



CITY OF ALBION PLANNING COMMISSION

REGULAR MEETING

WEDNESDAY, FEBRUARY 22, 2017

COUNCIL CHAMBERS

7:00 P.M.

AGENDA

- I. Call To Order (Reminder: turn off cell phones)
- II. Roll Call of the Commission
- III. Approval of Prior Meeting Minutes –
 - A. January 18, 2017
- IV. Correspondence
- V. Public Hearing-Community Garden Applications
- VI. Order of Business
 - A. Election of Officers (Chair, Vice Chair)
 - B. Approve Application for Community Garden located at 401 and 403 W. Center Street
 - C. Approve Application for Community Garden located at 213 S. Albion St and 618 W. Erie Street
 - D. Update on Redevelopment Ready Community
 - E. Review Comprehensive Plan
 - F. Excuse Absent Commissioners
- VI. Citizen Comments (Persons addressing the Planning Commission shall limit their comments to no more than 5 minutes. Proper decorum is required.)
- VII. Adjournment

PLANNING COMMISSION PUBLIC HEARING PROCESS

- 1) The Planning Commission Chair opens the hearing
- 2) Chair summarized the process
- 3) Staff presents report on applicant's request
- 4) Chair reads any correspondence into the record
- 5) Public speaking portion of hearing
 - Individuals in support
 - Opposition speakers
 - Questions & rebuttal (directed through the Chair)
 - Public speaking portion of hearing closed
- 6) Finding of facts
- 7) Board begins deliberations
- 8) Motion is made
- 9) Roll call vote taken

Planning Commission
January 18, 2017

I. Call To Order

The January 18, 2017 Planning Commission meeting was called to order at 7:00 p.m. by Chairperson Strander and a quorum declared.

II. Roll Call of the Commission

S Brown, T Pitt, G Strander, G Strand, S Kipp

Staff Present: S Mitchell, City Manager, J Domingo, City Clerk and J Tracy, Director Building, Planning & Code Enforcement

Absent: G Brown

III. Approval of Prior Meeting Minutes-December 20, 2016

T Pitt asked to have the following change to the December 20, 2016 minutes:

The approval of the Special Use Request for Albion Malleable Brewing Company should be moved to item VI-(A) Formal Consideration of Special Use Permit (Case # 2016-061) for proposed Micro Brewery, Small Wine Maker and Open Front Structure for 416 (aka 420) South Superior Street. Albion Malleable Brewing Company.

T Pitt moved, S Kipp supported, CARRIED, to approve the December 20, 2016 Planning Commission minutes with the above change. (Voice Vote)

IV. Correspondence – City Manager Mitchell stated The Mayor and City Council has arranged for the Michigan Municipal League (MML) to provide training to assist everyone in understanding their responsibilities and rules impacting public meetings. The training will be held on Saturday, February 4th from 11am-3pm at the Ludington Center, 101 N. Superior Street.

V. Order of Business

A. Discussion-Review of Community Garden Ordinance

John Tracy, Director Building, Planning & Code Enforcement stated the City is potentially looking at having two (2) or three (3) community gardens this

year. In 2011, Ordinance # 2011-01 was passed establishing community gardens. He would like the Planning Commission be aware of how the ordinance is written and any amendments that may be need to be made. Applications are filed with the City Clerk who in turn forwards to the Planning Commission for review and/or approval. We currently do not have any community garden applications on file.

Director Tracy stated considerations of the ordinances may be as follows:

- Ordinance does not cover how large a hoop house may be and how much area they can cover. The hoop houses would be in residential areas. A hoop house can be made of several different types of materials and is covered. A green house is typically the same as a hoop house.
- Community Gardens may cover several parcels.
- No setback for signs

Recommendations from Director Tracy are as follows:

- Make amendments of ordinance as soon as possible to avoid residents having to wait for an amendment to be passed and decrease the amount of time of having license approved.
- Define how much of an area a hoop house can cover
- Specifications for hoop houses such as appearance/safety
- Each parcel should apply for and receive a community garden license. This would alleviate an issue if a parcel was sold.

Questions/Concerns from the Planning Commission:

- Is it easier to leave the ordinance as it and then go back and change it if the need arises?
- Would like to see hoop houses criteria be to grow produce.
- Establish a growing season. The current language is very generic.
- Establish criteria of size and use of hoop houses.

The Commission would like Director Tracy to check on community garden ordinances from other communities and bring specific suggestions for changes to our ordinance at the next Planning Commission meeting.

B. Update on Redevelopment Ready Community

City Manager Mitchell asked if any of the Planning Commission would be interested in participating in a work group for the Redevelopment Ready Community to ensure all components are being handled. The committee will consist of John Tracy, Building, Planning & Code Enforcement Director; Danielle Nelson, Special Projects Manager; AmeriCorps Vista and Amy Deprez, EDC Director.

Commissioner G Strand volunteered for the Redevelopment Ready Community work group.

C. Review Comprehensive Plan

Chair G Strander stated he has asked that a review of the Comprehensive Plan be added as a monthly agenda item.

City Manager Mitchell stated Danielle Nelson, Special Projects Manager is working on a chart that will show a more visual progress of the Comprehensive Plan. The next area of the Comprehensive Plan that will be worked on is zoning and key areas for future housing developments.

Chair G Strand stated we have the capital improvement plan and zoning that are set as a one year goal that may want to be looked into.

D. Miscellaneous-Boards & Commission Training-Feb 4th, 2017 11am-3pm

This item was discussed under (IV) Correspondence.

E. Excuse Absent Commissioners

S Brown moved, G Strand supported, CARRIED, to excuse Commissioner G Brown. (Voice Vote)

VI. Citizen Comments

No citizen comments were received.

Commissioner comments were as follows:

S. Brown-Developers are looking at properties all over Michigan and he would like to see Albion ready if an offer arrives. He also volunteered to help with demolition of Darlymple School.

G Strand-would like to see something done in the Comprehensive Plan for Rosalyn Jones.

J Tracy, Director Building, Planning & Code Enforcement, stated the new Treasurer for Calhoun County is moving in the same direction as the previous Treasurer and are still maintaining a focus on Albion.

City Manager Mitchell stated the City received \$125,000 from the Cronin Foundation toward the demolition of Dalrymple School; Gina's Pizza and Deli will be opening soon at their new location on Clinton Street; Edward Jones is moving to 201 N. Clinton Street; the Council approved going to a single hauler for refuse

and a new sandwich shop will be opening at the former location of Gina's on Michigan Avenue.

VII. Adjournment

S Brown moved, T Pitt supported, CARRIED, to adjourn the meeting. Meeting adjourned at 7:25 p.m.

Recorded By: Jill Domingo, City Clerk

**NOTICE OF PUBLIC HEARING BEFORE THE ALBION PLANNING
COMMISSION TO REQUEST APPROVAL OF APPLICATION SUBMITTED
FOR COMMUNITY GARDENS IN RESIDENTIAL DISTRICTS.**

**Wednesday, February 22, 2017 at 7:00 P.M.
City Hall – Council Chambers on Upper Level
112 W. Cass Street, Albion, Michigan 49224**

Please take notice: The City of Albion Planning Commission will meet as noticed above to review and consider approval of application for Community Gardens as required under City of Albion Zoning Ordinance #2011-01, Sec. 30-500. Definition; Sec. 30-501. General Provisions, Community Gardens.

Applicant: Albion Community Gardens Inc.

Case # 2017-005: Community Garden proposed to be located at:

213 S. Albion Street, Parcel # 13-51-015-104-00

618 W. Erie Street, Parcel # 13-51-015-105-00

Applicant request: approval for proposed Community Garden as submitted.

Property owner of record: Calhoun County Land Bank Authority.

Applicant: Albion Community Gardens Inc.

