

Res 492

Contract Cover Sheet

Note: Shaded areas are for County Executive review.

Department LWRD	Contract/Addendum #: 12989																				
1. This contract, grant or addendum: <input checked="" type="checkbox"/> AWARDS <input type="checkbox"/> ACCEPTS	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Contract</th> <th style="width: 50%;">Addendum</th> </tr> <tr> <td colspan="2" style="text-align: center; font-size: small;">If Addendum, please include original contract number</td> </tr> <tr> <td><input type="checkbox"/> POS</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Grant</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Co Lease</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input checked="" type="checkbox"/> Co Lessor</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Intergovernmental</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Purchase of Property</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Property Sale</td> <td><input type="checkbox"/></td> </tr> <tr> <td><input type="checkbox"/> Other</td> <td><input type="checkbox"/></td> </tr> </table>	Contract	Addendum	If Addendum, please include original contract number		<input type="checkbox"/> POS	<input type="checkbox"/>	<input type="checkbox"/> Grant	<input type="checkbox"/>	<input type="checkbox"/> Co Lease	<input type="checkbox"/>	<input checked="" type="checkbox"/> Co Lessor	<input type="checkbox"/>	<input type="checkbox"/> Intergovernmental	<input type="checkbox"/>	<input type="checkbox"/> Purchase of Property	<input type="checkbox"/>	<input type="checkbox"/> Property Sale	<input type="checkbox"/>	<input type="checkbox"/> Other	<input type="checkbox"/>
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<input type="checkbox"/> Other	<input type="checkbox"/>																				
2. This contract is discretionary <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																					
3. Term of Contract or Addendum: 10 years plus 3 5-year renewals																					
4. Amount of Contract or Addendum: \$0																					
5. Purpose: Lease to the Friends of Schumacher for the Center for Rural History at Schumacher Farm County Park																					
6. Vendor or Funding Source: Friends of Schumacher Farm Inc																					
7. MUNIS Vendor Code: 14428																					
8. Bid/RFP Number:																					
9. If grant: Funds Positions? <input type="checkbox"/> Yes <input type="checkbox"/> No Will require on-going or matching funds? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																					
10. Are funds included in the budget? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																					
11. Account No. & Amount, Org & Obj. _____ Amount \$ _____ Account No. & Amount, Org & Obj. _____ Amount \$ _____ Account No. & Amount, Org & Obj. _____ Amount \$ _____																					
12. If this contract awards funds, a purchase requisition is necessary. Enter requisition # & year _____																					
13. Is a resolution needed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please attach a copy of the Resolution. If Resolution has already been approved by the County Board, Resolution No. & date of adoption 2016 Res-492																					
14. Does Domestic Partner equal benefits requirement apply? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																					
15. Director's Approval: K. Lannas by LMH																					

Contract Review/Approvals				Vendor	
Initials	Ftnt	Date In	Date Out	Vendor Name	
Mg Received	_____	2-22-17		Friends of Schumacher Inc	
CB Controller	_____		2/23/17		Contact Person
JM Corporation Counsel	_____	2-23-17	2/23/17		Rosa Ropers
J Risk Management	_____	2/23/17	2/23/17		Phone No.
PCP Purchasing	_____	2/23/17	2/23/17		608 260 5336
_____ County Executive	_____	_____	_____	E-mail Address	rosa.ropers@gmail.com

Footnotes:

- 1.
- 2.


Return to: Name/Title: Laura Hicklin Phone: 224-3765 E-mail Address: hicklin.laura@countyofdane.com	Dept.: LWRD Mail Address: 5201 Fen Oak Dr
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Certification

The attached contract: *[check as many as apply]*

- conforms to Dane County's standard Purchase of Services Agreement form in all respects
- conforms to Dane County's standard Purchase of Services Agreement form with modifications and is accompanied by a revision copy¹
- is a non-standard contract which has been reviewed or developed by corporation counsel and which has not been changed since that review/development
- is a non-standard contract previously review or developed by corporation counsel which has been changed since that review/development; it is accompanied by a revision copy¹
- is a non-standard contract not previously reviewed by corporation counsel; it is accompanied by a revision copy
- contains non-standard/indemnification language which has been reviewed or developed by risk management and which has not been changed since that review/development
- contains non-standard insurance/indemnification language which has been changed since review/development or which has not been previously seen by risk management; it is accompanied by a revision copy
- contains non-standard affirmative action/equal opportunity language which has been reviewed or developed by contract compliance and which has not been changed since that review/development
- contains non-standard affirmative action/equal opportunity language which has been changed since the earlier review/development by contract compliance or which has not been previously seen by contract compliance; it is accompanied by a revision copy¹

Date: 2/21/17

Signed: 

Telephone Number 224-3765

Print Name: Laura M. Hicklin

Major Contracts Review (DCO Sect. 25.20) This review applies only to contracts which both exceed \$100,000 in disbursements or receipts and which require county board review and approval.

