

ORDINANCE NO. 76-14

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH PEACEWORKS, INC. FOR THE PROPERTY AT 406 S. BROADWAY STREET.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Mayor is hereby authorized and directed to enter into a Lease Agreement with Peaceworks, Inc. for the property at 406 S. Broadway Street, City Lot 1064, Permanent Parcel No. 028-19D-01-117.
- SEC. 2:** That a copy of the Lease Agreement is marked Exhibit A, attached hereto and incorporated herein, and is subject to the Law Director's final approval.
- SEC. 3:** That it is found and determined that all formal actions of this 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 any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: May 12, 2014

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: May 13, 2014

SIGNED: Dennis Hanwell
Mayor

ORD. 76-14
Exh. A

LEASE

This Lease is made on this 12th day of June, 2014, by and between the **CITY OF MEDINA**, an Ohio municipal corporation, 132 North Elmwood Avenue, Medina, Ohio 44256, as "Lessor," and **PEACEWORKS, INC.**, an Ohio non-profit corporation, 689 West Liberty Street, Suite 7, Medina, Ohio 44256, as "Lessee."

WITNESSETH:

ARTICLE 1. DEMISED PREMISES

1. Lessor hereby leases to the Lessee the following described premises hereinafter called "demised premises," situated in the City of Medina, County of Medina, and State of Ohio:

The first floor, second floor, and basement and the immediate surrounding area of the residence building located at 406 South Broadway and known as being the south part of Lot No. 1064 (formerly Lot No. 64 on the Montville Township side of the City of Medina) and bounded and described as follows: On the North by the South line of the right-of-way of The Northern Ohio Railroad Company, now known and called the Wheeling and Lake Erie Railway; thence on the East by the East line of said Lot No. 1064, on the South by the South line of said Lot No. 1064, said South line being 367.3 feet in length, East and West, and on the West by the West line of said Lot, being the East line of South Broadway Street.

Permanent Parcel No.: 028-19D-01-117
Property Address: 406 South Broadway Street, Medina, Ohio 44256

2. Lessor reserves the right to use the outside area of the demised premises for public park purposes, including modifications to surrounding land; provided the same does not unreasonably interfere with Lessee's operations. Lessee acknowledges that the demised premises is part of a trail head and the land surrounding the building is open to the public.

3. Lessee has inspected the demised premises, and Lessee accepts the demised premises in "as is" condition and acknowledges that Lessor made no representation or warranty or promise with respect to the condition or use or repair or improvement of the demised premises not herein stated.

ARTICLE 2. TERM OF LEASE

To have and to hold for a term of five (5) years to commence on the 12th day of June, 2014, and end on the 12th day of June, 2019. The Lessee does hereby have an option to renew this Lease for one (1) additional five (5) year term.

ARTICLE 3. RENT

The parties hereto agree that there shall be no exchange of rent as between the Lessor and the Lessee for the use of the aforescribed demised premises. The parties, however, state that the rights and responsibilities granted under this Lease provide legal consideration for the formation of this Lease, the receipt and sufficiency of which is hereby acknowledged.

ARTICLE 4. UTILITIES

1. Lessee covenants and agrees to pay for all public utility services rendered or furnished to the demised premises, including heat, water, gas, electricity, sewer rental, security monitoring costs, and the like, together with all taxes levied or other charges on such utilities. In no event shall Lessor be liable for the quality, quantity, failure, or interruption of such service to the demised premises. To the extent reasonably possible, utilities shall be put into Lessee's name.

2. Lessor may, with ten (10) days' notice to Lessee, cut off and discontinue gas, water, electricity, and any or all other utilities whenever and during any period when such utilities are not paid by Lessee when due, or whenever such discontinuance is necessary in order to make repairs or alterations. No such action by Lessor shall be construed as an eviction or disturbance of possession or as an election by Lessor to terminate this Lease, nor shall Lessor be in any way responsible or liable for such action.

ARTICLE 5. QUIET ENJOYMENT

Lessor covenants and agrees that if Lessee is in compliance with the terms hereof and performs all of the covenants and agreements herein stipulated to be performed, Lessee shall, at all times during said term, have the peaceful and quiet enjoyment and possession of said premises without any manner of hindrance from Lessor or any persons lawfully claiming through Lessor.

