



LEASE

(This document is a lease of less than 99 years and not a conveyance subject to Transfer Return and fee per Sec. 77.21(1) Wis. Stats.)

This Lease, entered into this 28th day of June, 2012, by and between the **City of Madison**, a Wisconsin municipal corporation, located in Dane County, Wisconsin (the "City"), and **Community Action Coalition For South Central Wisconsin, Inc.**, a Wisconsin non-profit corporation (the "Lessee").

WITNESSETH:

NOW, THEREFORE, it is mutually agreed as follows:

1. Leased Premises. The City hereby leases to the Lessee a parcel of land (the "Leased Premises") located at 2906 Traceway Drive, Madison, Wisconsin, more particularly described below and depicted on attached Exhibit A (the "Leased Premises").

Description of the Leased Premises:

Part of Lot 1 Certified Survey Map Number 13160, and part of Outlot 1 Bowman Heights, in the City of Madison, Dane County, Wisconsin, more particularly described as follows:

Commencing at the westernmost corner of Lot 1 CSM 13160; thence S71°26'22"E 83.49 feet to the point of beginning; thence S56°15'28"E, 125.00 feet; thence S33°44'32"W, 186.00 feet; thence N56°15'28"W, 125.00 feet; thence N33°44'32"E, 186.00 feet to the point of beginning. Containing 23,250 square feet or 0.5337 acres. Bearings referenced to Certified Survey Map Number 13160.

2. Term. This Lease shall be for a term of five (5) years, subject to early termination pursuant to the terms of this Lease. This Lease shall commence as of June 1, 2012 (the "Effective Date") and expire on May 31, 2017.
3. Renewal. This Lease will automatically continue for successive terms of one year, unless terminated in accordance with Paragraph 10.
4. Administrative Fee and Rent.
 - a. The Lessee shall pay to the City a one-time administrative fee of Two Hundred and no/00 Dollars (\$200). Such payment shall be due upon execution of this Lease.
 - b. The Lessee shall pay to the City annual rent of One Dollar (\$1.00). The first payment shall be

**KRISTI CHLEBOWSKI
DANE COUNTY
REGISTER OF DEEDS**

DOCUMENT #

4886462

06/29/2012 1:49 PM

Trans. Fee:

Exempt #:

Rec. Fee: 30.00

Pages: 11

RETURN TO: City of Madison
EDD – Office of Real Estate Services
P.O. Box 2983
Madison, WI 53701-2983

Tax Parcel No.: 251-0609-032-0310-1 (part of)



due upon the execution of this Lease. Subsequent rent payments shall be due prior to the first day of January of each year this Lease is in effect.

- c. All payments are to be made to the City Treasurer and sent or personally delivered to the City's Economic Development Division at the address specified in Paragraph 19.
5. Use. The Leased Premises are to be used solely for the purpose of community gardening and for no other purpose whatsoever without the City's written consent, which consent the City may withhold in its sole discretion.
6. Assignment. The Lessee shall not assign this Lease without the prior written consent of the City, which consent the City may withhold in its sole discretion.
7. Subletting of Leased Premises. The Lessee shall have the right to sublease the individual garden plots within the Leased Premises to the public for non-commercial use only. The Lessee's subleases to the public shall be limited to a single growing season and shall be subordinate to all the terms and conditions of this Lease. The Lessee is responsible for informing all of its sublessees of all the terms and conditions of this Lease. Any breach of any provision, term or condition of this Lease by any sublessee shall be considered a violation by the Lessee and shall be enforceable by the City under the terms and conditions of this Lease.
8. Maintenance. The Lessee shall, at its own expense, keep and maintain the Leased Premises in a presentable condition consistent with good business practice and in a manner consistent with the preservation and protection of the general appearance and value of other premises in the immediate vicinity. Maintenance responsibilities include, but shall not be limited to, any mowing, tilling, and removal of garbage and debris. No storage of materials, equipment or vehicles is permitted on the Leased Premises, except the temporary and orderly placement of items in conjunction with gardening activities.
9. Special Conditions.
 - a. No vehicular access or parking of vehicles shall be permitted on the Leased Premises or within Leopold Park. Parking shall only be permitted on the neighboring public streets, subject to any existing parking restrictions.
 - b. No permanent improvements are to be placed on the Leased Premises by the Lessee or its sublessees, with the exception that facilities for water service, and such other improvements as may be requested by the Lessee from time to time, shall be permitted at the Lessee's sole cost and expense, subject to the City Park Superintendent's prior written approval of plans and specifications therefor and subject to any necessary zoning or building permit review and approval.
 - c. The Lessee shall be solely responsible for all water, sewer, storm water and any other utility charges billed to the Leased Premises.
 - d. Any chemical agent, insecticide, fertilizer, or other additive proposed to be used by the Lessee or its sublessees must meet or exceed all federal, State, and local laws, regulations guidelines, and limitations (including prohibitions) for its use. The City reserves the right to

