

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2016 Legislative Session

Legislative Day No. 02

Resolution No. 06-2016

Introduced by: The President of the Council at the request of the County Executive

A RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO EXECUTE, ON BEHALF OF WICOMICO COUNTY, MARYLAND, A LEASE AGREEMENT WITH S & H FARMS, INC.

WHEREAS, pursuant to Section 22-1 of Chapter 22, entitled "County-owned property" paragraph E, the County Executive is authorized and empowered to lease County property in furtherance of public purposes; and

WHEREAS, S & H Farms, Inc. submitted a proposal to lease 100 acres of land (50 irrigated and 50 non-irrigated), located on the northerly and northeasterly side of Levin Dashiell Road, more particularly described as Parcel 21 on Tax Map 28, also known as the West Metro Core Park; and

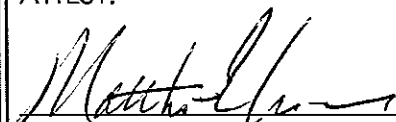
WHEREAS, the County Executive proposes that Wicomico County, Maryland enter into a Lease Agreement with S & H Farms, Inc. for a period of one year, commencing on January 1, 2016 and terminating on December 31, 2016, and be given the authority to execute such agreement on behalf of Wicomico County, Maryland; and

WHEREAS, S & H Farms, Inc. shall pay a rental rate of Twenty-Eight Thousand, Five Hundred Fifty-One Dollars (\$28,551.00) for said term.

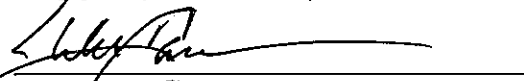
NOW, THEREFORE, BE IT RESOLVED by the County Council of Wicomico County, Maryland that the County Executive be, and is hereby, authorized to execute, on behalf of Wicomico County, Maryland, a Lease Agreement, in substantially the same form attached hereto as Exhibit A, with S & H Farms, Inc., for a period of one year, commencing on January 1, 2016 and terminating on December 31, 2016, at a rental rate of Twenty-Eight Thousand, Five Hundred Fifty-One Dollars (\$28,551.00).

Done at Salisbury, Maryland, this 19th day of January, 2016.

ATTEST:


Matthew E. Creamer,
Council Administrator

COUNTY COUNCIL OF
WICOMICO COUNTY, MARYLAND

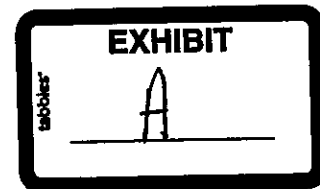

John T. Cannon,
Council President

Certification

This Resolution was Adopted , Adopted with Amendments Failed Withdrawn, by the County Council on January 19, 2016.

Certified by 
Matthew E. Creamer, Council Administrator

**LEASE AGREEMENT FOR FARM LAND
WEST METRO PARK/COFFIN PROPERTY**



THIS FARM LEASE, made and entered into on this ___ day of _____ 2016, by and between Wicomico County, Maryland, a body corporate and politic, acting by and through the Department of Recreation and Parks (hereinafter referred to as Lessor), and S & H Farms, LLC (hereinafter referred to as Lessee):

WITNESSETH

1. *Premises:* The Lessor hereby leases to the Lessee, and the Lessee hereby leases from the Lessor, all that tract or parcel of land situate in the Hebron Election District of Wicomico County, State of Maryland, containing fifty (50) acres of irrigated tillable land, more or less, and fifty (50) acres of non-irrigated tillable land, more or less, located on the northerly and northeasterly side of Levin Dashiell Road also known as County Road 418, as widened, all as more particularly being described as, Map 28, Parcel 21, and attached hereto. The property is owned by Wicomico County, Maryland, known as West Metro Core Park. In the event that there should be any disagreement between the parties as to the lines of the property herein intended to be leased, the decision of the Lessor as to the actual designation of the line or lines shall be final.

2. *Term:* The term of this Lease shall be for one (1) year commencing on January 1, 2016 and terminating on December 31, 2016. The lease will renew automatically for two (2) additional one-year terms, unless either party provides written notice to the other, within thirty (30) days of term expiration, of its intention to cancel. The rent for each renewal period shall be adjusted to reflect the cost of living increase based on the Consumer Price Index (CPI), All Urban Consumers, US City Average published by the US Department of Labor on December 1st. The total term of the Lease may not exceed three (3) years.

3. *Rent:* The Lessee shall pay the Lessor during the term of this Lease a rental payment of Two Hundred Eighty Five dollars and Fifty One cents (\$285.51) per acre for a total of Twenty Eight Thousand, Five Hundred Fifty One dollars (\$28,551.00). The first annual rental shall be paid in full by the Lessee to the Lessor at the time this agreement is executed. Subsequent annual rental payments shall be paid to the Lessor no later than December 31st of the prior year for each remaining year of the term of this Lease.

3.1. *Taxes:* Lessee, unless exempted, is responsible under Maryland State Law, Annotated Code of Maryland, Tax-Property Article, Section 6-102, for the payment of property taxes as though the Lessee was the owner of the property. Failure of the Lessee to pay the property taxes due shall be cause to terminate this Lease.

4. *Use:* The Lessee covenants and agrees that he shall occupy and use the demised premises solely for agricultural and related purposes and shall farm, cultivate, and manage the whole of the premises in a good and husbandlike manner and shall keep the whole in good condition and not allow any part of the land to become impoverished and to have the arable land at all times clean and free from weeds and never sown with any prejudicial crop. Hunting rights on the properties will be controlled by the Lessor.