Executive Summary (attach additional pages, if needed).

1. **Department Head** Contract is in the best interest of the County.
Describe any deviations from the standard contracting process and any changes to the standard Purchase of Services Form Agreement.

Date: _____

Signature: _____

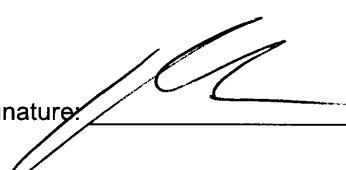
2. **Director of Administration** Contract is in the best interest of the County.
Comments:

Date: _____

Signature: _____

3. **Corporation Counsel** Contract is in the best interest of the County.
Comments:

Date: 2/23/17

Signature: 

¹ A revision copy is a copy of the contract which shows the changes from the standard contract or previously revised/developed contract by means of overstrikes (indicating deletions from the standard language) and underlining (showing additions to the standard language).

LEASE

THIS LEASE ("Lease") is entered into by and between County of Dane, a quasi-municipal organization located in Dane County, Wisconsin ("Landlord"), whose address is 5201 Fen Oak Court, Madison, WI 53718-8812, Attn: Deputy Director, and the Friends of Schumacher Farm, Inc., a qualified non-profit nonstock corporation under Chapter 181, Wis. Stats. ("Tenant"), whose address is 5682 Highway 19, Waunakee, WI 53597.

WITNESSETH:

Whereas, in 1978, Marcella Philomene Schumacher donated 40 acres to the Dane County Park Commission for Schumacher Farm Park;

Whereas, the Friends of Schumacher Farm, Inc., was formed in 1987 with a mission to support Schumacher Farm Park in general and more specifically to provide educational programs that represent the life of the area's early settlers;

Whereas, the Friends of Schumacher Farm and Dane County wish to operate portions of Schumacher Farm Park as a public-private partnership whereby the Friends are the primary manager of the Center for Rural History and surrounding land subject to this Lease, which is located within Schumacher Farm Park, and the County is the primary manager of the remaining Park lands;

Whereas, the Friends of Schumacher Farm and Dane County desire to enter into this Lease for the purposes of outlining the rights and responsibilities of the Friends of Schumacher Farm with respect to the leased area.

Now Therefore, in consideration of the above recitals and the mutual covenants set forth herein, the receipt and sufficiency of which are acknowledged by each party, Landlord and Tenant agree as follows:

1. PREMISES. Landlord leases to Tenant, and Tenant leases from Landlord the area identified in Exhibit A, Property Description and Map (the "Premises"). The Premises is more specifically defined as consisting of the Center for Rural History, a/k/a the Red Barn ("the Building"), and the identified surrounding land ("the Land"). The Premises is located entirely within the Schumacher Farm Park. No rights or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in this Lease.
2. LEASE TERM AND EXTENSIONS. The term of this Lease shall be for a period of ten (10) years, commencing on _____ ("Commencement Date") and terminating on _____. The Lease shall automatically be deemed to continue and be extended thereafter for up to three more consecutive and separate five-year (5) terms unless Landlord serves written notice to Tenant to vacate at least one hundred eighty (180) calendar days from the stated expiration date of the Lease or any five-year extension thereto.
3. USE OF PREMISES. During the term of the Lease, Tenant shall have use of, and access to, the Premises, which use includes, but is not limited to, the promotion of historical, cultural, garden, agricultural and natural resource programs and events, and the operation of the Center for Rural History. In connection therewith, Tenant may maintain and alter existing buildings and improvements (see Exhibit B, Schedule of Existing Improvements). Tenant may also construct and maintain facilities and improvements related to history, gardening, agriculture and natural resources, limited to the following: gardens, fencing, water distribution systems, picnic areas, child play areas, driveways, and parking areas. With the prior written permission of Landlord, Tenant may add buildings or improvements not expressly granted herein. Maintenance, alteration or construction of buildings, facilities, improvements, and their associated systems shall be at Tenant's sole expense and responsibility, unless otherwise agreed to, or otherwise provided in this agreement. Tenant shall be responsible for securing all state and local permits and approvals that may be necessary for use of the premises and for meeting all state and local codes and regulations.
4. SURRENDER. On the last day of the term of this Lease, or any extension or renewal thereof, or on any sooner termination, Tenant shall surrender the Premises in the same condition as the Premises existed on the Commencement Date, broom clean, reasonable wear and tear excepted, Tenant improvements and Landlord's Work excepted.
5. RIGHT OF ENTRY AND USE. Landlord and its authorized representatives shall have the right to enter the Premises at all times, to inspect the Premises, to abate nuisances, to cure dangerous conditions or repair waste, and to make repairs, alterations, improvements or additions to the Premises or to the Buildings as Landlord may reasonably deem necessary, including those to be performed by Tenant, without the same constituting an eviction of Tenant in whole or in part, and rent shall not abate as a result of such entry. Landlord reserves the right to use the Premises in any way that does not interfere with Tenant's rights pursuant to this Lease. Landlord will not lease any portion of the Premises to a third party, or hold any public events at the Premises, without the prior consent of the Tenant.