ARTICLE 6. USE OF PREMISES

1. The demised premises shall be occupied and used by Lessee for the retail sale of products produced for sale by Peaceworks, Inc., personnel, e.g. coffee, coffee roasting, café, bicycle rental, jewelry, crafts, etc. Occupation of the premises by Lessor shall commence upon execution of this Lease.

2. Lessee covenants and agrees that the demised premises shall not be abandoned or left vacant and shall be used in a manner suitable to the purpose for which the building is being leased. In addition, Lessee agrees as follows:

- a. To keep the demised premises in a careful, safe, and proper manner; to keep the outside areas adjoining the demised premises clean of snow, ice, and debris, provided, however, that Lessor shall be responsible for

removal of snow from the parking lot and driveways pursuant to Article 10 below.

- b. To prevent the demised premises from being used in any way which would injure the reputation of same or of the building; to prevent the demised premises from becoming a nuisance, annoyance, inconvenience, or damage to others in the neighborhood.

3. Lessee covenants and agrees not to use or occupy or suffer or permit said premises or any part thereof to be used or occupied for any purpose contrary to law or the rules or regulations of any public authority or in any manner so as to increase the cost of hazard insurance to the Lessor over and above the normal cost of said insurance for the type and location of the building of which the demised premises is a part or for the approved purpose as set forth in Article 6.1 above. If the Lessee shall install any electrical equipment that overloads the lines in the demised premises, Lessee shall, at its own expense, make whatever changes are necessary to comply with the requirements of insurance underwriters and governmental authorities having jurisdiction thereof.

4. The remainder of the premises with the exception of the demised premises itself shall be open to the general public; the Lessee shall not infringe or restrict this public use. Lessor will not provide additional security beyond the normal police patrols.

5. Lessor has no duty or obligation to make any repairs or alterations to the demised premises for the Lessee.

6. All persons will be treated fairly and equally without regard to race, color, religion, sex, familial status, disability, national origin, or source of income.

ARTICLE 7. SIGNS

Lessee shall have the right to erect a sign on the demised premises for the purpose of advertising its use, if necessary. The sign shall be limited in size to twelve (12) square feet. All signage shall be subject to approval by the City of Medina.

ARTICLE 8. ALTERATION

Lessee covenants and agrees not to make or permit to be made any alterations, improvements, and/or additions to the demised premises or any part thereof, except with the written consent of the Lessor. All alterations, improvements, and additions to said premises shall be made in accordance with all applicable laws, and shall, at once when made or installed, be deemed to have attached to the freehold and to have become the property of Lessor, and shall remain for the benefit of Lessor at the end of the term or the expiration of this Lease in as good order and condition as they were when installed, reasonable wear and tear excepted. In the event of making alterations, improvements, and additions as herein provided, Lessee agrees to indemnify and save harmless Lessor from all expense, liens, claims, or damages to either persons

or property arising out of or resulting from the undertaking or making of said alterations, additions, and/or improvements.

ARTICLE 9. MECHANIC'S LIEN

Any mechanic's lien filed as against the demised premises for work claimed to have been done or for materials claimed to have been furnished to Lessee shall be discharged within twenty (20) days after filing by bonding or as provided or required by law or in any other lawful manner.

ARTICLE 10. MAINTENANCE

Lessee covenants and agrees to keep and reasonably maintain the roof and other exterior and interior portions of the demised premises. Renovations and/or repairs to the structure undertaken by Lessee shall be approved by Lessor prior to the beginning of any proposed work. Lessor agrees to maintain the outside yard and lawn mowing. Lessor agrees to be responsible for snow removal during winter months. Any damage caused by any act or negligence of Lessee, its employees, agents, invitees, licensees, or contractors shall be properly repaired at the sole cost and expense of Lessee. Lessee specifically agrees to maintain the HVAC, electrical, and plumbing fixtures. If Lessee refuses or neglects to commence or complete reasonable repairs promptly and adequately, Lessor may, but shall not be required to, make or complete said repairs and Lessee shall pay the cost thereof to Lessor upon demand.