restrict or ban the use of any chemical agent, insecticide, fertilizer or additive on the Leased Premises.

- e. The Lessee agrees to remove all garden refuse (i.e., stakes, flags, debris, etc.) and to mow and/or remove all dead plant material from the Leased Premises after the growing season, but no later than November 15 of each year this Lease is in effect. Notwithstanding the foregoing, during the first year of the Lease the Lessee shall not be required to mow perennial or biennial plants after the growing season but rather may mulch or cover such plants so that they may be carried over into the next growing season. The City reserves the right, in its sole discretion, to disallow this practice at any time after the first year of the Lease upon written notice to the Lessee.
- f. The Lessee shall be permitted to erect upon the Leased Premises a bulletin board for the posting of notices, messages, etc. Such bulletin board shall be constructed of stained wood and shall not exceed a height of five feet (5') above grade level. The City's Park Superintendent reserves the right, in its sole discretion, to require that the bulletin board be removed at the end of each growing season.
- g. The Lessee shall be permitted to place compost bins at a location designated by the City's Park Superintendent. The type of bins to be used shall be subject to the City's Park Superintendent's prior written approval.
- h. No trees or shrubs shall be trimmed, removed or otherwise disturbed without the express written consent of the City's Park Superintendent.
- i. The Lessee agrees to hold the City harmless for any disruption to the Lessee's use of the Leased Premises and for any damages to the Lessee's plantings or other personal property on the Leased Premises which may result from work by the City or its agents related to public improvements or facilities, mowing within or adjacent to the Leased Premises, or storm water flooding or overflow.
- j. Prior to commencing any work, the Lessee shall contact Diggers Hotline to identify the locations of any underground utilities within the Leased Premises. The Lessee shall reduce the area of active gardening to avoid conflict with any identified utility facilities.

10. Termination.

- a. The City shall have the right, at its sole option, to terminate this Lease, reenter and take possession of the Leased Premises under the following conditions:
 - (1) By giving the Lessee thirty (30) days written notice, upon or after any one of the following events:
 - i. The filing by the Lessee of a voluntary petition in bankruptcy.
 - ii. The institution of proceedings in bankruptcy against the Lessee and the adjudication of the Lessee as a bankrupt pursuant to such proceedings.

- iii. The taking by a court of competent jurisdiction of the Lessee's assets pursuant to proceedings brought under the provisions of any federal or state reorganization act.
- iv. The appointment of a receiver of the Lessee's assets.
- v. The divestiture of the Lessee's estate herein by other operation of law.
- vi. The abandonment by the Lessee of the Leased Premises.
- vii. The use of the Leased Premises for an illegal purpose.
- viii. Upon lapse or failure of any insurance coverage required by this Lease.
- ix. In the event the Lessee defaults in the performance of any other term or condition of this Lease.

The termination shall not be effective if, within such thirty (30) day period, the event giving rise to the City's right to terminate ceases to exist. In the event of a breach of a term, covenant or condition of this Lease which requires more than the payment of money to cure and which cannot, because of the nature of such default, be cured within said thirty (30) days, then the Lessee shall be deemed to be complying with such notice if, promptly upon receipt of such notice, the Lessee immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable.

