

SECOND AMENDMENT TO LEASE

This Second Amendment to Lease (this "2d Amendment") is made and entered into effective _____, 2012 (the "Effective Date"), by and between MILWAUKEE COUNTY, as represented by the Department of Parks, Recreation and Culture ("Landlord") and HUNGER TASK FORCE, INC. ("Tenant"). Referenced together the Landlord and the Tenant are the "Parties" to this 2d Amendment.

RECITALS:

A. Landlord and Tenant are Parties to that lease and amendment dated December 31, 2006, (as amended, the "Lease") pursuant to which Landlord leases to Tenant approximately 144.6 acres of land and buildings at the Milwaukee County Correctional Facility – South ("MCCFS"), previously known as the House of Correction, and the Milwaukee County Department of Parks, Recreation and Culture, in the city of Franklin, Milwaukee County, state of Wisconsin.

B. Landlord and Tenant desire to amend the Lease as more particularly set forth herein.

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

PROVISIONS:

1. **DEFINITIONS.** Capitalized terms used herein and not otherwise defined herein shall have the same meaning as provided in the Lease. The Lease, as modified by this 2d Amendment to Lease, shall herein be referred to as the "Lease."

2. **AMENDMENTS.**

(a) Exhibit A. "Exhibit A" of the Lease is hereby deleted in its entirety and Exhibit A attached hereto shall be inserted in its place.

(b) Exhibit B. "Exhibit B" of the Lease is hereby deleted in its entirety.

(c) "Department of Transportation and Public Works" is deleted wherever it appears and is replaced with "Department of Administrative Services".

(d) Premises. Paragraph 1 of the Lease shall be deleted in its entirety and replaced by the following paragraph:

"1. Premises. "Premises" means a portion of Milwaukee County owned real estate located in the city of Franklin, as depicted on the attached Exhibit A and legally described on the attached Exhibit A-1 and described below:

(a) Approximately 172.90 acres of land, including the "warehouse", the "greenhouse", the "hatchery", the "barn", the "creamery", the "pig barn", the "grainery", the "slaughterhouse", the "general store", and the building commonly known as the "K-9 building", together with all the fixtures and other improvements located on such land and all rights appurtenant thereto all as depicted on Exhibit A (the "Leasehold Property"),

(i) Landlord reserves the right to use a mutually acceptable portion of the "general store" (or any replacement facility) for the storage of nursery equipment;

(b) Approximately 23.40 acres of land granted to Tenant for temporary use until either the termination of this Lease or the sale of the land, whichever occurs first ("Temporary Use Property");

(c) Approximately 8.90 acres of land, currently leased by the County to the Franklin Little League, Inc., granted to Tenant for conditional use until either the termination of this Lease or the Little League's need to expand into the land ("Conditional Use Property"); and

(d) The Premises does not include (i) the roadway extending east from S. 76th Street to the MCCFS, (ii) a thirty yard (30 yd.) buffer zone extending out from and surrounding MCCFS's fence line, or (iii) the Wood Utilization Area, as depicted on Exhibit A."

(e) Term. Paragraph 3 of the Lease is hereby deleted in its entirety and replaced by the following paragraph:

"3. Term. The term of Lease is hereby extended and shall expire on December 31, 2027 (the "Initial Term"). Provided Tenant shall not then be in default under this Lease, Tenant and Landlord may mutually agree to extend the term of this Lease for one (1) additional consecutive period of fifteen (15) years ("Extended Term"). Tenant shall give Landlord written notice of its interest to extend not later than one hundred eighty (180) days prior to the expiration of the Initial Term. In the event of Tenant's interest to extend, Landlord and Tenant agree that further negotiation regarding the terms and conditions of this Lease, including rent and Tenant's use of the Premises, may be appropriate at that time; and said extension shall be negotiated and agreed upon in good faith or no extension shall be granted."

(f) Purpose.

1. Paragraph 4 is amended by deleting the phrase "worked by inmate labor", and replacing it with "; and for such other educational and scientific programming it deems suitable and appropriate in connection with the operation of an urban farm. Any other use shall be subject to Landlord's prior written approval."

2. This Paragraph is further amended by inserting as the last sentence, "As used in this paragraph, and any other part of this Lease, any requirement of the "Landlord's approval" or "prior written approval" shall be deemed satisfied by the written approval of the Director of Milwaukee County Department of Parks, Recreation and Culture. Whenever Landlord's approval is required herein, such approval shall not be unreasonably withheld or delayed and shall be deemed given if Landlord fails to respond within thirty (30) days after receipt of Tenant's request for such approval."

(g) Rent. Paragraph 5 of the Lease is hereby deleted in its entirety and replaced by the following paragraph:

"5. Rent. Tenant shall pay, as rent for the use and occupancy of the Premises, Landlord, c/o Director, Milwaukee County Department of Parks, Recreation and Culture, 9480 Watertown Plank Road, Wauwatosa, Wisconsin 53226, or at such other place Landlord shall direct by written notice to Tenant, an annual base rent amount of one dollar (\$1.00).

The foregoing rent shall be payable in advance for all the remaining years of the Initial Term, and shall be made to Landlord. Tenant hereby acknowledges and agrees to be bound by Milwaukee County Ordinance 56.32, which provides for the imposition of penalties and interest for delinquent rental payments."

(h) Rules and Regulations. Paragraph 6 is amended by striking the phrase "House of Correction" and inserting "Milwaukee County Correctional Facility – South and the Milwaukee County Department of Parks, Recreation and Culture."

(i) Construction.

1. Paragraph 7(a) of the Lease is amended by deleting in the second sentence the word "its" and replacing it with "the".

2. Paragraph 7(a) is further amended by deleting in the third sentence the word "'s" and replacing it with "and the".

3. This Paragraph is again amended by inserting the phrase "Landlord's and" after the word "require" in the fourth sentence.

4. Paragraph 7(a) of the Lease is further amended by deleting the fifth sentence and replacing it with:

"As a condition to issuance of approval, the Department of Administrative Services may require proof that Tenant has obtained one hundred percent (100%) of the funding for the construction of the new improvements."

5. The ninth and tenth sentences of this paragraph are amended by deleting the words "'s" and replacing them with "and the".

6. In addition to the amendments above, this Paragraph is amended deleting the word "by" in the eleventh sentence and replacing it with "be".

(j) Maintenance and Repair. Paragraph 8 of the Lease is hereby deleted in its entirety and replaced by the following:

"8. Maintenance and Repair. During the Term of this Lease, Tenant shall, at its expense, pay for and make all necessary repairs and replacements, structural or otherwise, to the Premises, including, but not limited to, any existing structures and any structures as it erects in and on the Premises, and any plumbing, electrical and lighting (including light bulbs), doors, door checks, door hardware, windows, fixtures, heating, ventilating and air conditioning facilities located in or servicing any building located on the Premises or any structures Tenant erects. All repairs shall be done by licensed tradespersons if so required by applicable law. Tenant may contract with Landlord for repairs on a time and materials basis. Landlord shall have no obligation to make repairs to the Premises or to any utility systems servicing the Premises, except as otherwise set forth in Paragraph 28(a).

Tenant shall perform its repair obligations promptly after learning of the need for such repairs, but in any event within thirty (30) days after written notice provided by Landlord. If Tenant fails to make such repairs for which it is obligated within thirty (30) days after Landlord's notice, and such failure constitutes a health or safety hazard to the public, or has the potential to cause further damage to the Premises, then Landlord shall have the right to make the repair with its own staff or contract with a private company to make the repair, and charge all reasonable costs directly associated with making the repair, to the Tenant, (including salary and benefits if done with Landlord's own staff)."

(k) Utilities and Taxes. Paragraph 9 of the Lease is hereby deleted in its entirety and replaced by the following:

“9. Utilities and Taxes.

(a) Tenant agrees to pay all charges for installation and operation of telephone, gas, electric, water, sewer, light, heat, power, air conditioning or other utilities services used during the Term. Tenant will at its sole expense provide for the installation of a separate metering system for these expenses, if applicable and if feasible.

(b) Tenant shall be liable for all personal property taxes that may be levied against property owned or kept on the Premises by the Tenant.”

(l) Insurance. Paragraph 10(a) of the Lease is hereby deleted in its entirety and replaced by the following:

“10. Insurance.

(a) Tenant agrees to evidence and maintain or cause its contractors to evidence and maintain proof of financial responsibility to cover costs as may arise from claims of tort, statutes and benefits under Workers' Compensation laws or vicarious liability arising from employees at least to the minimum limits established now and in the future by Milwaukee County's Risk Manager. Such evidence shall include insurance coverage for Workers' Compensation claims as required by the State of Wisconsin, including employer's liability and business insurance covering general liability and automobile coverage in the following minimum amounts:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation Or Proof of All State Coverage	Statutory
Employers' Liability	\$100,000/\$500,000/\$100,000
Commercial General Liability	
Bodily Injury & Property Damage (Incl. Personal Injury, Fire, Legal Contractual and Products/Completed Operations)	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
Professional Liability (Errors and Omissions) (required for Constructions Managers, Architects, Engineers and Designers)	\$1,000,000 per occurrence/claim
Automobile Liability	
Bodily Injury & Property Damage All Autos-Owned, non-owned or hired Uninsured Motorists	\$1,000,000 Per Accident Per Wisconsin Requirements

Milwaukee County will be named as an additional insured for General Liability and Automobile Liability; in the event there is a General Contractor, then the Tenant and Milwaukee County shall be named as additional Insureds. A waiver of subrogation for Workers Compensation by endorsement

in favor of Milwaukee County shall be provided. A thirty (30) day written notice of cancellation or non-renewal shall be afforded to Milwaukee County.

The insurance specified above shall be placed with an "A" rated carrier per Best's Rating Guide approved to do business in the state of Wisconsin. Any deviations or waiver of required coverages or minimums shall be submitted in writing and approved by Milwaukee County's Risk Manager as a condition of this Lease. Waivers may be granted when surplus lines and specialty carriers are used.

A certificate of insurance shall be submitted for review to Milwaukee County for each successive period of coverage for the duration of this Lease. The insurance requirements contained within this Agreement are subject to periodic review and adjustment by the County Risk Manager."

(m) Landlord's Covenant of Title. Paragraph 15 of the Lease is amended by adding the following phrase between the phrases "(i) municipal and zoning ordinances, and" and "agreements entered into under them":

"any past, present and future"

(n) Surrender at Termination; Removal of Property. Paragraph 18 of the Lease is amended by deleting the second sentence in the paragraph and replacing it with the following:

"Any structures, alterations, additions or Leasehold improvements installed on the Premises, as well as such Tenant-owned furnishings, fixtures, equipment and supplies associated with the Premises that are necessary for the continued operation of the Premises, shall become the property of the Lessor upon the expiration or termination of the Lease."

(o) Termination. Paragraph 23 of the Lease shall be deleted in its entirety and replaced by the following:

"23. Termination.

(a) Provided that Tenant is not in default under the terms of this Lease, Tenant shall be entitled to terminate this Lease, upon ninety (90) days written notice to Landlord, should Tenant at any time fail to receive adequate funding to allow for the continued operation of the Premises by Tenant. Provided that Landlord is not in default under the terms of this Lease, Landlord shall be entitled to terminate this Lease, upon ninety (90) days written notice, if the County Board adopts a resolution specifically authorizing the termination of the farm and fish operations.

(b) Notwithstanding the above, if the Milwaukee County Board of Supervisors, via official action or resolution, elects to sell any portion of the Temporary Use Property, Tenant's right to use that portion of said property shall automatically terminate. In the event of a sale, Landlord agrees to allow Tenant the ability to harvest its crops, provided the crops were planted before the sale of the property. In addition, and as part of the Sales Contract, the County shall require the purchaser of the Temporary Use Property, or any portion thereof, to financially reimburse Tenant for the replacement of any specialty crop planted on said property.

(c) As it pertains to the Conditional Use Property, Tenant's right to use said property shall automatically terminate upon the Franklin Little League, Inc.'s written notification to the Parks Director and the Office of the Sheriff ("Sheriff") of its intention to expand into the property. Tenant understands, acknowledges and agrees that it shall have up to nine (9) months after

Landlord's receipt of said notification by the Little League to harvest any crops already planted on such property."

(p) Operation of the Premises; Landlord's Obligations; Tenant's Obligations. Paragraph 28 of the Lease shall be deleted in its entirety and replaced by the following:

"28. Operation of the Premises. It is the intention of Landlord and Tenant that during the Term the Premises shall be operated by Tenant as an urban work farm to plant, harvest and distribute produce and fish to a network of charities that provide hunger relief to low-income persons in the Milwaukee geographic area pursuant to the conditions set forth in Wisconsin State Statutes. In furtherance thereof, Landlord and Tenant have agreed to assume certain obligations with respect to the operation of the Premises, as set forth in this Section 28.

(a) Landlord's Obligations. During the Term, Landlord shall, at Landlord's sole cost and expense:

(i) Provide access to Milwaukee County water necessary for Tenant's operations at the Premises, including, without limitation, as required for irrigation purposes and the operation of the hatchery; and

(ii) Provide technical assistance and necessary supportive material the Tenant for the development of grant or funding applications, as needed.

(b) Tenant's Obligations. During the Term, Tenant shall, at Tenant's sole cost and expense:

(i) Determine which crops will be planted and harvested at the Premises;

(ii) Distribute a minimum of 200,000 pounds of produce harvested at the Premises for distribution to Milwaukee County emergency food pantries, homeless shelters and soup kitchens. All produce harvested by Tenant will be donated to such recipients at no cost to such recipients. Tenant shall use its commercially reasonable efforts to ensure that all such recipients do not sell the produce harvested at the Premises by Tenant;

(iii) Dedicate a minimum of one (1) acre of the Premises to the planting and harvesting of pumpkins for distribution to Milwaukee County Parks, Milwaukee County Zoo, and other non-profit organizations, provided that Tenant shall not be required to harvest the pumpkins for such distribution. All other pumpkins harvested by Tenant will be donated to such recipients at no cost to such recipients. Tenant shall use its commercially reasonable efforts to ensure that all such recipients do not sell the pumpkins harvested at the Premises by Tenant. Pumpkins will be provided by Tenant on a first-come, first-serve basis;

(iv) Stock the Milwaukee County Park lagoons a minimum of 3 times per year with a minimum of 40,000 fish per year; dates and locations for stocking, and types of fish to be mutually agreed upon;

(v) Provide Landlord with 10 cords of wood annually;

(vi) When required by the Sheriff, ensure that Tenant's staff (including employees and volunteers) and visitors have passed MCCFS security screening before entering upon the Premises;

(vii) When required by the Sheriff, ensure that Tenant's staff (including employees and volunteers) and visitors follow MCCFS rules, policies and procedures while at the Premises; and

(viii) Purchase farm elements and all seeds and chemicals necessary for the Tenant's operations at the Premises."

(q) Land Preservation. Paragraph 29 of the Lease is hereby deleted in its entirety.

(r) Grants. Paragraph 30 of the Lease is amended by striking the last sentence of the paragraph.

(s) Records and Audits. Paragraph 31 of the Lease shall be deleted in its entirety and replaced by the following:

"31. Records and Audits. Pursuant to Milwaukee County ordinance section 56.30(6)(e), Tenant shall allow Milwaukee County, the Milwaukee County Department of Audit, or any other party the Milwaukee County may name, when and as they demand, to audit, examine and make copies of records in any form and format, meaning any medium on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by Tenant, including not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer files, computer printouts and optical disks, and excerpts or transcripts from any such records or other information directly relating to matters under this Lease, all at no cost to Milwaukee County. Any subcontracting by Tenant in performing the duties described under this Lease shall subject the subcontractor and/or associates to the same audit terms and conditions as Tenant. Tenant (or any subcontractor) shall maintain and make available to Milwaukee County the aforementioned audit information for no less than three years after the conclusion of this Lease."

(t) Notices. Paragraph 32 is amended by deleting "Milwaukee County House of Correction" and its corresponding address from "To Landlord:", and replacing it with "Milwaukee County Department of Parks, Recreation and Culture, 9480 Watertown Plank Rd., Wauwatosa, WI 53226, Attn: Parks Director".

3. **ADDITIONS TO LEASE:** The Lease is amended to add the following Paragraph:

(a) "40. Employment of Mr. David Mueller. Tenant agrees to hire Mr. David Mueller as its Fish Culturist on its standard terms of employment."

4. **PUBLIC HEALTH, SAFETY AND WELFARE EMERGENCIES.** In the event of a public health, safety and welfare emergency, nothing contained in the Lease shall be construed to prohibit Milwaukee County's Office of the Sheriff ("Sheriff"), its agents or employees from entering and taking control of the Premises for the purpose of discharging their lawful duties. The exercise by the Sheriff of its rights under this paragraph shall not be deemed a default of the Lease on the part of the Landlord.

5. **RATIFICATION OF LEASE.** Tenant hereby ratifies the terms and provisions of the Lease and agrees that Tenant remains bound by the terms and provisions of the Lease as amended by this 2d Amendment.
6. **OTHER TERMS AND CONDITIONS.** Except as specifically modified or amended herein, all other terms and conditions of the Lease, as amended by the 2d Amendment to Lease, shall remain in full force and effect.
7. **CONFLICT.** In the event of a conflict between the terms and conditions of the Lease and the terms and conditions of this 2d Amendment, the terms and conditions of this 2d Amendment shall control.
8. **BINDING EFFECT.** This 2d Amendment shall bind the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this 2d Amendment to Lease as of the date written above.

MILWAUKEE COUNTY

By: _____
 Print: _____
 Title: _____

HUNGER TASK FORCE, INC.

By: _____
 Print: _____
 Title: _____

Approved as to form and independent status:

Reviewed by:

By: _____ Date: _____
 Corporation Counsel

By: _____ Date: _____
 Risk Management