Case # 2017-006: Community Garden proposed to be located at:

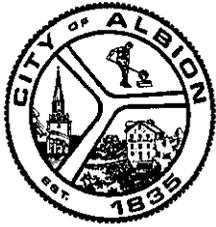
401 W. Center Street, Parcel # 13-51-013-040-00

403 W. Center Street, Parcel # 13-51-013-041-00

Applicant request: approval for proposed Community Garden as submitted.

Property owner of record: Calhoun County Land Bank Authority.

To comply with the American Disabilities Act. (ADA), any citizen requiring accommodations to attend this meeting/function, and or obtain this notice in alternative formats, please contact the City Manager's office at (517) 629-5535 at least five (5) business days prior to the meeting/function. Copies of information on the proposed community gardens are available in the City Manager's office Monday-Friday from 8:00 a.m. to 5:00 p.m.... Written comments or suggestions regarding this matter are also welcome and should be directed to the City Clerk's office at City Hall, by no later than 5:00 P.M., on February 22, 2017.



City of Albion
Planning, Building, Code Enforcement Department
112 W. Cass Street
Albion, Michigan 49224

Planning Commission
February 22, 2017

Case: #2017-005
Location: 213 S. Albion St. & 618 W. Erie St.
P.N.: 13-51-015-104-00 & 13-51-015-105-00
Zoned: R-2-B One-two family residence district
Property owner of record: Calhoun County Land Bank Authority
Responsible Party/Organization: Albion Community Gardens, Inc.
Contact Person: Richard Porter / Mary M. Moore

Zoning Ordinance: Chapter 30, Sec. 30-501 *(copy attached)*
Required to be submitted with application.

- Application shall be signed by property owner giving permission.
✓ *Signed*
- Application shall be signed by individual and/or representative of the Group or organization that will be responsible for community garden.
✓ *Signed*
- A sketch location of all existing and proposed structure.
✓ *Sketch attached*
 - *Refer below to City of Section 30-149 Lot area, yard and height requirements*
 - *Sq. ft. of shed not indicated (300 sq. max.)*
- Proposed layout of garden plots, fencing, etc....
✓ *Proposed layout attached*
 - *Temporary fence material type and height not indicated*
- Identify available parking areas on or near property.
✓ *Parking identified*
- Identify source of water that will be used for irrigation.
✓ *Water source indicated (city water). Note: see Chapter 86, Division 4. – Rates and charges*

City of Albion Zoning Ordinance
Section 30-149 Lot area, yard and height requirements.

R-2-B

Minimum required setback:

| | |
|------------------|----|
| Front, feet | 25 |
| One side, feet | 10 |
| Both sides, feet | 20 |
| Rear, feet | 25 |

Case: #2017-006

Location: 401 W. Center St. & 403 W. Center St.

P.N.: 13-51-013-040-00 & 13-51-013-041-00

Zoned: R-2-B One-two family residence district

Property owner of record: Calhoun County Land Bank Authority

Responsible Party/Organization: Albion Community Gardens, Inc.

Contact Person: Richard Porter / Mary M. Moore

Zoning Ordinance: Chapter 30, Sec. 30-501 *(copy attached)*

Required to be submitted with application.

- Application shall be signed by property owner giving permission.
✓ *Signed*
- Application shall be signed by individual and/or representative of the Group or organization that will be responsible for community garden.
✓ *Signed*
- A sketch location of all existing and proposed structure.
✓ *Sketch attached*
 - *Sq. ft. of shed not indicated (300 sq. max.)*
- Proposed layout of garden plots, fencing, etc....
✓ *Proposed layout attached*
 - *Refer below to City of Section 30-149 Lot area, yard and height requirements*
 - *Temporary fence material type and height not indicated*
- Identify available parking areas on or near property.
✓ *Parking identified*
- Identify source of water that will be used for irrigation.
✓ *Water source indicated (city water). Note: see Chapter 86, Division 4. – Rates and charges*

City of Albion Zoning Ordinance

Section 30-149 Lot area, yard and height requirements.

R-2-B

Minimum required setback:

Front, feet 25

One side, feet 10

Both sides, feet 20

Rear, feet 25

Section 30-501
Community Gardens

- A. Approval
 - 1. Residential Zoning Districts. A community garden in a residential district shall be reviewed and approved by the Planning Commission. The property owner and/or authorized agent shall file an application (provided by the City) with the City Clerk requesting Planning Commission approval.
 - 2. Community and Industrial Zoning Districts. A community garden that is adjacent to property in a residential district shall be reviewed and approved by the Planning Commission. All others shall be reviewed and approved by the City Manager or his designated representative.
- B. Setback. All garden plots and any permitted structure shall meet the setbacks of the zoning district.
- C. Permitted Structures. Only the following temporary structures will be permitted in a community garden:
 - 1. Greenhouses, storage sheds, planting preparation sheds and hoopouses.
 - a. Height. No building or other structure may be greater than fourteen (14) feet in height.
 - b. Maximum coverage. The combined area of all buildings (not including principle structures), excluding hoopouses, shall not exceed three hundred (300) square feet.
 - c. All structures shall be properly maintained.
 - d. Hoopouse coverings must be maintained and kept intact. The coverings must be removed during non-growing seasons.
 - e. Temporary structures shall be removed if the property is no longer to be used for a community garden.
 - 2. Fences.
 - a. The installation of a permanent fence shall comply with the City's fence ordinance.
 - b. A temporary fence may be installed during the growing season. The fence shall be properly installed and maintained and be constructed of standard fence material. The temporary fence shall be removed at the end of the growing season.
 - 3. Above ground water tanks, or tanks mounted to trailers or skids, provided that no tank shall have a capacity greater than one thousand (1,000) gallons.
 - 4. Benches, picnic tables, trellises, arbors and garden art.
 - 5. Planting beds raised up to forty-two (42") inches above grade.
 - 6. Compost bins and rain barrel systems, which may not be located within the required setbacks or within then (10) feet of a property line, whichever is greater.
- D. Trash receptacles shall be provided on site and emptied in a timely manner.
- E. Parking on site shall only be permitted on an improved driveway/parking area. All other parking shall be in legally approved on-street parking areas or nearby off-street parking areas. Parking of vehicles in grass or unimproved areas is not permissible.

- F. Noise. The use or operation of power tools, mechanical equipment or agricultural implements used outdoors in community garden area is prohibited between 9 p.m. and 7 a.m.
- G. Burning. Open burning of garden materials and associated waste products is prohibited.
- H. Composting. On-site composting of garden waste is permissible if proper composting standards are followed and if a nuisance is not created for abutting property owners.
- I. Operating Standards.
 - 1. The community garden shall be appropriately cultivated which includes regular weeding and maintenance of the garden area.
 - 2. The area around the community garden shall also be properly maintained and comply with the City's noxious weed, grass and brush ordinance.
- J. For residential districts, there shall be no on-site retail sales. Sale of product in other Zoning districts shall meet the zoning district requirements for retail sales activity.
- K. Signs. Each community garden may have one (1) sign indicating the name of the community garden and the contact information of the principal operator. The sign may not exceed six (6) square feet in area nor exceed six (6) feet in height. The specific conditions for signage will be part of the review and approval of the application for a community garden.
- L. Application. An application (provided by the City) requesting approval for a community garden shall be filed with the City Clerk and shall include the following information:
 - 1. The application shall be signed by the property owner giving permission for use of the property as a community garden.
 - 2. The application shall also be signed by the individual and/or representative of the group or organization that will be responsible for the community garden.
 - 3. A sketch plan showing the property location and size with dimensions.
 - a. Show location of all existing and proposed structures
 - b. Proposed layout of garden plots, fencing, etc.
 - c. Identify available parking areas on or near property
 - d. Identify source of water that will be used for irrigation
- M. Termination.
 - 1. When the property owner or group or organization responsible for the community garden decides to no longer operate a community garden on the property, the property shall be brought into compliance with the City's noxious weed, grass and brush ordinance.
 - 2. If the individual, group and/or organization responsible for a community garden fails to properly maintain the community garden in compliance with requirements of this ordinance then the original approving authority (Planning Commission or City Manager) may after reasonable notification terminate the approval to operate a community garden. If the responsible party fails to correct the deficiency then the City Manager will proceed with action under the City's ordinances.



