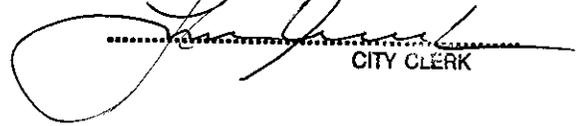


I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify that the foregoing is a true and correct copy of the original Ordinance passed by the Council of the City of Reading, on the 24 day of Oct A. D. 20 11. Witness my hand and seal of the said City this 25 day of Oct A. D. 20 11.

BILL NO. 59-2011

AN ORDINANCE


CITY CLERK

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF READING AND ATV BAKERY, INC., WHICH WILL ALLOW THE CITY TO LEASE 203 FRANKLIN STREET, 205 FRANKLIN STREET, AND 207 FRANKLIN STREET, AND A LEASE AGREEMENT WITH THE READING REDEVELOPMENT AUTHORITY TO ALLOW THE CITY TO LEASE 201 FRANKLIN STREET, WHICH TOGETHER WILL BE CONVERTED INTO A COMMUNITY GARDEN BY ENTREPRENEUR'S CONNECTION.

WHEREAS, the City of Reading desires to enter into an agreement to lease properties located at 201 Franklin Street, owned by the Reading Redevelopment Authority and 203-207 Franklin Street owned by ATV Bakery, Inc. (See attached Exhibits A and B), which currently comprise an open but unimproved space; and

WHEREAS, ATV Bakery, Inc. and the Reading Redevelopment Authority have offered to lease said properties to the City for a nominal fee; and

WHEREAS, Entrepreneurs Connection, an association of local business people, has volunteered to commence a beautification project to develop the land as a community garden; and

WHEREAS, the Mayor, is authorized and directed to execute, under the seal of the City of Reading, attested to by the City Clerk, a Lease Agreement for the City of Reading; and

NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The Agreement of Lease between the City of Reading and ATV Bakery, Inc. and the Agreement of Lease between the City of Reading and the Reading Redevelopment Authority attached hereto as Exhibit A and Exhibit B, are hereby approved.

SECTION 2. The Mayor, Thomas McMahon, is authorized and directed to execute, under the seal of the City of Reading, attested to by the City Clerk, a Lease Agreement between the City of Reading and ATV Bakery, Inc., and a Lease Agreement between the City of Reading and the Reading Redevelopment Authority which would provide space to the City of Reading for a Community Garden.

SECTION 3. Under the terms set forth in a separate Memorandum of Understanding, Entrepreneurs' Connection, a local Non-Profit shall work to make the necessary improvements to 203, 205, and 207 Franklin Street, leased by ATV Bakery, Inc. to the City, and 201 Franklin Street, leased by the Redevelopment Authority to the City. "

SECTION 4. This Ordinance will become effective in ten (10) days, in accordance with Charter Section 219.

Enacted October 24, 2011

[Signature]
President of Council

Attest:

[Signature]
City Clerk

(LAW DEPT.)

Submitted to Mayor: [Signature]

Date: 10-25-11

Received by the Mayor's Office: [Signature]

Date: 10-25-11

Approved by Mayor: [Signature]

Date: 10/25/11

AGREEMENT OF LEASE

This Lease made this _____ day of _____, 2011, by and between ATV Bakery Inc., a Pennsylvania corporation with its principal office located at 36 South 3rd Street, Reading, Berks County, Pennsylvania (hereinafter called "Lessor"), parties of the first part; and

The **City of Reading, Pennsylvania**, a Pennsylvania municipal corporation with its principal office located at 815 Washington Street, Reading, Berks County, Pennsylvania (hereinafter called "Lessee"), party of the second part.

