

**AMENDED AND RESTATED AGRICULTURAL LEASE AGREEMENT**

**BETWEEN**

**MILWAUKEE COUNTY DEPARTMENT OF PARKS, RECREATION AND CULTURE**

**AND**

**SHORTY ACRES, LLC**

This Lease is made and entered into January 1, 2020, by and between the MILWAUKEE COUNTY PARKS, a municipal body corporate, duly organized and existing under the laws of the State of Wisconsin (hereinafter called the "Lessor") and Shorty Acres, LLC (hereinafter called the "Lessee").

WITNESSETH, Lessor does hereby lease, demise, and let unto the Lessee, subject to the terms stated herein, the following described Leased Premises situated in the County of Milwaukee and State of Wisconsin, to-wit:

Parcel # 25 located in the NE 1/4 of Section 34, Township 5 North, Range 21 East  
consisting of 2.3 Acres                      Rotation Code **see Ag. Policy**   Term 5 years   Rental Payment \$ 260 per year

Parcel # 26 located in the NE 1/4 of Section 34, Township 5 North, Range 21 East  
consisting of 4.2 Acres                      Rotation Code **see Ag. Policy**   Term 5 years   Rental Payment \$ 475 per year

Parcel # 27 located in the SE 1/4 of Section 27, Township 5 North, Range 21 East  
consisting of 8.4 Acres                      Rotation Code **see Ag. Policy**   Term 5 years   Rental Payment \$ 1033 per year

PARCEL #	ACREAGE	FARM #	TRACK #	DISTRICT #	LOCATION
27	8.4	1450	985	9	North of W. Oakwood Rd., west of S. 60 <sup>th</sup> St.
25	2.3	173	1072	9	South of W. Oakwood Rd., west of S. 60 <sup>th</sup> St.
26	4.2	173	1072	9	South of W. Oakwood Rd., west of S. 60 <sup>th</sup> St.

**USE:** This Lease is to allow the growing and harvesting of agricultural row-crops, vegetable crops and hay land located within Milwaukee County parkland while preserving the soils, water and other related natural resources consistent with the terms, conditions and payment schedules of this Lease, as well as with the provisions contained in the Agricultural Land Lease Policy as adopted by the Milwaukee County Board of Supervisors on September 29, 1994, revised January 2010, and updated December 2019, which are hereby incorporated herein by reference.

**TERM:** This Lease shall be effective beginning January 1, 2020, and shall remain in effect through December 31, 2024, unless terminated per the provisions defined herein or by mutual agreement. Lessor retains the sole right to determine the Lease length, its conditions or whether the Lease will be renewed. The evaluation for renewal of any lease may be based partially on the degree of compliance with the terms of the lease.

**RENTAL PAYMENT SCHEDULE:** Lessee shall provide rental payments to Lessor according to the following payment schedule for each year of the Lease term:

\$ 884 due on or before April 1 and \$ 884 due on or before November 30.

Lessor will not provide rental rate adjustments for crop failures due to extreme weather conditions. If renters wish to

receive subsidies or payments to offset crop losses they should work with the United States Department of Agriculture ("USDA"), Farm Service Agency ("FSA"), Natural Resource Conservation Service ("NRCS"), or the University of Wisconsin Extension Service to identify any available programs or funding sources.

**IT IS MUTUALLY AGREED AND UNDERSTOOD BETWEEN THE LESSOR AND THE LESSEE that:**

- 1. Conservation Plan:** Lessee shall farm the parcel in conformance with a Conservation Plan ("CP") for the parcel(s) of land listed above, the provisions of which are hereby made a part of this Lease and shall be complied with at all times by Lessee; failure by Lessee to so comply shall be considered a default under this Lease. The CP shall describe and specify a crop rotation schedule, tillage methods, nutrient and pest management, stream bank protection and other best management practices required to reduce soil loss, achieve water quality goals and protect the natural resource base. The CP shall be submitted to the County Conservationist staff for their approval. Any modifications to the CP during the term of the Lease shall require written approval by Lessor.
- 2. Crop Acreage Certification:** Lessee shall coordinate with FSA on crop acreage certification and submit said certification documentation to Lessor.
- 3. Records:** Lessee shall maintain a log, listing information about all fertilizer and pesticide use on each of the leased parcels. These records shall be submitted to Lessor annually prior to each December 31.
- 4. Waste Disposal:** Milwaukee County lands are not to be used to store or to dispose of full or empty fertilizer or pesticide containers or any unused fertilizer, pesticide or other waste or material of any kind.
- 5. Notice of Planned Construction:** Lessee shall be notified of any utility construction or other activity that is proposed for any Milwaukee County parcel leased under this agreement. Compensation for any loss in use of the rented parcel will be determined on a case-by-case basis at the discretion of the Lessor.
- 6. Access:** Milwaukee County employees, agents and representatives have the right to enter any Milwaukee County-owned parcel covered in this Lease at any time without any prior notice to Lessee.
- 7. Compliance With Law:** Lessee shall obey, observe and comply with all rules, regulations, ordinances and laws, as adopted from time-to-time, which shall be applicable to the property, (including any improvements now or hereafter erected), and shall promptly comply with all orders, rules, rulings and directives of any governmental authority or agency having jurisdiction thereof.
- 8. Utility Charges:** Lessee shall pay, in addition to all other sums required to be paid by it under the provisions of this Lease, all utility charges for the Leased Premises.
- 9. Indemnification by Lessee:** Lessee agrees to protect and save Lessor harmless and indemnified against and from any penalty or damage or charge imposed for any violation of any laws or ordinances, whether occasioned by Lessee or those holding under the Lessee. Lessee further agrees to protect, indemnify and save Lessor harmless from and against any and all claims, and against any and all loss, damage, expense, liabilities, demands and causes of action, and any reasonable expenses (including attorney fees) incidental to the defense thereof by Lessor, arising out of any failure of Lessee in any respect to comply with and perform all of the requirements and provisions of this Lease, and against any and all loss, damage expense, liabilities, demands and causes of action and any reasonable expenses (including attorney fees) incidental to the defense thereof by Lessor resulting from injury or death of persons or damage to property, including without limitation the person and property of Lessee, its agents, employees and invites, occurring on the Leased Premises or on the adjoining sidewalks, street, alleys or ways, or in any manner directly or indirectly growing out of or in connection with the use and occupancy or disuse of the Leased Premises, or any part thereof, or any improvement now or hereafter located thereon by Lessee or any person holding under the Lessee. Lessee further agrees to indemnify and hold Lessor harmless against any and from all liabilities which may arise by virtue of environmental degradation of the Leased Premises or surrounding area caused by actions or omissions of the Lessee. Such indemnification and hold-harmless requirement applies to any damages governed by, but not limited to, the statutory law and case law of the State of Wisconsin and the

United States government. Violation indicates violations of any rules or regulations of the Wisconsin Department of Natural Resources or the United States Environmental Protection Agency. Liability is deemed to include responsibility for all remedial steps including liability for the costs of any court proceedings, necessitated by the environmental damage caused by Lessee. Liability shall also extend to any claims filed against Milwaukee County or to Lessee by third-parties alleging damages to such parties arising out of the actions of the Lessee.

**10. Insurance:** Lessee shall keep in effect, at its sole expense, a comprehensive general liability policy or policies satisfactory to the Lessor covering the Leased Premises and providing coverage with combined single limits of \$1,000,000.00 for bodily injury and property damage. The County shall be afforded a thirty day (30) written notice of cancellation or non-renewal. Coverage shall be placed with an insurance company approved by the State of Wisconsin and rated "A" per Best Key Rating Guide. In the event Lessor reasonably anticipates that such coverage is inadequate, Lessee shall, upon the written request of Lessor, increase such insurance to amounts reasonably requested by Lessor. Such policy shall name the Lessor as an additional insured, and a copy of such policy, or a certificate thereof, shall be delivered to Lessor prior to the execution of this Lease for review and approval by Milwaukee County's Director of Risk Management.

**11. Additions, Changes, Alterations and Demolition:** Lessee shall not construct improvements upon the Leased Premises, demolish improvements upon Leased Premises, and/or make additions to or structural changes or alterations in and upon, any or all of such improvements, or other improvements upon the Leased Premises, without the written consent of the Lessor, which consent shall not be unreasonably withheld. Such work shall be performed in a good and workmanlike manner at the sole expense of the Lessee. Any wetlands or farmed wetlands on any Milwaukee County property shall not be graded, filled or drained in any way. Any surface or subsurface drainage alterations of any parcel included in this Lease shall be conducted only with the prior written permission of the Lessor. Any improvements or additions upon the Leased Premises at the expiration of this Lease shall be deemed part of the Leased Premises and shall be rendered to the Lessor in good condition and repair, reasonable wear and tear and damage by fire or other casualty not occurring through the neglect of the Lessee excepted. Removal, cutting or pruning of any trees or other woody vegetation on any Milwaukee County-owned land is prohibited unless conducted with the prior written permission of Lessor.

**12. Mechanic or Construction Liens:** Lessee shall not permit, create, incur or impose or cause or suffer others to permit, create incur or impose any lien or other obligation against the Leased Premises or the Lessor by reason of any work performed or materials furnished by, to or for the account of the Lessee, and the Lessee agrees to hold the Lessor harmless of and from any and all claims or demands by any contractor, subcontractor, material man, laborer or any other third person against the Leased Premises or the Lessor relating to or arising because of such work or materials.

**13. Warranty of Quiet Possession:** Lessor hereby warrants and covenants that it has good and marketable title to the Leased Premises and has full authority to execute this Lease, and further agrees that the Lessee, upon paying rent at the time and manner aforesaid, and performing and keeping all of the covenants and conditions of this Lease by it to be kept and performed, may have and shall quietly have, hold, and enjoy the Leased Premises during the term hereof.

**14. Assignment and Subletting:** Lessee shall not assign or sublease all or any interest in this Lease without the prior written consent, in each instance, of Lessor, which consent may be withheld or denied by Lessor at its sole and absolute discretion.

**15. Termination of Lease:** This Lease shall terminate at the end of the term or earlier if by mutual agreement. The Lease may also be terminated at the option of the Lessor, for nonpayment of any rental amounts due by the dates specified, for noncompliance with any of the terms of this Lease or if the property is required for another use. If a parcel included in this agreement is required for a new use and will not be available for leasing for agricultural purposes during the term, compensation will be made on a case-by-case basis at the discretion of the Lessor.

**16. Remedies:** Rent payment shall be made as stated herein without delay. If payment is not received, Lessee shall have ten (10) days to make such payment or Lessor shall notify Lessee that the Lease has been terminated. Termination shall be effective on the date specified by the Lessor in its notice to the Lessee which date shall allow for any grace period specified in this Lease. Upon such termination, Lessor may reenter the Leased Premises with or without process of law using such force as may be necessary, and remove all persons and chattels therefrom and Lessor shall not be liable for

damages or otherwise by reason of reentry or termination of the term of this Lease. Any crops remaining on the Leased Premises at the time notice of termination is given shall become the property of the Lessor.

No receipt of money by Lessor from Lessee after termination of this Lease or after the service of any notice or after the commencement of any suit, or after final judgment for possession of the Leased Premises shall reinstate, continue or extend the term of this Lease or affect any such notice, demand or suit.

All rights and remedies of the Lessor herein enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law or equity, and such rights and remedies may be exercised and enforced concurrently and whenever and as often as the occasion therefore arises. The failure or forbearance on the part of the Lessor to enforce any of its rights or remedies in connection with any default shall not be deemed a waiver of such default, nor a consent to any continuation thereof, nor a waiver of the same default at any subsequent date.

Any actions taken by the Lessor under the provisions of this Lease, or to enforce the provisions of this Lease, or to declare a termination of the Lessee's interest under this Lease, or to repossess itself of the Leased Premises (whether through the medium of legal proceedings instituted for that purpose or otherwise), shall not, in any event, release or relieve the Lessee from its continuing obligations hereunder, including, without limitation, its continuing obligation to make all payments herein provided.

**17. Abandonment of Lessee's Property:** If, upon termination of this Lease (whether by lapse of time or otherwise), the Lessee fails to remove any property belonging to it, the same shall be deemed abandoned by the Lessee and shall become the property of Lessor.

**18. Surrender at Termination:** At the termination of this Lease for any reason, the Lessee shall quietly and peaceably surrender possession of the Leased Premises (and any improvements located thereon) to the Lessor, maintained as herein provided and free of any and all claims thereto by the Lessee or any party holding under the Lessee.

**19. Successors and Assigns:** Except as otherwise herein provided, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as the case maybe unless the Lessee violates the provisions hereof or Lessor determines, at its sole and absolute discretion, to cancel the Lease.

**20. Consent of Lessor:** Whenever the consent of the Lessor is required under this lease, such consent shall be obtained from the Lessor in writing at the address listed below.

**21. County Rights of Access and Audit:** The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter 34 of the Milwaukee County Code of General Ordinances. Any and all County contracts and solicitations for contracts shall include a statement that the Contractor, lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter 34 of the Milwaukee County Code of General Ordinances.

**22. Notices:** All notices with respect to this Lease shall be in writing. Except as otherwise expressly provided in this Lease, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

**If to Lessor:** Milwaukee County Parks

Natural Areas Coordinator  
9480 Watertown Plank Road  
Wauwatosa, WI 53226  
(414) 257-6521

**If to Lessee:** Cheryl Holterman and Shorty Acres LLC  
4130 W. 7 Mile Rd.  
Caledonia, WI 53108  
(262) 989-9814

Either party may designate a new address for purposes of this Lease by written notice to the other party. This Lease can be revised only by written mutual agreement by all Parties.

**23. Acknowledgement:** Lessee acknowledges that it has received a copy of (1) this Agricultural Lease Agreement; and (2) the Agricultural Land Lease Policy, and has read the documents and fully understands the terms and conditions of each and that Lessee will comply with all the terms and conditions. Lessee further acknowledges that it has had sufficient time and opportunity to consult with advisors of your own choosing about the potential benefits and risks of entering into this Agreement.

***Signature Page Follows***

**IN WITNESS WHEREOF, the Parties hereto have set their hands as follows:**

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**Milwaukee County Parks**

by \_\_\_\_\_ Date \_\_\_\_\_  
Guy Smith, Executive Director

**Shorty Acres, LLC**

by \_\_\_\_\_ Date \_\_\_\_\_  
Cheryl Holterman

Approved with regards to County Ordinance Chapter 42:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Community Business Development Partners

Approved for execution:

Reviewed by:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporation Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Risk Management

Approved by:

*Approved as to funds available per  
Wisconsin Statutes Section 59.255 (2)(e):*

By: \_\_\_\_\_ Date: \_\_\_\_\_  
County Executive Chris Abele

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Comptroller Scott B. Manske

Approved as compliant under Sec. 59.42(2)(b)5, Stats.:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporation Counsel