ARTICLE 11. INDEMNITY AND INSURANCE

1. Lessee covenants and agrees that it will protect and save and keep the Lessor forever harmless and against and from any penalty or damage or charges imposed for any violation of any law or ordinance, whether occasioned by the neglect of Lessee or those holding under Lessee, and that Lessee will, at all times, protect, indemnify and save and keep harmless the Lessor against and from all claims, loss, cost, damage, or expense arising out of or from any accident or other occurrence on or about the demised premises causing injury to any person or property, and will protect, indemnify, save, and keep harmless the Lessor against and from any and all claims and against and from any and all loss, cost, damage, or expense arising out of any failure of Lessee in any respect to comply with and perform all the requirements and provisions of this Lease.

2. Lessee covenants and agrees that it shall indemnify Lessor and save Lessor harmless from any and all claims and judgments for injury to or death to persons (including cost of litigation and attorney fees) made or obtained against Lessor by third parties, based upon injuries to persons arising out of any accident or other occurrence on or about the demised premises or in any manner caused by, incidental to, connected with, resulting or arising out of this Lease Agreement. The provisions of this Article 11.2 shall not include claims arising as a result of the willful actions or negligence of Lessor, its employees or agents..

3. Lessee agrees that, at its own cost and expense, it will procure and continue in force general liability insurance covering any and all claims for injuries to persons occurring in,

upon, or about the demised premises, including all damage from signs, glass, awnings, fixtures or other appurtenances now or hereafter erected on the demised premises during the term of this Lease, such insurance at all times to be in an amount of not less than One Million Dollars (\$1,000,000) for injury to any one person, and not less than Three Million Dollars (\$3,000,000) for injuries to more than one person in one accident. Such insurance shall name the Lessor as an additional named insured and shall be written with a company or companies engaged in business of general liability insurance in Ohio, and there shall be delivered to the Lessor customary insurance certification evidencing such paid up insurance, and such insurance shall not be canceled without at least thirty (30) days' advance notice, in writing, to the Lessor. In the event Lessee fails to furnish such policies, the Lessor may obtain such insurance and the premiums on such insurance shall be deemed additional rent to be paid by the Lessee unto the Lessor upon demand.

4. Lessor agrees that, at its own cost and expense, it will procure and continue in force, property damage coverage covering property damage to the demised premises in an amount no less than the value of the structure. The parties agree to coordinate their efforts for the periodic review of the value of the demised premises so the amount of the property damage insurance may be properly adjusted.

ARTICLE 12. REAL ESTATE TAXES AND ASSESSMENTS

Lessee shall pay all real estate taxes and assessments, if any, with respect to the demised premises during the term of this Lease. When the actual bills for real estate taxes, if any, covering the term of this Lease are rendered by the taxing authority, Lessor shall provide the bill to Lessee, and Lessee shall forthwith pay to Lessor the actual amount of taxes due Lessor during Lessee's possession. Lessor agrees to coordinate with Lessee in any application with the taxing authority for the abatement of real property taxes due to Lessee's non-profit status.

ARTICLE 13. DESTRUCTION BY FIRE OR CASUALTY

If the demised premises shall be totally destroyed by fire or other casualty covered by Lessor's policy of fire and extended coverage during the period of this Lease, then Lessor shall have the option to rebuild or to terminate the Lease. Lessor shall maintain fire and extended coverage insurance on the building and improvements of the demised premises. If the demised premises are destroyed during the period of this Lease and Lessor decides to not rebuild, Lessee shall be entitled to a portion of the insurance proceeds equal to the cost of improvements that Lessee can document that Lessee spent on improvements to and maintenance of the premises.

ARTICLE 14. WAIVER OF SUBROGATION CLAIMS

Lessor and Lessee hereby waive any claim against the other for loss or damage to their real and/or personal property located at or within the demised premises resulting from any of the perils insured against in any fire and extended coverage or property or indemnity insurance carried by either Lessor or Lessee, whether or not negligently caused by the other party. Lessee further hereby waives any claim for loss or damage to its real and/or personal property at or

within the demised premises resulting from fire or from all risks of physical damage, whether or not negligently caused.

ARTICLE 15. PROPERTY IN DEMISED PREMISES

1. All fixtures, additions, improvements, and installations provided by Lessee shall at once when furnished or installed be deemed to have attached to the freehold and to have become the property of Lessor, and shall not be removed by Lessee during or at the expiration of the term hereof unless Lessee is so directed as hereinbefore provided.