WHEREAS, Lessor is owner of **203 Franklin Street**, Reading, Berks County, Pennsylvania, as more particularly described in deeds recorded at Deed Book Volume 2078, page 0009, **205 Franklin Street**, Reading, Berks County, Pennsylvania, as more particularly described in deeds recorded at Deed Book Volume 2078, page 0005, and **207 Franklin Street**, Reading, Berks County, Pennsylvania, as more particularly described in deeds recorded at Deed Book Volume 2078, page 0007, (collectively referred to herein as "the Premises"); and

WHEREAS, Lessee desires to Lease from Lessor the aforesaid premises for use as a community park; and

WHEREAS, Lessor desires to lease to Lessee the Premises for use as a community park; and

WHEREAS, the parties hereto desire to enter into this Agreement to determine and set forth the terms and conditions with regard to the leasing of the Premises.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter contained, the parties hereto, intend to be legally bound, hereby agree as follows:

1. **Grant of Lease:** Lessor hereby leases to Lessee the Premises for Lessee's proposed use, subject to the following terms and conditions for the Term.

2. **Permitted Uses:** The Premises may be used by Lessee for the establishment of a community park. Under this Lease Agreement, Lessee may install, place, use and operate on the Premises benches, tables, recreation facilities and other such materials and items which would be characteristically found in a community park. Furthermore, Lessee may perform construction, maintenance, repairs, additions to, and replacement of Lessee's facilities as necessary and appropriate for its ongoing use of the Premises as a community park.

3. **Term:** The term of this lease shall be for a period of five (5) years commencing on a date set forth above and expiring on a date five years from same. Lessee shall have the right to extend the term of the lease agreement for two (2) additional two (2) year terms by providing notice to the Lessor of its intention to do so at least sixty (60) days from the date of the terms expiration or the expiration of any renewal thereof. The Lessor shall also have the ability to terminate the lease by providing Lessee with sixty (60) days notice of its intention to terminate the lease, prior to the expiration of a term or any renewal thereof.

4. **Rent:** Lessee agrees to pay Lessor as rent for the Premises the sum of One Dollar (\$1.00) per year. One Dollar (\$1.00) shall be paid to the Lessor by the lessee upon the execution of this Agreement and One Dollar (\$1.00) shall be paid by the Lessee

to the Lessor on the fifteenth (15th) day of January each and every year until the termination of this lease, without delay, deduction or default.

5. **Repairs and Maintenance:** Lessee represents that Lessee has inspected and examined the Premises and accepts the Premises in its present condition, and agrees that Lessor shall not be required to make any improvements or repairs upon the Premises or any part of the Premises. Lessee agrees to make all improvements and repairs at Lessee's sole cost and expense, and agrees to keep the Premises safe and in good order and condition at all times during the term, and upon the expiration of the Lease, or in any sooner termination, the Lessee will quit and surrender possession of the Premises peaceably and in as good order and condition as the Premises were at the commencement of the term, reasonable wear, tear and damage by the elements accepted; Lessee further agrees to leave the Premises free from all nuisance and dangerous and defective conditions.

6. **Fixtures and Improvements:** Lessee may, at Lessee's sole cost and expense, make such changes, alterations or improvements as may be necessary to fit the premises for the above-mentioned use, and all buildings, fixtures and improvements of every kind installed by Lessee shall remain the property of Lessee who may remove them upon the termination of this Lease, provided that removal shall be done in such a manner as not to injure or damage the demised premises. Should Lessee fail to remove the fixtures or improvements as provided above, Lessor at its option may require Lessee to remove them. In the event that the Lessee shall fail to remove the fixtures and improvements after receipt of notice from Lessor, Lessor may remove them and dispose of them as it sees fit, and Lessee agrees to sell, assign, transfer and set over to Lessor, all of Lessee's

right, title and interest in the fixtures, improvements and any personal property not removed by Lessee, for the sum of One Dollar (\$1.00).

7. **Utilities:** Lessee shall be responsible for payment of all utilities. This shall include, but is not limited to, all charges for gas, water, sewer, and electricity. Lessee shall, also, pay all charges for installation and use of all telephone or other communications services.

