



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 1/11/2024

File ID: TMP-3753

Department: Landscape Management

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into a license Agreement between the City of Huntsville and the Master Gardeners of North Alabama, Inc.

Resolution No.

Finance Information:

Account Number: N/A

City Cost Amount: N/A

Total Cost: N/A

Special Circumstances:

Grant Funded: N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address: 4723 Bob Wallace Ave. Huntsville, AL 35805

District: District 1 District 2 District 3 District 4 District 5

Additional Comments:

RESOLUTION NO. 20-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama that the Mayor be and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and the All African People's Development and Empowerment Project, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "License Agreement between the City of Huntsville and All African People's Development and Empowerment Project." consisting of two (2) pages and an attached Exhibit A, and the date of May 28th, 2020, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 28TH day of May, 2020.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 28TH day of May, 2020.

Mayor of the City of
Huntsville, Alabama

LICENSE AGREEMENT
BETWEEN THE CITY OF HUNTSVILLE AND
MASTER GARDENERS OF NORTH ALABAMA, INC.

LICENSE AGREEMENT BETWEEN THE CITY OF HUNTSVILLE
AND MASTER GARDENERS OF NORTH ALABAMA, INC.

This License Agreement (the "Agreement") is entered into this 11th day of January, 2024, by and between the City of Huntsville, a municipal corporation in the State of Alabama (hereinafter referred to as the "City" or "Licensor"), and Master Gardeners of North Alabama, Inc., an Alabama non-profit corporation, (hereinafter referred to as "MGNA" or "Licensee").

WHEREAS, MGNA is an all-volunteer, non-profit organization; and

WHEREAS, MGNA provides a public benefit by offering services including community landscape beautification projects, community vegetable gardens, school gardens and classroom projects and environmental awareness education; and.

WHEREAS, the City has currently unused land available adjacent to its CASA Gardens (hereinafter referred to as the "Premises"); and

WHEREAS, the Premises is shown on the drawing attached hereto as Exhibit "A"; and

WHEREAS, MGNA desires to locate a greenhouse and ancillary structures on the Premises (hereinafter the "Greenhouse"); and

WHEREAS, the Greenhouse will provide a learning environment for Master Gardener interns; and.

WHEREAS, the City has determined that entering into this Agreement will serve a public purpose;

NOW THEREFORE, for and in consideration of the mutual covenants herein, the parties agree as follows:

1. The Greenhouse. The City grants MGNA a license to construct and maintain the Greenhouse (24' x 60") and a storage shed (8' x 10') on the Premises, subject to the terms and conditions set forth herein. MGNA may also construct a pavilion for classes. The design,

construction and maintenance of the Greenhouse and all other structures on the Premises are subject to the approval of the City's Director of Landscape Management, with said approval not to be unreasonably withheld. MGNA shall maintain the Premises and all structures located there in a commercially reasonable manner.

2. Term. The term of this agreement is ten (10) years commencing on January 12, 2024 and continuing through January 11, 2034. The City may terminate this agreement upon one hundred eighty (180) days' notice to MGNA.

3. Costs. MGNA shall bear all costs related to the construction and maintenance of the Greenhouse and related improvements to the Premises.

4. MGNA'S Use of the Premises. MGNA shall utilize the Premises for programs and activities that provide a public benefit. Those activities include but are not limited to the following:

- Setting up and maintaining a rainwater collection system to demonstrate sustainability.
- Providing a learning environment for Master Gardener interns.
- Collaborate with ACES and Alabama A&M University to offer support/educational workshops.

5. Indemnification; non-liability. MGNA shall indemnify and hold harmless and does hereby agree to indemnify and hold harmless the City of Huntsville, its officials, officers, elected officials, employees, agents, contractors and volunteers performing an authorized city function, (hereinafter referred to as "indemnitees") from and against any and all claims, liability, loss, judgments, suits, penalties, costs, expenses and damages aforesaid (including but not limited to reasonable attorneys' fees and expenses and court costs and fees). MGNA's duty to indemnify shall not apply to loss, injury, death, or damage arising by reason of the sole negligence of the indemnitees. MGNA's duties hereunder shall survive the termination or expiration of this Agreement.