6. SECURITY DEPOSIT. There shall be no security deposit payable by Tenant for this Lease.
7. RENT. Tenant shall pay the sum of \$1.00 in rent annually, payment due on the Commencement Date and thereafter annually on each subsequent anniversary date.
8. CONSTRUCTION LIENS. Tenant shall pay when due, and indemnify, defend and hold Landlord harmless from, all claims for labor or materials furnished or alleged to have been furnished to Tenant for use in the Premises, which claims are or may be secured by any construction lien against the Premises or any interest therein. Tenant shall not permit any liens under the construction lien law to be filed against the Premises or any interest therein and shall immediately obtain a release from any lien so filed.
9. REMOVAL OF IMPROVEMENTS. All trade fixtures, furniture, furnishings and signs installed in or on the Premises by Tenant and paid for by Tenant shall remain the property of Tenant and may be removed upon the expiration or termination of this Lease; provided that any of such items as are affixed to the Premises and require severance may be removed only if Tenant repairs any damage caused by such removal and that Tenant shall have fully performed all of the terms, conditions and covenants to be performed by Tenant under this Lease. If Tenant fails to remove such items from the Premises by the expiration or earlier termination of this Lease, all such trade fixtures, furniture, furnishings and signs shall become the property of Landlord, unless Landlord elects to require their removal, in which case Tenant shall, at its sole cost and expense, promptly remove the same and restore the Premises to their prior condition. Any buildings erected by the Tenant shall run with the Premises and shall remain on the Premises after the expiration or termination of this Lease. The covenants contained in this Section shall survive the expiration or termination of this Lease.
10. MAINTENANCE OBLIGATIONS. Tenant shall maintain and keep the Premises and every part thereof and any fixtures, facilities or equipment contained within or serving the Premises, in good condition and repair. Tenant shall keep the Premises clean, attractive in appearance and in good repair at all times. Tenant will be responsible for all indoor and outdoor maintenance of the Premises, both routine and non-routine, and including lawn care and snow removal, except as follows:
 - a. Landlord agrees to provide snow plowing and lawn mowing but makes no guarantee on when the mowing will occur, or when the plowing will occur following a snow event. The Tenant shall be responsible for mowing and snow plowing if needed for a special event or any time mowing or snow plowing is desired by a specific time.
 - b. Landlord agrees to maintain the entire exterior of the Red Barn on the Premises, including repairs, exterior paint and roof repairs or replacement, as deemed necessary at the sole discretion of the Landlord. Tenant may choose to perform exterior painting and repairs as its own cost. Said work by Tenant shall be done in a good and workmanlike manner.
 - c. Landlord agrees to maintain exterior water and sewer lines to the Red Barn.

11. UTILITIES. Tenant shall be solely responsible and shall pay when due all charges for water, electricity and gas utility services used in or supplied to the Premises, beginning on the Commencement Date. Tenant shall be solely responsible for all other utility charges, including, but not limited to, telephone and data connection and service.
12. TAXES. Tenant is not responsible for any municipal, county and state or federal taxes assessed against the Premises.
13. COMPLIANCE WITH LAWS. Tenant shall observe and promptly and effectively comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of Landlord, the Town of Westport, the County of Dane, the State of Wisconsin, the federal government and any other governmental authority having jurisdiction over the Premises. Tenant 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. Tenant agrees that any such contest shall be prosecuted to a final conclusion as soon as possible and that it will hold Landlord harmless with respect to any actions taken by any lawful governmental authority with respect thereto unless Tenant prevails in such proceedings.