Notwithstanding the foregoing, and without prejudice to any other right or remedy, upon lapse or failure of any insurance coverage required by this Lease the City may, at its option, purchase or pay for any insurance coverage required by this Lease and charge the Lessee the cost of same as additional rent. Any amount paid by the City hereunder shall be repaid by the Lessee to the City upon demand, together with interest thereon at the rate of twelve percent (12%) per annum.

Failure of the City to declare this Lease terminated upon the breach or default of the Lessee for any reason set forth in this Paragraph 10.a.(1) shall not operate to bar or destroy any right of the City to terminate this Lease for any subsequent breach or default of any term or condition of this Lease.

(2) By giving the Lessee one hundred eighty (180) days written notice.

b. The Lessee shall have the right, at its sole option, to terminate this Lease by giving the City sixty (60) days written notice and by complying with Paragraphs 11, 12 and 13.

11. Rights Upon Expiration or Termination. Upon the expiration or termination of this Lease for any cause, the Lessee's rights in the Leased Premises shall cease, and the Lessee shall immediately surrender the Leased Premises, subject to the provisions of Paragraphs 12 and 13.

12. Removal and Disposal of Personal Property. Upon the expiration or termination of this Lease for any cause, the Lessee shall remove all personal property from the Leased Premises. If the Lessee leaves any personal property on the Leased Premises, the City shall have the right to dispose of said property without liability thirty (30) days after the Lessee vacates or abandons the Leased Premises.
13. Restoration of Leased Premises. Upon the expiration or termination of this Lease for any cause, the Lessee, at the Lessee's cost, shall remove all garden waste from the Leased Premises and restore the Leased Premises to a condition equivalent to that which existed prior to the date that the Lessee first occupied the Leased Premises by cultivating and seeding the soil with grass seed. Restoration shall be accomplished within sixty (60) days of expiration or termination of this Lease, except as may be adjusted by the City to allow for winter conditions. The provisions of Paragraph 14 and 15 of this Lease shall survive the expiration or termination of this Lease until restoration has been accomplished to the satisfaction of the City. In the event the Lessee fails to accomplish said restoration, the City may cause the restoration to be accomplished at the Lessee's expense and with no liability or cost to the City. The City may waive or alter this restoration requirement if, at its sole discretion, it so chooses.
14. Indemnification. The Lessee shall be liable to and agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Lessee or its officers, officials, officers, agents, employees, assigns, guests, invitees, sublessees or subcontractors, in the performance of this Lease, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or employees.
15. Insurance. The Lessee shall carry commercial general liability insurance including contractual liability with no less than the following limits of liability, as may be adjusted, from time to time, by the City's Risk Manager: bodily injury, death and property damage of \$1,000,000 per occurrence. The policy or policies shall name the City as an additional insured. As evidence of this coverage, the Lessee shall furnish to the City a certificate of insurance on a form provided by the City.
16. Compliance. The Lessee shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City, the County of Dane, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Leased Premises. The Lessee may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. The Lessee agrees that any such contest shall be prosecuted to a final conclusion as soon as possible and that it will hold the City harmless with respect to any actions taken by any lawful governmental authority with respect thereto.
17. Lessee Waivers.
 - a. In the event of the Lessee's vacation of the Leased Premises or if the City terminates this

Lease pursuant to the provisions of this Lease, the Lessee hereby waives any rights against the City that may be construed to accrue to the Lessee, its successors and assigns, by provisions of Section 32.19 of the Wisconsin Statutes, as amended.

- b. In the event the City condemns the Lessee's interest in the Leased Premises, the Lessee agrees that the award, including damages, for all of its interests shall be Zero Dollars (\$0), and further waives all relocation benefits of every kind and nature.
- c. In the event the Leased Premises or any part thereof shall be needed either permanently or temporarily for any public or quasi-public use or purpose by any authority in appropriation proceedings or by any right of eminent domain, the entire compensation award therefor, including, but not limited to, all damages and compensation for diminution of value of the leasehold, reversion and fee, shall belong to the City without any deduction therefrom for any present or future estate of the Lessee, and the Lessee hereby assigns to the City all of its right, title and interest to any such award. However, the Lessee shall have the right to recover from the condemning authority such compensation as may be separately awarded to the Lessee on account of interruption of the Lessee's business and for moving and relocation expenses.

