



Legislation Details (With Text)

File #: O-206-19 **Version:** 2 **Name:**

Type: Ordinance **Status:** Approved

File created: 4/17/2019 **In control:** Law Department

On agenda: 4/30/2019 **Final action:** 4/30/2019

Title: Authorizing the Mayor to execute an amendment to and assignment and assumption of the city's current Imagination Station property lease to Ohio Facilities Construction Commission to the Toledo Science Center and to consent to termination of the Management Agreement between Toledo Science Center and Ohio Facilities Construction Commission; authorizing sublease and sub-sublease agreements between the Toledo Science Center and IST Theatre, LLC; authorizing the Mayor to execute an amendment to the deed of service facility easements recorded in the Lucas County records as Instrument Nos. 83-235A11; authorizing the Mayor to enter into an indemnity agreement with the IST Theatre, LLC related to project improvements; waiving TMC Sec. 187.19 competitive bid requirements pertaining to city property; authorizing the Mayor to execute and deliver a petition and other needed instruments with the Northwest Ohio Advanced Energy Improvement District for the purpose of providing qualifying energy improvements for city-owned Imagination Station property; authorizing the Mayor to take other actions as necessary to consummate the approved transactions; and declaring an emergency.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A - Amendment to Lease, 2. Exhibit B-1, 3. Exhibit B-2, 4. Exhibit C, 5. Exhibit D, 6. Audio: Agenda Review 4/23/2019, 7. Audio: City Council 4/30/2019

Date	Ver.	Action By	Action	Result
4/30/2019	2	City Council	Dispense with the rules of Council requiring...	Pass
4/30/2019	2	City Council	declare emergency	Pass
4/30/2019	2	City Council	passage	Pass

Imagination Station Theatre Project

Law

E. Granata (x-1034)

Authorizing the Mayor to execute an amendment to and assignment and assumption of the city's current Imagination Station property lease to Ohio Facilities Construction Commission to the Toledo Science Center and to consent to termination of the Management Agreement between Toledo Science Center and Ohio Facilities Construction Commission; authorizing sublease and sub-sublease agreements between the Toledo Science Center and IST Theatre, LLC; authorizing the Mayor to execute an amendment to the deed of service facility easements recorded in the Lucas County records as Instrument Nos. 83-235A11; authorizing the Mayor to enter into an indemnity agreement with the IST Theatre, LLC related to project improvements; waiving TMC Sec. 187.19 competitive bid requirements pertaining to city property; authorizing the Mayor to execute and deliver a petition and other needed instruments with the Northwest Ohio Advanced Energy Improvement District for the purpose of providing qualifying energy improvements for city-owned Imagination Station property; authorizing the Mayor to take other actions as

necessary to consummate the approved transactions; and declaring an emergency.

SUMMARY & BACKGROUND:

The Imagination Station (the Toledo Science Center) is working with private funders and the Ohio Facilities Construction Commission to construct an approximately 8,200 sq. ft addition to the existing Imagination Station facility for the development of an approximately 300-seat large format digital theatre and additional retail or exhibit space. The Theatre will have a 58 foot screen with the ability to play traditional and 3D films. The site plan for the addition to the building has been approved by the Toledo Plan Commission.

The City is the owner of the Imagination Station Property. The City's current lease is with the Ohio Facilities Construction Commission as successor in interest to the Ohio Cultural Facilities Commission and Ohio Arts Facilities Commission (the "Commission") who in turn has a management agreement with the Toledo Science Center. The current lease runs until 2033. However, the Commission has determined that as the bonds previously issued by the Commission for improvements to the Imagination Station have been paid off, they are prepared to assign the lease to the Toledo Science Center and terminate the management agreement. The Commission will not require a real property interest for any additional funding anticipated for the expansion project.

Under the existing lease and management agreements, the Toledo Science Center has maintained the Imagination Station facility, paid for improvements and all operating costs for the Science Center. The City's sole responsibility has been for connecting concourse maintenance and the provision of real property insurance as a city-owned building. The administration recommends that to assist this project and the improvement of the overall Imagination Station property, that the city agree to pay an assessment on the property for energy improvements to be made to the facility and financing through the Northwest Ohio Advanced Energy Improvement District in a total amount not to exceed \$400,000. Additional approval of assessments at some point in the future by Council will be necessary to effectuate this.

In order to allow the project to move forward a number of agreements and/or amendments to existing agreements are necessary, including an assignment, assumption and amendment of the existing lease, amendment of the Concourse agreement, sub-lease and sub-sub lease agreements and amendment to deed of service facility easements, and an indemnity agreement for the benefit of the City.

