

RESOLUTION NO. _____

Resolution Synopsis: This resolution approves and authorizes the execution of a Cash Rent Farm Lease with Northtown Farms, Inc. for the 2019 growing season. Among other things, the agreement provides for a lease payment to the city in the amount of \$11,540.98 for the Tarvin Farm.

**RESOLUTION AUTHORIZING THE EXECUTION OF A CASH RENT FARM LEASE
WITH NORTHTOWN FARMS, INC.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, TAZEWEILL
COUNTY, that:**

Section 1. The Mayor and City Clerk are hereby authorized to execute a Cash Rent Farm Lease Agreement with Northtown Farms, Inc., in substantially the form of the documents attached hereto, marked "Exhibit A", and by reference expressly made a part hereof.

Section 2. That this Resolution shall be in full force and effect from and after its passage by a two-thirds (2/3) vote of the corporate authorities then holding office.

PASSED AND APPROVED in due form of law at a regular meeting of the City Council of the City of Washington, Tazewell County, Illinois, on the _____ day of _____, 2018.

Mayor

ATTEST:

City Clerk

Cash Rent Farm Lease

This Lease is entered into on _____, 2018, between the City of Washington, an Illinois home-rule municipal corporation, whose mailing address is 301 Walnut Street, Washington, Illinois 61571 ("**Landlord**") and _____ ("**Tenant**"), whose mailing address is _____, _____, Illinois _____.

BACKGROUND

A. Landlord owns the real property legally described in Exhibit A, together with all buildings and improvements thereon belonging to the Landlord ("**Property**").

B. Tenant desires to lease the Property owned by Landlord and Landlord and Tenant desire to enter into a written lease to set forth the terms and conditions of the lease.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article 1.

Description of Rented Land and Length of Tenure

A. **Description of Land.** The Landlord rents and leases to the Tenant, to occupy and to use for agricultural purposes only, the Property. Tenant shall have no right to occupy or use that portion of the Property that is timberland except as is necessary for ingress and egress.

B. **Length of Tenure.** The term of this lease shall be one year, commencing on January 1, 2019, to December 31, 2019, unless sooner terminated as provided herein.

Article 2.

Rent

Tenant will pay Landlord as rent for the Property in a lease year an amount equal to the _____ Dollars (\$_____) ("**Rent**"). Twenty-five percent of the Rent shall be paid on or before June 1, 2019. The remainder of the Rent shall be paid on or before December 1, 2019. Rent payments shall be made payable and delivered to the City of Washington, c/o Washington City Clerk, 301 Walnut Street, Washington, Illinois 61571.

Article 3.

Tenant's Duties in Operating Farm

A. Tenant covenants and agrees as follows:

- i. To cultivate the Property faithfully and in a timely, thorough, and businesslike manner.
- ii. To prevent all unnecessary waste, loss, or damage to the property of Landlord.

- iii. To use the Property only for agricultural purposes.
- iv. Not to erect or permit to be erected any structure or building or to incur any expense to Landlord for such purpose, without the prior written consent of Landlord.
- v. Not to permit, encourage, or invite other persons to use any part or all of the Property for any purpose or activity not directly related to its use for agricultural production.
- vi. Not to allow any livestock on the Property.
- vii. Not to cut live trees for any reason without the express written consent of the Landlord.
- viii. To comply with all federal, state and local statutes, regulations, ordinances, rules and policies, all court and administrative orders and decrees, all arbitration awards, and the common law, which pertain to environmental or natural resource matters or contamination of any type whatsoever ("**Environmental Laws**").
- ix. Not to permit the erection of any commercial advertising signs.
- x. Not to assign this Lease to any person or persons or sublet any part of the Property.
- xi. To prevent noxious weeds from going to seed on the Property and to destroy the same and keep the weeds and grass cut.
- xii. To keep open ditches, tile drains, tile outlets, grass waterways, and terraces in good repair. In the event of a major tile break, Tenant shall notify the City Manager of the break before any repairs are undertaken.
- xiii. To preserve established watercourses or ditches and to refrain from an operation that will injure them.
- xiv. To keep the fences (including hedges), and other improvements on the Property in as good repair and condition as they are when Tenant takes possession or in as good repair and condition as they may be put by the Landlord during the Lease term – ordinary wear, loss by fire or unavoidable destruction excepted.
- xv. To prevent all unnecessary waste or loss or damage to the Property.
- xvi. To comply with rules and regulations of the Illinois Pollution Control Board, United States Department of Agriculture and the Natural Resources Conservation Service. Tenant shall not be responsible for action of Landlord that may be contrary to said rules and regulations.