18. Liens.

- a. The Lessee shall not suffer or permit any construction or mechanics' liens to be filed, or if filed, to remain uncontested, against the fee of the Leased Premises, nor against the Lessee's leasehold interest in the Leased Premises, by reason of work, labor services or materials supplied or claimed to have been supplied to the Lessee or anyone holding the Leased Premises or any part thereof through or under the Lessee; and nothing contained herein shall be deemed or construed in any way as constituting the consent or request of the City, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of or to the Leased Premises or any part thereof, nor as giving the Lessee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanics' or construction liens against the fee of the Leased Premises. If any such lien is filed, the Lessee shall immediately cause the same to be discharged or released or shall upon request provide adequate and acceptable security or bond to protect the City's interest.
- b. If any such construction or mechanics' lien shall at any time be filed against the Leased Premises, the Lessee covenants that it will promptly take and diligently prosecute appropriate action to have the same discharged by payment, bonding or otherwise, and that it will hold the City free and harmless of and from any and all liability to any contractor, subcontractor, materialman, laborer or any other person relating to or arising because of any improvements or alterations on or to the Leased Premises, and that it will also defend on behalf of the City, at the Lessee's sole cost and expense, any action, suit or proceeding which may be brought for the enforcement of any such lien, and that it will pay any damages and discharge any judgments entered therein. Upon the Lessee's failure to do any of the foregoing things, the City may take such action as may be reasonably necessary to protect the City's interest, in addition to any other right or remedy which it may have; and any amount paid by the City in connection with such action shall be repaid by the Lessee to the City upon demand, together with interest thereon at the rate of five percent (5%) per annum.

19. Notices. All notices to be given under the terms of this Lease shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For the City: City of Madison
Economic Development Division
Office of Real Estate Services
Attn: Manager
215 Martin Luther King, Jr. Blvd., Room 312
P. O. Box 2983
Madison, WI 53701-2983

For the Lessee: Community Action Coalition for South Central Wisconsin
Attention: Executive Director
1717 North Stoughton Road
Madison, WI 53704

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notice shall be given.

20. Definition of City and Lessee. The terms "City" and "Lessee" when used herein shall mean either singular or plural, as the case may be, and the provisions of this Lease shall bind the parties mutually, their heirs, personal representatives, successors and assigns.
21. Severability. If any term or provision of this Lease or the application thereof to the City or the Lessee or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such terms or provisions to the City or the Lessee 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 the Lease shall be valid and be enforceable to the fullest extent permitted by law.
22. Non-Discrimination. In the performance of its obligations under this Lease, the Lessee agrees not to discriminate because of race, religion, marital status, age, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. The Lessee further agrees not to discriminate against any contractor, subcontractor or person who offers to contract or subcontract for services under this Lease because of race, religion, color, age, disability, sex or national origin.
23. Accessibility. The Leased Premises shall conform where applicable to Chapter Section COMM 61.05 of the Wisconsin Administrative Code, Madison General Ordinance 3.72, and the Americans with Disabilities Act, regarding accessibility, with all costs of compliance to be paid by the Lessee.
24. Subordination.
- a. This Lease is subordinate to rights and privileges granted by the City of Madison to public

and private utilities across, over or under the Leased Premises.