5. *Assignment and Subletting:* The parties further covenant and agree that the premises may not be assigned, sublet or any portion thereof without the prior written consent of the Lessor.

6. *Irrigation System:* Lessor owns and provides the irrigation systems for the Lessee's use. The Water Appropriation and Use Permit allocation has been tentatively calculated by M.D.E. for annual average daily use of 183,000 gallons per day and an annual average monthly use of 1,112,000 gallons (application pending). Lessee is responsible for repairs to the irrigation system, including all parts costing less than \$1,500. In the event there is a repair part or parts costing in excess of \$1,500.00, Lessee must notify Lessor to provide Lessor the opportunity to obtain the best pricing available. All expenses for parts in excess of \$1,500.00 will be shared equally between the Lessor and the Lessee.

6. *Waste:* Lessee covenants and agrees that he/she will not commit waste or leave non-biodegradable materials such as plastic on or damage the farm and will use due care to prevent others from doing so.

7. *Indemnification:* The Lessee hereby agrees to indemnify the Lessor against and hold the Lessor harmless from any and all claims or demands for loss of or damage to property or for injury or death to any person from any cause whatsoever, upon or about the leased premises or adjacent roads or walkways, occasioned wholly or in part by any act or omission of the Lessee, its agents, licensees, contractors, customers, or employees during the term of this Lease. Lessee hereby releases Lessor, its agents, servants and employees from any and all present or future claims, causes, actions, or damages arising out of or in any manner connected with the condition of the property as it exists now or in the future.

8. *Condition of Premise:* Lessee hereby acknowledges that it agrees to accept the Property in such condition AS EXISTS WITH ANY AND ALL FAULTS at the time of the execution hereof or afterward. The Lessee shall also pay all costs, expenses, and attorney's fees that may be incurred or paid by the Lessor in enforcing the terms and conditions of this Lease, whether incurred as a result of litigation or otherwise.

9. *Insurance:* The Lessee agrees to keep in force at all times during the term hereof, at its own expense, general liability insurance against claims for personal injury or property damage in an amount of at least one million dollars (\$1,000,000.00). Such policy and policies shall name the Lessor and the Lessee as the insured; said policy shall be issued by an insurance company satisfactory to the Lessor. Within ten (10) days after the date hereof, the Lessee shall deliver to the Lessor certificates of insurance certifying that such insurance is in full force and effect.

10. *Surrender of Premises:* If, during the term of this Lease, it is determined by the Lessor that any part or portion of the leased premises is needed for park improvement or operation, then the Lessor shall give the Lessee notice of the Lessor intention to use the necessary part or portion of the leased premises at any time prior to the end of the calendar year, in which event this Lease shall be terminated as to the property so designated by the Lessor commencing at the end of the lease year. In the event that the County elects to use any part of the property as aforesaid, the rent for the remaining property will be apportioned at the hereinbefore stated charge per acre, pro-rated for the remaining property to be used by the Lessee.

11. *Guidelines and Crop Restrictions:* This Lease is subject to the following guidelines and crop restrictions:

- (a) The Lessor reserves the right to prevent the production of any crop on any or all of the land where the production of such crop would clearly damage the land due to excessive erosion or other causes. The production of sod on this land is prohibited.
- (b) The Lessee will use fertilization practices which will prevent depletion of the essential plant food elements in the soil.
- (c) The Lessor will provide sufficient quantities of lime to keep the land at proper pH for crop production. The soil was tested in November, 2011 and results received on 11/11/2011 from A & L Eastern Laboratories. The pH level was reported to range from 5.6 to 6.3 from the samples taken from sites distributed around the two-hundred acre parcel. Soil tests are to be taken and reported annually to the Lessor and the land is to be returned to the same or better pH levels and nutrient levels including; organic matter, phosphorus, potassium, magnesium, calcium acidity and C.E.C., annually by the lessee.
- (d) The Lessee will not bring any livestock or poultry on the land and will not use any buildings without the express approval of the Lessor.
- (e) No fertilizers or manures may be stored on the property hereby leased without prior permission by Lessor. All manure shall be spread and tilled on the same day as delivered to the property unless other storage permission is granted. Fertilization methods must be approved and maintained to comply with the Maryland Department of Agriculture's Nutrient Management Plan.

12. *Rules and Regulations:* The Lessee hereby agrees to abide by all rules and regulations as set forth by the Lessor. The Lessee hereby agrees that it will not store equipment on the leased premises unless specifically

approved by the Lessor. The Lessee shall make no alterations, installations, additions, or improvements to the leased premises without the Lessor written consent, and then only in a manner and by such persons as may be approved by the Lessor. The cost of all such alterations, installations, additions, or improvements shall be borne by the Lessee.

13. *Entry and Inspection:* The Lessee shall permit the Lessor and/or its agents or representatives to enter the herein leased premises at all reasonable times to inspect the same and the improvements thereon and to determine whether the herein leased premises are being properly maintained.

WITNESS, the hands and seals of the parties hereto on the day and year first above written.

ATTEST:

WICOMICO COUNTY, MARYLAND

WITNESS:

_____(SEAL)
Bob Culver, County Executive, Lessor

WITNESS:

_____(SEAL)
Lessee