

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2013 Legislative Session

Legislative Day No. 14

Resolution No. 99-2013

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, A WINTERPLACE PARK HUNTING & FARMING RIGHTS LICENSE 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, approval of the County Council is required for any lease of County property for a lease term of more than one year; and

WHEREAS, S & H Farms, Inc. submitted a proposal for a hunting and farming rights license on approximately 230 acres of land, owned by Wicomico County, as shown on a WinterPlace Park Facility Plat, which is part of the WinterPlace Park property; and

WHEREAS, the County Executive proposes that Wicomico County, Maryland grant a WinterPlace Park Hunting and Farming Rights License to S & H Farms, Inc. for an initial term of one year, with two additional one year renewal options, and be given the authority to execute the license agreement on behalf of Wicomico County, Maryland; and

WHEREAS, S & H Farms, Inc. shall pay rent at an annual rental rate of \$4,501.00 for the initial term. The rental rate for each renewal term shall be increased by cost of living adjustments.

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 the County, an agreement for a WinterPlace Park Hunting & Farming Rights License, in substantially the form attached hereto as Exhibit A, with S & H Farms, Inc. for a term of one year at an annual rental rate of \$4,501.00, with two additional one year renewal options.

Done at Salisbury, Maryland, this 2nd day of July, 2013.

ATTEST:

Matthew E. Creamer, Council Administrator

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

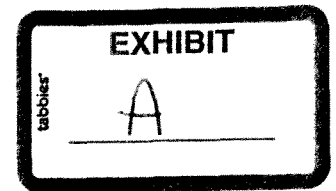
Matt Holloway, Council President

CERTIFICATION

This Resolution was Adopted [checked], Adopted with Amendments \_\_\_\_, Failed \_\_\_\_, Withdraw \_\_\_\_ by the County Council on July 2, 2013.

Certified by Matthew E. Creamer, Council Administrator

Wicomico County Department of Recreation & Parks  
WinterPlace Park Hunting & Farming Rights License



**THIS LICENSE** is made the \_\_\_ day of \_\_\_\_\_ 2013 by and between Wicomico County, Maryland acting by and through the Department of Recreation, Parks and Tourism (Owner/Licensor) and S & H Farms, Inc. c/o Sharon Harcum (Licensee).

**WITNESSETH**, that in consideration of the payments, covenants and conditions hereinafter set forth, the Owner hereby grants to the Licensee a license to enter onto and use of the approximately 230 acres of land bounded on the North by the Baltimore, Chesapeake & Atlantic Railway, bounded on the south by the northerly side of U.S. Route 50, bounded on the east by the lands now or formerly belonging to Oliver E. Hastings, and bounded on the west by the Beaver Run Business Center, Section one and the lands, now or formerly belonging to Virginia M. North, and all that tract or parcel of land, situate in the Parsons Election District of Wicomico County, State of Maryland, containing twenty-four (24) acres of tillable land, more or less, as shown on a WinterPlace Park Facility Plat of the property, and being fully contained within the boundaries of the property acquired by Wicomico County, Maryland, as part of the WinterPlace Park property. In the event that there should be any disagreement between the parties as to the lines of the property herein intended to be licensed, the decision of the Licensor as to the actual designation of the line or lines shall be final.

1. **HUNTING RIGHTS.** Licensee shall have the right to enter onto and use the property for the purpose of hunting waterfowl, upland game, and deer.
2. **FARMING RIGHTS.** Licensee covenants and agrees that he shall have the right to use the twenty-four (24) acres of tillable land described above for agricultural and related purposes and shall farm, cultivate, and manage the said twenty-four acres 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.
3. **TERM:** The initial term of this license shall commence on June 1, 2013 and end automatically on May 31, 2014 unless terminated earlier pursuant to Section 10. This license may be renewed, at the discretion of the Licensee, for two additional one-year terms, each commencing on June 1 and terminating on May 31. Each renewal term shall be on the same terms and conditions. At the end of the third year term (May 31, 2016) the license will be re-bid.
4. **LICENSE FEE.** The license fee for the hunting and farming rights herein granted is the sum of Four Thousand, Five Hundred and One Dollars (\$4,501.00) per term, payable at the commencement of each term, the initial payment being due in full immediately upon the execution hereof. Additional terms will be subject to an increase in the fee by the amount of the consumer price index.
5. **TAXABLE PROPERTY.** Licensee, 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 licensee was the owner of the property. Failure of the licensee to pay the property taxes when due shall be cause to terminate this License Agreement.
6. **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 Licensor.
7. **INDEMNIFICATION AND RELEASE.** Licensee hereby releases Owner, 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, Licensee hereby

acknowledging that it agrees to accept the Property in such condition AS IS currently WITH ALL AND ANY FAULTS at the time of the execution hereof or afterward. Owner has no responsibility to furnish any hunting equipment, blinds, pits or any other item. Licensee shall not make any alterations or improvements on the Property without prior written consent of Owner and, if approval is granted, Licensee shall remove all blinds or other structures erected by him within five (5) days after the date of termination of this license. Owner shall have no liability for, and shall not be responsible in any manner for security of or damage to Licensee's equipment located on or about the Property.

Licensee shall indemnify and hold Owner harmless from and against any and all causes, claims, rights, liabilities, damages, actions, injuries, losses or expenses (including attorney's fees) arising out of or in any manner connected with any damage or injury to person or property which arises out of or is in any manner connected with Licensee's use of the Property.

8. **INTERFERENCE**. Licensee shall not in any manner interfere with any activities of the Owner or any tenant or resident of the Property, or their guests, including but not limited to, farming and residential activities. Licensee shall not block or obstruct ingress or egress to the Property or any lane or way on the Property.