- xvii. To plant crops in accordance with generally accepted farming and soil conservation practices and provide Landlord with written reports of the crops planted, fertilizers, herbicides and other products applied to the Property.

**Article 4.
Real Estate Taxes**

Landlord shall pay the general real estate taxes and special assessments levied against the Property during the term of this Lease.

**Article 5.
Inspection; Soil Surveys and Monitoring**

Landlord shall have the right to enter the Property at any time to inspect the Property, and to perform any acts related to the safety, protection, preservation, reletting or improvement of the Property. Prior to the planting of the first crops by Tenant, Landlord may elect to (a) obtain and pay for a comprehensive soil sample survey of the Property with soil analyzed in grids not to exceed 10 acres, the results of which are incorporated by reference into this Lease, and (b) implement and pay for the cost of bringing the Property to the Landlord's desired level of productivity. A comprehensive soil sample survey shall then be conducted every year after the removal of the crops. If the survey reveals the then soil conditions to be within five percent (5%) of the initial survey, then the costs of the survey shall be divided evenly between the Landlord and the Tenant. If the then soil conditions exceed the original amount by more than five percent (5%), then the Landlord agrees to pay for the entire cost of the survey. The Tenant is responsible for paying this expense in the event that then soil conditions are more than five percent (5%) below the original soil survey results.

At the end of Tenant's term, the Tenant is responsible for all costs of restoring the soil's condition and fertility of the Property to what they were when the leasing arrangement began. Failure to maintain adequate soil standards during the term of the Lease is immediate grounds for terminating the Lease.

**Article 6.
Public Liability Insurance**

Tenant shall, at his own expense, at all times during the term of this Lease, maintain in effect a comprehensive public liability insurance policy with a carrier acceptable and approved by Landlord, which will name Landlord as an additional insured, insuring against claims, demands and actions with respect to bodily injury, death or property damage arising from Tenant's use of the Property, with the following minimum limits of coverage:

Crop Insurance: \$_____ per acre (to match lease amount).

Liability Insurance: \$2,000,000 per occurrence

Property Damage: \$2,000,000 per occurrence

Tenant shall deliver to Landlord appropriate insurance certificates evidencing such coverages, such certificates providing for not less than 30 days notice to Landlord of cancellation or termination.

Article 7.

Default

A. The occurrence of any one or more of the following events shall constitute an Event of Default under this Lease:

- i. The failure by Tenant to pay any installment of rent or any money due under this Lease and such failure is not cured within five (5) days after delivery of written notice from Landlord specifying such failure to pay.
- ii. The failure by Tenant to perform any other covenant or agreement to be performed by Tenant under this Lease except those requiring the payment of rent or any money due under this Lease and Tenant shall have failed to cure such breach within thirty (30) days after written notice from Landlord specifying the nature of such breach; provided, however, if Tenant's default cannot be reasonably cured within such thirty (30) day period, then Tenant shall not be in default if it commences to cure the default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- iii. A receiver or similar officer becomes entitled to the leasehold interest of Tenant under this Lease.
- iv. Abandonment of the Property by Tenant.
- v. Levy, seizure, attachment, or sale of the leasehold interest of Tenant under this Lease.
- vi. Tenant becomes insolvent or unable to pay debts as they mature, or admits in writing to such effect; makes an assignment for the benefit of creditors; a proceeding is instituted by or against Tenant alleging that Tenant is insolvent or unable to pay debts as they mature; or a petition under any bankruptcy or insolvency law is brought by or against Tenant.

B. Tenant shall promptly notify Landlord in writing upon the happening or occurrence or existence of any Event of Default, or any event or condition which with the passage of time or giving of notice, or both, would constitute an event of Default.