2. All Lessee's personal property of every kind or description, which may at any time be in the demised premises, shall be at Lessee's sole risk, or the risk of those claiming under Lessee, and Lessor shall not be liable for any damage to said property or loss suffered by the business or occupation of Lessee caused by water from any source whatsoever or from the bursting, overflowing, or leaking of sewer or steam pipes or from the heating or plumbing fixtures or from electric wires or from gas or odors or caused in any manner whatsoever.

ARTICLE 16. HAZARDOUS MATERIALS

Lessee shall conduct its business and shall cause all persons occupying all or any portion of the premises and all of their respective agents, employees, contractors, and invitees to act in such a manner as to (i) not release or permit the release of any Hazardous Material, and (ii) not create any nuisance or unreasonable interference with or disturbance of Lessor. "Hazardous Material" means any hazardous, explosive, radioactive, or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Ohio, or the United States, including, without limitation, any material or substance which is (A) defined or listed as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," hazardous substance," "hazardous material," "pollutant," or "contaminant" under any law, (B) petroleum or a petroleum derivative, (C) a flammable explosive, (D) a radioactive material, (E) a polychlorinated biphenyl, (F) asbestos or an asbestos derivative, or (G) a carcinogen.

ARTICLE 17. ACCESS TO DEMISED PREMISES

1. Lessee agrees to permit Lessor or Lessor's agent to inspect or examine the demised premises at any reasonable time and to permit Lessor to make such repairs, decorations, alterations, improvements, or additions in the demised premises or to the building of which the demised premises are a part that Lessor may deem desirable or necessary for its preservation or which Lessee has not covenanted herein to do or has failed so to do, without the same being construed as an eviction of Lessee, in whole or in part, provided the same does not unreasonably interfere with Lessee's operations; and the rent shall in no way abate while such decorations, repairs, alterations, improvements, or additions are being made by reason of loss or interruption of the business of Lessee because of the prosecution of such work.

2. Lessor shall also have the right to enter upon the demised premises for a period commencing one hundred twenty (120) days prior to the termination of this Lease for the purpose of exhibiting the same to prospective tenants or purchasers. During said period, Lessor

may place signs in or upon said premises to indicate that same are for rent or sale, which signs shall not be removed, obliterated or hidden by Lessee.

ARTICLE 18. ASSIGNMENT AND SUBLETTING

Lessee covenants and agrees not to assign this Lease or to sublet the whole or any part of the demised premises, or to permit any other persons to occupy same without the written consent of the Lessor.

ARTICLE 19. DEFAULT

1. **Default.** Lessor or Lessee shall be in default of this Lease if either fails to perform any duty or obligation imposed by this Lease.

2. **Remedies.** In the event of Lessee's default, in addition to any other right or remedy at law or equity, Lessor shall have the right to enter upon the premises and repossess and enjoy the same as if this Lease had not been made, and, upon demand by Lessor, Lessee shall surrender complete and peaceable possession of the premises. This Lease shall then terminate. If Lessee fails to surrender and deliver the premises to Lessor, Lessee shall reimburse Lessor all costs and expenses incurred by Lessor for such delay in addition to any other damages caused by Lessee's delay in delivering exclusive possession to Lessor.

In the event of Lessor's default, in addition to any other right or remedy at law or equity, Lessee shall have the right of injunctive relief or the ability to terminate this Lease, in Lessee's sole discretion.

3. **Right to Cure.** Without limiting any other remedy available to Lessor or Lessee by reason of the other party's default, in the event of a default in the performance of any of the obligations set forth in this Lease, the non-defaulting party, at its option (but without any obligation so to do), may do all things as it deems necessary and appropriate to cure the default, perform any obligation of the defaulting party, and expend such sums as may be required.

ARTICLE 20. SURRENDER OF DEMISED PREMISES

1. Lessee covenants and agrees to deliver up and surrender to the Lessor possession of the demised premises upon expiration of this Lease, or its earlier termination as herein provided, clean and in as good condition and repair as the same shall be at the commencement of the term of this Lease, or may have been put by the Lessor during the continuance thereof, ordinary wear and tear and damage by fire or the elements excepted.

