

LICENSE AGREEMENT

South Bethlehem Greenway Between Webster and Taylor Streets

THIS LICENSE AGREEMENT is made and entered into this ____ day of _____, 2014, between the CITY OF BETHLEHEM, a City of the Third Class of the Commonwealth of Pennsylvania, of the Counties of Northampton and Lehigh, with its offices and principal place of business at 10 East Church Street, Bethlehem, Pennsylvania, 18018, hereinafter referred to as "City", and LEHIGH UNIVERSITY, A PENNSYLVANIA NON-PROFIT CORPORATION, with offices at 461 Webster Street, Bethlehem, Northampton County, Pennsylvania 18015 (hereinafter referred to as "Lehigh").

WHEREAS, the City owns the South Bethlehem Greenway, a portion of which lies between Webster and Taylor Streets, which is identified in Exhibit A.

WHEREAS, the parties entered into a Maintenance Agreement on April 11, 2012 in which the City granted permission to Lehigh to build and maintain in perpetuity, a Chinese Pavilion on a part of the South Bethlehem Greenway that is between Webster and Taylor Street;

WHEREAS, Lehigh has requested permission to plant, develop, install and maintain, landscaped features, involving, plants, trees, vegetation, and other components, in the remaining portion of the Greenway between Webster and Taylor Streets;

WHEREAS, City is in agreement with Lehigh's request;

WHEREAS, Lehigh presented a conceptual plan for this stretch of the Greenway (hereinafter referred to as "Esperanza Garden"), in a plan titled Esperanza Garden, which is attached as Exhibit B, with additional modifications attached as Exhibit C; and

WHEREAS, City and Lehigh desire to set forth in writing Lehigh's responsibilities to the property;

NOW, THEREFORE, in consideration of the sum of One and No/100 (\$1.00) Dollar, in hand paid by Lehigh to City, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Lehigh, the parties hereto covenant and agree as follows:

1. Grant of License. City hereby licenses Lehigh to install and maintain in the portion of the South Bethlehem Greenway between Webster and Taylor Streets, as identified in Exhibit B-Esperanza Garden, which, together with Exhibit C, has been reviewed and approved by City professionals, and which by this reference, are made a part hereof as though set out in their entirety herein, except that no pond feature is presently permitted.

2. Term. The term of this license shall commence on the date hereof and shall continue until terminated. The license is terminable without cause and without penalty upon three months written notice to the other party. If Lehigh terminates this license, it shall remove any constituent flora, fauna, and like features that it installed in the Esperanza Garden during the term and otherwise return the space to its former state (i.e., a graded area with grass).

3. Licensee to Obtain Permits. Lehigh will be responsible for obtaining all necessary State and Local permits required for its use of the licensed property, including contacting Pa One Call. Further, Lehigh will comply with all applicable State and Local laws, ordinances, and regulations in its development, installation, maintenance and use of the licensed property.

4. No Disruption of Utilities. Lehigh shall, at all times, exercise this license in such a manner as to avoid interference with or disruption of utility service lines within the licensed area.

5. Maintenance by Licensee. During the term of this license, Lehigh shall, at its own expense, make reasonable efforts to maintain the Esperanza Garden, all its constituent flora, fauna, and other components and like features, in a safe, clean, sanitary, and aesthetic condition.

6. Assignment Prohibited. Lehigh may not assign its interest hereunder.

7. Scope of license. The City retains all rights to license additional public uses for the Greenway in accordance with standard ordinance and permitting procedures applicable for City owned public spaces. Lehigh, and any of its subordinate entities, must apply for and be granted permission from the City to use the Greenway for public events it seeks to hold there, just as any other individual or group seeking to use the public space; as example, without limitation, festivals, theatrical, musical and artistic performances. Lehigh students or officials conducting educational programs for the public, University groups, and other community groups

at the Esperanza Garden do not need to obtain permits for those activities. At all times, events with permits from the City will have precedence over Lehigh activities that do not have permits.

8. Lehigh Indemnification of City. Except as otherwise set forth herein, Lehigh shall save and hold the City harmless from and against all suits or claims that may be based upon personal injury, death to any person and property damage arising in the course of the performance of the License Agreement by Lehigh, whether such claim shall be made by Lehigh, an employee of Lehigh, or by a third party, where it is judicially established that the personal injury, death or property damage was caused by the negligent act or omission of Lehigh or its agents or employees; Lehigh shall, at Lehigh's own expense, pay all reasonable charges of attorneys, and all reasonable costs and other reasonable expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against City in any such action, or actions, Lehigh, at Lehigh's own expense, shall satisfy and discharge the same.