14. ENVIRONMENTAL.

- a. Hazardous Substances: Indemnification. Tenant represents and warrants that its use of the Premises will not generate any hazardous substance, and it will not store or dispose on the Premises nor transport to or over the Premises any hazardous substance in violation of any applicable Environmental Laws as hereinafter defined. Tenant further agrees to hold Landlord harmless from and indemnify Landlord against any release by Tenant of such hazardous substance and any damage, loss, or expense or liability resulting from such release, including reasonable attorneys' fees, costs and penalties incurred as a result thereof, except any release caused by negligence or intentional acts of Landlord, its employees and/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.
- b. Definitions. As used herein, "Environmental Laws" shall mean any federal, state and local laws including statutes, regulations, rulings, orders, administrative interpretations, guidance documents or memoranda and other governmental restrictions and requirements relating to the creation or discharge of solid waste, hazardous substances, hazardous waste, air pollutants, water pollutants or process

wastewater or otherwise relating to the environment or hazardous substances including, but not limited to, applicable Wisconsin Statutes, the Federal Toxic Substances Control Act, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource and Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendment and Reauthorization Act of 1986, regulations of the Federal Environmental Protection Agency or state environmental protection agency or Department of Natural Resources or Environmental Quality now or at any time hereafter in effect.

- c. Without limiting the generality of 14(b) above, during the term of this Lease, Tenant shall:
 - i. Provide Landlord, immediately upon receipt thereof, with copies of any correspondence, notice, pleading, citation, notice of noncompliance, notice of violation, indictment, complaint, order, decree or other document from any source asserting or alleging violation upon the Premises by Tenant or Subtenants of any Environmental Laws, or asserting or alleging a circumstance or condition upon the Premises which may require a financial contribution by Tenant or a cleanup, remedial, action or other response, including investigation, by or on the part of Tenant under any Environmental Laws;
 - ii. Permit Landlord, in the event Landlord has reasonable cause to believe there exists a condition or circumstance created by Tenant, Subtenants, employees, or invitees during the term of this Lease warranting an environmental inspection or audit, an upon written notice to Tenant, to retain an architect, environmental consultant or professional engineer selected by Landlord to perform an environmental inspection and/or audit of the Premises to evaluate Tenant's compliance with Environmental Laws, and to test for hazardous substances on the Premises, and for risks associated with exposure to hazardous substances. Tenant shall permit Landlord and its employees and agents access to the Premises and the books and records of Tenant as necessary for the performance of the environmental inspection and/or audit. If the condition or circumstance warranting the inspection, audit or testing arose in whole or part from the acts or omissions of Tenant, its employees or invitees, Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord in performing any inspection, audit, testing and evaluations and in retaining professionals for such purposes; and
 - iii. At its expense, remove or contain any hazardous substances on the Premises that were brought onto the Premises by Tenant, Subtenants, employees or invitees during the term of this Lease, or perform other investigation or remediation or corrective action as required by Landlord in its sole discretion, if any time it is determined that such hazardous substances present a health hazard on the Premises or are required to be investigated, removed, contained or remediated or other corrective action is required by any Environmental Laws or regulatory authority.

15. INSURANCE AND INDEMNIFICATION.

- A. Tenant shall indemnify, hold harmless and defend Landlord, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which Landlord, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of this Lease, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses directly caused by or resulting from the acts or omissions of Landlord, its agencies, boards, commissions, officers, employees or representatives. The obligations of Tenant under this paragraph shall survive the expiration or termination of this Lease.
- B. In order to protect itself, its officers, boards, commissions, agencies, agents, volunteers, employees and representatives under the indemnity provisions of the subparagraph above, Tenant shall, at Tenant's own expense, obtain and at all times during the term of this Lease keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Lease and otherwise, Tenant agrees to preserve Landlord's subrogation rights in all such matters that may arise that are covered by Tenant's insurance. Neither these requirements nor Landlord's review or acceptance of Tenant's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the Tenant under this Lease. Landlord expressly reserves the right to require higher or lower insurance limits where Landlord deems necessary.

