

**CITY OF BETHLEHEM
OFFICE OF THE CITY SOLICITOR
INTER-DEPARTMENTAL CORRESPONDENCE**

SUBJECT: Amendment No. 2 to Sublease Agreement
Illick's Mill at Monocacy Park

TO: Cynthia H. Biedenkopf, City Clerk

FROM: Matthew J. Kloiber, Assistant City Solicitor

DATE: July 22, 2014

Attached is a proposed Resolution and associated Amendment No. 2 to Sublease Agreement for Council's consideration.

Please place this matter on City Council's August 5th agenda for review and appropriate action.

Copies To: Mayor Donchez
W. Leeson, Esq.
Council Members
J. Spirk, Esq.

By: 

RESOLUTION NO. _____

Authorization For Amendment No. 2 to Sublease Agreement

BE IT RESOLVED by the Council of the City of Bethlehem that the Mayor and the Controller and/or such other City officials as deemed appropriate by the City Solicitor, are hereby authorized to execute Amendment No. 2 to Sublease Agreement and such other agreements and documents as are deemed by the City Solicitor to be necessary and/or related thereto, according to the terms and conditions indicated therein and made a part hereof, with the following named Sublessee, for the uses and purposes indicated below:

1. Name of Sublessee: Illick's Mill Partnership/The Gertrude B. Fox Environmental Center at Illick's Mill, A Non-Profit Corporation
2. Premises: Illick's Mill

Sponsored by _____

ADOPTED by Council this _____ day of _____, 2014.

President of Council

ATTEST:

City Clerk

Amendment No. 2 to Sublease Agreement
Illick's Mill at Monocacy Park

THIS AGREEMENT of Lease is made and entered into this 22 day of JULY, 2014, between the CITY OF BETHLEHEM, a City of the Third Class of the Commonwealth of Pennsylvania, of the County of Northampton, with its offices and principal place of business at 10 East Church Street, Bethlehem, Pennsylvania, 18018, hereinafter referred to as "CITY" or "LESSOR", and THE GERTRUDE B. FOX ENVIRONMENTAL CENTER AT ILLICK'S MILL, A NON-PROFIT CORPORATION, with its offices and principal place of business at 100 Illick's Mill Road, Bethlehem, Pennsylvania, 18017, hereinafter referred to as "LESSEE".

WHEREAS, the parties entered into a Sublease Agreement dated May 2, 2000 and Amendment No. 1 to Sublease Agreement dated June 14, 2006; and

WHEREAS, Lessee wishes to bring current its financial obligations under the above sublease agreement and amendment; and

WHEREAS, the Lessor and Lessee seek to revise the terms of their lease arrangement, including reduction of the term of the lease; and

WHEREAS, the parties agree to amend the Sublease Agreement on the following terms and conditions; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. The name of the Sublessee is hereby changed from Illick's Mill Partnership to THE GERTRUDE B. FOX ENVIRONMENTAL CENTER AT ILLICK'S MILL, A NON-PROFIT CORPORATION.
2. TERM: The termination date is changed to February 13, 2015 when the Sublease shall terminate and Lessee shall vacate the premises, relinquishing possession to City.
3. RENT AND SECURITY DEPOSIT
 - A. Lessee's rent shall be comprised of monthly rent plus all charges and expenses payable under this Lease.
 - B. Monthly rent will be invoiced and shall be \$200.00 per month, payable on the first of each month, beginning on April 1, 2014, and prorated for any partial month's tenancy.
4. UTILITIES
 - A. Lessee shall pay Lessor directly for all electricity and heating oil, beginning April 1, 2014.
 - B. Lessor will invoice Lessee monthly for these obligations and payments are due within 30 days of invoice.
 - C. Lessee is responsible for any services and utilities that currently are directly billed to the Lessee from the service or utility provider.
5. MAINTENANCE AND REPAIRS
 - A. Lessor will maintain the Mill building, which shall include: repair, replacement and preventive maintenance of mechanical, electrical, heating, central cooling, hot water

and plumbing equipment and systems; of elevator; fire detection and suppression systems; and maintenance of structural elements of foundation, floors, walls, ceilings, and of structures attached to the Mill such as staircases and railings. Lessee shall inform Lessor in a timely manner of any issues or problems involving maintenance, including, but not limited to the items identified in this paragraph. Lessee shall continue to be responsible for keeping the premises clean and free of trash, janitorial maintenance, light bulb replacement and routine care needed to keep the premises habitable, presentable in its current state as a well preserved historic structure, and safe from observable and preventable causes of damage or destruction.

B. Lessee shall repair damage caused by abuse, negligence, neglect or excessive wear and tear by Lessee, its guests, contractors and agents. Lessee's obligations under this paragraph constitute part of its rent obligations under this Lease. Lessee shall inform Lessor in a timely manner of any such damage caused by abuse, neglect or excessive wear.

6. BETHLEHEM AUTHORITY TAX EXEMPT STATUS

A. Lessee shall not use or permit a third party's use of the premises for a purpose or benefit that jeopardizes or causes termination of Lessee's tax exempt status or that of the Bethlehem Authority by violation of Pennsylvania, Federal and IRS statutes and regulations governing tax exempt organizations. Lessee shall comply with requests by the City or the Authority for financial records, income statements, balance sheets, auditor's reports and tax returns allowing for review and assurance of compliance with said statutes and regulations.

B. Lessee will fully indemnify the Authority for any taxes, also including real estate taxes, incurred that arise from any use of the premises or conduct on the premises by Lessee or by anyone authorized by the Lessee, which results in the loss of the Authority's tax exempt status or that of its real property and improvements.

7. LIABILITIES RELEASED AND FOREGIVEN

A. For January through March 24, 2014 heating oil costs invoiced were \$6,605.29. For January 1 through March 13, 2014 electricity costs invoiced were \$1,315.93. In consideration of early termination of the Sublease, it is agreed that the substantial sums, expenses and reimbursements owed from January 2014 through March 2014 and prior thereto since inception of the Sublease are deemed satisfied, released and forgiven and are no longer due and payable.

8. AMOUNTS OWED AND OWING


A. June 2014 through February 2015 utilities will be invoiced and paid according to Paragraph 4 of this Amendment.

9. This Amendment is subject to Approval of Bethlehem City Council and execution by the Mayor and City Controller as authorized by Council resolution.

10. Except as modified by the preceding, all other terms and conditions contained in the Original Sublease and in Amendment 1 to the Sublease agreement, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties by their legally authorized representatives have hereunto set their hands and seals on the day and year first above written.

ATTEST:



LESSEE:
THE GERTRUDE B. FOX ENVIRONMENTAL CENTER AT
ILLICK'S MILL, A NON-PROFIT CORPORATION

BY:  (Seal)
Authorized Representative

ATTEST:

City Controller

LESSOR:
CITY OF BETHLEHEM

BY: _____ (Seal)

Robert J. Donchez
Mayor

I certify that the within Sublease Agreement is needed, necessary and appropriate.

By: _____
City of Bethlehem Department Head
Print Name: Ralph E. Carp