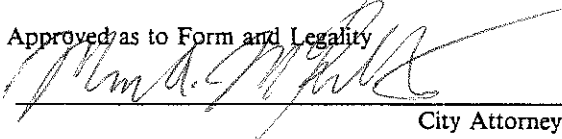


ORDINANCE

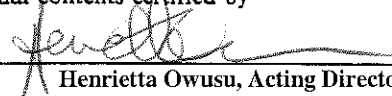
No. 11-10

1st Reading _____
Public Hearing _____
2nd Rdg. and Final Passage _____
Withdrawn _____ Lost _____

Date to Mayor _____
Date Returned _____
Date Resubmitted to Council _____

Approved as to Form and Legality


City Attorney

Factual contents certified by


Title Henrietta Owusu, Acting Director
Dept. of Housing and Economic Dev.

Councilman _____ presents the following Ordinance:

ORDINANCE AUTHORIZING A LEASE BETWEEN THE CITY OF TRENTON AND JAMES DAVIS FOR THE USE OF VACANT CITY-OWNED PROPERTY FOR GARDENING

WHEREAS, the City of Trenton desires to enter into a lease agreement with James Davis, 149 Walnut Avenue, Trenton, New Jersey for the use of City owned vacant land known as 151-153 Walnut Avenue, Block 12903, Lots 4.01 and 4 and not needed for a public purpose; and

WHEREAS, James Davis, desires to commence said Lease Agreement for a period of one (1) year, for no monetary consideration, for the purpose of cultivating the land for gardening as provided in N.J.S.A. 40A:12-15(j); and

WHEREAS, said Lease Agreement is made without public bid pursuant to the authority set forth in the Local Lands and Building Law at N.J.S.A. 40A:12-14(a); and

WHEREAS, the Department of Housing and Economic Development, Division of Real Estate, shall be responsible for enforcing the terms and conditions of this lease.

GARDEN LEASE AGREEMENT

THIS GARDEN LEASE AGREEMENT (this "Lease") is dated as of this _____ day of _____, 2011, by and between THE CITY OF TRENTON ("Landlord") and JAMES DAVIS ("Tenant").

1. **GRANT OF LEASE:** Landlord does hereby lease unto Tenant and Tenant does hereby rent from Landlord that certain real property located at **151-153 Walnut Avenue** in the City of Trenton, County of Mercer, State of New Jersey, and known on the Tax Maps of the City of Trenton as Block **12903**, Lots **4.01 and 4** (the "Premises").

2. **TERM:** The term of this Lease shall be for a period of one (1) year commencing on **March 1, 2011** and ending on **February 29, 2011**.

3. **RENT:** The parties acknowledge and agree that no rent shall be payable by Tenant hereunder.

4. **QUIET ENJOYMENT:** Landlord hereby covenants that upon the timely payment of rent and the proper performance of all other covenants and conditions contained herein, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the term of the Lease.

5. **USE:** The Premises shall be used solely for the cultivation of a garden pursuant to the authority granted to the Landlord in accordance with N.J.S.A. 40A:12-14(a) and N.J.S.A. 40A:12-15(j). Tenant agrees that the Premises, or any portion thereof, shall not be used for any other purpose whatsoever.

6. **UTILITIES:** Tenant shall be solely responsible for the payment of all charges for any utility services used at the Premises, including, but not limited to, electricity, gas, water and sewer charges.

7. **MAINTENANCE AND REPAIRS:** Tenant shall keep the Premises in good order and condition and shall be responsible for its maintenance and repair. Tenant shall keep the Premises free and clear of weeds, garbage, litter and any condition which may be deemed a nuisance as defined in Section 171-2 of the Revised General Ordinances of the City of Trenton. Tenant agrees to remove its personal property from the Premises and deliver the Premises to Landlord in good condition, reasonable wear and tear excepted, upon the expiration or termination of the Lease. Any personal property left at the Premises shall become the property of the Landlord and may be disposed of at Tenant's expense.

8. **IMPROVEMENTS AND ALTERATIONS:** Tenant shall not make any alterations, improvements or additions to the Premises other than the cultivation of a garden, including, but not limited to, the removal or cutting of any trees on the Premises, without Landlord's prior written consent. All alterations, improvements and additions to the Premises shall become the property of Landlord upon the expiration or earlier termination of the Lease.

9. SIGNS: Tenant may place signage upon, in and about the Premises provided Tenant obtains Landlord's prior written consent and such signage is in compliance with all applicable government regulations.

10. ENTRY BY LANDLORD: Landlord shall have the right to enter the Premises at any time for the purpose of conducting an inspection, servicing the Premises, showing the Premises to potential purchasers or conducting testing in connection with the development of the Premises. In the event that the Premises is found to be in violation of this Lease, Tenant shall be given a period of fifteen (15) days within which to cure the violation. In the event that Landlord's re-inspection of the Premises at the expiration of said fifteen (15) day period reveals that Tenant has failed to cure the violation or make substantial progress toward curing the violation, Tenant shall be deemed to be in default of this Lease and the provisions of Paragraph 11.b. below shall apply.

