R-16-42

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A LICENSE AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A COMMUNITY GARDEN LICENSE AGREEMENT WITH DARK HOLLOW COMMUNITY DEVELOPMENT CORPORATION; AND FOR OTHER PURPOSES.

WHEREAS, the City of North Little Rock ("the City") is a ***Fit 2 Live Community***, committed to healthy eating and active living; and

WHEREAS, several organizations and churches in the City have expressed a desire to provide sites for community gardens for use by our citizens and have applied for grant funds to be used for the benefit of the garden sites; and

WHEREAS, a grant application has been submitted for a site owned by Dark Hollow Community Development Corporation ("Dark Hollow CDC") located at 1002 Curtis Sykes Drive; and

WHEREAS, the herein named applicant has met the requirements of the grant application process and desires to enter into a Community Garden License Agreement with the City for the establishment of a publicly-accessible Community Garden on its property, granting public access to the garden site and agreeing to a period of time during which the Community Garden will be accessible; and

WHEREAS, members of the Community Garden Committee have reviewed and accepted the application of Dark Hollow CDC and recommend a grant in the amount of $1,200.00 for the Community Garden on property located at 1002 Curtis Sykes Drive.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That a license is hereby accepted from, and the Mayor and City Clerk are hereby authorized to enter into a Community Garden License Agreement (attached hereto as Exhibit "A") with Dark Hollow CDC for a community garden located on property at 1002 Curtis Sykes Drive and shown on the map attached to the agreement.

SECTION 2: That a grant in the amount of $1,200.00 (included in the Fit 2 Live current budget) is approved, and the Fit 2 Live Coordinator is hereby designated as the City's agent to administer the license granted herein.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED: APPROVED:

_____ _____

Mayor Joe A. Smith

SPONSOR:

Alderman Beth White

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED 11:25 A.M. _____ P.M.
By City Atty Carter
DATE 3-8-16

Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas

RECEIVED BY M. Marshall

City of North Little Rock
Community Garden License Agreement

This Community Garden License Agreement ("License") is made by and between Dark Hollow CDC ("Licensor") and the City of North Little Rock, Arkansas, a municipal corporation organized as a City of the First Class under the laws of the State of Arkansas ("City"), for the establishment of a publicly-accessible Community Garden for use by citizens of North Little Rock.

RECITALS

WHEREAS, the Licensor has been approved to receive program funds from the City to establish a Community Garden; and

WHEREAS, the Licensor lawfully possesses property that is suitable for a Community Garden and has agreed to allow citizens to access the property for a Community Garden; and

WHEREAS, in keeping with legal requirements, the City mandates that program funds may only be expended on property where citizens may lawfully enter according to the purposes of the proposal.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **LICENSE**. Licensor hereby licenses City, and citizens of the City, to enter upon the property that is graphically depicted in Exhibit A ("Licensed Area") for the purpose of establishing and maintaining a community garden, and related uses. The City, or the duly appointed agent of the City, may restrict or approve such restrictions to this License as may be deemed necessary or advisable, in the sole discretion of the City or the City's agent, to properly regulate use of the Community Garden; including, without limiting the same, restriction governing the hours of operation, number of gardeners, tools used, and any other relevant matter.

2. **TERM**. This License shall be effective from and after the date approved by the City Council of North Little Rock, Arkansas and shall, unless extended by the parties in writing, terminate three-hundred-sixty-four days (364) thereafter.

3. **CONSIDERATION**. Licensor expressly agrees that any funding provided by the City to establish a Community Garden includes full and adequate compensation for this License.

4. **BENEFIT TO CITIZENS**. This License shall inure to the benefit of the public in general, and particularly to the citizens of North Little Rock, Arkansas.

5. **MAINTENANCE**. Licensor agrees that the City has no duty to maintain the Licensed Area.

6. **RESTORATION**. Licensor agrees that upon termination of this License the City has no duty to restore the Licensed Area to its previous condition.

EXHIBIT "A"

7. **CONFLICTS.** This License shall be interpreted by the laws of the State of Arkansas with jurisdiction vested in the courts of Pulaski County, Arkansas. The maximum amount of damages that may be obtained by either party shall not exceed the amount of Community Garden Program funding associated with the Licensed Area. Should any conflict result under this License, each party shall bear their own costs of litigation or conflict resolution. The parties specifically waive any claim to attorney fees.

8. **IMMUNITY.** To the maximum extent provided by law, the parties intend to preserve the protections of immunity that are statutorily afforded to those who provide recreational facilities to the public without profit, as well as the statutory immunity of the City.

9. **NO JOINT VENTURE.** This License is not intended to constitute, and shall not be interpreted to be, a joint venture between the parties.

10. **TIME IS OF THE ESSENCE.** All times and deadlines and permitted extensions indicated herein form a material basis of this agreement and may only be waived in writing signed by both parties. Any failure to timely enforce a deadline shall not be construed to waive that, or any other, deadline.