City of Albion
112 W. Cass Street
Albion, Michigan 49224
(517) 629-5535

APPLICATION FOR COMMUNITY GARDEN

Application # _____

Section A:

Name of Property Owner('s): Calhoun County Land Bank Authority
Property Address: 401 W. Center St., & 403 W. Center St
Parcel Number: 13-51-013-040-00
13-51-013-041-00 Zoned: R2B
Owner's Address (if different): 315 W. Green Street, Marshall, MI 49068
Owner's Telephone Number: 269-781-0859

Section B:

Responsible Party / Organization: Albion Community Gardens, Inc.
Address: 202 S. Monroe Street, Albion, MI 49224
Contact Person: Richard Porter / Mary M. Moore
Telephone Number: 517-629-9455
E-Mail Address: _____

Section C:

1. Include a sketch plan showing the property location and size with dimensions.
2. Show location of all existing and proposed structures.
3. Show proposed layout of garden plots, fencing, etc.
4. Identify available parking areas on or near property.
5. Identify source of water that will be used for irrigation.

Responsible Party

I hereby request approval for use of the above identified property for a Community Garden. I agree to comply with all of the requirements of the City of Albion's Community Garden Ordinance.

Print Name: MARY M. MOORE - TREASURER

Signature: [Handwritten Signature]

Date: 2-1-2017

Property Owner

I hereby grant approval for the above Responsible Party to use my property for a Community Garden in compliance with all the requirements of the City of Albion's Community Garden Ordinance (*Ordinance #2011-01*). I understand that when the Responsible Party no longer wishes to operate the Community Garden that they are to bring the property back into compliance with the City's noxious weed, grass and brush ordinance. I also understand that if the Responsible Party (after written notification to the Responsible Party and the Property Owner) fails to correct the deficiency then the City Manager shall take action to correct the deficiency and all costs associated with this action shall be charged against the property by the Council as though an ad valorem tax.

Print Name: Krista Trout-Edwards, Executive Director, CCLSH

Signature: Krista Trout-Edwards

Date: 1/17/17

OFFICE USE ONLY

Application received by: _____

Date: _____

Approved Denied

Albion Planning Commission: _____

Meeting Date: _____

Approved Denied

Albion City Manager: _____

Date: _____

Comments: _____

Supplement to Application for Community Garden

Water

With regard to the source of water that we plan to use for irrigation of our proposed Community Garden, we have been in contact with the Albion Water Department and have been advised that since there were houses formerly located on these parcels there are water line to the lots. We would like to request the installation of a frost free hydrant that can be locked just like the one located on the Northwest corner of Michigan Avenue and Monroe Street. This lot, according to the City records, is also owned by the Calhoun County Land Bank Authority. If necessary, Albion Community Gardens, Inc. will pay for the installation of this hydrant. Mr. John Tracy advised us at one of our meetings that this request must go to the Planning Commission. If we must make this request to another branch of the City government it would be greatly appreciated if you could so advise.

If we are not able to secure such a hydrant, we will have to purchase water storage tanks that meet the size requirements contained in the zoning ordinance and store water at the site.

Parking

There is ample on street parking on the south side of West Center Street and the West side of South Pearl Street.

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

Date Received
AUG 11 2016

JUL 20 2016

This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

TranInfo: 1 21454800-1 07/18/16
CHK#: 29255 Amt: \$20.00
ID: MOORE & MARSH

| | | |
|--|----------------|----------|
| Name Mary M. Moore, Moore & Marsh, Attorneys at Law | | |
| Address 202 S. Monroe Street | | |
| City Albion, MI | State 49224 | ZIP Code |

EFFECTIVE DATE:

FILED
AUG 12 2016
ADMINISTRATOR
CORPORATIONS DIVISION

[71849E]

Document will be returned to the name and address you enter above.
If left blank, document will be returned to the registered office.

ARTICLES OF INCORPORATION
For use by Domestic Nonprofit Corporations
(Please read information and instructions on the last page)

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

ARTICLE I

The name of the corporation is:
Albion Community Gardens, Inc.

ARTICLE II

The purpose or purposes for which the corporation is formed are:
The organization is organized exclusively for charitable, religious, educational, and scientific purposes under section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code and upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, for a public purpose.

See attached continuation of Article II

ARTICLE III

1. The corporation is formed upon a Nonstock basis.
(Stock or Nonstock)

2. If formed on a stock basis, the total number of shares the corporation has authority to issue is _____
If the shares are or are to be divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class to the extent that the designations, numbers, relative rights, preferences, and limitations have been determined are as follows:

Use space below for additional Articles or for continuation of previous Articles. Please identify any Article being continued or added. Attach additional pages if needed.

ARTICLE VI

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its directors, members, trustees, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of section 501 (c)(3) purposes. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

Notwithstanding any other provision of these articles, the corporation shall not carry any other activities not permitted to be carried on (a) by a corporation exempt from Federal Income Tax under section 501(c)93) or the Internal Revenue Code, or the corresponding section or future Federal Tax Code, or (b) by a corporation, contributions to which are deductible under section 170 (c)(2) of the Internal Revenue Code, or the corresponding section of any future Federal Tax Code.

Upon the dissolution of this corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal Tax Code, or shall be distributed to the Federal Government, or to a state or local government, for public purpose.

I, (We), the incorporator(s) sign my (our) name(s) this 12 day of July, 2014

Mary M. Moore

Richard Porter

ARTICLE II cont'd.

1. To own, lease and occupy lands to establish and maintain community gardens.
2. To provide education and information to the general public regarding the planting, cultivation, harvesting, preparation, preserving and canning of garden produce.
3. To provide a source of low cost fresh vegetables to seniors and other members of the community who could not otherwise afford fresh and nutritious vegetables.
4. To engage in any other activity that will forward the above stated purposes of this corporation.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **NOV 07 2016**

ALBION COMMUNITY GARDENS INC
202 S MONROE STREET
ALBION, MI 49224-0000

Employer Identification Number:
81-3958439
DLN:
26053701001796
Contact Person:
CUSTOMER SERVICE ID# 31954
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Form 990-PF Required:
Yes
Effective Date of Exemption:
August 12, 2016
Addendum Applies:
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a private foundation within the meaning of Section 509(a).

You're required to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, annually, whether or not you have income or activity during the year. If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PF" in the search bar to view Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations, which describes your recordkeeping, reporting, and disclosure requirements.

RECEIVED NOV 04 2016

Letter 5437

ALBION COMMUNITY GARDENS INC

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey I. Cooper". The signature is stylized and cursive, with a prominent initial "J" and "C".

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

LAND LEASE AGREEMENT

THIS AGREEMENT made, entered into and executed this 17th day of January, 2017, and to become effective on March 1, 2017, by and between **Calhoun County Land Bank Authority**, 315 West Green Street, Marshall, MI 49068 (hereinafter called "Lessor"), **Albion Community Gardens, Inc.**, a Michigan Not For Profit Corporation, 202 South Monroe Street, Albion, MI 49224 (hereinafter called "Lessee").

Whereas, Albion Community Gardens, Inc., as Lessee, desires to lease the property described herein for the creation of an urban garden;

Whereas, Lessee's lease of the project will support neighborhood stabilization and community outreach, and urban gardening is a means to achieve these objectives;

Whereas, Lessee's project is anticipated to reutilize vacant residential parcels and enhance neighborhood relations as well as access to affordable produce within City of Albion;

Whereas, Lessee is a not for profit organization that intends to operate and maintain the property for the benefit of City of Albion and Calhoun County residents

NOW THEREFORE, Lessor and Lessee contract and agree as follows:

1. Lessor hereby leases to Lessee the following land located in the City of Albion, County of Calhoun (collectively "the Property"):

Parcel #1: Identified as: **#51-015-104-00** and commonly known as **213 South Albion Street**
Described as: ALBION CITY, WRIGHTS ADDITION N 6 RDS OF S 12 RDS OF W 8 RDS OF BLK 5.