8. **Assignment and Mortgage:** Neither the Premises nor any portion of the Premises shall be sublet, nor shall this Lease, or any interest in it be assigned, hypothecated or mortgaged by Lessee, unless to a successor entity or corporation, and any attempt and assignment, subletting, hypothecation or mortgaging of this Lease shall be of no force or effect, but shall confer no rights upon any assignee, sub-lessee, mortgagee or pledge, except as herein provided. Lessee may sub-lease the Premises or assign its rights hereunder to Greater Reading Entrepreneurs' Connection, Inc., with the understanding that said sub-lease or assignment shall not in any way release Lessee from its responsibilities and covenants agreed to in this Agreement including but not limited to its responsibility to hold harmless the Lessor from loss or damage and the provision of insurance as set forth herein.

9. **Insolvency:** In the event that Lessee shall become incompetent, bankrupt or insolvent, or should be a guardian, trustee, or receiver be appointed to administer Lessee's business or affairs, neither this Lease nor any interests here shall become an asset of the guardian, trustee or receiver, and in the event of the appointment of any guardian, trustee or receiver, this Lease shall immediately terminate and end.

10. **Liability**: Lessee shall hold Lessor harmless from any loss, cost or damage that may arise in connection with this Lease or the use of the Premises by Lessee, or his/her agents, or employees, or any other person using the Premises with permission from the Lessee; and Lessee agrees to deliver to Lessor upon the execution of this Lease a certificate of insurance naming Lessor as an additional insured upon its continuing public liability and property damage insurance policy, having the minimum coverage requirements listed below, indemnifying and holding Lessor harmless against any and all claims for personal injury, death or property damage incurring, in, on or about the Premises and shall keep them in force and effect for the duration of the lease term. Lessee shall provide general public liability insurance insuring against claims for personal injury, death or property damage incurring on the exterior grounds of the Premises. The General Liability coverage to be provided by Lessee shall have a minimum of one (1) millions dollars per occurrence with a two (2) million dollar aggregate. The Umbrella policy must have a minimum of two (2) million dollars coverage and should list the general liability policy as underlying coverage. The umbrella and General Liability policies procured by Lessee must both be primary and non-contributory and evidence of same must appear on any proof of coverage provided by the Lessee to the Lessor.

11. **Waiver of Subrogation**: Lessor and Lessee shall each endeavor to procure an appropriate clause in, or endorsement on, any extended coverage insurance covering Premises and personal property, fixtures and equipment located thereon, as well as any public liability insurance, on the Premises, pursuant to which the insurance companies waive subrogation or consent to waiver of right of recovery. Each party hereto hereby

agrees that it will not make any claim against or seek to recover from the other for any loss or damage to its property or the property of others resulting from fire or other hazards or required to be covered or maintained by fire and extended coverage insurance pursuant to this Lease, except as expressly provided in this Lease; provided, however, that the release, discharge exoneration, and covenant not to sue herein contained shall be limited by the terms and provisions of the waiver of subrogation clauses and/or endorsements consenting to a waiver or right of recovery and shall be extensive therewith, to the extent that such limitations are disclosed to Lessor and Lessee and expressly approved by them in writing.

12. **Mechanic's Liens**: Lessee agrees that at least thirty (30) days before any construction work, labor or materials are done, used or expended by Lessee or on Lessee's behalf by any person, firm or corporation or by any contractor, that Lessee will post and record, will cause to be posted and recorded, as provided by law, a notice of non-responsibility on behalf of Lessor, giving notice that the Lessor is not responsible for any work, labor or materials used or expended or to be used or expended on the Premises.

13. **Termination**: In the event that Lessee shall be in default of any payment of any rent or in the performance of any of the terms or conditions agreed to be kept and performed by Lessee, during that event, Lessor may terminate and end this Lease, by thirty (30) days written notice, and Lessor may enter upon the premises and remove all persons and property. Lessee may terminate this Lease at any time, after two (2) years, by providing Lessor with ninety (90) days written notice.

14. **Holding Over**: In the event that Lessee holds over and remains in possession of the Premises with the consent of Lessor, that holding over shall be deemed to be from

month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

15. **Notices**: Any notices that are required here or which either Lessor or Lessee may desire to serve upon the other, shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage paid, return receipt requested, addressed to Lessor at 36 South 3rd Street, Reading, Berks County, Pennsylvania attention Joseph Albert, or addressed to Lessee, 815 Washington Street, Reading, Pennsylvania, attention City Solicitor.