11. **RECORDATION.** This document shall be recorded in the office of the North Little Rock City Clerk. It shall not be recorded in the property records of Pulaski County, Arkansas unless mandated by law.

12. **COUNTERPART EXECUTION.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

13. **AUTHORITY.** The parties executing this Agreement below represent and warrant that they have the full and complete legal authority to act on behalf of City and Licensor and that the provisions herein constitute valid, enforceable obligations of each.

IN WITNESS WHEREOF, the name and seal of the Licensor is hereunto affixed by its duly authorized Mayor, effective as of (date).

FOR THE CITY OF NORTH LITTLE ROCK, ARKANSAS

By: Joe A. Smith, Mayor

ATTEST:

Diane Whitbey, City Clerk

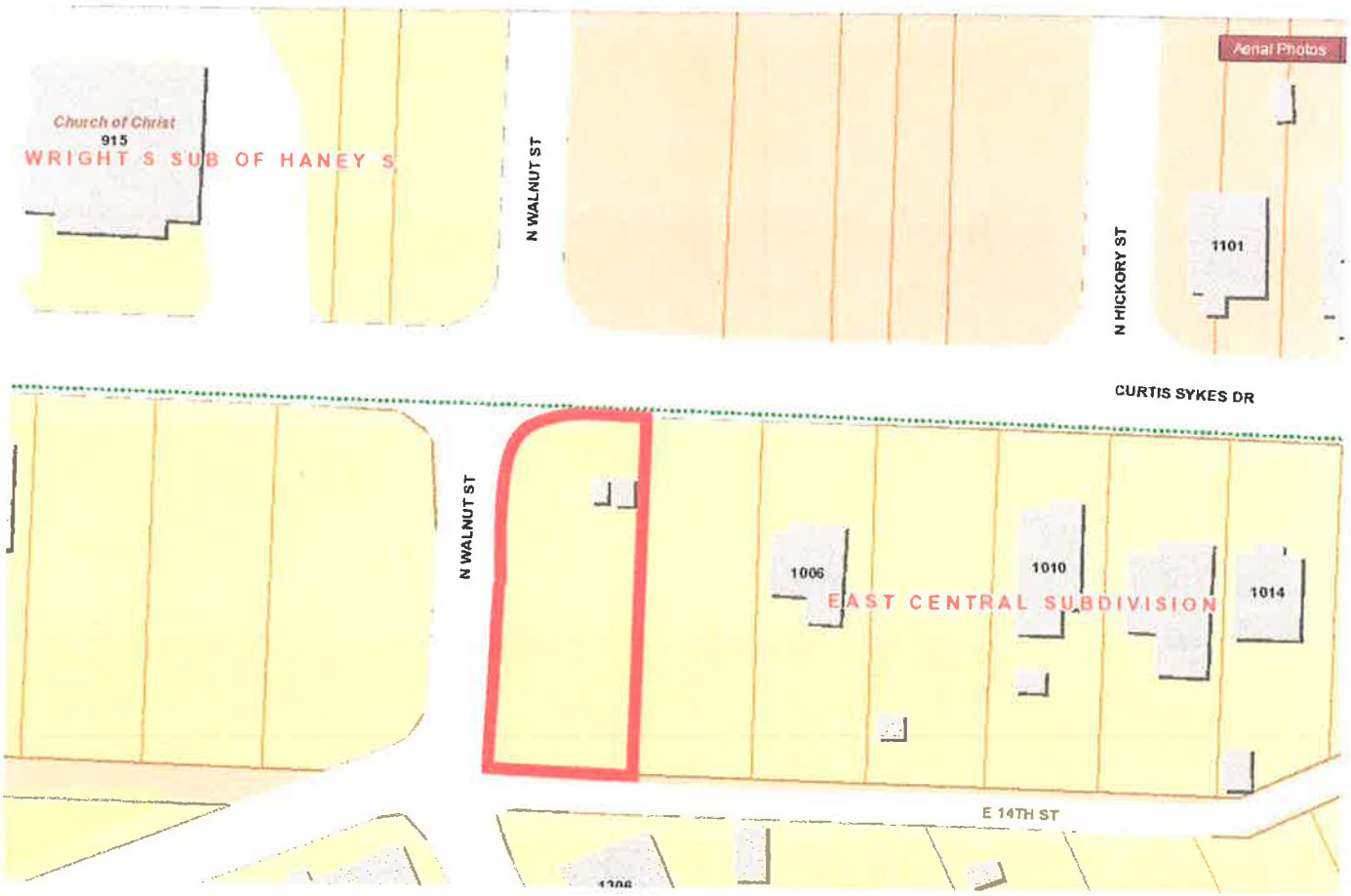
FOR LICENSOR

Janice Martin

Printed name: Janice Martin

Date: 1/31/2016

EXHIBIT A

LICENSED AREA

1002 Curtis Sykes Ave.