9. City Indemnification of Lehigh. Except as otherwise set forth herein, the City shall save and hold Lehigh harmless from and against all suits or claims that may be based upon personal injury, death to any person and property damage arising from the City's exercise or performance of its rights and obligations hereunder, whether such claim shall be made by City, an employee of City, or by a third party, where it is judicially established that the personal injury, death or property damage was caused by the negligent act or omission of the City or its agents or employees; the City shall, at the City's own expense, pay all reasonable charges of attorneys, and all reasonable costs and other reasonable expenses arising therefrom or incurred in connection therewith, and if any judgment shall be rendered against Lehigh in any such action, or actions, the City, at the City's own expense, shall satisfy and discharge the same.

10. Amendment. This License Agreement may not be amended or modified except by agreement in writing duly executed by the parties hereto. Any modifications to the Esperanza Garden design must be submitted by Lehigh to the City in writing, and may not be made until such approval is given in writing, and after all applicable permitting and other legal requirements have been satisfied.

11. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. The exclusive venue for resolution of all disputes shall be Northampton County only.

12. Notices. Each of the parties hereto hereby represents that the addresses hereinabove specified for such party is the correct and complete address for such party at which all notices relating to this Agreement may be received by such party, unless and only to the extent that any such party shall specify some other address by a notice given to the other parties in the manner hereinafter set forth. Unless specifically stated to the contrary, all notices related hereto shall be in writing and delivered in person to the party to which such notice is being given or delivered by overnight delivery service requiring acknowledgment of receipt or shall be mailed by registered or certified mail, return receipt requested, postage prepaid, to such party at the address hereinabove specified or at such other address as may be hereafter specified by like notice by any party to the other.

13. Annual Meeting. During the term of this agreement, Lehigh and City officials will meet in the first quarter of each year, in meetings open to the public, to review and discuss Esperanza Garden. Lehigh will schedule these meetings.

IN WITNESS WHEREOF, City and Lehigh, intending to be legally bound, have executed this License Agreement on the date first above written.

ATTEST:

LEHIGH UNIVERSITY

Name:
Title: Secretary

BY:_____
Name:
Title:

ATTEST:

CITY OF BETHLEHEM

City Controller

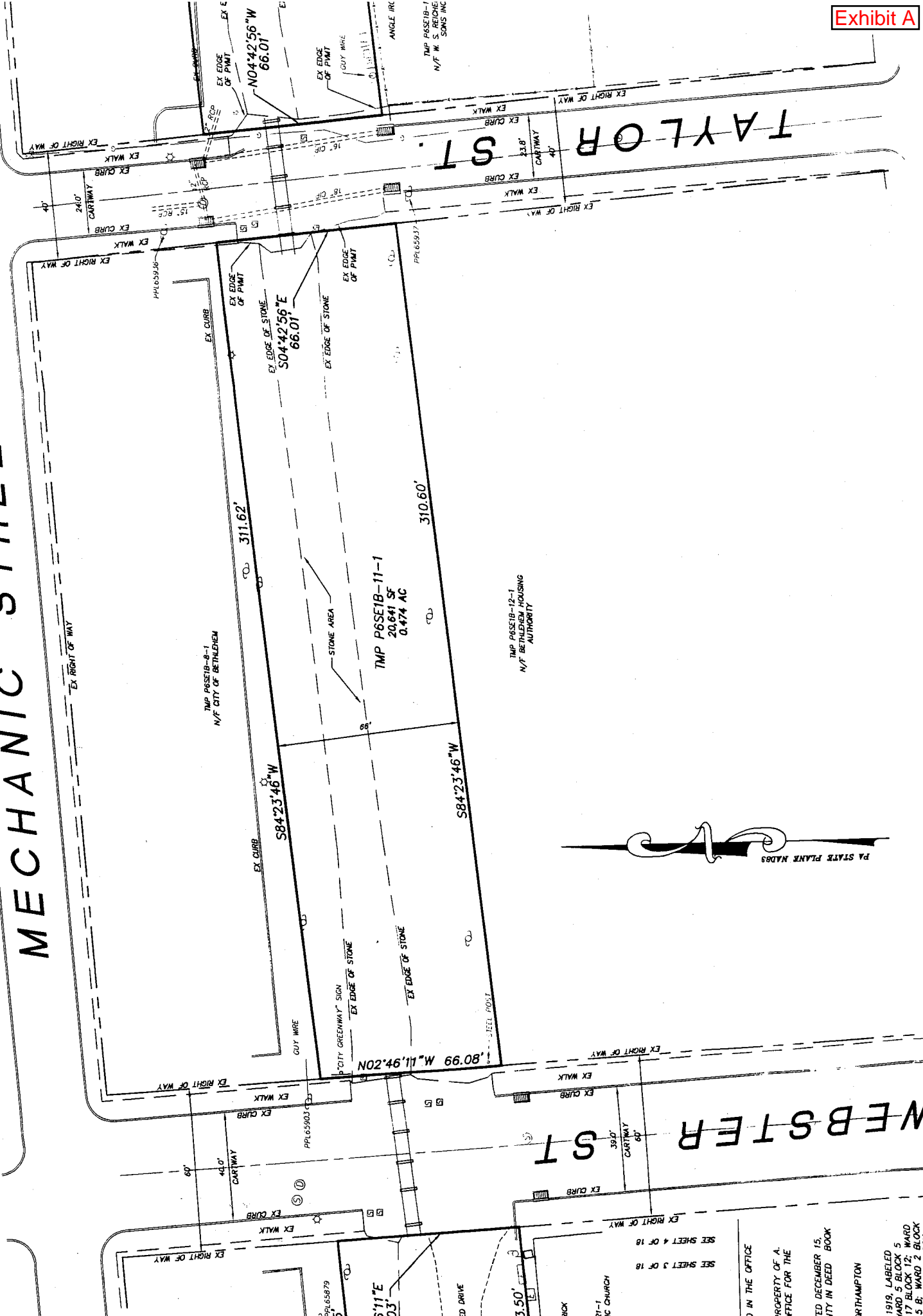
BY:_____
Mayor

The within License Agreement is certified to
Be needed, necessary and appropriate.

By:_____
City of Bethlehem Department Head

Print Name:_____

MECHANIC BUILDING



SEE SHEET 3 OF 18

SEE SHEET 4 OF 18

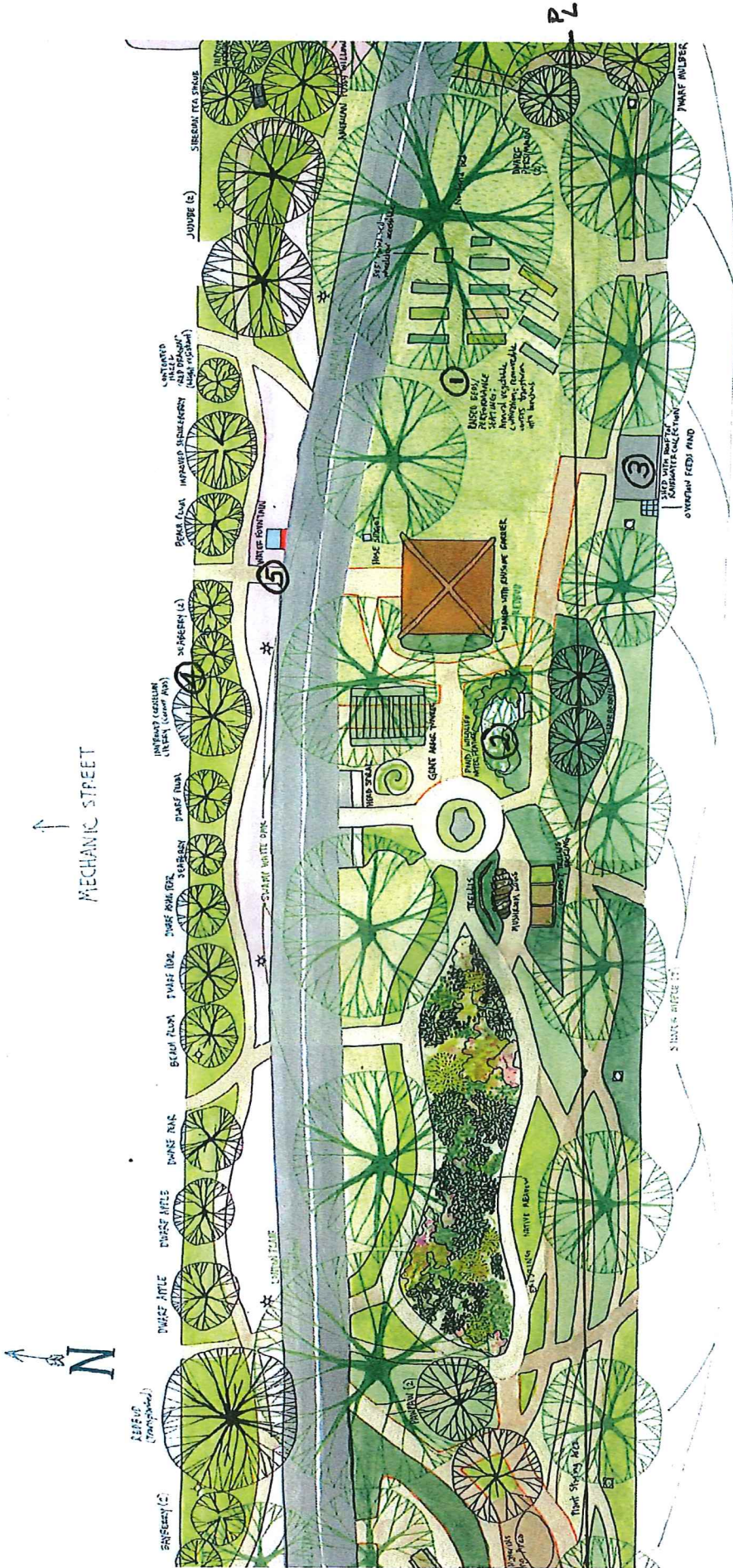
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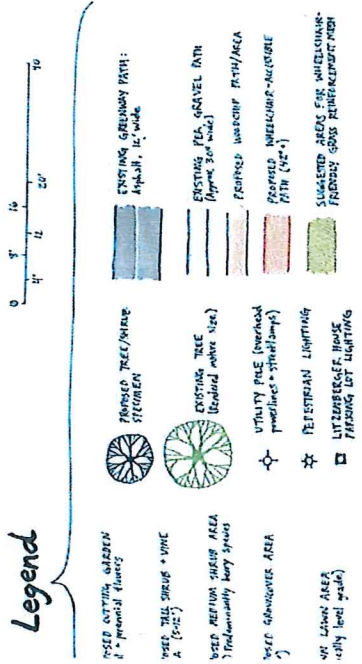


Esperanza Garden

South Bethlehem Greenway, Webster to Taylor Streets

DESIGN: Kristen Jas Vletty, LUNARIA GARDENS
lunariagardens.com, @kristenjas

11 April, 2014



Litzenberger House

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LICENSE AGREEMENT – EXHIBIT C
South Bethlehem Greenway Between Webster and Taylor Streets

The City of Bethlehem and Lehigh University hereby agree that the conceptual plan for the Esperanza Garden attached hereto as Exhibit B (the “Plan”) shall be modified as follows:

1. The raised garden boxes east of the Chinese Pavilion are only representative and not final locations or layout. A number of raised beds are planned for the area east of the Chinese Pavilion. The placement of these raised beds, and the materials to be used for these beds, will be mutually agreed upon.
2. “There will be no decorative or recreational water feature (including, but not limited to, ponds, waterfalls, cascades) on this block.”
3. The storage shed to be constructed in the architectural style of the Chinese Pavilion is shown on the Plan in its approximate location. The actual location shall be determined by mutual agreement of the parties.
4. New trees are illustrative of the location only and the type of tree to be used is subject to change.
5. The drinking water fountain feature will be approximately 85 feet west of the location shown on the Plan.
6. The Herb Spiral will be located south of the position noted on the Plan. It will be located either where the existing heron sculpture is located or where the water feature is noted on the Plan.
7. Upon mutual agreement of the parties, the heron sculpture currently located elsewhere on the Greenway shall be re-located to a mutually agreed upon location in the Esperanza Garden.
8. Performance of work in any portions of the Plan owned by the Bethlehem Housing Authority or any other third party is subject to the parties’ receipt of a license and approval from the owner to perform such work. Note that the approximate location of the Bethlehem Housing Authority’s property line is identified on the Plan.
9. The specifications in this Exhibit prevail and control over any inconsistencies with the preceding Exhibit B.