16. **Waiver**: Waiver by Lessor of any default in performance by Lessee of any of the terms, covenants or conditions contained here, shall not be deemed a continuing waiver of that default or any subsequent default.

17. **Compliance with the Laws**: Lessee agrees to comply with all laws, ordinances, rules and regulations that may pertain or apply to the Premises and their use.

18. **Lessor may enter**: Lessee agrees that Lessor, its agents or employees, may enter upon the Premises at any time during the term or any extension of it for the purpose of inspection, digging test holes, making surveys, taking measurements, and doing similar work necessary for the preparation of plans for construction of buildings or improvements on the Premises, with the understanding that the work will be performed in such a manner as to cause a minimum of interference with the use of property by Lessee.

19. **Covenant of Title and Quiet Enjoyment**: Lessor covenants and agrees that it has good title to the Premises and all improvements located thereon and that the same are free and clear of all liens, encumbrances, tenancies and restrictions except as set forth in recorded documents. Lessor further warrants that it will defend the title to the Premises

and indemnify Lessee against any damage and expense which Lessee may suffer by reason of any claim against title or defect in the title to the Premises. Lessor further covenants and agrees that, as long as Lessee is in compliance with the provisions of this lease, Lessee shall peacefully hold and enjoy the Premises and the easements or rights-of-way herein provided, during the term hereof without hindrance or interruption by Lessor or any of its successors and assigns, or any person claiming under the Lessor.

20. **Survival of Valid Terms:** If any provision of this lease shall be invalid or unenforceable, the remainder of the provisions of this lease shall not be affected thereby and each and every provisions of this lease shall be enforceable to the fullest extent permitted by law.

21. **Entire Agreement:** This lease sets forth all the promises, agreements, conditions and understandings between Lessor and Lessee relative to the Premises, and no promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth shall be of any force and effect. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

ATV BAKERY, INC.

By: _____
Name:
Title:

Attest by: _____
Name:
Title:

CITY OF READING

By: _____
Name:
Title:

Attest by: _____
Name:
Title:

AGREEMENT OF LEASE

This Lease made this _____ day of _____, 2011, by and between the Redevelopment Authority of the City of Reading, a Pennsylvania municipal authority, with its principal offices located at 815 Washington Street, Reading, Berks County, Pennsylvania (hereinafter called "Lessor"), party of the first part;

and

The City of Reading, a Pennsylvania municipal corporation, with its principal office located at 801 Washington Street, Reading, Berks County, Pennsylvania (hereinafter called "Lessee"), party of the second part.

WHEREAS, Lessor is the owner of 201 Franklin Street, City of Reading, Berks County, Pennsylvania, as more particularly described in a deed recorded at Deed Book Volume 1685, Page 1009 in the Berks County Recorder of Deeds office (the "Premises"); and

WHEREAS, Lessee desires to lease from Lessor the Premises for use as a community park; and

WHEREAS, Lessor desires to lease to Lessee the Premises for use as a community park; and

WHEREAS, the parties hereto desire to enter into this Agreement to determine and set forth the terms and conditions with regard to the leasing of the Premises.

NOW, THEREFORE, in consideration of the promises and covenants hereinafter contained, the parties hereto, intending to be legally bound, hereby agrees as follows:

Grant of Lease. Lessor hereby leases to Lessee the Premises for Lessee's proposed use, subject to the following terms and conditions for the Term.

Permitted Uses. The Premises may be used by Lessee for the establishment of a community park. Under this Lease Agreement, Lessee may install, place, use and operate on the Premises benches, tables, recreation facilities and other such materials and items which would be characteristically found in a community park. Furthermore, Lessee may perform construction, maintenance, repairs, additions to, and replacement of Lessee's facilities as necessary and appropriate for its ongoing use of the Premises as a community park.

