R-23-28

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A COMMUNITY GARDEN LICENSE AGREEMENT WITH EDGEMONT IN PARK HILL, LLC FOR THE SKYLINE COMMUNITY GARDEN; 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, Edgemont in Park Hill, LLC has previously submitted grant applications for Skyline Community Garden which have been approved by City Council, for a site located on property at 257 Skyline Drive in the City of North Little Rock, Arkansas; and

WHEREAS, Edgemont in Park Hill, LLC has submitted and met the requirements of the application process for the Skyline Community Garden located on Skyline Drive, 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 Garden Advisory Committee have reviewed and accepted the application of Edgemont in Park Hill, LLC for the Skyline Community Garden, and recommend a grant in the amount of 3,803.20.

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

SECTION 1: That the license agreement for the community garden site located at 257 Skyline Drive is hereby approved, and the Mayor and City Clerk are hereby authorized to enter into the Community Garden License Agreement (attached hereto as Exhibit A) with Edgemont in Park Hill, LLC.

SECTION 2: That a grant in the amount of $3,803.20 (included in the Neighborhood Services budget) is approved, and the Community Garden 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 Terry C. Hartwick

SPONSOR:

Council Member Nathan Hamilton

ATTEST:

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/kt

FILED 11:07 A.M. _____ P.M.
By A. Fields, City Atty
DATE 2/7/23

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

RECEIVED BY

EXHIBIT
A

City of North Little Rock
Community Garden Program - Dept. Of Neighborhood Services

LICENSE AGREEMENT

This Community Garden License Agreement ("License") is made by and between Edgemont in Park Hill, LLC ("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 funds may only be expended on property where citizens may lawfully enter according to the purposes of the garden funding.

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 terminate three-hundred-sixty-four days (364) thereafter, unless extended by the North Little Rock Public Community Garden Advisory Committee ("Committee"). The Committee may vote to renew this License for up to two (2) one-year terms, with the approval of the property owner.

3. **CONSIDERATION.** Licensor expressly agrees that the funding amount of $3,803.20 provided by the City to establish a Community Garden includes full and adequate compensation for this License, including the two optional one-year renewals.

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. The Licensor or the Community Garden Manager ("Manager"), if different, must cultivate the area with edible plants at least six (6) months out of the year.

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

The Licensor or Manager must maintain the property according to city code for a residential area. Grass may grow no higher than eight (8) inches. The Licensor or Manager must ensure that growing areas are weeded and maintained weekly, in such a way that the garden presents a positive visual asset to the neighborhood. Tools and debris must be stored or moved away from common areas. The City will provide a garden sign, the design and placement of which will be coordinated with the Manager. The sign shall remain property of the City and may be removed by the City at any time.

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

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 LICENSOR

Edgemont in Park Hill, LLC By:

Date:

01/30/2023

FOR THE CITY OF NORTH LITTLE ROCK, ARKANSAS

_____ By:

Terry Hartwick, Mayor

ATTEST:

_____ By:

Diane Whitbey, City Clerk