C. Upon the occurrence of any of the Events of Default, Landlord may, at its option, without notice to or demand upon Tenant, exercise any one or more of the following remedies:

- i. Landlord may reenter the Property immediately with or without process of law and with the use of such force as may be necessary, and remove all persons and all property therefrom. Landlord shall not be liable or responsible for any damages resulting therefrom.
- ii. Landlord may terminate this Lease by ten (10) days written notice to Tenant. Reentry only, without notice of termination, will not terminate this Lease. Upon termination of this Lease, Landlord may recover from Tenant all damages

proximately resulting from the termination, including the cost of recovering the Property. All such amounts shall be immediately due and payable from Tenant.

- iii. After reentering, Landlord may relet the Property or any part thereof, for any term, without terminating this Lease at such rent and on such terms as Landlord may choose.
- iv. Landlord may pursue any other remedy or combination of remedies legally available to Landlord, including the recovery of damages caused by Tenant's failure to perform or observe any covenant or condition of this Lease.

Article 8.

Possession, Landlord's Lien, Mineral Rights, Liability, Indemnification and Use

A. **Yielding Possession.** Tenant agrees at the expiration or termination of this lease to yield possession of the premises to Landlord without further demand or notice, in as good order and condition as when they were entered upon by Tenant, loss by fire, flood, or tornado, and ordinary wear excepted.

B. **Mineral Rights.** Nothing in this Lease shall confer upon Tenant any right to minerals underlying the land. Such mineral rights are hereby reserved by Landlord together with the full right to enter upon the premises and to bore, search, excavate, work and remove the minerals, to deposit excavated rubbish, to pass over the premises with vehicles, and to lay down and work any railroad track or tracks, tanks, pipelines, power lines, and structures as may be necessary or convenient for the above purpose. Landlord agrees to reimburse the Tenant for any actual damage Tenant may suffer for crops destroyed by these activities and to release Tenant from obligation to continue farming this property when development of mineral resources interferes materially with Tenant's farming operations.

C. **Tenant Liability.** Tenant takes possession of the Property subject to the hazards of operating a farm, and assumes all risk of accidents personally as well as for family, employees, or agents in the pursuance of farming operations.

D. **Landlord's Lien.** The Landlord's lien provided by statute on crops grown or growing, together with any other security agreement(s) created by Tenant in favor of Landlord, shall be the security for the rent herein specified and for the faithful performance of the terms of the lease. The Tenant shall provide the Landlord with the names of persons to whom the Tenant intends to sell crops grown on these premises at least 30 days prior to the sale of such crops. A lesser period may be allowed by mutual written agreement. Tenant consents to any filing required by law to perfect the statutory landlord's lien upon crops. If the Tenant fails to pay the rent due or fails to keep any of the agreements of this lease, all costs and attorney fees of the Lessor in enforcing collection or performance shall be added to and become a part of the obligations payable by the Tenant.

E. **Indemnification.** Except to the extent of the negligence or willful misconduct of Landlord, or its agents, employees or contractors, Tenant shall hold harmless, indemnify and defend Landlord and its members, agents and employees from all damages, liabilities, penalties, actions, attorney's fees, costs and expenses resulting from or arising out of any of the following: (a) Tenant's occupancy or use of the Property; (b) any accident or other occurrence in the Property arising in connection with Tenant's use of the Property; (c) any violation resulting from an act or omission by Tenant or Tenant's members, stockholders, partners, officers, agents, employees, or invitees, of any law or ordinance in any way related to the Property, including but not limited to Environmental Laws.

F. **Hunting, Fishing and Wildlife Management Activities.** All hunting, fishing, trapping, and all other recreational uses are reserved to the Landlord.

G. **Application of Sludge.** Landlord retains the right to apply sludge from its sewer operation on the Property after the crop is harvested in the fall. Tenant agrees to disc the sludge within ten (10) days after the completion of the application by Landlord, weather permitting, at no cost to Landlord.

Article 9. General Provisions

A. Titles to Articles and sectional headings herein are for information purposes only.

B. The provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

C. This Lease shall be construed, enforced and governed in all respects in accordance with the laws and the statutes of the State of Illinois.

