

# CITY OF HIGH POINT

## AGENDA ITEM



**Title: Resolution - Community Garden Lease with Hayden-Harman Community Projects, LLC**

**From:** Michael E. McNair, Director

**Meeting Date:** January 17, 2017

**Public Hearing:** N/A

**Advertising Date /**

**Advertised By:**

**Attachments:** Resolution  
Lease Agreement

---

### PURPOSE:

The Hayden-Harman Community Projects, LLC has requested to renew their lease agreement with the City of High Point for lease of certain parcels of vacant land located within the city to continue be used as garden spaces.

### BACKGROUND:

To meet the public purpose of improving the health and quality of life of its citizens, the City would like to renew the lease with Hayden-Harman Community Projects, LLC to utilize certain parcels of vacant land (which are attached hereto as Exhibit A) for garden spaces. The City has determined that the vacant properties may be conducive to growing plants and produce and it would be in the best interest of the City to offer the referenced vacant properties to Hayden-Harman Community Projects, LLC, in exchange for services which benefit the local community.

### BUDGET IMPACT:

N/A

### RECOMMENDATION / ACTION REQUESTED:

The Community Development and Housing Department recommends that City Council adopt a Resolution authorizing the lease of certain parcels of vacant land with Hayden-Harman Community Projects, LLC for a period of not more than three years to be used as Community Gardens and that the appropriate City official and/or employee be authorized to execute all necessary documents.

**RESOLUTION OF HIGH POINT CITY COUNCIL  
AUTHORIZING THE LEASE OF CERTAIN PARCELS OF VACANT LAND  
TO BE USED AS COMMUNITY GARDEN SPACE**

**WHEREAS**, the City of High Point (“City”) owns certain parcels of vacant land located within the High Point city limits that the Council finds to be currently surplus to the City’s needs; and

**WHEREAS**, the City finds that those vacant properties may be conducive to growing plants and produce; and

**WHEREAS**, the City and Hayden-Harman Community Projects, LLC (“Hayden-Harman”) have agreed upon a lease of the parcels listed below, under which Hayden-Harman will lease the parcels for a term of three years, beginning January 18, 2017:

- 313 Cedar Street, High Point, NC, Guilford County;
- 1208 R. C. Baldwin Avenue, High Point, NC, Guilford County;
- 516 White Oak Street, High Point, NC, Guilford County;
- 512 White Oak Street, High Point, NC, Guilford County;
- 508 White Oak Street, High Point, NC Guilford County;
- 506 White Oak Street, High Point, NC, Guilford County;
- 504 White Oak Street, High Point, NC, Guilford County;
- 502 White Oak Street, High Point, NC, Guilford County;
- 503 Cliffside Ave., High Point, NC, Guilford County
- 501 Cliffside Ave., High Point, NC Guilford County
- 908-A Cassell Street, High Point, NC, Guilford County
- 908 Cassell Street, High Point, NC, Guilford County
- 904 Cassell Street, High Point, NC, Guilford County
- 902 Cassell Street, High Point, NC, Guilford County
- 900 Cassell Street, High Point, NC, Guilford County
- 1001 Martin Street, High Point, NC, Guilford County
- 1003 Martin Street, High Point, NC, Guilford County
- 1005 Martin Street, High Point, NC, Guilford County
- 900 Howard Place, High Point, NC, Guilford County
- 902 Howard Place, High Point, NC, Guilford County
- 904 Howard Place, High Point, NC, Guilford County

**WHEREAS**, in consideration of leasing the City’s lot, Hayden-Harman has agreed to use parcels of vacant land to be used for garden space and pay an annual rent of one dollar; and

**WHEREAS**, the required notice has been published and the City Council is convened in a regular meeting;

**NOW THEREFORE BE IT RESOLVED** by the City Council that:

1. The City Council hereby approves the lease of the properties described above to Hayden-Harman for three years, and directs the appropriate city employees to execute any instruments necessary to the lease.

Adopted, this the 17<sup>th</sup> day of January, 2017.

---

William S. Bencini, Jr., Mayor

ATTEST:

---

Lisa B. Vierling  
High Point City Clerk

[SEAL]

**NORTH CAROLINA**

**GUILFORD COUNTY**

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT (“Lease”)**, made this the \_\_\_\_\_ day of \_\_\_\_\_, 2017 between the **City of High Point**, a North Carolina municipal corporation, located at 211 South Hamilton Street, High Point, NC, hereinafter called “Lessor”, and **Hayden-Harman Community Projects, LLC**, a North Carolina limited liability company located 215 West Kime Street, Burlington, NC, hereinafter called “Lessee”. Lessor and Lessee individually referred to as “Party” or collectively as “Parties.”

**WITNESSETH**

**WHEREAS**, the Lessor is the owner of certain parcels of vacant land within the High Point city limits, which may be conducive to growing plants and produce, and further identified in **Exhibit A** (“Property”).

**WHEREAS**, the Lessee has indicated a desire to lease said Property in accordance with the terms and conditions as set forth herein; and

**WHEREAS**, the Lessor has agreed to lease said Property to Lessee; and

**WHEREAS**, it is a public purpose to improve the health and quality of life of the citizens of High Point by offering this Property to be used as community garden space and Lessee’s care and maintenance of the Property assists the City in the costs and burdens of such.

**NOW, THEREFORE**, for and in consideration of the rent, covenants, and agreement set forth herein, Lessor does hereby lease above-described Property to Lessee, subject to the following terms and conditions:

1. **TERM**. This Lease shall be for a period of not more than three (3) years beginning on January 18, 2017 and terminating January 17, 2020. The terms of this Lease may be renewed for additional periods upon mutual written agreement, signed by both Lessor and Lessee. Lessee shall notify Lessor within thirty (30) days of the end of the Lease term of its intention to renew the Lease for an additional year or years.

2. **RENT**. Lessee shall pay the sum of one dollar upon execution of this Lease. Any costs associated with any structures allowed under this Lease, including but not limited to erecting, removing, maintaining or acquiring the necessary permitting for structures, fencing or the like for the Property as well as any required insurance set forth in this Lease are not included in the rent above and such costs shall be the sole responsibility of Lessee.

3. **USE**. Lessee shall use the Property as a community garden. Lessee shall be responsible for providing all necessary items and labor, including without limitation, equipment, plants, seeds, transplants, fertilizers and/or pest management materials, and Lessee shall wear protective clothing and shoes necessary for safety. Lessee agrees to keep the Property neat and well-tended, removing and properly disposing of all dead plants and non-plant materials (string, wire, wood, metal, plastics, etc.). Lessee agrees that no permanent structures may be built on the Property. Trellises or other support structures and fencing may be erected on the Property, but must be removed from the Property on or before the end of this Lease. Lessee’s failure to properly maintain the Property may result in Lessee’s loss of future gardening privileges

on Lessor's property and Lessor may charge the costs associated with the cleanup to the Lessee. Lessor shall be held harmless by Lessee for any claims arising out of the use of the Property and personal injury of individuals using the Property ("Guests").

4. **PROHIBITIONS.** Lessee agrees not to use or permit the Property to be used for any illegal, poisonous, highly aggressive plants, disreputable, hazardous or unlawful use, nor shall Lessee permit any nuisance to be conducted or maintained thereon. Drugs, (including alcohol), radios, speakers, amplified sound, and boom boxes are not allowed at the Property.

5. **MAINTENANCE.** Lessee agrees to maintain said Property, including keeping the grass mowed. If the grass reaches the height of twelve (12) inches in violation of the City ordinances, the Lessee shall be notified consistent with City policy and if not cured within seven (7) days then Lessee shall be deemed in breach of the Lease and the Lessor, at their discretion, may terminate the Lease with no reduction in annual rent. Lessee shall be responsible for any water used on the Property, including establishing an account with the City utility department and paying, in full and on time, the monthly water bill for the Property. Lessee agrees to conserve water and to not leave the water unattended.

6. **SURPLUS PRODUCE.** Lessee is encouraged to contribute surplus produce to the local food bank or soup kitchen.

7. **TREE REMOVAL.** No trees shall be removed from said Property without prior written permission from the City Manager.

8. **COMPLIANCE.** If Lessee is unable to tend the Property, need help maintaining the Property, or discontinues the use of the Property, Lessee must notify the City Manager so that the Property may be reassigned to another gardener. Such notification will be deemed a termination of the Lease at the request of Lessee.

9. **NEIGHBORHOOD CHARACTER:** Lessee agrees to maintain the Property in such a way as to preserve the character of the neighborhood. If the Property is located in a Historic District, Lessee shall maintain the property in such a way as to preserve the character of the Historic District. The Lessor shall have the right to terminate this Lease at any time if it determines that Lessee's use is detrimental to the neighborhood or if complaints are received.

10. **HOLD HARMLESS.** Lessee shall indemnify and save the Lessor harmless from any liability associated with the use of the Property. The Property shall be used only during daylight hours. Lessee agrees to use the Property and community garden tools at its own risk and agrees to hold the Lessor harmless from any injury and damage. Any gardeners and Guests under 16 years of age must be supervised by an adult if using power tools. Proper shoes and safety equipment are required. The Lessor is not responsible for damage of any type to the garden, including without limitation wildlife or vandalism. The Lessor is not responsible for injury associated with gardening activities or for stolen items left on the property. It shall be the Lessee's responsibility to ensure that any and all safety measures and guidelines set forth herein are understood and followed by the Guests utilizing the activities of the Property.

11. **VIOLATION.** If any of the Lessee's responsibilities are violated, Lessee will be contacted by phone or email and have two (2) weeks to address the violation. After two (2) weeks, if the violation has not been remedied, Lessor may terminate this Lease.

12. **TERMINATION.** Lessee shall have the right to terminate this lease by submitting notice in writing to the City Manager. Lessor shall have the right to terminate this Lease at any time for any reason, including but not limited to any breach of the provision of this Lease. Lessor shall give notice of

termination of the Lease in writing sent to the address listed below, by telephone to Lessee, or by posting on the Property.

13. **NOTICE.** All notices and other communications required or permitted by this agreement shall be in writing and shall be given either by personal delivery, email with confirmation receipt, fax, UPS, Federal Express, or certified United States mail, return receipt requested, addressed as follows.

To the LESSOR:

City Manager's Office  
211 S Hamilton St  
High Point, NC 27260

Mailing  
P.O.Box 230  
High Point, NC 27261

To the LESSEE:

Hayden-Harman Community Projects, LLC  
215 West Kime Street  
Burlington, NC 27215

Mailing  
P.O. Box 1762  
Burlington, NC 27216

14. **AMENDMENT AND MODIFICATION.** This Lease represents the full and complete agreement of the Parties. Any amendment or modifications to the terms of this Lease shall be set forth in writing and signed by both Parties.

15. **CHOICE OF LAW AND FORUM.** This Lease shall be deemed made in Guilford County, North Carolina. This Lease shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Lease shall be the North Carolina General Court of Justice, in Guilford County.

16. **WAIVER.** No action or failure to act by either of the Parties shall constitute a waiver of any of their rights or remedies that arise out of this Lease, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

17. **PERFORMANCE OF GOVERNMENT FUNCTIONS.** Nothing contained in this Lease shall be deemed or construed so as to in any way stop, limit, or impair the Lessor from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

18. **SEVERABILITY.** If any provision of this Lease shall be unenforceable, the remainder of this Lease shall be enforceable to the extent permitted by law.

19. **RIGHT OF ACCESS**. Throughout the term of this Lease, Lessor maintains the right of access to the Property in order to inspect, repair, maintain or any other activities deemed necessary by the Lessor. This right of access extends to any appurtenant areas or structures associated with the Property.

20. **INSURANCE**. Lessee must maintain commercial general liability insurance with a combined single limit for personal injury (including bodily injury and death) and property damage (including loss of use) of not less than \$1,000,000.00 per occurrence, \$1,000,000.00 products and completed operations aggregate and \$1,000,000.00 general aggregate. Such coverage shall name Lessor as an additional insured and include the indemnification obligations of the Lessor under this Lease

**IN WITNESS WHEREOF**, the Parties hereto have caused this lease to be duly executed.

ATTEST:

**CITY OF HIGH POINT**

\_\_\_\_\_  
Lisa Vierling, City Clerk

\_\_\_\_\_  
William S. Bencini

\_\_\_\_\_  
Date

**HAYDEN-HARMAN COMMUNITY  
PROJECTS, LLC**

\_\_\_\_\_  
Name / Title

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid,  
certify that \_\_\_\_\_ personally came before me this day and  
acknowledge that he/she is the \_\_\_\_\_ of **Hayden-Harman Community Projects, LLC,**  
a limited liability company organized in the state of North Carolina and that by authority duly given and as  
the act of the company, the foregoing instrument was signed in its name by its \_\_\_\_\_.

Witness my hand and official seal or seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Notary Public)

(SEAL/STAMP)

My Commission Expires: \_\_\_\_\_

## **Exhibit A**

	Street	City	State	Zip Code	Acreage	Notes	Garden Leader	Contact	Owner
313	Cedar	High Point	NC	27260	0.32	Cedar Street Community Garden	Sarah Purnell	(336)-471-9185	City of High Point
1208	R.C. Baldwin	High Point	NC	27260	0.28	Burns Hill Community Garden	Jerry Mingo	(336)-989-0308	City of High Point
516	White Oak	High Point	NC	27260	0.16	Open for urban agriculture			City of High Point
512	White Oak	High Point	NC	27260	0.32	Open for urban agriculture			City of High Point
508	White Oak	High Point	NC	27260	0.18	Using for Urban Agriculture	Victoria Binder	(925)-699-6617	City of High Point
506	White Oak	High Point	NC	27260	0.17	Using for Urban Agriculture	Victoria Binder	(925)-699-6617	City of High Point
504	White Oak	High Point	NC	27260	0.17	Using for Urban Agriculture	Victoria Binder	(925)-699-6617	City of High Point
502	White Oak	High Point	NC	27260	0.17	Using for Urban Agriculture	Victoria Binder	(925)-699-6617	City of High Point
503	Cliffside	High Point	NC	27260	0.07	Open for urban agriculture			City of High Point
501	Cliffside	High Point	NC	27260	0.07	Open for urban agriculture			City of High Point
908A	Cassell	High Point	NC	27260	0.16	Garden underway	Siana Lai	(336)-888-9915	City of High Point
908	Cassell	High Point	NC	27260	0.16	Garden underway	Siana Lai	(336)-888-9915	City of High Point
904	Cassell	High Point	NC	27260	0.15	Garden underway	Siana Lai	(336)-888-9915	City of High Point
902	Cassell	High Point	NC	27260	0.18	Garden underway	Siana Lai	(336)-888-9915	City of High Point
900	Cassell	High Point	NC	27260	0.16	Garden underway	Siana Lai	(336)-888-9915	City of High Point
1001	Martin	High Point	NC	27260	0.19	Open for urban agriculture			City of High Point
1003	Martin	High Point	NC	27260	0.19	Open for urban agriculture			City of High Point
1005	Martin	High Point	NC	27260	0.2	Open for urban agriculture			City of High Point
900	Howard	High Point	NC	27260	0.14	Life Community Garden (Life on Lexington)	Mary Riley	(336)-880-3138	City of High Point
902	Howard	High Point	NC	27260	0.13	Life Community Garden (Life on Lexington)	Mary Riley	(336)-880-3138	City of High Point
904	Howard	High Point	NC	27260	0.12	Life Community Garden (Life on Lexington)	Mary Riley	(336)-880-3138	City of High Point