Tenant agrees to maintain Commercial General Liability insurance at a limit of not less than \$1,000,000 per occurrence. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury Liability, Premises-Operations and Fire Liability. In addition, Tenant shall obtain Comprehensive Property Damage Liability Insurance for full replacement value of the Premises. The policy shall list DANE COUNTY as an Additional Insured.

- C. Upon execution of this Agreement, Tenant shall furnish Landlord with a Certificate of Insurance listing DANE COUNTY as an additional insured and, upon request, certified copies of the required insurance policies. If Tenant's insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this Lease, the Certificate of Insurance shall state that professional malpractice or errors and omissions coverage, if the services being provided are professional services coverage is Claims-Made and indicate the Retroactive Date, Tenant shall maintain coverage for the duration of this Agreement and for six (6) years following the completion of this Agreement. Tenant shall furnish Landlord, annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that Tenant shall furnish Landlord with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, either Tenant or Landlord

may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by Tenant. In the event any action, suit or other proceeding is brought against Landlord upon any matter herein indemnified against, Landlord shall give reasonable notice thereof to Tenant and shall cooperate with Tenant's attorneys in the defense of the action, suit or other proceeding

- D. The parties do hereby expressly agree that Landlord, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Lease, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by Landlord's Risk Manager.

15. TENANT WAIVERS OF EMINENT DOMAIN BENEFITS AND AWARD.

(a) In the event of the Tenant's vacation of the Premises or if Landlord terminates this Lease pursuant to the provisions of this Lease, Tenant hereby waives any rights against Landlord that may be construed to accrue to Tenant, its successors and assigns, by provisions of Section 32.19 of the Wisconsin Statutes, as amended, or successor statutes.

(b) In the event the Premises or any part thereof shall be needed either permanently or temporarily for any public or quasi-public use or purposes by any authority, other than Landlord, in appropriation proceedings or by any right of eminent domain, the entire compensation award therefor, including, but not limited to, all damages and compensation for diminution of value of the leasehold, reversion and fee, shall belong to Landlord without any deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all of its right, title and interest to any such award. However, Tenant shall have the right to recover from any condemning authority, other than Landlord, such compensation as may be separately awarded to the Tenant for moving and relocation expenses.

16. DEFAULTS. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- (a) The filing by Tenant of a voluntary petition in bankruptcy;
- (b) The institution of proceedings in bankruptcy against Tenant and the adjudication of Tenant as bankrupt pursuant to such proceedings;
- (c) The taking by a court of competent jurisdiction of Tenant's assets pursuant to proceedings brought under the provisions of any federal or state reorganization act;
- (d) The appointment of a receiver of Tenant's assets;
- (e) The divestiture of Tenant's estate herein by other operation of law;
- (f) The abandonment by Tenant of the Premises. Abandonment shall not be deemed to occur while rental payments are current;

- (g) The use of the Premises for an illegal purpose;
- (h) A continuing breach of this Lease after notice to and an opportunity to cure by Tenant;
- (i) The failure of Tenant to pay when due any rent or any other monetary sums due pursuant to the terms of this Lease; and
- (j) The failure by Tenant to repair any waste or to observe or perform any of the terms, covenants or conditions of this Lease to be observed or performed by Tenant.

Failure to send a notice shall not be construed as a waiver of such breach or as to any subsequent breach.

17. LANDLORD'S REMEDIES. If any default by Tenant shall continue uncured after thirty (30) days written notice of default from Landlord to Tenant, Landlord has the following remedies, in addition to all other rights and remedies provided by law or equity, to which Landlord may resort cumulatively or in the alternative.

(a) Termination of Lease. Landlord may at Landlord's election terminate this Lease by giving Tenant written notice of termination. On the giving of the notice, all further obligations of Landlord under this Lease shall terminate, Tenant shall surrender and vacate the Premises in a broom clean condition, and Landlord may reenter and take possession of the Premises and eject all parties in possession or eject some and not others or eject none. Termination under this paragraph shall not relieve Tenant from the payment of any sum then due to Landlord or from any claim for damages previously accrued or then accruing against Tenant. Should Tenant abandon the Premises and Landlord elect to reenter as herein provided, or if Tenant's right to possession is terminated by Landlord because of a breach of the Lease by Tenant, this Lease shall, at Landlord's written election, terminate and Landlord shall be entitled to recover from the Tenant (i) unpaid rent which has been earned at the time of termination, and (ii) as liquidated damages and not as a penalty a sum of money equal to the rent and rental loss to be paid by Tenant to Landlord for the remainder of the term of this Lease. In the event of termination under this Subparagraph, any prepaid rent shall be retained by Landlord.