In addition to the assignment, the lease amendment will extend the current lease for an additional 30 years from the date of issuance of the occupancy permit for the Theatre project, acknowledgement of the intent to sublease the Theatre project area of the Imagination Station to IST Theatre, LLC to facilitate financing and construction, with a sub-sublease back to the Science Center for management and operation of the completed facility. The lease will also include a license for the Toledo Science Center to use the office space within the adjacent city-owned concourse area (former Citifest offices) and license to use the city-owned portion of the access are adjacent to the building, provided that an access area remains available to the public to provide access to the riverfront.

This Ordinance requests authorization for necessary agreements to allow the construction of the Imagination Station Theatre project and expansion to move forward.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Mayor is authorized to enter into a Second Amendment to and Assignment and Assumption of Lease Agreement amending and assigning to the Toledo Science Center the current lease with the Ohio Facilities Construction Commission for the city-owned Imagination Station property. The Original

Lease and First Amendment with legal description are attached as Exhibit A. The Second Lease Amendment shall authorize the Theatre expansion project and include: i) an extension of the lease term for period of 30 years following issuance of an occupancy permit for the building expansion; ii) a license for the Toledo Science Center to use the office space within the adjacent city-owned concourse area (former Citifest offices as shown on Exhibit B-1); iii) a non-exclusive license for the Toledo Science Center to use a portion of the city-owned property immediately adjacent to the leased property as indicated on Exhibit B-2, being that portion of Lucas County parcel number 14-55956 not previously included in the Lease; iv) an agreement that the City will pay all special energy assessments related to energy efficiency improvements to be made to the property not to exceed a total of \$400,000; and v) such other terms and provisions as may be approved by the Director of Law and the Mayor.

SECTION 2. That the Mayor is authorized to execute agreements or consent as appropriate to allow the termination of the Amended and Restated Management Agreement originally dated July 1, 2005 and amended on August 25, 2008 between the Toledo Science Center and the Ohio Cultural Facilities Commission.

SECTION 3. That the Mayor is authorized to execute agreements or consent as appropriate to permit the Toledo Science Center and IST Theatre, LLC to enter into sublease and sub-sublease agreements for a portion of the Imagination Station property to include the new addition to the building, for the purpose of constructing, financing, managing and operating the proposed Theatre expansion to Imagination Station, subject the terms of the Lease authorized in Section 1 and to other terms and conditions approved by the Law Director and the Mayor.

SECTION 4. That the Mayor is authorized to execute a second amendment to the Deed of Service Facility Easements dated May 15, 1983 and recorded in the Lucas County records at Instrument No. 83-235A11, as amended effective June 16, 1994 and recorded in the Lucas County records at Instrument No. 94-385C06, which second amendment shall provide for the construction of new building columns and reinforcement of existing foundation walls of the city-owned Service Facility and Access Tunnel (see Exhibit C), provide for temporary access restrictions due to construction, provide for reassignment of parking within the Service Facility, ensure continued access to Service Facility loading docks by First TDT for the Renaissance Hotel, and such other terms and conditions as approved by the Law Director and the Mayor.

SECTION 5. That the Mayor is authorized to execute an agreement with IST Theatre, LLC related to IST's construction of the Imagination Station theatre project expansion, including necessary structural improvements to the city-owned Service Facility and access to and use of certain areas of underground concourse during the construction period (see Exhibit D). The agreement will include indemnification provisions for the benefit of the City, a requirement for approval by the Division of Engineering of any plans related to the Service Facility, payment of prevailing wage, and other terms and conditions approved by the Law Director and Mayor.

SECTION 6. That Council determines that it is in the best interest of the city to waive, and hereby waives, the competitive bid provisions of TMC section 187.19 with respect to the leases and easements authorized herein, for the reason that the subject properties are not necessary for a municipal purpose and their use by the Toledo Science Center in operating the Imagination Station open to the general public promotes the educational, cultural and economic development of the City.

SECTION 7. Authorizing the Mayor to execute and deliver a petition and other needed instruments with the Northwest Ohio Advanced Energy Improvement District for the purpose of providing qualifying energy improvements for city-owned Imagination Station property, subject to further approval by City Council.

SECTION 8. That the Mayor and other city officials as appropriate are authorized to take such proper actions and execute necessary documents, agreements and instruments, subject to applicable terms and conditions approved by the Director of Law, to consummate the transactions authorized by this Ordinance.

SECTION 9. That agreements authorized by this Ordinance may be properly recorded in the appropriate public record.

SECTION 10. That it is found and determined that all formal actions of Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees or subcommittees that resulted in such formal action were in meetings open to the public in compliance with law.

SECTION 11. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that the same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that the Ordinance must be immediately effective to and for the further reason that the Ordinance must be immediately effective to carry out the public purpose of encouraging the cultural, educational, and downtown redevelopment opportunities in the City of Toledo, and to enable the Imagination Station project to move forward in time for current construction season.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council
_____.

Attest: _____
Clerk of Council