Term. The term of this lease shall be for a period of five (5) years commencing on a date set forth above and expiring on a date five years from same. Lessee shall have the right to extend the term of the lease agreement for two (2) additional two year terms by providing notice to the Lessor of its intention to do so at least sixty (60) days from the date of the term's expiration or the expiration of any renewal thereof. The Lessor shall also have the ability to terminate the lease by providing Lessor with sixty (60) days notice of its intention to terminate the lease, prior to the expiration of a term or any renewal thereof.

Rent. Lessee agrees to pay Lessor as rent for the Premises the sum of One Dollar (\$1.00) per year. One Dollar (\$1.00) shall be paid to the Lessor by the Lessee upon execution of this Agreement and One Dollar (\$1.00) shall be paid by the Lessee to the Lessor on the fifteenth (15th) day of January each and every year until the termination of this lease, without delay, deduction or default.

Repairs and Maintenance. Lessee represents that Lessee has inspected and examined the Premises and accepts the Premises in its present condition, and agrees that Lessor shall not be required to make any improvements or repairs upon the Premises or

any part of the Premises. Lessee agrees to make all improvements and repairs at Lessee's sole cost and expense, and agrees to keep the Premises safe and in good order and condition at all times during the term, and upon expiration of this Lease, or in any sooner termination, the Lessee will quit and surrender possession of the Premises peaceably and in as good order and condition as the Premises were at the commencement of the term, reasonable wear, tear and damage by the elements accepted; Lessee further agrees to leave the Premises free from all nuisance and dangerous and defective conditions.

Utilities. Lessee shall be responsible for payment of utilities. This shall include, but is not limited to, all charges for gas, water, sewer, and electricity. Lessee shall, also, pay all charges for installation and use of all telephone or other communications services.

Assignment and Mortgage. Neither the Premises nor any portion of the Premises shall be sublet, nor shall this Lease, or any interest in it be assigned, hypothecated or mortgaged by Lessee, unless to a successor entity or corporation, and any attempt and assignment, subletting, hypothecation or mortgaging of this Lease shall be of no force or effect, but shall confer no rights upon any assignee, sub-lessee, mortgagee or pledge, except as herein provided. Lessee may sub-lease the Premises or assign its rights hereunder to Greater Reading Entrepreneurs' Connection, Inc., with the understanding that said sub-lease or assignment shall not in any way release Lessee from its responsibilities and covenants agreed to in this Agreement including but not limited to its responsibility to hold harmless the Lessor from loss or damage and the provision of insurance as set forth herein.

Insolvency. In the event that Lessee shall become incompetent, bankrupt or insolvent, or should a guardian, trustee, or receiver be appointed to administer Lessee's

business or affairs, neither this Lease nor any interests here shall become an asset of the guardian, trustee or receiver, and in the event of the appointment of any guardian, trustee, or receiver, this Lease shall immediately terminate and end.

Liability. Lessee shall hold Lessor harmless from any loss, cost or damage that may arise in connection with this Lease or the use of the Premises by Lessee, or his/her agents, , or employees, or any other person using the Premises; and Lessee agrees to deliver to Lessor upon the execution of this Lease a certificate of insurance naming Lessee as an additional insured upon its continuing public liability and property damage insurance policy, having the minimum coverage requirements listed below, indemnifying and holding Lessor harmless against any and all claims for personal injury, death or property damage incurring, in, on or about the Premises and shall keep them in force and effect for the duration of the lease term. Lessor shall provide general public liability insurance insuring against claims for personal injury, death or property damage incurring on the exterior grounds of the Premises. The General Liability coverage to be provided by Lessor shall have a minimum of one (1) million dollars per occurrence with a two (2) million dollar aggregate. The Umbrella policy must have a minimum of two (2) million dollars coverage and should list the general liability policy as underlying coverage. The umbrella and General Liability policies procured by Lessor must both be primary and non-contributory and evidence of same must appear on any proof of coverage provided by the Lessee to the Lessor.