(b) Termination of Possession. Landlord may at Landlord's election terminate Tenant's right to possession only, without terminating the Lease, following a breach of the Lease by Tenant. Upon termination of Tenant's right to possession without termination of the Lease, Tenant shall surrender possession and vacate the Premises immediately and possession thereof to Landlord, and Tenant hereby grants to Landlord the immediate right to enter into the Premises, remove Tenant's signs and other evidences of tenancy, and take and hold possession thereof with or without process of law, and to repossess the Premises as Landlord's former estate and to expel or remove Tenant and any others who may be occupying or within the Premises, without being deemed in any manner guilty of trespass, eviction, or forcible entry or detainer, without incurring any liability for any damage resulting therefrom, without

such entry and possession terminating the Lease or releasing Tenant from Tenant's obligation to pay the rent and to fulfill all other of Tenant's obligations under this lease for the full term of this Lease. Landlord shall be entitled to recover from Tenant (i) unpaid rent which has been earned at the time of termination, and (ii) as liquidated damages and not as a penalty a sum of money equal to the rent and rental loss to be paid by Tenant to Landlord for the remainder of the term of this Lease. Notwithstanding any remedial action taken hereunder by Landlord short of termination, including reletting the Premises to a substitute Tenant, Landlord may at any time thereafter elect to terminate this Lease for any previous default.

(c) Storage. Landlord may at Landlord's election store Tenant's personal property and trade fixtures for the account and at the cost of Tenant.

(d) Reletting of Premises. Landlord shall make every effort to relet all or any part of the Premises for such rent and upon such terms as shall be satisfactory to Landlord. For the purpose of such reletting, Landlord may decorate or may make any repairs, changes, alterations or additions in or to the Premises that may be necessary or convenient. If the Premises are relet and a sufficient sum shall not be realized from such reletting after paying all of the expenses of such decorations, repairs, changes, alterations and additions, the expenses of such reletting and the collection of the rent accruing therefrom (including, but not limited to, attorneys' fees and brokers' commissions), to satisfy the rent and other charges herein provided to be paid for the remainder of the term of this Lease, Tenant shall pay to Landlord promptly any deficiency, and Tenant agrees that Landlord may file suit to recover any sum falling due under the terms of this paragraph from time to time.

(e) Rent. The terms "rent" or "rental" as used in this Lease shall be deemed to be and to mean the Base Rent and such other sums, if any, required to be paid by Tenant pursuant to the terms of this Lease. The term "rental loss" as used in this Lease shall be deemed to include, but shall not be limited by implication, all repossession costs, brokerage commissions, legal expenses, reasonable attorneys' fees, alteration costs and expenses of preparation of the Premises or parts thereof for reletting.

(f) Diligent Efforts. Notwithstanding anything to the contrary in this Section, in the event of Tenant's default, if such default is not a health or safety violation and cannot, because of the nature of the default, be cured within the thirty (30) days after Landlord's notice thereof, then Tenant shall be deemed to be complying with such notice if, promptly upon receipt of such notice, Tenant immediately takes steps to cure the default as soon as reasonably possible and proceeds thereafter continuously with due diligence to cure the default within a period of time which, under all prevailing circumstances, shall be reasonable. In the event of termination under this Subparagraph, any prepaid rent shall be retained by Landlord.

18. **TENANT REMEDIES**. If Landlord shall fail to perform any covenant, term or condition of this Lease required to be performed by Landlord, as a consequence of such default, Tenant may exercise any and all rights and remedies available to Tenant under law or in equity.