Parcel #2: Identified as: **#51-015-105-00** and commonly known as **618 West Erie Street**
Described as: ALBION CITY, WRIGHTS ADDITION S 6 RDS OF W 6 RDS OF BLK 5. (618 W ERIE)

Parcel #3: Identified as: **#51-013-040-00** and commonly known as **401 West Center Street**
Described as: ALBION CITY, WARNER & CHURCH ADDITION BLK 99 E 57.75' OF LOT 1 L944 P5
(401 W CENTER ST.)

Parcel #4: Identified as: **#51-013-041-00** and commonly known as **403 West Center Street**
Described as: ALBION CITY, WARNER & CHURCH ADDITION LOT 1. BLK 99. EXC E 3 1/2 RDS & W 2 RDS. (403 W CENTER ST.)

2. The term of this lease shall be for a term of three years, commencing on March 1, 2017, and expiring at midnight on March 1, 2020, unless extended as provided for herein.

3. During the term, Lessee shall pay to Lessor, as rental, the sum of One Dollar (\$1.00) per parcel, per year, in advance, on or before March 1st of each year. Payments will be due on or before the following dates March 1, 2017 (initial payment), March 1, 2018, and March 1, 2019 respectively.

4. The Property may be used for community urban garden purposes only subject to the regulations of the City of Albion and the usage rules established by Lessee. Lessee shall provide documentation of the City of Albion's approval of the *Community Garden Application* submitted by Lessee. If not already submitted, Lessee also shall provide evidence of its not-for-profit status with the Internal Revenue Service. From time to time, Lessee shall, upon request of Lessor, provide Lessor with examples of its outreach

materials, plans, and related materials evidencing the public and beneficial purpose for which it is using the Property.

5. The Lessor shall pay all real estate taxes, if any, assessed against the Property. Lessee shall pay all taxes assessed against all personal property located on the Property and shall also pay all privilege, excise and other taxes duly assessed. Lessee shall pay said taxes when due as to prevent the assessment of any late fees or penalties.

6. Lessee shall pay for all water, electricity, and other utilities used on the Property. Lessee shall pay any costs associated with connecting any such utilities that may be used by Lessee.

7. Lessee shall be responsible for all maintenance of any improvements on the Property. With the prior written consent of Lessor, Lessee shall have the right to construct improvements on the Property, subject to applicable regulations of the City of Albion. At the end of the lease, any such improvements shall become the property of the Lessor.

8. Lessee will keep the Property in a clean and wholesome condition and will comply at all times with all lawful City of Albion municipal health, zoning, and police regulations.

9. Lessee shall maintain a general liability policy covering the Property in effect during the term of the lease and list Lessor as a named insured. Lessee shall provide a copy of the policy to Lessor at the beginning of each lease term. Lessee shall maintain any insurance necessary to cover any loss in regard to any personal property that is or may be located on the Property. Lessor shall have no responsibility during the term of the lease for any damage or loss to the Property or any improvements on the Property, all of which shall be the sole responsibility of the Lessee.

10. Lessor and Lessee acknowledge that one or more residential structures were previously located on the Property and that it/they were demolished. Lessor and Lessee acknowledge that Lessee has had the opportunity to inspect the Property and that the Property is being leased to Lessee in its "as is" condition. Lessor and Lessee agree and understand that Property shall be used only for the purposes set forth herein. Lessor shall have no liability for any environmental condition of any type that may exist relative to the Property on the commencement date of this Lease and, if Lessee shall discover any such environmental condition, its sole remedy shall be to terminate this lease. Lessee hereby agrees that it will not allow, and will not allow any sub-lessee, to use, store, or dispose of any hazardous substances, as defined by local state, or federal law, on the Property during the term of the lease. Lessee further agrees to hold Lessor harmless for any cost or expense incurred by Lessor, including reasonable attorney fees, in regard to any environmental condition that may be created on Property during the term of the lease as a result of a breach by Lessee of this provision. Lessee shall not be responsible for any environmental conditions caused at any time during the term of the lease by any third party.

11. Lessee may, at Lessee's sole cost, install any fences, utilities, non-permanent structures or landscaping, gardening materials, walkways or hardscapes on Property that comply with City of Albion ordinances for such improvements. Lessee acknowledges and agrees that any such improvements shall become part of the real estate upon expiration of this agreement and shall remain with the Property at the termination of the lease. Lessee may also, at its own expense, remove trees approved in writing by the CCLBA, as well as brush and other debris as needed to prepare the parcels for planting and to maintain the sites.

12. If the Lessee shall default in the payment of the rent, or any part thereof or any other sums due under the terms hereof, when due as herein provided, or in any of the other covenants, agreements, conditions, or undertakings herein contained, and such default shall continue for thirty days after notice

thereof in writing to Lessee, or if (a) any proceeding under the bankruptcy act of the United States is begun by or against the Lessee, an order of adjunction, or approving the petition, be entered in such proceedings, or (b) a receiver or trustee is appointed for substantially all of the Lessee's business or assets, or (c) if Lessee shall make an assignment for the benefit of creditors, or (d) if Lessee shall vacate or abandon the Property, then, and in any such event, it shall be lawful for the Lessor, at its election, to declare the term hereof ended and to re-enter the Property, and to repossess and enjoy the said premises and any buildings and improvements situated thereon without such a re-entry and repossession working a forfeiture of the rents to be paid and the covenants to be performed by the Lessee during the full term of this agreement. If any default shall be made in any covenant, agreement, condition, or undertaking, which cannot with due diligence be cured within a period of 30 days, and if notice thereof, in writing shall have been given to the Lessee, and if the Lessee, prior to the expiration of 30 days from and after the giving of such notice, shall commence to satisfy the cause of such default and shall proceed diligently and with reasonable dispatch to take all steps and do all work required to cure such default, then the Lessor shall not have the right to declare said term ended by reason of such default; provided, however, that the curing of any default in such manner shall not be construed to limit or restrict the right of Lessor to declare the said term ended and enforce all of its rights and remedies hereunder for any other default not so cured.

The foregoing provision for the termination of this lease for any default in any of its covenants shall not operate to exclude or suspend any other remedy of the Lessor for breach of any of said covenants, or for the recovery of said rent for the full term, and in the event of the termination or default in any of the terms of this lease as foresaid.

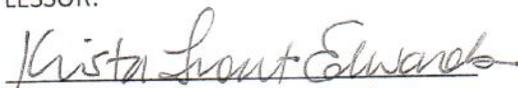
13. During the term of this lease or any extension thereof, Lessee may, with the written approval of Lessor which shall not be unreasonably withheld, assign this lease to a duly formed non-profit corporation which shall thereupon be responsible for the terms and conditions contained herein.

14. Any modifications to this agreement must be made in writing and agreed to by all parties.

15. Lessor grants Lessee an exclusive option to purchase the Property on the terms and conditions described at Exhibit A attached hereto.

WITNESS the signatures of the parties, this the 17th day of January, 2017.

LESSOR:

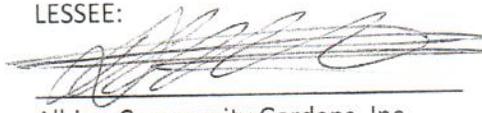


Calhoun County Land Bank Authority

By: Krista Trout-Edwards

Its: Executive Director

LESSEE:



Albion Community Gardens, Inc.

By: ~~NAME~~ Dorothy Fletner

Its: ~~POSITION~~ Secretary



Albion Community Gardens, Inc.

