's success in implementing the programs for which funds were received.~~
- ~~• Explain how Herndon benefited from the services provided.~~
- ~~• Include a year-to-date profit and loss (income) statement.~~
- ~~• Include a year-to-date balance sheet.~~

Distribution of Funds

Approved funds will be disbursed ~~two times during~~ in the first month of the fiscal year. ~~The first half of the approved funds will be disbursed in July and the remaining half will be disbursed by January 31 of the fiscal year.~~