

A RESOLUTION ON THE COUNCIL OF THE CITY OF  
WHEELING AUTHORIZING THE CITY MANAGER TO  
EXECUTE A LEASE WITH GROW OHIO VALLEY, INC.,  
FOR A PORTION OF VARIOUS PARCELS OWNED BY THE  
CITY AND ITS URBAN RENEWAL AUTHORITY

**WHEREAS** the City of Wheeling and its Urban Renewal Authority owns several parcels of real property located in Vineyard Hills/Grandview Area of the City of Wheeling, WV detailed on the map marked exhibit A of the Lease which is incorporated herein; and

**WHEREAS** Grow Ohio Valley Inc and Edible Mountain have received Grant Funding to further develop the property to encompass a variety of projects including (1) a network of hiking and mountain biking trails, (2) an educational visitors center with a forest observation platform, and (3) a scenic fitness park and apple orchard (aka “the Projects”).

**WHEREAS** notice in the form of a Class 1 legal advertisement having been given and a public hearing having been held on a proposed lease with Grow Ohio Valley Inc., for the purpose of developing the property as noted above and as detailed in the lease; and

**WHEREAS** the terms of the Lease between the City, its Urban Renewal Authority, and Grown Ohio Valley are similar in terms, duration, fees, etc. to the lease executed by Wheeling Housing Authority and Grow Ohio Valley for adjacent parcels in the Project Area.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHEELING:**

That the City Manager is hereby authorized to execute and deliver a Lease Agreement with Grow Ohio Valley Inc., for the purpose of providing property to be used in accord with the terms of the agreement. A copy of the Lease Agreement is on file at the Office of the City Clerk for review and is intended to be a part hereof.

Dated: December 20, 2022

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Glenn F. Elliott Jr., Mayor

## LEASE

This Lease made on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Wheeling, WV a West Virginia Municipal Corporation and the City of Wheeling, WV Urban Renewal Authority a Public Body Corporate and Politic (hereinafter referred to as the Lessor) and Grow Ohio Valley, Inc., a West Virginia non-profit corporation, (hereinafter referred to as the Lessee.)

Lessor hereby leases to Lessee, and Lessee hereby leases for Lessor, the real property hereinafter referred to as the Premises as identified below: Exhibit A,

### PARCELS

**PLEASE SEE ATTACHED MAP DEFINING THE PARCELS TO BE LEASED AS OWNED BY THE LESSOR LABELED AS "CITY" AND "URA".**

### RENT.

The Lessee agrees to pay to the Lessor rent of \$ 1.00 per annum, the first payment having been made concurrent with the execution of this Lease, and the rent for each succeeding year payable on or before the end of each such year so long as this Lease remains in effect during its initial 10 year term or any extension thereof.

### Term of Lease; Extension; Termination

The term of this initial Lease shall be for a period of ten (10) Years , to commence on the date affixed above. The lease may be terminated during this initial ten (10) year term by mutual written agreement of the parties or as hereinafter provided. Lessee shall have the first right to extend this Lease for an additional period of three (3) years upon written notice to the Lessor within twenty-four (24) months, but no less than nine (9) months, prior to the end of the initial ten (10) year period. The Lessor will have the right to terminate this Lease and any subsequent lease renewal at any time with a minimum of six (6) month notice if the Lessor reasonably determine the Lessee's use ( or non-use) of the property is substantially outside of the approved scope of use (see next section entitled Lessee's intended use of property), and/or substantially detrimental to the Lessor's objectively verifiable interest; and/or the Lessor, in exercise of the Lessor's sole discretion, determines that said Lease does not serve the best interests of the Lessor. The Lessee will have the right to terminate this and or any subsequent lease renewal at any time with a minimum six (6) month notice if, in the opinion of the Lessee's Board of Directors, continuation of the Lease is not in its best interest of viably promoting food security and/or gardening education.

### Lessee's intended use of property

It is understood and agreed the Lessee intends to use the Premises as (Parcel 1) a botanical garden/orchard, and Parcel 2 as a teaching farm and that this will involve development of the property, including the construction and addition of various sheds, fences, watercourses, water reservoirs, utility lines and fixtures. Additionally, staff, volunteers, and members of the general public will be permitted access to the site for either working on the site, visiting/observing, and participating in learning activities on the site. Lessor agrees that these activities are acceptable. However, Lessor reserves the right to approve permanent structures planned for the site, as well as any activities outside of the general scope of a teaching farm. Additionally, Lessee must at all times ensure that activities on the site do not pose danger or damage to the surrounding area. Any fertilizer, weed control or pest control will comply with all legal requirements in addition to not creating objectionable odors.

For informational purposes, in 2020 Grow OV was part of a coalition that established Edible Mountain ("EM") to create a group committed to eliminating health disparities experienced by the City Wheeling's urban youth EM'S goal is to shift policies and environments in Wheeling by focusing on six health areas:

1. Physical Fitness
2. Food and Nutrition
3. Sense of Belonging
4. Access to Nature
5. Creative Play
6. Artistic Expression

EM'S primary focus is the creation of a safe, clean, accessible green space where residents and organizations can convene, especially downtown residents who have little access to natural green spaces.

In 2020, Edible Mountain received \$100,000 from the American Public Health Association through the Healthy Cities and Counties Challenge. In 2022 Grow OV received a 3.2 million-dollar grant ("GRANT") from the WVDEP's Office of Abandoned Mine Lands and Reclamation ("AML") Economic Revitalization Program to develop approximately 60 acres of abandoned mine lands on Wheeling's Vineyard Hill (the "Property") into a beautiful and accessible natural space in the heart of downtown as generally outlined on Exhibit B. Money from this Grant will encompass a variety of projects on the former mine site including: the construction of (1) a network of hiking and mountain bike trails, (2) an educational visitors center with a forest observation platform, and (3) a scenic fitness park and apple orchard ( the "Projects").

Liability and Indemnification

Lessee agrees to indemnify, hold harmless and defend Lessor against any claims, actions, liability and damages of any kind and nature arising out of any occurrence within the premises (i) that is occasioned wholly or substantially in part of the Lessee's use and occupancy of the premises, (ii) that is related to the business conducted by the Lessee on the premises, or (iii) that arises from any act or failure to act of Lessee, its agents, officers, employees, licensees, or invitees. Lessee agrees to maintain a minimum property and liability insurance coverage of \$1,000,000 (one million dollars), as well as to name the Lessors as an additional covered insured in accord with the standard language utilized by the City of Wheeling on all such insurance certificates so required.

Additional Obligations/Conditions

The property shall be used exclusively for the development of, and in furtherance of the goals of EM as stated herein.

The Lessor may undertake such development of the Property as it deems necessary, to accomplish the goals of EM as stated herein and in accord with the requirements stated herein upon the Lessee.

The Lessor agrees to keep and maintain at all times during the term of the Lease keys coverage on the Property as noted herein.

The Lessor shall be responsible for addressing any community concerns or concerns of the Lessor related to the Projects;

The financial risk of building, operating, managing, and controlling the Projects on the Property will be solely assumed by the Lessor.

The Lessor agrees to keep all Parties informed of the process of the Projects;

Sublease; Assignment

The Lessee agrees not to assign this Lease or subject said premises without the express written consent of the Lessor.

IN WITNESS THEREOF, LESSOR, and LESSEE have caused these presents to be executed as of the day and year first above written.

Lessor: **THIS CITY OF WHEELING, WV A MUNICIPAL CORPORATION AND THE CITY OF WHEELING, WV URBAN RENEWAL AUTHORITY A WEST VIRGINIA PUBLIC BODY CORPORATE AND POLITIC**

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\_\_\_\_\_  
**City Manager, Robert Herron** **DATE**

Lessee: **GROW OHIO VALLEY, INC.**

\_\_\_\_\_  
**President** **DATE**

**AND**

\_\_\_\_\_  
**Executive Director** **DATE**

STATE OF WEST VIRGINIA  
COUNTY OF OHIO, TO-WIT:

The Forgoing Lease was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Robert Herron, City Manager of the City of Wheeling, a Municipal Corporation and also serving as the authorized agent for the City of Wheeling Urban Renewal Authority, a West Virginia Public Body Corporate and Politic, thereby action on behalf of the Authority.

\_\_\_\_\_  
Notary Public

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

STATE OF WEST VIRGINIA

COUNTY OF OHIO, TO-WIT:

The Forgoing Lease was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by President, and Executive Director of Grow Ohio Valley, Inc., a West Virginia non-profit corporation, acting on behalf of the corporation.

\_\_\_\_\_

Notary Public

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





