

**VILLAGE OF YELLOW SPRINGS, OHIO  
RESOLUTION 2023-04**

**AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A LICENSE AGREEMENT  
WITH HUDSON SCULPTURE, LTD.**

**WHEREAS**, the Village of Yellow Springs owns property at the Center for Business and Education (the “CBE”); and

**WHEREAS**, Jon Hudson wishes to access a portion of the CBE property to sculpt a boulder which is too large to store at his property; and

**WHEREAS**, the Village wishes to facilitate the work of this renowned sculptor,

**NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS,  
OHIO HEREBY RESOLVES THAT:**

Section 1. The Village Manager is hereby authorized and directed to enact the license agreement as shown in Exhibit A, or in a form substantially similar to that shown.

Section 2. The license agreement shall become effective upon signing and shall remain in effect on a month-to-month basis for the sum of \$138.00 per month.

\_\_\_\_\_  
Signed: Brian Housh, President of Council

PASSED: 1-3-2023

Attest: \_\_\_\_\_  
Judy Kintner, Clerk of Council

**ROLL CALL:**

Brian Housh \_Y\_\_

Marianne MacQueen \_\_Y\_\_

Kevin Stokes \_Y\_

Carmen Brown \_Y\_\_

Gavin DeVore Leonard \_ABSENT\_\_

## EXHIBIT A to Resolution 2023-04

### LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is entered into on the \_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date"), by and between **THE VILLAGE OF YELLOW SPRINGS, OHIO** ("Licensor"), and **HUDSON SCULPTURE LTD.**, an Ohio Limited Liability Company, ("Licensee").

- A. Licensor is the owner of certain real property situated in Village of Yellow Springs, Greene County, State of Ohio, being Parcel No. F19000100200000700 (the "Licensor's Property") as more fully depicted on Exhibit "A".
  - B. Licensee desires to access and use a portion of the Licensor's Property in connection with the storage and sculpting of a certain boulder (the "Project");
1. Grant of License. Licensor grants to Licensee a non-exclusive license to enter upon that portion of the Licensor's Property approximately twenty (20) feet in width and twenty (20) feet in length, more or less, as depicted on the drawing in Exhibit "B" attached hereto and made a part hereof (hereinafter, the "Licensed Area").
  2. License Fee. In consideration of the rights granted in this Agreement, Licensee will pay Licensor a license fee of One Hundred Thirty-Eight and 00/100 Dollars (\$138.00) per month (the "License Fee"), payable on the first day of each month, without notice, demand, counterclaim or setoff. In the event the Term commences or expires/terminates on a date that is other than the first or last day of a month, as the case may be, the License Fee for the partial month shall be prorated based on the number of days in such month.
  3. Term. The license granted herein will be on a month-to-month basis, terminable by either party at any time upon thirty (30) days prior written notice to the other (the "Term"). Upon the expiration or termination of this Agreement, Licensor shall have no further obligations or liability hereunder (other than those terms that expressly survive termination). If requested by Licensor, Licensee shall promptly execute and deliver any document reasonably requested by Licensor necessary to evidence such termination of this Agreement.
  4. Use of Licensed Area; Environmental Representations. Licensee is hereby granted permission to use the Licensed Area for the purposes of the storage of a boulder and the sculpture of same. Licensee represents, warrants and covenants that in exercising its rights hereunder that (A) the Licensed Area will not be used for any dangerous, noxious or offensive purpose and that it will not cause or maintain a nuisance thereon, (B) it will not bring, generate, treat, store, use or dispose of hazardous substances at or on the Licensed Area, (C) it shall at all times comply with all federal and state environmental laws and shall cause the Licensed Area to comply therewith, and (D) Licensee will keep the Licensed Area free of any lien imposed pursuant to any environmental laws.
  5. Restoration/Surrender. Licensee shall, upon the expiration or termination of this Agreement, at its sole expense, remove or cause the removal of all equipment and other property from the Licensed Area, and surrender and deliver up the Licensed Area in as good order and condition as the same shall have been prior to Licensee's use of the Licensed Area pursuant to any of its license rights as provided herein.