Waiver of Subrogation. Lessor and Lessee shall each endeavor to procure an appropriate clause in, or endorsement on, any extended coverage insurance covering the Premises and personal property, fixtures and equipment located thereon, as well as any

public liability insurance, on the Premises, pursuant to which the insurance companies waive subrogation or consent to waiver of right of recovery. Each party hereto hereby agrees that it will not make any claim against or seek to recover from the other for any loss or damage to its property or the property of others resulting from fire or other hazards or required to be covered or maintained by fire and extended coverage insurance pursuant to this Lease, except as expressly provided in this Lease; provided, however, that the release, discharge exoneration, and covenant not to sue herein contained shall be limited by the terms and provisions of the waiver of subrogation clauses and/or endorsements consenting to a waiver or right of recovery and shall be extensive therewith, to the extent that such limitations are disclosed to Lessor and Lessee and expressly approved by them in writing.

Mechanic's Liens. Lessee agrees that at least thirty (30) days before any construction work, labor or materials are done, used or expended by Lessee or on Lessee's behalf by any person, firm or corporation or by any contractor, that Lessee will post and record, will cause to be posed and recorded, as provided by law, a notice of non-responsibility on behalf of Lessor, giving notice that the Lessor is not responsible for any work, labor or materials used or expended or to be used or expended on the Premises.

Termination. In the event that Lessee shall be in default of any payment of any rent or in the performance of any of the terms or conditions agreed to kept and performed by Lessee, during that event, Lessor may terminate and end this Lease, by thirty (30) days written notice, and Lessor may enter upon the Premises and remove all persons and property. Lessee may terminate this Lease at any time, after two (2) years, by providing Lessor with ninety (90) days written notice.

Holding Over. In the event that Lessee holds over and remains in possession of the Premises with the consent of Lessor, that holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

Notices. Any notices that are required here or which either Lessor or Lessee may desire to serve upon the other, shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage paid, return receipt requested, addressed to _____ at 815 Washington Street, Reading, Pennsylvania, or addressed to Lessor at 815 Washington Street, Reading, Pennsylvania, attention Redevelopment Authority Executive Director.

Waiver. Waiver by Lessor of any default in performance by Lessee of any of the terms, covenants or conditions contained here, shall not be deemed a continuing waiver of that default or any subsequent default.

Compliance with the Laws. Lessee agrees to comply with all laws, ordinances, rules and regulations that may pertain or apply to the Premises and its use.

Lessor May Enter. Lessee agrees that Lessor, its agents or employees, may enter upon the Premises at any time during the term or any extension of it for the purpose of inspection, digging test holes, making surveys, taking measurements, and doing similar work necessary for the preparation of plans for construction of buildings or improvements on the Premises, with the understanding that the work will be performed in such a manner as to cause a minimum of interference with the use of property by Lessee.

Covenant of Title and Quiet Enjoyment. Lessor covenants and agrees that it has good title to the Premises and all improvements located thereon and that the same are free

and clear of all liens, encumbrances, tenancies and restrictions. Lessor further warrants that it will defend the title to the Premises and indemnify Lessee against any damage and expense which Lessee may suffer by reason of any claim against title or defect in the title to the Premises. Lessor further covenants and agrees that, as long as Lessee is in compliance with the provisions of this lease, Lessee shall peacefully hold and enjoy the Premises and the easements or rights-of-way herein provided, during the term hereof without hindrance or interruption by Lessor or any of its successors and assigns, or any person claiming under the Lessor.

Survival of Valid Terms. If any provision of this lease shall be invalid or unenforceable, the remainder of the provisions of this lease shall not be affected thereby and each and every provisions of this lease shall be enforceable to the fullest extent permitted by law.

Entire Agreement. This lease sets forth all the promises, agreements, conditions and understandings between Lessor and Lessee relative to the Premises, and no promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth shall be of any force and effect. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

REDEVELOPMENT AUTHORITY OF
THE CITY OF READING

By:

Adam Mukerji, Executive Director

Attest:

Secretary

CITY OF READING.

By:

Name:

Title:

Attest:

Name:

Title: