



## Legislation Text

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**File #:** 71618, **Version:** 1

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### **Fiscal Note**

Anticipated income of \$975.00 in 2022 will be deposited into MUNIS Account 84110-47150-00000. Rent during future renewal terms, if any, will be subject to agreement between the Lessee and Office of Real Estate Services staff.

### **Title**

Authorizing the Mayor and City Clerk to execute a lease for farming purposes with Guy J. and Laura S. Dreger for approximately 13 acres of land located at 10202 Mid Town Road. (1st AD)

### **Body**

WHEREAS, the City of Madison ("City") Storm Water Utility owns the property located at 10202 Mid Town Road ("Property"); and

WHEREAS, Storm Water Utility staff support farming of the Property for the land management benefit of controlling invasive species and other undesirable vegetation; and

WHEREAS, the terms of a lease have been negotiated between Guy J. Dreger & Laura S. Dreger and the Office of Real Estate Services; and

WHEREAS, Storm Water Utility staff have reviewed the lease terms and recommend entering into a lease with Guy J. Dreger & Laura S. Dreger, and the lease has been approved by the City Attorney's Office and Risk Manager.

NOW THEREFORE BE IT RESOLVED that the Mayor and City Clerk are authorized to execute a lease with Guy J. Dreger & Laura S. Dreger ("Lessee") allowing for the use of approximately 13 acres of land for farming purposes, subject to the following terms and conditions:

1. The City hereby leases to the Lessee the tract of land ("Leased Premises") described on Exhibit A and depicted on Exhibit B, which exhibits are attached and made a part of this Lease.
2. This Lease shall be for a term of one (1) year, subject to early termination pursuant to the terms of this Lease. This Lease shall commence as of January 1, 2022 (the "Effective Date") and expire on December 31, 2023.
3. This Lease may be renewed for subsequent one (1) year terms upon agreement of the parties as to the terms of the renewal, including but not limited to the rental rate. If the Lessee desires to renew the Lease, the Lessee must give notice in writing to the City a minimum of thirty (30) days prior to the expiration of the initial term or any renewal term, by the mailing of a notice by certified mail, return receipt requested, or by personal delivery to the Office of Real Estate Services at the address specified in the Lease. Following receipt of such notice, the City may indicate by written notice to the Lessee its approval or denial of the Lessee's request for renewal. If the City does not assent to a renewal notice within thirty (30) days after receipt of such notice, renewal shall be deemed denied and in no event shall the City be responsible for reimbursement of any costs expended by the Lessee in anticipation of a Lease renewal (e.g., seed, fertilizer, etc.).

4. The Lessee shall pay rent to the City in the sum of Seventy-five and 00/00 Dollars (\$75.00) per tillable acre, payable in two (2) payments of Four Hundred Eighty-Seven and 50/00 Dollars (\$487.50) each. The first payment is due on or before June 1, 2022. The second payment is due on or before December 31, 2022.
5. The Lessee shall use the Leased Premises solely for the farming of crops. Such farming shall be conducted in accordance with usual and recognized farming practices of Dane County, Wisconsin.
6. The Lessee shall not hunt upon the Leased Premises and shall ensure that the Leased Premises are not used for hunting purposes.
7. The Lessee shall in no way encumber, or allow to be encumbered, the City's title to the Leased Premises.
8. The Lessee shall not apply Dicamba, Glyphosate, Atrazine or any herbicide that lists Atrazine as an active ingredient on the Leased Premises.
9. The Lessee shall in no way encumber, or allow to be encumbered, the City's title to the Leased Premises.
10. The Lessee shall not assign this Lease or sublet the Leased Premises, or any portion thereof, without the prior written consent of the City, which consent the City may withhold in its sole discretion.
11. The City is not obligated to fence, make repairs to any fences, or to make any other repairs to the Leased Premises, and any fencing, fence repair, or other repair which is required by law or which the Lessee may consider necessary shall be made by the Lessee at the Lessee's sole expense.
12. The Lessee shall be liable to and agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the acts or omissions of the Lessee or its officers, officials, agents, employees, assigns, guests, invitees, or subcontractors, in or related to the performance of this Lease, whether caused by or contributed to by the negligence of the City, its officers, officials, agents, or employees. This paragraph shall survive termination and assignment or transfer of this Lease.
13. The Lessee shall carry farm general liability insurance covering as the named insured the Lessee and naming the City, its officers, officials, agents, and employees as additional insureds, with a minimum limit of \$500,000 per occurrence as may be adjusted, from time to time, by the City's Risk Manager. This policy shall also be endorsed for contractual liability in the same amount, apply on a primary and noncontributory basis, and provide the City thirty (30) days advance written notice of cancellation, non-renewal or material changes to the policy during the term of this Lease. As evidence of this coverage, the Lessee shall furnish the City with a certificate of insurance on a form approved by the City, and, if requested by the City Risk Manager, Lessee shall also provide copies of additional insured endorsements or policy. If the coverage required above expires while this Lease is in effect, Lessee shall provide a renewal certificate to the City for approval.
14. The Lessee represents and warrants that its use of the Leased Premises will not generate any

hazardous substance, and it will not store or dispose on the Leased Premises nor transport to or over the Leased Premises any hazardous substance in violation of any applicable federal, state or local law, regulation or rule. The Lessee further agrees to hold the City harmless from and indemnify the City against any release of such hazardous substance and any damage, loss, or expense or liability resulting from such release including all attorneys' fees, costs and penalties incurred as a result thereof except any release caused by the sole negligence or intentional acts of the City, its employees or agents. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease, or damage to or loss of use of real or personal property. This paragraph shall survive termination and assignment or transfer of this Lease.

15. The Lessee shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the City, the County of Dane, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Leased Premises. The Lessee may, if in good faith and on reasonable grounds, dispute the validity of any charge, complaint or action taken pursuant to or under color of any statute, rule, order, ordinance, requirement or regulation, defend against the same, and in good faith diligently conduct any necessary proceedings to prevent and avoid any adverse consequence of the same. The Lessee agrees that any such contest shall be prosecuted to a final conclusion as soon as possible and that it will hold the City harmless with respect to any actions taken by any lawful governmental authority with respect thereto.
16. This Lease is subordinate to rights and privileges granted by the City to public and private utilities across, over or under the Leased Premises.
17. The Lessee shall subordinate its rights in this Lease, without compensation, at the request of the City to provide easements and rights-of-way for all current and future public and private utilities across or along the Leased Premises, provided that neither such subordination nor such easements shall interfere, except temporarily during construction or temporarily pursuant to rights which accrue to such easements or rights-of-way, with the use of the Leased Premises under the terms of this Lease.
18. The City shall have the right, at its sole option, to declare this Lease void, terminate the same, reenter and take possession of the Leased Premises by giving the Lessee thirty (30) days written notice.
19. Upon the expiration or termination of this Lease, the Lessee shall remove all of its personal property from the Leased Premises. If the Lessee leaves any of its personal property on the Leased Premises, the City shall have the right to dispose of said property without liability thirty (30) days after the Lessee vacates or abandons the Leased Premises.
20. The City's Economic Development Division Director or the Director's designee is hereby designated as the official representative of the City for the enforcement of all provisions in this Lease, with authority to administer this Lease lawfully on behalf of the City.
21. The Lease will be recorded at the office of the Dane County Register of Deeds after it is executed by the parties.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to execute any and all additional documents that may be required to complete this transaction.