19. **LANDLORD MAY PERFORM.** Landlord shall have the right at any time, after ten (10) days written notice to Tenant (or in case of emergency or a hazardous condition or in case any fine, penalty, interest or cost may otherwise be imposed or incurred), to make any payment or perform any act required of Tenant under any provision in this Lease, and in exercising such right, to incur necessary and incidental costs and expenses, including reasonable attorneys' fees. Nothing herein shall obligate Landlord to make any payment or perform any act required of the Tenant, and this exercise of the right to so do shall not constitute a release of any obligation or a waiver of any default. All payments made and all costs and expenses incurred in connection with any exercise of such right shall be reimbursed to Landlord by Tenant.
20. **TENANT RIGHT TO TERMINATE.** Tenant may, upon one hundred twenty (120) days written notice terminate this Lease.
21. **ASSIGNMENT AND SUBLEASE BY TENANT.** Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, lease, sublet, grant license or rights to a concessionaire or otherwise transfer or encumber all or any part of Tenant's interest in this Lease or in the Premises, or permit the use or occupancy of the Premises or any part thereof by anyone other than Tenant, without Landlord's prior written consent, except Tenant may permit and/or charge for the use of portions the Premises by third parties, including, but not limited to, leasing space for vending, food and beverage services during programs and events. No third party use shall relieve Tenant of its obligations pursuant to this Lease.
22. **NO RELEASE OF TENANT.** Notwithstanding anything to the contrary contained in this Lease, and regardless of Landlord's consent, no such assignment, encumbrance, subletting, transfer, lease or other permission for the use or occupancy of all or any part of the Premises shall release Tenant of Tenant's obligation to pay the rent and to perform all other obligations to be performed by Tenant under this Lease. Tenant and each such assignor further agree that Landlord may deal with the tenant in possession without notice to, and without the consent of, Tenant or any such assignor, and any and all extensions of time, modifications, or waivers shall be deemed to be made with the consent of Tenant and any such assignor. The acceptance of rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment shall not be deemed consent to any subsequent assignment.
23. **NOTICES.** All notices to be given under the terms of this Lease shall be signed by the person sending the same, and shall be sent by certified mail, return receipt requested and postage prepaid, to the address of the parties specified below:

For Landlord: The County of Dane
Land & Water Resources Department
Lyman F. Anderson Agriculture & Conservation Center
5201 Fen Oak Court, Room 234
Madison, WI 53718-8812
Attn: Deputy Director

For Tenant: Friends of Schumacher Farm, Inc.
5682 HWY 19
Waunakee, WI 53597

Any party hereto may, by giving five (5) days written notice to the other party in the manner herein stated, designate any other address in substitution of the address shown above to which notices shall be given.

24. **WAIVERS.** No waiver by Landlord of any provision of this Lease shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rent hereunder by Landlord shall not constitute a waiver of any breach by Tenant even if Landlord knows of such breach at the time of acceptance of such rent.
25. **HOLDING OVER.** Tenant shall surrender the Premises upon the expiration or termination of the term of this Lease. Any holdover not consented to by Landlord in writing shall not result in a new tenancy or interest and, in such case, Landlord may treat Tenant as a trespasser.
26. **CUMULATIVE REMEDIES.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.
27. **COVENANTS AND CONDITIONS.** Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.
28. **BINDING EFFECT; CHOICE OF LAW.** This Lease shall bind the parties, their heirs, personal representatives, successors and assigns. This Lease shall be governed by and be construed and interpreted in accordance with the laws of the State of Wisconsin.
29. **AUTHORITY.** If Tenant executes this Lease as a corporation, limited liability company or partnership, Tenant represents and warrants that Tenant is a duly authorized and existing corporation, limited liability company or partnership, that Tenant has and is qualified to transact business in Wisconsin, that the corporation, limited liability company or partnership has full right, authority and power to enter into this Lease and to perform its obligations under this Lease, that each person

signing this Lease on behalf of the corporation, limited liability company or partnership is authorized to do so and that this Lease is binding upon the corporation, limited liability company or partnership in accordance with its terms.

30. NON-DISCRIMINATION. Tenant agrees not to discriminate against any employee, subtenant or applicant because of race, religion, marital status, age, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, political beliefs or student status. Tenant further agrees not to discriminate against any contractor, subcontractor or person who offers to contract or subcontract for services under this Lease.

31. SEVERABILITY. If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Signatures appear on next page.

In Witness Whereof, the undersigned Landlord and Tenant execute this Lease to be effective as of the day and date set forth above.

LANDLORD:

DANE COUNTY:

By: _____

Joe Parisi, Dane County Executive

By: _____

Scott McDonell, Dane County Clerk

TENANT:

FRIENDS OF SCHUMACHER FARM, INC.

By: Rosa M. Ropers, President

Rosa M. Ropers, President

By: James Ableidinger Vice-President

James Ableidinger, Vice-President

By: James Elvekrog

James Elvekrog, Treasurer