By: Mary M. Moore

Its: Treasurer

Exhibit A

OPTION TO PURCHASE

For purposes of this Option to Purchase, Lessor is referred to herein as "Owner" and Lessee is referred to herein as "Buyer".

1. **Term of Option.** Buyer shall have the option to purchase the Property, which may be exercisable from the commencement date of the Lease and until Lease termination, subject only to limitations on its exercise as specified in this Agreement. So long as Buyer shall not have been at any time in substantial breach of the Lease between the Parties, Buyer may exercise the option by giving Owner written notice of its election to exercise it.

2. **Complete Exercise.** Buyer may not purchase less than all of the Property pursuant to this Agreement.

3. **Purchase Price.** If the option is exercised, the purchase price for the Property will be **One Hundred dollars and 00/100 (\$100.00) per parcel plus recording fees. Should the Buyer elect to get title insurance, the purchase price will also include title insurance and closing costs, in addition to the purchase price and the recording fees previously mentioned. Closing costs shall include title insurance and any required fees from the title agency.** The purchase price for the Property will be paid in full at closing in immediately available funds. The purchase price for the option (distinct from the purchase price for the Property) is \$1.00. The purchase price for the option shall be paid in full at the time this Agreement is fully executed. The purchase price for the option is nonrefundable if the option is not exercised. If the option is exercised, the purchase price for the option will be credited toward the purchase price of the Property.

4. **Title.** Any conveyance given pursuant to this Agreement shall be by quit claim deed unless a warranty deed and title insurance is requested in writing. However, if requested in writing by Buyer, Owner will furnish Buyer with good and marketable title to the Property, at Buyer's expense, when the option is exercised by the Buyer. Any deed shall be subject to easements and building and use restrictions of record; and further subject to liens or encumbrances arising after March 1, 2017, that being the date Buyer took possession of the Property pursuant to the Lease, unless such lien or encumbrance shall have arisen through an act or omission of Owner ("Permitted Exceptions").

If title is requested then Owner shall provide Buyer, at Buyer's expense, with a title commitment for an owner's policy of title insurance within twenty (20) days after Buyer exercises the option. The title commitment shall show good and marketable title to be in Owner's name and shall be in the amount of the purchase price for the Property and subject to the Permitted Exceptions. Buyer shall have ten (10) days after receipt of the title commitment to notify Owner in writing of Buyer's disapproval of any exceptions shown on the title commitment not including the Permitted Exceptions ("Disapproved Exceptions"). Owner will have thirty (30) days from the date of receipt of any notice of disapproval to cause the Disapproved Exceptions to be removed from the title commitment or cause the title insurer to commit to insure against loss or damage that may be occasioned by the Disapproved Exceptions, during which time the closing will be delayed as necessary. If Owner is unwilling or unable to modify, remove or obtain a commitment for title insurance over the Disapproved Exceptions within such period, Buyer will notify Owner within five (5) days from the expiration of such thirty (30) day period whether Buyer will either: (i) proceed to closing and take title to the Property subject to the Disapproved Exceptions, in which case the Disapproved Exceptions will be deemed to have been waived by Buyer, or (ii) terminate its exercise of its option to purchase the Property. The closing will be delayed as necessary to permit the completion of all time periods provided for under this paragraph. Upon conveyance of title to Buyer on the closing, Owner shall purchase a policy of title insurance to be issued pursuant to the title commitment, insuring Buyer's fee simple absolute title in the Property in the amount of the Purchase Price, which policy of title insurance shall not contain any exceptions other than those shown on the title commitment and not objected to by Buyer as Disapproved Exceptions.

If a title commitment is not obtainable through a traditional title agency, Buyer may also request, in writing, that Seller commences a quiet title action with regard to the Property and obtain an order confirming title with Seller. Buyer will bear all fees and costs associated with such a proceeding; costs shall include court filing fees, Lessor's attorney fees for processing the quiet title action, and any other miscellaneous fees and expenses related to completing the quiet title action.

5. **Due Diligence.** After exercising the option, Buyer shall have thirty (30) days to conduct due diligence at its sole cost and expense. This includes, but is not limited to, surveys, building inspections and a phase I environmental site assessment. Because Buyer shall have been in possession of the Property prior to the closing, Buyer shall not perform any additional environmental testing on the Property prior to closing without Owner's prior written consent. If Buyer finds anything unacceptable during the thirty (30) day due diligence period, Buyer will either: (i) elect to proceed to closing and take the Property "AS IS" or (ii) terminate its exercise of its option to purchase the Property.

6. **Real estate taxes.** There shall be no proration of real estate taxes at closing as the Property is currently tax exempt. Buyer shall be responsible for all real estate taxes and special assessments after closing.

7. **Closing.** The sale shall be closed within ten (10) business days after all the documents are prepared, but in no event later than forty five (45) days after the notice exercising the Option. Owner shall prepare the warranty deed to be given at the closing to complete the sale. Buyer shall be responsible for paying any fee charged by the title company to conduct the closing as well as the fee to record the warranty deed and to obtain tax clearance for the warranty deed. Buyer shall also be responsible for any fees for conducting its due diligence. The closing shall take place at the offices of the title company providing the title commitment or at the Owner's office. At closing, Owner and Buyer shall deliver to each other such documents or instruments reasonably required to consummate the transaction contemplated herein. Any rent being paid by Buyer pursuant to the Lease shall be prorated to the closing date.

8. **Default.** If Buyer defaults, Owner may pursue any and all legal remedies available at law or in equity, or may cancel the Agreement and keep the Buyer's option payment as liquidated damages. If Owner defaults, Buyer may specifically enforce this Agreement or may pursue any and all legal remedies available at law or in equity.

9. **Termination of Option Period.** If Buyer does not exercise the option before the expiration date of the option period, the option shall expire of its own accord. If Buyer's tenancy is terminated prior to the expiration of the option period, the option will be deemed canceled, as of the date of termination.

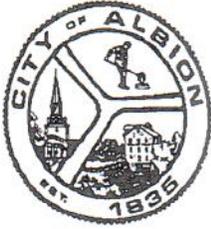
10. **Exercise of Option.** Prior to expiration or cancellation of the option, Buyer may exercise this option by giving Owner written notice, signed by Buyer and delivered personally or by certified mail. Notice shall be given at Owner's address set forth above or at any subsequent address that Owner may provide to Buyer in writing. Notices sent by certified mail are deemed received when signed for by the receiving party. Notices personally delivered are deemed received upon personal delivery. Upon exercising the option, Buyer agrees to accept the Property in "as is/where is" condition.

11. **Assignment and Binding Effect.** This Agreement is not assignable without written consent of the Owner. This Agreement shall inure to the benefit of and be binding on the Parties to this Agreement and their heirs, legal representatives, successors, and permitted assigns.

12. **Effective Date.** This Agreement shall be effective on the last date a party to this Agreement signs it.

13. **Right of First Refusal.** The conveyance of the Property by Owner to Buyer will be subject to a right of refusal to Owner, allowing Owner to re-purchase the Property. The term of this right will not exceed 15 years. If during the term of the right of first refusal Buyer receives a bona fide offer from any party to purchase all or any part of the Property, Buyer will send Owner a copy of the offer and notify Owner of its intent to accept it. Owner will then have 30 days from receipt of the offer to notify the Buyer, in writing, that it will exercise its right of first refusal and obtain the Property for One Hundred Dollars (\$100.00) per parcel. If Owner does not

elect to exercise its right of first refusal, Buyer may then sell the Property to a third party, provided that the sale is on the same terms and conditions specified in the offer sent to the Owner. If the transaction with the third party does not close, Owner's right of first refusal will continue. The Owner's purchase of the Property from Buyer will be on the same terms and conditions as between Buyer and Owner pursuant to this Option to Purchase.



City of Albion
112 W. Cass Street
Albion, Michigan 49224
(517) 629-5535

APPLICATION FOR COMMUNITY GARDEN

Application # _____

Section A.

