

ORDINANCE NO. 1168-2022

**AN ORDINANCE AUTHORIZING A LEASE WITH THE
CLINTON TOWNSHIP ORGANIC COMMUNITY
GARDEN, INC. PERTAINING TO A PORTION OF BLOCK
88, LOT 3.02, ALSO KNOWN AS THE “WHITE CLOUD
ORCHIDS” PROPERTY IN THE TOWNSHIP OF CLINTON**

WHEREAS, the Township of Clinton is the owner of a 2.5± acre parcel in the Township designated as a portion of Block 88, Lot 3.02 on the Township tax maps, and located off of Red School House Road, commonly referred to as the “White Cloud Orchids” property (the “**Property**”), which has been used for the Clinton Township Organic Community Garden (“**Community Garden**”); and

WHEREAS, the Community Garden has thrived and expanded to benefit the Clinton Township community over the past several years; and

WHEREAS, a group of Township residents filed with the State of New Jersey, Division of Taxation, to form the Clinton Organic Community Garden Inc., a New Jersey tax exempt nonprofit corporation (“**CTOCG Nonprofit**”), whose purpose is to beautify, conserve and provide public access to open space by creating opportunities for residents of Clinton Township and its surrounding areas to engage in organic gardening, in a friendly, welcoming setting that respects the environment; and

WHEREAS, the CTOCG Nonprofit desires to assume responsibility for and continue operation of the Community Garden on behalf of the residents of Clinton Township and its surrounding areas in substantially the same manner as it has been operated in the past; and

WHEREAS, *N.J.S.A.* 40A:12-14(c) of the Local Lands and Buildings Law authorizes a municipality to lease property to a nonprofit for public purposes and *N.J.S.A.* 40A:12-15(j) specifically authorizes a municipality to enter into a lease with a nonprofit corporation for the purpose of gardening; and

WHEREAS, the Property is unfunded, restricted parkland and is subject to the General Provisions of the Green Acres Program regulations (*N.J.A.C.* 7:36 et seq.) under the auspices of the New Jersey Department of Environmental Protection (“**NJDEP**”); and

WHEREAS, the CTOCG Nonprofit has agreed to comply with said regulations throughout the term of the lease; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of Clinton Township to enter into a five-year lease with the CTOCG Nonprofit to operate the Township’s Community Garden; and

WHEREAS, the NJDEP has reviewed and approved the lease agreement for its initial term;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Clinton, in Hunterdon County, New Jersey as follows:

Section 1. Preamble Incorporated. The statements and findings set forth in the preamble above are hereby incorporated as if fully restated herein.

Section 2. Lease of a Portion of Block 88, Lot 3.02. Pursuant to *N.J.S.A.* 40A:12-14(c) and 40A:12-15(j), the Municipal Council hereby authorizes the lease of the Property to the CTOCG Nonprofit for the purpose of operating the Community Garden for the benefit of the citizens of Clinton Township and surrounding areas, as described in Section 1 above, subject to the following conditions:

- A. Term of Lease: Initial period of five (5) years with three optional 5-year renewals, subject to approval of the NJDEP.
- B. Consideration: One (\$1.00) Dollar.
- C. Compliance with Green Acres Regulations: The CTOCG Nonprofit shall conduct all activities on the Property in accordance with Green Acres regulations, as more particularly described in *N.J.A.C.* 7:36 et seq., and more particularly subchapter 25, *N.J.A.C.* 7:36-15.13 (b) 7 & 8.
- D. Insurance: The CTOCG Nonprofit shall provide the Municipal Clerk with a certificate of insurance for general liability each year the lease is in effect, naming the Township and NJDEP as additional insureds. The CTOCG Nonprofit insurance shall be primary as to any other insurance.
- E. Amendments or Modifications to Lease: The initial lease shall be in the form approved by the NJDEP. Any amendment to the lease or change in use shall require the prior review and written approval of the Township and the NJDEP.
- F. Annual Report: As required by Green Acres regulations, the CTOCG Nonprofit shall provide an annual written report to the Township Administrator by December 31st of each calendar year that includes an operations and fiscal summary and confirmation of the CTOCG Nonprofit's continued status as a tax exempt nonprofit under New Jersey state law.
- G. Public Access: As required by Green Acres regulations, the public shall have reasonable public access to the leased premises pursuant to *N.J.A.C.* 7:36-25.13(b)3 and 7:36-15.13(d)3.

Section 3. Municipal Council Responsible for Enforcement of Lease and Renewal.
The Municipal Council is hereby designated as the entity responsible for enforcement of the lease and renewal thereof, with renewal subject to the approval of NJDEP.

Section 4. Authority to Implement Terms of Conveyance. The Mayor, Administrator, Clerk, Township Attorney, and other appropriate staff and officials are hereby authorized and directed to prepare and execute any and all such documents and undertake any and all such acts as may be needed to implement the terms hereof.

Section 5. Repealer. All ordinances and resolutions or parts thereof inconsistent with this ordinance are repealed.

Section 6. Severability. If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding and shall not affect the validity of the remaining paragraphs or sections hereof.

Section 7. Effective Date. This ordinance shall take effect upon its passage and publication and in accordance with all applicable statutory requirements.

Carla Conner, Township Clerk

Brian Mullay, Mayor

Introduced: April 13, 2022

Adopted: