

RESOLUTION R-2020-116

A RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE MARKET LICENSE AGREEMENT WITH BENSIDOUN USA, DATED FEBRUARY 6, 2017

WHEREAS, Bensidoun USA, Inc., operates an open-air market in downtown Wheaton; and

WHEREAS, the open-air market in downtown Wheaton has enjoyed the support of the community since its inception twenty-two years ago, and draws many visitors to downtown Wheaton on a weekly basis; and

WHEREAS, the current Market License Agreement between the City and Bensidoun USA, Inc., was approved on February 6, 2017 by Resolution R-06-17, and was subsequently amended by Resolution R-2020-31 on March 16, 2020 to extend the term until March 31, 2021; and

WHEREAS, as a part of the City's downtown streetscape project, improvements will be made to the premises licensed by Bensidoun USA, Inc. and the construction of those improvements is scheduled to occur during Bensidoun USA Inc.'s 2021 Market Season; and

WHEREAS, Bensidoun USA and the City seek to extend the current Market License Agreement until March 31, 2022, and provide for an alternate location for Bensidoun USA Inc.'s market activities; and

WHEREAS, it is in the best interest of the Licensor to amend the Market License Agreement.

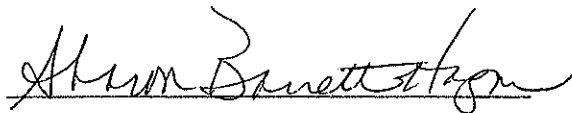
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to execute, and the City Clerk is hereby directed to attest to the Second Amendment to the Market License Agreement between the City of Wheaton and Bensidoun USA, Inc., which was approved by Resolution R-06-2017 and amended by Resolution R-2020-31 attached hereto as Exhibit A.

ADOPTED by the City Council of the City of Wheaton, Illinois, this 21st day of December 2020.



Mayor

ATTEST:



City Clerk

City Clerk

Roll Call Vote:

Ayes: Councilwoman Fitch
Mayor Suess
Councilwoman Robbins
Councilman Rutledge

Councilman Zaruba
Councilman Barbier
Councilwoman Bray-Parker

Nays: None

Absent: None

Motion Carried Unanimously

Passed: December 21, 2020

Published: December 22, 2020

EXHIBIT A

**SECOND AMENDMENT TO THE MARKET LICENSE AGREEMENT BETWEEN THE CITY OF WHEATON AND
BENSIDOUN USA, INC. APPROVED ON FEBRUARY 6, 2017
BY RESOLUTION R-06-2017**

THIS SECOND AMENDMENT is made and entered into between the City of Wheaton, an Illinois home rule municipality, 303 West Wesley Street, Wheaton, IL 60187 ("Licensor") and Bensidoun USA, Inc., 405 N. Wabash, Suite 3404, Chicago, IL 60611 ("Licensee"), this 21st day of December, 2020.

WHEREAS, Licensee operates an open-air market in downtown Wheaton; and

WHEREAS, the open-air market in downtown Wheaton has enjoyed the support of the community since its inception twenty-two years ago, and draws many visitors to downtown Wheaton on a weekly basis; and

WHEREAS, the current Market License Agreement ("MLA") between the Licensor and Licensee was approved on February 6, 2017 by Resolution R-06-17, and was subsequently amended by Resolution R-2020-31 on March 16, 2020 to extend the term until March 31, 2021; and

WHEREAS, as a part of Licensor's downtown streetscape project improvements will be made to the premises licensed by Licensee under the MLA and the construction of those improvements is scheduled to occur during Licensee's 2021 Market Season; and

WHEREAS, Licensee and the Licensor seek to extend the term of the current MLA until March 31, 2022, and provide for an alternate location for Licensor's market activities; and

WHEREAS, it is in the best interest of the Licensor to amend the MLA.

NOW THEREFORE, in consideration of the foregoing recitals and mutual promises as hereinafter set forth, and intending to be legally bound, it is agreed by and between the parties as follows:

1. The foregoing recitals are incorporated herein as if fully set forth.
2. Paragraph 1 of the MLA is amended by deleting that paragraph in its entirety and replacing it with the following provision:

"1. Licensed Premises. Licensor hereby grants to Licensee a revocable license to use Reber Street between Willow and Liberty Drive which premises are outlined on the drawing hereto attached as Exhibit A (the "Licensed Premises"). The Licensed Premises shall be used solely by the Licensee for the purpose of operating an open-air market."

3. Paragraph 2 of the MLA is amended by deleting that paragraph in its entirety and replacing it with the following provision:

"2. Term. The term of this Agreement shall commence on April 1, 2021 and shall continue until March 31, 2022 or until such time as superseded with a new agreement."

4. Paragraph 4(b) "Water" is amended by deleting that paragraph in its entirety.
5. Paragraph 4(e) "Electricity" is amended by deleting that paragraph in its entirety.

6. Except as amended herein, the MLA shall continue to be binding on the parties and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Agreement this 21st day of December, 2020.

CITY OF WHEATON, an Illinois municipal corp.

By: Philip J. Swers Date: 12/22/20

ATTEST:

BY: Sharon Barrett-Hagen
Sharon Barrett-Hagen, City Clerk

BENSIDOUN USA, INC.

BY: [Signature] Date: 01/18/2021
Signature

Its: PRESIDENT BENSIDOUN USA INC.

ATTEST:

BY: [Signature]

Title: EXECUTIVE VICE-PRESIDENT
BENSIDOUN USA INC.