



## Legislation Text

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**File #:** 55925, **Version:** 1

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### **Fiscal Note**

The proposed resolution authorizes execution of a lease for farming purposes for approximately 35 acres of land within the Northeast Open Space. No lease income is anticipated in 2019 due to rent credit earned by the lessee for weed treatment. Anticipated income in the years 2020 and 2021 is \$1,050 per year. Rent will be deposited into the Parks Division Land Acquisition Fund, MUNIS project 17516-51-999.

### **Title**

Authorizing the Mayor and City Clerk to execute a lease for farming purposes with Ronald J. Treinen for approximately 35 acres of land within the Northeast Open Space. (17th A.D.)

### **Body**

WHEREAS, on May 15, 2001 the City of Madison adopted Resolution No. 58364, ID No. 29499, which authorized a lease for farming purposes with James and Anita Treinen for a tract of land within the City's Northeast Open Space; and

WHEREAS, James and Anita Treinen farmed such tract for farming purposes continuously from 2001 through 2014 and in 2015 assigned the lease to Ronald J. Treinen; and

WHEREAS, the City of Madison terminated the farm lease effective December 31, 2016 due to a potential conflict with DNR restrictions, which limit the use of the land to public park purposes; and

WHEREAS, the DNR recently agreed with Parks staff that farming of the tract provides the interim land management benefit of controlling invasive species and other undesirable vegetation and, therefore, is not in conflict with the DNR restrictions on the property; and

WHEREAS, the DNR has indicated its approval of renewed use of the land for farming purposes; and

WHEREAS; Parks Division staff would like to offer a new lease to Ronald J. Treinen for farming purposes; and

WHEREAS, Parks Division staff and Ronald J. Treinen have agreed that, due to proximity of the land to the bike path, it would be best not to cultivate the land for crops but rather to mow and bale the grass for hay; and

WHEREAS, the terms of a lease allowing for such use have been negotiated between Ronald J. Treinen, Parks Division staff and the Office of Real Estate Services; and

WHEREAS, Parks Division staff have reviewed the lease terms and recommend entering into the lease with Ronald J. Treinen, 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 new lease with Ronald J. Treinen (the "Lessee") allowing for the use of approximately 35 tillable acres of land for farming purposes, subject to the following terms and conditions:

1. The "Leased Premises" are more particularly described on attached Exhibit A and depicted in attached Exhibit B.
2. The term of the Lease shall be for three (3) years, commencing as of January 1, 2019 and expiring on

December 31, 2021 (the "Initial Term").

3. The Lease may be renewed for subsequent one (1) year terms upon agreement of the parties as to the terms of the renewal.
4. The Lessee shall use the Leased Premises solely for the mowing and baling of grass for hay.
5. During the Initial Term, the Lessee shall pay annual rent to the City in the sum of ten and 00/00 Dollars (\$10.00) per bale of hay (3' x 3' x 8') harvested in any given year, payable in one (1) payment due on or before October 31 of such year. The Lessee shall, at the time of each harvest, send written verification to the City as to the number of bales harvested. Annual rent shall be calculated based on such verified amount(s).
6. The Lessee shall be entitled to a one-time rent credit of \$1,000.00. Such amount represents the Lessee's costs to purchase and apply herbicide for the initial treatment of thistles and other invasive weeds.
7. The Lessee shall not apply atrazine or any herbicide that lists atrazine as an active ingredient on the Leased Premises.
8. The Lessee shall not hunt upon the Leased Premises and shall ensure that the Leased Premises are not used for hunting purposes.
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 the 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 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 the 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 the Lease.
12. 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 the 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 the Lease is in effect, Lessee shall provide a renewal certificate to the City for approval.
13. 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 the Lease.

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.