If any damage occurs to the Licensed Area, or if any repairs or replacements need to be made as a result of Licensee's exercise of any of its rights under this Agreement, Licensee shall pay Licensor for any such damage, repairs, or replacements upon demand by Licensor. The provisions of this Section 5 shall survive the termination of this Agreement.

6. Insurance. Licensee shall, at Licensee's sole cost and expense, procure and continue in force during the Term of this Agreement, including any extension, the following insurance coverage:

- A. A policy of commercial general liability insurance, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 in the annual aggregate per location, insuring against claims of bodily injury, personal injury and property damage arising out of Licensee's operations, assumed liabilities or use of the Site. Such policy shall name Licensor as an additional insured.

All insurance policies shall be carried with companies licensed to do business in the State of Ohio, reasonably satisfactory to Licensor and shall be non-cancelable and not subject to material change except after thirty (30) days written notice to Licensor. Licensee shall deliver to Licensor duly executed certificates of insurance accompanied by proof of payment of the premium within seven (7) days of execution of this Agreement. From time to time at Licensor's request, certificates of such policies shall be delivered to Licensor. Licensor shall not at any time be liable for damage or injury to persons or property in or upon the Site that arise out of Licensee's exercise of its rights hereunder.

7. Indemnification. Licensee shall indemnify, defend and hold harmless Licensor and its affiliates and each of their respective officers, directors, members, managers, agents, and employees (collectively, the "Licensor Parties") from and against any and all loss, cost (including attorneys' fees), damage, expense and liability (including statutory liability and liability under workers' compensation laws) in connection with claims, judgments, damages, penalties, fines, liabilities, losses, suits, or administrative proceedings, arising out of any act or neglect by the Licensee Parties in, on or about the Site. This indemnity shall survive the termination of this Agreement.

Licensee acknowledges that all property at the Site belonging to Licensee or otherwise located at the Site, including without limitation the boulder, shall be at the risk of Licensee only, and the Licensor Parties shall not be liable for damage thereto or theft, misappropriation, or loss thereof, and Licensee hereby releases the Licensor Parties from any and all liability or responsibility to Licensee or anyone claiming through or under Licensee by way of subrogation or otherwise for any loss or damage to equipment or property.

In addition to and without limiting the releases and waivers contained herein, to the extent allowable under applicable law, Licensee hereby releases and waives any and all rights of recovery against the Licensor Parties for any risks or losses with respect to the rights and obligations arising hereunder to the extent such risk or loss is or would be covered by insurance carried by Licensee as required hereunder, without regard to any deductible. It is understood that the waivers and releases in this section apply to any loss or damage regardless of the cause, excluding those caused by the gross negligence or willful misconduct of the Licensor Parties. It is understood and agreed by the parties hereto that the provisions of this section are intended to survive the termination or expiration of this Agreement, without limitation, in order to permit Licensor to enforce those rights and interests which have arisen hereunder.

8. Laws, Rules and Regulations. Licensee shall comply with all federal, state, and local laws, regulations and ordinances, whether now in force or hereafter enacted, pertaining to the Licensed Area and occasioned by or affecting the use thereof by Licensee.

9. Miscellaneous. This Agreement constitutes the entire agreement between the parties as to the terms it contains and, no oral or verbal or implied agreement or understanding will cancel or vary the terms hereof. Licensee shall not assign any interest in this Agreement or otherwise transfer or sublicense the Licensed Area or any part thereof or permit the use of the Licensed Area by any party other than the Licensee. This Agreement may not be modified, amended or changed except by written instrument signed by all the parties hereto. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. Any signature to this Agreement transmitted by facsimile or email shall be deemed an original signature hereto.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, Licenser and Licensee have executed this Agreement as of the day and year first above written.

**LICENSOR:**

Village of Yellow Springs,  
Ohio

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LICENSEE:**

Hudson Sculpture

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_