D. The invalidity of any particular term or provisions of the Lease shall not affect the validity of the remaining terms and provisions hereof.

E. No alterations to or modification of the terms or the provisions of this Lease shall be effective unless such alteration or such modification is reduced to writing, and is then properly executed by the parties hereto.

F. This Lease supersedes any prior contract or arrangement between the parties hereto, and represents the complete agreement of the parties hereto.

G. All notices provided by this Lease shall be given in writing (i) either by actual delivery of the notice to the party thereunder entitled, or (ii) by mailing of the notice in the United States mail, first-class postage prepaid, to the address of the party entitled thereto, registered or certified mail, return receipt requested. The notice shall be deemed to be received (i) on the date of its actual receipt by the party entitled thereto and (ii) on the date of its mailing. All notices, demands or other communications to any of the parties to this Lease shall be addressed as described above. The address of any party hereto may be changed by notice to the other party duly served in accordance with the provisions hereof.

H. Any waiver by a party hereto of a breach of any term or condition of this Lease shall not be considered as a waiver of any subsequent breach of the same or any other term or condition hereof.

I. Nothing contained in this Lease shall be deemed or construed as creating a relationship of principal and agent, or of partnership or of joint venture between the parties hereto.

J. Time is of the essence of each and every provision, covenant, and condition herein contained and on the part of Tenant or Landlord to be done and performed.

K. For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

L. Tenant will permit no lien, notice of intention to file lien, or other charges (whether arising out of work of Tenant or any contractor, subcontractor, mechanic, laborer or material man of Tenant or any mortgage, conditional sale, security agreement, chattel mortgage or otherwise) which might be or become a lien or encumbrance or charge upon the Property or any part thereof.

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Executed by the parties hereto as of the day and year first above written.

Landlord:

Tenant:

City of Washington, Illinois

Gary W. Manier, Mayor

Exhibit A

All that part of the West Half of the Northeast Quarter of Section 18, Township 26 North, Range 2 West of the Third Principal Meridian, lying North of the right-of-way of the T. P. & W. R.R., **EXCEPT** a part thereof described as follows:

Beginning at a point on the North line of said West Half of the Northeast Quarter 363 feet East of the Northwest corner of said Northeast Quarter; thence South 620 feet; thence East 352 feet; thence North 620 feet to the North line of said Northeast Quarter; thence West on said North line 352 feet to the Point of Beginning, Tazewell County, Illinois;

Except the following-described real estate:

A part of the Northeast Quarter of Section 18, Township 26 North, Range 2 West of the Third Principal Meridian, more particularly described as follows:

Commencing at a PK nail found at the Northwest Corner of the said Northeast Quarter of Section 18; thence South $00^{\circ} 36' 48''$ West, (an assumed bearing), along the West line of said Northeast Quarter of Section 18, a distance of 40.00 feet, to the Point of Beginning; thence South $89^{\circ} 40' 33''$ East, along a line 40.00 feet South of and parallel with the North line of the said Northeast Quarter of Section 18, a distance of 363.20 feet, to the West line of a tract of land as shown in Plat Book "PP", Page 96, in the Tazewell County Recorder's Office; thence South $00^{\circ} 19' 27''$ West, along the said West line of the tract of land shown in Plat Book "PP", Page 96, a distance of 600.00 feet; thence North $89^{\circ} 40' 33''$ West, a distance of 366.23 feet, to the said West line of the Northeast Quarter of Section 18; thence North $00^{\circ} 36' 48''$ East, along the said West line of the Northeast Quarter, a distance of 600.01 feet, to the Point of Beginning, containing 5.024 acres, more or less; situated in the County of Tazewell and State of Illinois.

Also excepting the 5.16-acre parcel being rented to the R/C Flyers Club and the 17-foot-wide ingress and egress easement, all as shown on the attached aerial photograph marked "Exhibit 1" and by reference expressly made a part hereof.

Consisting of approximately 41.8 acres of tillable land as shown on the aerial photograph marked "Exhibit 2," attached hereto, and by reference expressly made a part hereof.