Nothing contained in this section 5 shall be construed as a waiver of any immunity of statutory protection of the City of Huntsville, Alabama, and no third party may expand any recovery against the City due to Licensee's duty of indemnification.

6. Insurance. MGNA shall obtain and maintain in effect throughout the term of this agreement, Commercial General Liability with the following minimum limits:

\$1,000,000 Per Occurrence Limit
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Products/Completed Operations
\$2,000,000 General Aggregate Limit

Such insurance shall be written on an occurrence basis and shall specifically insure MGNA against all liability assumed by it hereunder as well as liability imposed by law. The City of Huntsville, its officers, employees, elected officials, agents, contractors, and specified volunteers shall be named as additional insureds through ISO Additional Endorsement CG 20 10 or equivalent that is sufficient to provide coverage for ongoing operations and CG 20 37 or

equivalent to provide coverage for completed operations. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, elected officials, agents, contractors, or specified volunteers except it shall be limited except in the case of the indemnitee's or indemnitees' sole negligence. Coverage under the Licensee policy shall be written or endorsed to provide primary coverage to any other valid or collectible insurance. Any City of Huntsville coverage is noncontributory. Licensee shall provide a Certificate of Liability Insurance evidencing required insurance coverage and contractual verbiage prior to the commencement of any use of the facilities; however, failure of The City to procure the Certificate of Insurance does not waive any insurance provisions. The Certificate Holder section shall read as follows:

City of Huntsville, AL its officers, employees, elected officials, agents, contractors, and specified volunteers.

Attn: Director of Landscape Management
3242 Leeman Ferry Road
Huntsville, AL 35801
brian.walker@huntsvilleal.gov

Such policy of insurance shall be issued by a company authorized to engage in the insurance business in the state of Alabama and shall be approved by the City Attorney of the City of Huntsville prior to Licensee entering upon the Premises upon the terms of this agreement. It is not the intention of the parties to limit the insurance coverage to the minimum limits stated in the contract but the entire limits of coverage carried if limits are higher than those noted on the Certificate of Insurance.

7. Miscellaneous.

(a) This Agreement shall not be amended except by written instrument signed by the parties hereto. This Agreement, together with all exhibits, constitutes the entire agreement between the parties and shall be interpreted under and according to the Laws of the State of Alabama with venue in the courts of Madison County, Alabama. This Agreement shall be binding upon and inure to the benefit of Licensee, its successors and permitted assigns, and the City, its successors and assigns.

(b) Licensee shall not be excused from complying with any of the terms and conditions of this Agreement by any failure of the City upon one or more occasions to insist upon or to seek compliance with any such terms or conditions, nor shall such failure on the part of the City be construed or held to be a waiver of the City's rights thereafter to strictly enforce any provision of this Agreement.

(c) The captions of this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the intent or scope of this Agreement.

(d) If, for any reason, any agreement(s), provision(s), or term(s) of this Agreement (whether material to the bargain of City and Licensee or not) should be declared illegal, null and void, unconstitutional or unenforceable, in whole or in part, by any court of competent jurisdiction, the offending portion of this Agreement shall be deemed severed herefrom as though the same was

never a part hereof; provided, however, the remainder of this Agreement shall not be impaired and shall remain in full force and effect according to its remaining agreements, covenants, provisions and terms.

8. MGNA shall remove all improvements at its own expense at the end of the term of this Agreement. Unless the director of Landscape Management authorizes in writing MGNA to leave the improvements.

9. The parties represent and warrant that they have full authority to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under their respective seals and delivered as of the date first above written.

ATTEST

THE CITY OF HUNTSVILLE, ALABAMA

Shaundrika Edwards
City Clerk

By: _____
Tommy Battle, Mayor

MASTER GARDNERS OF NORTH ALABAMA, INC.

By: Carlita Edwards
Its: President

Exhibit A

4723 Bob Wallace Ave.
Huntsville, AL 35805