Name of Property Owner(s): Calhoun County Land Bank Authority
Property Address: 213 S. Albion St. & 618 W. Erie Street
Parcel Number: 13-51-015-104-00 Zoned: R2B
13-51-015-105-00
Owner's Address (if different): 315 W. Green Street, Marshall, MI 49068
Owner's Telephone Number: 269-781-0859

Section B.

Responsible Party / Organization: Albion Community Gardens, Inc.
Address: 202 S. Monroe Street, Albion, MI 49224
Contact Person: Richard Porter/Mary M. Moore
Telephone Number: 517-629-9455
E-Mail Address: _____

Section C.

1. Include a sketch plan showing the property location and size with dimensions.
2. Show location of all existing and proposed structures.
3. Show proposed layout of garden plots, fencing, etc.
4. Identify available parking areas on or near property.
5. Identify source of water that will be used for irrigation.

Responsible Party

I hereby request approval for use of the above identified property for a Community Garden. I agree to comply with all of the requirements of the City of Albion's Community Garden Ordinance.

Print Name: MARY M. MOORE - TREASURER
Signature: [Handwritten Signature]
Date: 2-1-2017

Property Owner

I hereby grant approval for the above Responsible Party to use my property for a Community Garden in compliance with all the requirements of the City of Albion's Community Garden Ordinance (*Ordinance #2011-01*). I understand that when the Responsible Party no longer wishes to operate the Community Garden that they are to bring the property back into compliance with the City's noxious weed, grass and brush ordinance. I also understand that if the Responsible Party (after written notification to the Responsible Party and the Property Owner) fails to correct the deficiency then the City Manager shall take action to correct the deficiency and all costs associated with this action shall be charged against the property by the Council as though an ad valorem tax.

Print Name: Krista Trout-Edwards, Executive Director, CCLUBA
Signature: Krista Trout Edwards
Date: 1/17/17

OFFICE USE ONLY

Application received by: _____

Date: _____

Approved Denied

Albion Planning Commission: _____

Meeting Date: _____

Approved Denied

Albion City Manager: _____

Date: _____

Comments: _____

Supplement to Application for Community Garden

Water

With regard to the source of water that we plan to use for irrigation of our proposed Community Garden, we have been in contact with the Albion Water Department and have been advised that since there were houses formerly located on these parcels there are water line to the lots. We would like to request the installation of a frost free hydrant that can be locked just like the one located on the Northwest corner of Michigan Avenue and Monroe Street. This lot, according to the City records, is also owned by the Calhoun County Land Bank Authority. If necessary, Albion Community Gardens, Inc. will pay for the installation of this hydrant. Mr. John Tracy advised us at one of our meetings that this request must go to the Planning Commission. If we must make this request to another branch of the City government it would be greatly appreciated if you could so advise.

If we are not able to secure such a hydrant, we will have to purchase water storage tanks that meet the size requirements contained in the zoning ordinance and store water at the site.

Parking

There is ample on street parking on the north side of West Erie Street.

↑
EMPTY LOT

SIGN
6' TALL
6 SQ FT

TEMPORARY
REMOVABLE
FENCE

→ Z

W
ERIE
ST

← PARKING →

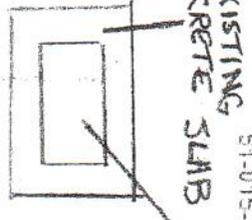
99'

99'

66'

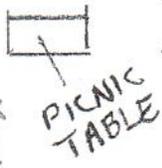
25'

51-015-105-00



EXISTING
CONCRETE
SLAB

GARDEN



PICNIC
TABLE

132'

EMPTY LOT

ABANDONED
HOUSE

51-015-103-00

51-015-102-00

ch



Calho

Map Pu
01/26/20

Fetch
pow

Disclaimer:

This map does not constitute a survey or legal description provided on an as-is basis. Calhoun County

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU**

Date Received

AUG 11 2016

JUL 20 2016

This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

TranInfo:1 21454800-1 07/18/16

Chk#: 29253 Amt: \$20.00

IP: MOORE & MARSH

Name

Mary M. Moore, Moore & Marsh, Attorneys at Law

Address

202 S. Monroe Street

City

State

ZIP Code

Albion, MI 49224

EFFECTIVE DATE:

FILED
AUG 12 2016
ADMINISTRATOR
CORPORATIONS DIVISION

[71849E]

Document will be returned to the name and address you enter above.
If left blank, document will be returned to the registered office.

ARTICLES OF INCORPORATION**For use by Domestic Nonprofit Corporations**

(Please read information and instructions on the last page)

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

ARTICLE I

The name of the corporation is:

Albion Community Gardens, Inc.

ARTICLE II

The purpose or purposes for which the corporation is formed are:

The organization is organized exclusively for charitable, religious, educational, and scientific purposes under section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code and upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, for a public purpose.

See attached continuation of Article II

ARTICLE III

1. The corporation is formed upon a Nonstock basis.
(Stock or Nonstock)

2. If formed on a stock basis, the total number of shares the corporation has authority to issue is

_____. If the shares are or are to be divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class to the extent that the designations, numbers, relative rights, preferences, and limitations have been determined are as follows:

Use space below for additional Articles or for continuation of previous Articles. Please identify any Article being continued or added. Attach additional pages if needed.

ARTICLE VI

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its directors, members, trustees, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of section 501 (c)(3) purposes. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

Notwithstanding any other provision of these articles, the corporation shall not carry any other activities not permitted to be carried on (a) by a corporation exempt from Federal Income Tax under section 501(c)93) or the Internal Revenue Code, or the corresponding section or future Federal Tax Code, or (b) by a corporation, contributions to which are deductible under section 170 (c)(2) of the Internal Revenue Code, or the corresponding section of any future Federal Tax Code.

Upon the dissolution of this corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal Tax Code, or shall be distributed to the Federal Government, or to a state or local government, for public purpose.

I, (We), the incorporator(s) sign my (our) name(s) this 12 day of July, 2014

Walter M. Moore

Richard Peter

ARTICLE II cont'd.

1. To own, lease and occupy lands to establish and maintain community gardens.
2. To provide education and information to the general public regarding the planting, cultivation, harvesting, preparation, preserving and canning of garden produce.
3. To provide a source of low cost fresh vegetables to seniors and other members of the community who could not otherwise afford fresh and nutritious vegetables.
4. To engage in any other activity that will forward the above stated purposes of this corporation.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **NOV 01 2016**

ALBION COMMUNITY GARDENS INC.
202 S MONROE STREET
ALBION, MI 49224-0000

Employer Identification Number:
81-3958439
DLN:
26053701001796
Contact Person:
CUSTOMER SERVICE ID# 31954
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Form 990-PF Required:
Yes
Effective Date of Exemption:
August 12, 2016
Addendum Applies:
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a private foundation within the meaning of Section 509(a).

You're required to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation, annually, whether or not you have income or activity during the year. If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

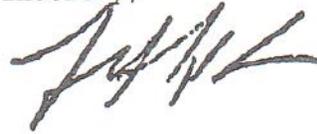
For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PF" in the search bar to view Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations, which describes your recordkeeping, reporting, and disclosure requirements.

RECEIVED NOV 04 2016

Letter 5437

ALBION COMMUNITY GARDENS INC

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cooper", written in a cursive style.

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements

LAND LEASE AGREEMENT

THIS AGREEMENT made, entered into and executed this 17th day of January, 2017, and to become effective on March 1, 2017, by and between **Calhoun County Land Bank Authority**, 315 West Green Street, Marshall, MI 49068 (hereinafter called "Lessor"), **Albion Community Gardens, Inc.**, a Michigan Not For Profit Corporation, 202 South Monroe Street, Albion, MI 49224 (hereinafter called "Lessee").

