



Legislation Details (With Text)

**File #:** 17085      **Version:** 1      **Name:** 9275 Lease - Community Gardens - 702 McCormick Avenue

**Type:** Resolution      **Status:** Passed

**File created:** 1/12/2010      **In control:** BOARD OF PUBLIC WORKS

**On agenda:** 3/16/2010      **Final action:** 3/16/2010

**Enactment date:** 3/17/2010      **Enactment #:** RES-10-00240

**Title:** Authorizing the Mayor and City Clerk to execute a lease with Community Action Coalition of South Central Wisconsin, Inc. for a portion of the public greenway located at 702 McCormick Avenue for use as community gardens.

**Sponsors:** Larry Palm

**Indexes:**

**Code sections:**

**Attachments:** 1. 9275 Exhibit A.pdf

Date	Ver.	Action By	Action	Result
3/16/2010	1	COMMON COUNCIL	Adopt	Pass
2/17/2010	1	BOARD OF PUBLIC WORKS	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
2/10/2010	1	BOARD OF PARK COMMISSIONERS	Return to Lead with the Recommendation for Approval	
2/8/2010	1	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
2/3/2010	1	BOARD OF PUBLIC WORKS	Refer	Pass
1/19/2010	1	COMMON COUNCIL	Refer	Pass
1/12/2010	1	Community and Economic Development Unit	Referred for Introduction	

**Fiscal Note**

One-time \$200 Administrative Fee to be deposited into Account No. GN01-78220. Annual Rent of \$1.00 to be deposited into Account No. GN01-78220.

**Title**

Authorizing the Mayor and City Clerk to execute a lease with Community Action Coalition of South Central Wisconsin, Inc. for a portion of the public greenway located at 702 McCormick Avenue for use as community gardens.

**Body**

WHEREAS, Community Action Coalition for South Central Wisconsin, Inc. ("CAC") desires to lease from the City of Madison a portion of the public greenway located at 702 McCormick Avenue, adjacent to Washington Manor Park, for community gardening purposes; and

WHEREAS, Engineering Division staff have reviewed such request and recommend leasing an approximately 0.6-acre parcel of land within such greenway to CAC; and

WHEREAS, the City's Office of Real Estate Services has negotiated the terms of a lease with CAC.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk are authorized to execute a lease with

Community Action Coalition for South Central Wisconsin, Inc. ("CAC") for an approximately 0.6-acre parcel of land within the public greenway located at 702 McCormick Avenue (the "Leased Premises"), subject to the following conditions:

1. The term of the lease shall be 5 years commencing as of January 1, 2010 and expiring on December 31, 2014. Thereafter, the lease term will automatically continue for successive terms of one year each until terminated by either party. The City shall have the right to terminate in the event of a default by CAC upon 30 days notice or, at its sole option upon 180 days notice. CAC shall have the right to terminate at its sole option upon 60 days notice.
2. CAC shall pay to the City a one-time administrative fee of \$200 and annual rent of \$1.00.
3. The Leased Premises are to be used solely for community gardening purposes. CAC shall have the right to sublease the individual garden plots within the Leased Premises to the public for non-commercial use only.
4. CAC shall be liable to and shall agree 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 CAC or its officers, officials, agents, employees, assigns, guests, invitees, sublessees or subcontractors, in the performance of the lease, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or employees. Additionally, CAC 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.
5. The Lease shall be subject to the following special conditions:
  - a. CAC shall at all times maintain a 30-foot buffer between the westerly limit of the Leased Premises and the edge of the bank of Starkweather Creek (the "30-foot Creek Buffer"), as depicted in Exhibit A. Gardening and other land disturbing activities within the 30-foot Creek Buffer are strictly prohibited.
  - b. No vehicular access or parking of vehicles shall be permitted on the Leased Premises or adjacent City-owned greenway. Parking shall only be permitted on the neighboring public streets, subject to any existing parking restrictions.
  - c. No permanent improvements are to be placed on the Leased Premises by CAC or its sublessees, with the exception that facilities for water service shall be permitted at CAC's sole cost and expense, subject to the City's prior written approval of plans and specifications therefor. CAC shall be solely responsible for all water, sewer and any other utility charges billed to the Leased Premises.
  - d. Any chemical agent, insecticide, fertilizer, or other additive proposed to be used by CAC or its sublessees must meet and abide by all federal, State, and local laws, regulations guidelines, and limitations (including prohibitions) for its use. The City bans the use of any chemical agent, insecticide, fertilizer or additive on the Leased Premises which does not comport with organic farming methods.
  - e. CAC 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 the Lease is in effect. Notwithstanding the foregoing, during the first year of the Lease CAC 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 CAC.

- f. CAC 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 reserves the right, in its sole discretion, to require that the bulletin board be removed at the end of each growing season.
- g. CAC shall be permitted to place compost bins at a location designated by the City of Madison Engineer. The type of bins to be used shall be subject to the City's prior written approval.
- h. CAC agrees to hold the City harmless for any disruption to CAC's use of the Leased Premises and for any damages to CAC'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.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized to sign any and all documents that may be required to accomplish the purpose of this resolution.

#### Legal Description of the Leased Premises

An approximately 0.6-acre parcel of land located at 702 McCormick Avenue, City of Madison, Dane County, Wisconsin, as generally depicted on attached Exhibit A. The Leased Premises are located within a larger parcel of land more particularly described as follows:

Lot 6, Washington Manor, together with that part of the SW ¼, Section 32, T8N, R10E, described as follows:

Lands bounded by the southerly right-of-way line of Aberg Avenue on the North, the centerline of vacated McCormick Avenue on the East, the westerly right-of-way line of McCormick Avenue on the Southeast, the northerly right-of-way line of Commercial Avenue on the South, and the Easterly limit of the plat of Washington Manor on the West, except the Westerly 32 feet of the Southerly 130 feet of said bounded description.