



## Legislation Text

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**File #:** 26308, **Version:** 1

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### **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 Elvehjem Park located at 1202 Painted Post Drive 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 Elvehjem Park, located at 1202 Painted Post Drive for community gardening purposes; and

WHEREAS, Parks Division staff have reviewed such request and recommend leasing an approximately 15,600 sq. ft. parcel of land within Elvehjem Park to CAC; and

WHEREAS, Parks Division and Office of Real Estate staff have negotiated the terms and conditions 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 15,600 sq. ft. parcel of land within Elvehjem Park, located at 1202 Painted Post Drive and described below and depicted on attached Exhibit A (the "Leased Premises"), subject to the following terms and conditions:

1. The term of the lease shall be 5 years commencing as of June 1, 2012 and expiring on May 31, 2017. 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. No vehicular access or parking of vehicles shall be permitted on the Leased Premises or within Elvehjem 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 CAC or its sublessees, with the exception that the following improvements shall be permitted at CAC'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: facilities for water service and such other improvements as may be requested by CAC from time to time.
  - c. 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 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. 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 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. CAC shall be permitted to place compost bins at a location designated by the City Park Superintendent. The type of bins to be used shall be subject to the City 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 Park Superintendent.
  - i. 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.
  - j. Prior to commencing any work, CAC shall contact Diggers Hotline to identify the locations of any underground utilities within the Leased Premises. The garden area shall be reduced as necessary

to avoid conflict with any identified utility facilities.

6. Upon the expiration or termination of the Lease, CAC 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 CAC 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 City may waive or alter this removal and restoration requirement if, at its sole discretion, it so chooses.

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:

Part of Lot 11, Block 5, Black Addition to Painted Post Estates, in the City of Madison, Dane County, Wisconsin, more particularly described as follows:

Commencing at the southeast corner of said Lot 11; thence N01°11'37"W, 113.00 feet along the east line of said Lot 11; thence S88°48'23"W, 15.00 feet to the point of beginning; thence S88°48'23"W, 100.00 feet; thence N01°11'37"W, 156.00 feet; thence N88°48'23"E, 100.00 feet; thence S01°11'37"E, 156.00 feet to the point of beginning.

Containing 15,600 square feet or 0.3581 acres.

Bearings referenced to the plat of Black Addition to Painted Post Estates.