Whereas, Albion Community Gardens, Inc., as Lessee, desires to lease the property described herein for the creation of an urban garden;

Whereas, Lessee's lease of the project will support neighborhood stabilization and community outreach, and urban gardening is a means to achieve these objectives;

Whereas, Lessee's project is anticipated to reutilize vacant residential parcels and enhance neighborhood relations as well as access to affordable produce within City of Albion;

Whereas, Lessee is a not for profit organization that intends to operate and maintain the property for the benefit of City of Albion and Calhoun County residents

NOW THEREFORE, Lessor and Lessee contract and agree as follows:

1. Lessor hereby leases to Lessee the following land located in the City of Albion, County of Calhoun (collectively "the Property"):

Parcel #1: Identified as: **#51-015-104-00** and commonly known as **213 South Albion Street**
Described as: ALBION CITY, WRIGHTS ADDITION N 6 RDS OF S 12 RDS OF W 8 RDS OF BLK 5.

Parcel #2: Identified as: **#51-015-105-00** and commonly known as **618 West Erie Street**
Described as: ALBION CITY, WRIGHTS ADDITION S 6 RDS OF W 6 RDS OF BLK 5. (618 W ERIE)

Parcel #3: Identified as: **#51-013-040-00** and commonly known as **401 West Center Street**
Described as: ALBION CITY, WARNER & CHURCH ADDITION BLK 99 E 57.75' OF LOT 1 L944 P5
(401 W CENTER ST.)

Parcel #4: Identified as: **#51-013-041-00** and commonly known as **403 West Center Street**
Described as: ALBION CITY, WARNER & CHURCH ADDITION LOT 1. BLK 99. EXC E 3 1/2 RDS & W 2 RDS. (403 W CENTER ST.)

2. The term of this lease shall be for a term of three years, commencing on March 1, 2017, and expiring at midnight on March 1, 2020, unless extended as provided for herein.

3. During the term, Lessee shall pay to Lessor, as rental, the sum of One Dollar (\$1.00) per parcel, per year, in advance, on or before March 1st of each year. Payments will be due on or before the following dates March 1, 2017 (initial payment), March 1, 2018, and March 1, 2019 respectively.

4. The Property may be used for community urban garden purposes only subject to the regulations of the City of Albion and the usage rules established by Lessee. Lessee shall provide documentation of the City of Albion's approval of the *Community Garden Application* submitted by Lessee. If not already submitted, Lessee also shall provide evidence of its not-for-profit status with the Internal Revenue Service. From time to time, Lessee shall, upon request of Lessor, provide Lessor with examples of its outreach

materials, plans, and related materials evidencing the public and beneficial purpose for which it is using the Property.

5. The Lessor shall pay all real estate taxes, if any, assessed against the Property. Lessee shall pay all taxes assessed against all personal property located on the Property and shall also pay all privilege, excise and other taxes duly assessed. Lessee shall pay said taxes when due as to prevent the assessment of any late fees or penalties.

6. Lessee shall pay for all water, electricity, and other utilities used on the Property. Lessee shall pay any costs associated with connecting any such utilities that may be used by Lessee.

7. Lessee shall be responsible for all maintenance of any improvements on the Property. With the prior written consent of Lessor, Lessee shall have the right to construct improvements on the Property, subject to applicable regulations of the City of Albion. At the end of the lease, any such improvements shall become the property of the Lessor.

8. Lessee will keep the Property in a clean and wholesome condition and will comply at all times with all lawful City of Albion municipal health, zoning, and police regulations.

9. Lessee shall maintain a general liability policy covering the Property in effect during the term of the lease and list Lessor as a named insured. Lessee shall provide a copy of the policy to Lessor at the beginning of each lease term. Lessee shall maintain any insurance necessary to cover any loss in regard to any personal property that is or may be located on the Property. Lessor shall have no responsibility during the term of the lease for any damage or loss to the Property or any improvements on the Property, all of which shall be the sole responsibility of the Lessee.

10. Lessor and Lessee acknowledge that one or more residential structures were previously located on the Property and that it/they were demolished. Lessor and Lessee acknowledge that Lessee has had the opportunity to inspect the Property and that the Property is being leased to Lessee in its "as is" condition. Lessor and Lessee agree and understand that Property shall be used only for the purposes set forth herein. Lessor shall have no liability for any environmental condition of any type that may exist relative to the Property on the commencement date of this Lease and, if Lessee shall discover any such environmental condition, its sole remedy shall be to terminate this lease. Lessee hereby agrees that it will not allow, and will not allow any sub-lessee, to use, store, or dispose of any hazardous substances, as defined by local state, or federal law, on the Property during the term of the lease. Lessee further agrees to hold Lessor harmless for any cost or expense incurred by Lessor, including reasonable attorney fees, in regard to any environmental condition that may be created on Property during the term of the lease as a result of a breach by Lessee of this provision. Lessee shall not be responsible for any environmental conditions caused at any time during the term of the lease by any third party.

11. Lessee may, at Lessee's sole cost, install any fences, utilities, non-permanent structures or landscaping, gardening materials, walkways or hardscapes on Property that comply with City of Albion ordinances for such improvements. Lessee acknowledges and agrees that any such improvements shall become part of the real estate upon expiration of this agreement and shall remain with the Property at the termination of the lease. Lessee may also, at its own expense, remove trees approved in writing by the CCLBA, as well as brush and other debris as needed to prepare the parcels for planting and to maintain the sites.

12. If the Lessee shall default in the payment of the rent, or any part thereof or any other sums due under the terms hereof, when due as herein provided, or in any of the other covenants, agreements, conditions, or undertakings herein contained, and such default shall continue for thirty days after notice

thereof in writing to Lessee, or if (a) any proceeding under the bankruptcy act of the United States is begun by or against the Lessee, an order of adjunction, or approving the petition, be entered in such proceedings, or (b) a receiver or trustee is appointed for substantially all of the Lessee's business or assets, or (c) if Lessee shall make an assignment for the benefit of creditors, or (d) if Lessee shall vacate or abandon the Property, then, and in any such event, it shall be lawful for the Lessor, at its election, to declare the term hereof ended and to re-enter the Property, and to repossess and enjoy the said premises and any buildings and improvements situated thereon without such a re-entry and repossession working a forfeiture of the rents to be paid and the covenants to be performed by the Lessee during the full term of this agreement. If any default shall be made in any covenant, agreement, condition, or undertaking, which cannot with due diligence be cured within a period of 30 days, and if notice thereof, in writing shall have been given to the Lessee, and if the Lessee, prior to the expiration of 30 days from and after the giving of such notice, shall commence to satisfy the cause of such default and shall proceed diligently and with reasonable dispatch to take all steps and do all work required to cure such default, then the Lessor shall not have the right to declare said term ended by reason such default; provided, however, that the curing of any default in such manner shall not be constructed to limit or restrict the right of Lessor to declare the said term ended and enforce all of its rights and remedies hereunder for any other default not so cured.

The foregoing provision for the termination of this lease for any default in any of its covenants shall not operate to exclude or suspend any other remedy of the Lessor for breach of any of said covenants, or for the recovery of said rent for the full term, and in the event of the termination or default in any of the terms of this lease as foresaid.

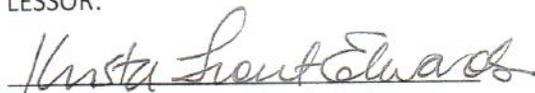
13. During the term of this lease or any extension thereof, Lessee may, with the written approval of Lessor which shall not be unreasonably withheld, assign this lease to a duly formed non-profit corporation which shall thereupon be responsible for the terms and conditions contained herein.

14. Any modifications to this agreement must be made in writing and agreed to by all parties.

15. Lessor grants Lessee an exclusive option to purchase the Property on the terms and conditions described at Exhibit A attached hereto.

WITNESS the signatures of the parties, this the 17th day of January, 2017.