9. **OTHER CONDITIONS**. Licensee further agrees as follows:

- a. Licensee shall exercise due care with respect to Owners's property and shall exercise extreme care and caution with respect to the use of firearms on the Property;
- b. Licensee shall not hunt nor fire across or into the area within a radius of 150 yards of any house and any out building located on or near the Property.
- c. Licensee shall become familiar with the said property and shall mark all boundaries and all rights of way outlining the property with printed signs stating "private, no hunting. The property shall be posted before the Licensee shall hunt on the said property;
- d. Licensee shall not drive any vehicles of any kind on any wet or muddy farm lanes, roads or ways in such a manner as to cause harm thereto, or cause ruts or troughs to be created thereon;
- e. Licensee shall at all times, comply with all laws and regulations and shall do no act while hunting on the Property which is in violation of any federal, state, or local hunting or other law or regulation, now or hereafter in force, including but not limited to, killing or possessing more than the maximum legal limit of game;
- f. Licensee shall not make or suffer any waste whatsoever on the Property. All areas of the Property used by Licensee shall be kept free of litter at all times and all litter shall be removed from the Property by Licensee at Licensee's expense;
- g. The rights granted herein to Licensee shall be subject at all times to any rights and privileges that Owner may care to exercise of the Property;
- h. Licensee shall not use handguns on the Property but hunting with shotguns shall be permitted.
- i. Licensee may permit guests to accompany him upon the Property for the purpose of hunting white-tailed deer, but the number of guests the Licensee may invite upon the Property shall not at any time exceed five (5).
- j. Licensee must be a resident of Wicomico County.

10. **GUIDELINES AND CROP RESTRICTIONS:** This License is subject to the following guidelines and crop restrictions.

- a. The Licensor 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.
- b. The Licensee will use fertilization practices which will prevent depletion of the essential plant food elements in the soil.
- c. The Licensee will not bring any livestock or poultry on the land and will not use any buildings without the express approval of the Licensor.
- d. No fertilizers or manures may be stored on the property hereby Licensed. All manure shall be spread and tilled on the same day as delivered to the property.

11. **TERMINATION.**

a. This License Agreement shall terminate with no liability to Owner, in the event of:

(i) the breach by Licensee of any covenant or condition set forth herein, or

(ii) Owner, at Owner's option, desires to terminate this license. If Owner elects to terminate this license and provided Licensee, in Owner's reasonable opinion, has not breached any covenant or condition set forth in this Agreement, then in such event Owner shall refund to Licensee the proportionate amount of the fee paid, as the same shall bear to the unexpired term of this Agreement.

b. In the event Owner elects to terminate this Agreement pursuant to paragraph (a) above, then this Agreement shall terminate effective upon the mailing of written notice by Owner or Owner's agent, addressed to S & H Farms, Inc. c/o Sharon Harcum, P.O. Box 459, Hebron, Maryland 21830.

12. **RELATIONSHIP OF PARTIES.** It is understood and agreed that the relationship of the parties hereto is strictly that of Owner and Licensee and this License shall not be construed as a joint venture or partnership. The Licensee is not and shall not be deemed to be an agent or representative of the Owner.

13. **INSURANCE.** The Licensee 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-half million dollars (\$500,000). Such policy or policies shall name the Licensor and the Licensee as the insureds. Said policy shall be issued by an insurance company satisfactory to the Licensor. Within ten (10) days after the day hereof, the Licensee shall deliver to the Licensor certificates of insurance certifying that such insurance is in full force and effect and shall deliver to the Licensor an annual renewal certificate of insurance on the first of each year thereafter until the expiration of the term hereof.

14. **SURRENDER OF PREMISES:** If during the term of this License, it is determined by the Licensor that any part or portion of the Licensed premises is needed for park improvement or operation, then the Licensor shall give the Licensee notice of the Licensor's intention to use the necessary part or portion of the Licensed premises at any time prior to the end of the calendar year. In the event that the County elects to use any part of the Licensed property, this License shall terminate as to the property so designated by the Licensor commencing at the end of the License year at 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 Licensee.

15. **RULES AND REGULATIONS:** The Licensee hereby agrees to abide by all rules and regulations as set forth by the Licensor. The Licensee hereby agrees that it will not store equipment on the Licensed premises unless specifically approved by the Licensor. The Licensee shall make no alterations, installations, additions or improvements to the Licensed premises without the Licensor's written consent, and improvements to the Licensed premises without the Licensor's written consent, and then only in a manner and by such persons as may be approved by the Licensor. The cost of all such alterations, installations, additions or improvements shall be borne by the Licensee.

16. **ENTRY AND INSPECTION:** The Licensee shall permit the Licensor and/or its agents or representatives to enter the herein Licensed premises at all reasonable times to inspect the same and the improvements thereon and to determine whether the herein Licensed premises are being properly maintained.

17. **MISCELLANEOUS.** This Agreement sets forth the entire understanding of the parties, and there are no other reorientations, warranties or understandings other than as expressly set forth herein. This Agreement may not be amended, and no waiver of any rights hereunder shall occur unless in writing signed by the parties hereto. This Agreement and the rights hereunder may not be assigned by Licensee in whole or in part without the express written consent of the Owner, which may be withheld for any reason. If there is more than one person who is a party to this Agreement, as Licensee, the obligations of such persons hereunder shall be joint and several.

**EXECUTED** by the parties the day and year first above written.

**ATTEST/WITNESS**

**WICOMICO COUNTY DEPARTMENT  
OF RECREATION AND PARKS**

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By: Richard M. Pollitt, County Executive

**ATTEST/WITNESS**

**S & H FARMS, INC.**

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By: Sharon Harcum, Licensee