- b. The Lessee shall subordinate its rights in this Lease, without compensation, at the request of the City to provide easements and rights-of-way for all public and private utilities across or along the Leased Premises, provided that neither such subordination nor such easements shall interfere, except temporarily during construction or temporarily pursuant to rights which accrue to such easements or rights-of-way, with the use of the Leased Premises under the terms of this Lease.
25. Right of Entry. The City or its representatives shall have the right to enter upon the Leased Premises at any reasonable time for the following purposes:
- a. To make any inspection it may deem expedient to the proper enforcement of any term or condition of this Lease or in the exercise of its police powers.
 - b. For the purpose of performing work related to any public improvement.
26. Signs. Any signs on the Leased Premises shall be in conformity with the provisions of Chapter 31, Street Graphics Control, Madison General Ordinances. Signage for advertising purposes shall not be permitted.
27. No Waiver. Failure or delay on the part of either party to enforce any of the terms, covenants, conditions or agreements hereof shall not operate as a waiver thereof nor void or affect the right of the party to enforce the same upon any subsequent default or breach. Except as otherwise provided in this Lease, the rights and remedies herein granted are cumulative and are in addition to any given by statutes, rules of law or otherwise and the use of one remedy shall not be taken to exclude or waive the right to the use of another.
28. Entire Agreement. All terms and conditions with respect to this Lease are expressly contained herein, and the parties agree that neither the City nor the Lessee has made any representations or promises with respect to this Lease not expressly contained herein. No alteration, amendment, change, or addition to this Lease shall be binding upon the parties unless in writing and signed by them.
29. Public Record. This Lease will be recorded at the office of the Dane County Register of Deeds after it is executed by the parties.

IN WITNESS WHEREOF, the parties have entered into this Lease as of the date first set forth above.

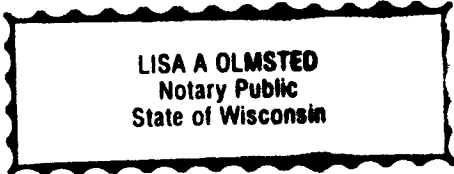
CITY OF MADISON

By: Paul R. Soglin
Paul R. Soglin, Mayor

By: Maribeth Witzel-Behl
Maribeth Witzel-Behl, City Clerk

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 26th day of June, 2012, the above named Paul R. Soglin, Mayor of the City of Madison, acting in said capacity and known by me to be the person who executed the foregoing instrument and acknowledged the same.



Lisa A. Olmsted
Notary Public, State of Wisconsin
Lisa A. Olmsted
Print or Type Name
My Commission: 9/6/15

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 19th day of June, 2012, the above named Maribeth Witzel-Behl, City Clerk of the City of Madison, acting in said capacity and known to me to be the person who executed the foregoing instrument and acknowledged the same.

Jean Tretow-Schmitz
Notary Public, State of Wisconsin
Jean Tretow-Schmitz
Print or Type Name
My Commission: 9-23-2012

Approved:

David Schmiedicke 6/25/12
David Schmiedicke, City Comptroller Date
Finance Director

Approved:

Eric Veum 6/26/12
Eric Veum, Risk Manager Date

Approved as to form:

Michael P. May 6/26/12
Michael P. May, City Attorney Date

Execution of this Lease by the City of Madison is authorized by Resolution Enactment No. RES-12-00446, File No. 26311, adopted by the Common Council of the City of Madison on June 19, 2012.

COMMUNITY ACTION COALITION FOR SOUTH CENTRAL WISCONSIN, INC.

By: Greta Hansen
Greta Hansen, Executive Director

State of Wisconsin)
)ss.
County of Dane)

Personally came before me this 12th day of June, 2012, the above named Greta Hansen, Executive Director of Community Action Coalition for South Central Wisconsin, Inc., a Wisconsin non-profit corporation, known to be the person who executed the foregoing instrument and Executive Director of said corporation, and acknowledged that she executed the foregoing instrument as such Executive Director as the deed of said corporation, by its authority.

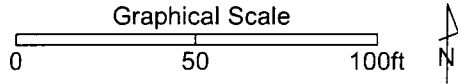
Robert Marthaler
Notary Public, State of Wisconsin
Robert Marthaler
Print or Type Name
My Commission: is permanent.

Drafted by the City of Madison Office of Real Estate Services



Project No. 9935

Community Gardens Lease - Aldo Leopold Park

Part of Lot 1 Certified Survey Map Number 13160 and part of
 Outlot 1 Bowman Heights, in the City of Madison, Dane County, WI
 Park Address 2906 Traceway Dr.
 Bearings referenced to Certified Survey Map Number 13160
 Prepared May 7, 2012 by City of Madison, WI Parks Div



LEGEND

-  Coniferous tree
-  Deciduous tree
- (all trees not shown)