2. Lessee shall, at Lessee's expense, remove all property of Lessee as required by Lessor, including exterior signage, and Lessee shall not remove any alterations, additions, and improvements unless approved or required by Lessor, repair all damage to the demised premises to the condition in which it was prior to the installation of the article so removed. Any property not so removed and to which Lessor shall have not made said election, shall be deemed to have been abandoned by Lessee and may be retained or disposed of by Lessor, as Lessor shall desire.

Lessee's obligation to observe or perform this covenant shall survive the expiration or termination of the term of this Lease.

ARTICLE 21. INVALIDITY OF PARTICULAR PROVISIONS

If any term or provision of this Lease or the application thereof to any person or circumstances shall to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 22. PROVISIONS BINDING

Except as herein otherwise expressly provided, the terms and provisions hereof shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of the Lessor and the Lessee. Each term and each provision of this Lease to be performed by the Lessee shall be construed to be both a covenant and a condition. The reference contained to successors and assigns of Lessee is not intended to constitute a consent to assignment by Lessee, but has reference only to those instances in which Lessor may have given written consent to a particular assignment.

ARTICLE 23. REIMBURSEMENT

All terms, covenants, and conditions herein contained, to be performed by Lessee, shall be performed at its sole expense; and if Lessor shall pay any sum of money or do any act which requires the payment of money, by reason of the failure, neglect, or refusal of Lessee to perform such term, covenants or condition, the sum of money so paid by Lessor shall be payable by Lessee to Lessor within sixty (60) days of Lessor's written demand.

ARTICLE 24. COMPLETE AGREEMENT

This writing contains the entire agreement between the parties hereto, and no agent, representative, salesman, or officer of Lessor hereto has authority to make or has made any statement, agreement, or representation, either oral or written, in connection herewith, modifying, adding or changing the terms and conditions herein set forth. No dealings between the parties or custom shall be permitted to contradict various additions to or modify the terms hereof. No modification of this Lease shall be binding unless such modification shall be in writing and signed by the parties hereto.

ARTICLE 25. MEMORANDUM OF LEASE

The parties hereto agree to execute a Memorandum of Lease, in recordable form and record the same with the Medina County Recorder's Office. The cost of recording the Memorandum of Lease shall be split equally between the parties. Within fifteen (15) days

following the expiration of the term of this Lease, or earlier termination Lessee shall cooperate with Lessor to cause a release or termination of the Memorandum of Lease to be recorded, the cost of which shall be split equally between the parties.

Signed and acknowledged by the parties hereto the day and year first above written.

SIGNED IN THE PRESENCE OF:

**CITY OF MEDINA,
an Ohio Municipal Corporation**

[Signature]

By: *[Signature]*
DENNIS HANWELL
Its: Mayor

**PEACEWORKS, INC.
an Ohio Non-profit Corporation**

[Signature]

By: *[Signature]*
DAVID G. CLARDY
Its: President

STATE OF OHIO)
MEDINA COUNTY) ss:

BEFORE ME, a Notary Public in and for the State and County aforesaid, personally appeared the above-named **CITY OF MEDINA**, an Ohio municipal corporation, by **DENNIS HANWELL, its Mayor**, who executed the foregoing instrument in my presence and acknowledged the same as the voluntary act of said City and his voluntary act individually and as such officer.

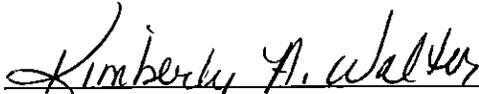
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28th day of May, 2014, at Medina, Ohio.

Kimberly A. Walter
NOTARY PUBLIC
KIMBERLY A. WALTER
Notary Public - State of Ohio
My Commission Expires Aug. 3, 2018

STATE OF OHIO)
MEDINA COUNTY) ss:

BEFORE ME, a Notary Public in and for the State and County aforesaid, personally appeared the above-named **PEACEWORKS, INC.**, an Ohio non-profit corporation, by **DAVID G. CLARDY**, its President, who executed the foregoing instrument in my presence and acknowledged the same as the voluntary act of said corporation and his voluntary act individually and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 20th day of May, 2014, at Medina, Ohio.



NOTARY PUBLIC
KIMBERLY A. WALTER
Notary Public - State of Ohio
My Commission Expires Aug. 3, 2013

This instrument prepared by:
Gregory A. Huber
Law Director
City of Medina
132 North Elmwood Avenue
Medina, OH 44256
Tel: (330) 722-9070