11. DEFAULT AND REMEDIES:

- a. The following shall constitute an "Event of Default" under this Lease:
 - i. The failure by Tenant to pay rent or any other amounts due to Landlord under this Lease within five (5) days following receipt of notice from Landlord that the same is past due.
 - ii. The failure by Tenant to perform any non-monetary obligation under this Lease, which is not cured within thirty (30) days following receipt of notice from Landlord of the nature of the default.
- b. Upon the occurrence of an Event of Default, Landlord shall have the option to pursue any of the following remedies:
 - i. Terminate this Lease without further notice or demand; provided, however, that Tenant shall not be relieved of liability to Landlord for any outstanding rent or any damage to the Premises resulting from Tenant's breach of this Lease.
 - ii. Perform on behalf of Tenant any obligation of Tenant which Tenant has failed to perform, the cost of which shall be payable by Tenant to Landlord.
 - iii. Pursue any additional rights and remedies that Landlord may have under the laws of the State of New Jersey.

12. NOTICES: Notices required to be delivered to Landlord or Tenant pursuant to this Agreement shall be sent in writing to the address below and deemed received: (i) upon delivery, if personally delivered with signed receipt or (ii) the next business day after being sent, if sent by certified overnight mail, return receipt requested. The parties shall be responsible for notifying each other of any change of address.

Landlord: Director of Housing and Economic Development
City of Trenton
319 East State Street
Trenton, New Jersey 08608
Tel: (609) 989-3512
Fax: (609) 989-4243

Tenant: **James Davis**
149 Walnut Avenue
Trenton, New Jersey 08609
Home: (609)393-1256

13. INDEMNIFICATION AND INSURANCE: Tenant shall be responsible for any injury or damage caused by the act or neglect of Tenant or Tenant's invitees, licensees or guests, and for any injury or damage caused by any dangerous condition upon the Premises and is strongly encouraged to obtain insurance covering Tenant and all personal property at the Premises. Landlord shall not be liable to Tenant, Tenant's invitees, licensees or guests, or any other occupants of the Premises for any damage occurring to such parties or their personal property at the Premises, except damage caused directly by Landlord. Tenant shall indemnify and hold harmless Landlord, its agents and employees from all claims of any type, arising out of or resulting from the acts, negligence or willful misconduct of Tenant or its invitees, licensees or guests, including, but not limited to, all claims of liability for losses of or damage to property or injuries to persons occurring at the Premises.

14. CASUALTY: In the event the Premises are destroyed or rendered wholly uninhabitable by fire, storm, earthquake, or other casualty, this Lease shall terminate as of the date of destruction of the Premises and any rent owing or paid in advance shall be distributed to Landlord and Tenant accordingly. Should a portion of the Premises be rendered uninhabitable by casualty, Landlord shall have the option of either repairing such damaged portion or terminating this Lease. In the event that Landlord exercises its right to repair such uninhabitable portion, rent shall abate in the proportion that the damaged portions of the Premises bears to the whole Premises and such damaged portions shall be restored by Landlord as soon as practicable. Once the Premises are repaired, Tenant shall recommence paying full rent.

15. HAZARDOUS MATERIALS: Tenant shall not keep in the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion or any other hazardous material.

16. ASSIGNMENT AND SUBLETTING: Tenant may not assign this Lease or sublet any portion of the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion.

17. TERMINATION: This Lease may be terminated by either party upon thirty (30) days prior written notice.

18. HOLD OVER: In the event that Tenant remains in possession of the Premises after the expiration or termination of this Lease, without the consent of Landlord, a tenancy from month-to-month shall be created between Landlord and Tenant which shall be subject to all of the terms and conditions hereof.

19. AMENDMENTS: This Lease may not be amended or modified by either party, except by written agreement signed by both parties.

20. COMPLIANCE WITH LAWS: Tenant agrees to comply with all laws, orders, rules and regulations of governmental authorities relating to the use of Premises.

21. ENFORCEABILITY: If any term or condition of this Lease or its application to any party or circumstance shall be deemed invalid or unenforceable, the remainder of the Lease and its application to other parties and circumstances shall not be affected.

22. BINDING NATURE: The covenants, conditions and obligations contained herein shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, successors and assigns.

23. NO BROKER: Landlord represents and warrants to Tenant and Tenant represents and warrants to Landlord that it has not dealt with any real estate broker in connection with this transaction. Landlord and Tenant agree to indemnify and hold each other harmless from any and all liability, loss or damage resulting from any claims for brokerage fees relating to this Lease.

24. COUNTERPARTS: This Lease may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

25. GOVERNING LAW: This Lease shall be governed by the laws of the State of New Jersey.

[Signature Page Follows]

IN WITNESS WHEREOF, the said parties have herewith set their hands and seals on the day, month and year first written above.

ATTEST:

LANDLORD:

CITY OF TRENTON

Leona Baylor, City Clerk

Tony F. Mack, Mayor

WITNESS:

TENANT:


James Davis


CITY OF TRENTON
DEPARTMENT OF HOUSING AND ECONOMIC DEVELOPMENT

Memorandum

DATE: March 2, 2011

TO: Elaine Adams
Acting Business Administrator

FROM:  Henrietta Owusu, Acting Director
Department of Housing and Economic Development

VIA: Staci Brown-Allen
Principal Clerk Typist

The attached Ordinance authorizes a lease between the City of Trenton and James Davis, 149 Walnut Avenue, Trenton, New Jersey 08609, for the property known as 151-153 Walnut, Block 12903 Lots 4.01 and 4. The property consists of vacant land. James Davis requested to lease the vacant land to be used for community garden during the season months. Through the years we have allowed the use of vacant land throughout the City to be utilized for gardening purposes by the neighborhood residents. This is a one (1) year lease for no monetary consideration.