LESSOR:



Calhoun County Land Bank Authority

By: Krista Trout-Edwards

Its: Executive Director

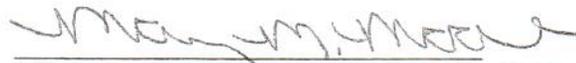
LESSEE:



Albion Community Gardens, Inc.

By: ~~NAME~~ Dorothy Feltner

Its: ~~POSITION~~ Secretary



Albion Community Gardens, Inc.

By: Mary M. Moore

Its: Treasurer

Exhibit A

OPTION TO PURCHASE

For purposes of this Option to Purchase, Lessor is referred to herein as "Owner" and Lessee is referred to herein as "Buyer".

1. **Term of Option.** Buyer shall have the option to purchase the Property, which may be exercisable from the commencement date of the Lease and until Lease termination, subject only to limitations on its exercise as specified in this Agreement. So long as Buyer shall not have been at any time in substantial breach of the Lease between the Parties, Buyer may exercise the option by giving Owner written notice of its election to exercise it.

2. **Complete Exercise.** Buyer may not purchase less than all of the Property pursuant to this Agreement.

3. **Purchase Price.** If the option is exercised, the purchase price for the Property will be **One Hundred dollars and 00/100 (\$100.00) per parcel plus recording fees. Should the Buyer elect to get title insurance, the purchase price will also include title insurance and closing costs, in addition to the purchase price and the recording fees previously mentioned. Closing costs shall include title insurance and any required fees from the title agency.** The purchase price for the Property will be paid in full at closing in immediately available funds. The purchase price for the option (distinct from the purchase price for the Property) is \$1.00. The purchase price for the option shall be paid in full at the time this Agreement is fully executed. The purchase price for the option is nonrefundable if the option is not exercised. If the option is exercised, the purchase price for the option will be credited toward the purchase price of the Property.

4. **Title.** Any conveyance given pursuant to this Agreement shall be by quit claim deed unless a warranty deed and title insurance is requested in writing. However, if requested in writing by Buyer, Owner will furnish Buyer with good and marketable title to the Property, at Buyer's expense, when the option is exercised by the Buyer. Any deed shall be subject to easements and building and use restrictions of record; and further subject to liens or encumbrances arising after March 1, 2017, that being the date Buyer took possession of the Property pursuant to the Lease, unless such lien or encumbrance shall have arisen through an act or omission of Owner ("Permitted Exceptions").

If title is requested then Owner shall provide Buyer, at Buyer's expense, with a title commitment for an owner's policy of title insurance within twenty (20) days after Buyer exercises the option. The title commitment shall show good and marketable title to be in Owner's name and shall be in the amount of the purchase price for the Property and subject to the Permitted Exceptions. Buyer shall have ten (10) days after receipt of the title commitment to notify Owner in writing of Buyer's disapproval of any exceptions shown on the title commitment not including the Permitted Exceptions ("Disapproved Exceptions"). Owner will have thirty (30) days from the date of receipt of any notice of disapproval to cause the Disapproved Exceptions to be removed from the title commitment or cause the title insurer to commit to insure against loss or damage that may be occasioned by the Disapproved Exceptions, during which time the closing will be delayed as necessary. If Owner is unwilling or unable to modify, remove or obtain a commitment for title insurance over the Disapproved Exceptions within such period, Buyer will notify Owner within five (5) days from the expiration of such thirty (30) day period whether Buyer will either: (i) proceed to closing and take title to the Property subject to the Disapproved Exceptions, in which case the Disapproved Exceptions will be deemed to have been waived by Buyer, or (ii) terminate its exercise of its option to purchase the Property. The closing will be delayed as necessary to permit the completion of all time periods provided for under this paragraph. Upon conveyance of title to Buyer on the closing, Owner shall purchase a policy of title insurance to be issued pursuant to the title commitment, insuring Buyer's fee simple absolute title in the Property in the amount of the Purchase Price, which policy of title insurance shall not contain any exceptions other than those shown on the title commitment and not objected to by Buyer as Disapproved Exceptions.

If a title commitment is not obtainable through a traditional title agency, Buyer may also request, in writing, that Seller commences a quiet title action with regard to the Property and obtain an order confirming title with Seller. Buyer will bear all fees and costs associated with such a proceeding; costs shall include court filing fees, Lessor's attorney fees for processing the quiet title action, and any other miscellaneous fees and expenses related to completing the quiet title action.

5. **Due Diligence.** After exercising the option, Buyer shall have thirty (30) days to conduct due diligence at its sole cost and expense. This includes, but is not limited to, surveys, building inspections and a phase I environmental site assessment. Because Buyer shall have been in possession of the Property prior to the closing, Buyer shall not perform any additional environmental testing on the Property prior to closing without Owner's prior written consent. If Buyer finds anything unacceptable during the thirty (30) day due diligence period, Buyer will either: (i) elect to proceed to closing and take the Property "AS IS" or (ii) terminate its exercise of its option to purchase the Property.

6. **Real estate taxes.** There shall be no proration of real estate taxes at closing as the Property is currently tax exempt. Buyer shall be responsible for all real estate taxes and special assessments after closing.

7. **Closing.** The sale shall be closed within ten (10) business days after all the documents are prepared, but in no event later than forty five (45) days after the notice exercising the Option. Owner shall prepare the warranty deed to be given at the closing to complete the sale. Buyer shall be responsible for paying any fee charged by the title company to conduct the closing as well as the fee to record the warranty deed and to obtain tax clearance for the warranty deed. Buyer shall also be responsible for any fees for conducting its due diligence. The closing shall take place at the offices of the title company providing the title commitment or at the Owner's office. At closing, Owner and Buyer shall deliver to each other such documents or instruments reasonably required to consummate the transaction contemplated herein. Any rent being paid by Buyer pursuant to the Lease shall be prorated to the closing date.

8. **Default.** If Buyer defaults, Owner may pursue any and all legal remedies available at law or in equity, or may cancel the Agreement and keep the Buyer's option payment as liquidated damages. If Owner defaults, Buyer may specifically enforce this Agreement or may pursue any and all legal remedies available at law or in equity.

9. **Termination of Option Period.** If Buyer does not exercise the option before the expiration date of the option period, the option shall expire of its own accord. If Buyer's tenancy is terminated prior to the expiration of the option period, the option will be deemed canceled, as of the date of termination.

10. **Exercise of Option.** Prior to expiration or cancellation of the option, Buyer may exercise this option by giving Owner written notice, signed by Buyer and delivered personally or by certified mail. Notice shall be given at Owner's address set forth above or at any subsequent address that Owner may provide to Buyer in writing. Notices sent by certified mail are deemed received when signed for by the receiving party. Notices personally delivered are deemed received upon personal delivery. Upon exercising the option, Buyer agrees to accept the Property in "as is/where is" condition.

11. **Assignment and Binding Effect.** This Agreement is not assignable without written consent of the Owner. This Agreement shall inure to the benefit of and be binding on the Parties to this Agreement and their heirs, legal representatives, successors, and permitted assigns.

12. **Effective Date.** This Agreement shall be effective on the last date a party to this Agreement signs it.

13. **Right of First Refusal.** The conveyance of the Property by Owner to Buyer will be subject to a right of refusal to Owner, allowing Owner to re-purchase the Property. The term of this right will not exceed 15 years. If during the term of the right of first refusal Buyer receives a bona fide offer from any party to purchase all or any part of the Property, Buyer will send Owner a copy of the offer and notify Owner of its intent to accept it. Owner will then have 30 days from receipt of the offer to notify the Buyer, in writing, that it will exercise its right of first refusal and obtain the Property for One Hundred Dollars (\$100.00) per parcel. If Owner does not

elect to exercise its right of first refusal, Buyer may then sell the Property to a third party, provided that the sale is on the same terms and conditions specified in the offer sent to the Owner. If the transaction with the third party does not close, Owner's right of first refusal will continue. The Owner's purchase of the Property from Buyer will be on the same terms and conditions as between Buyer and Owner pursuant to this Option to Purchase.