

County of Kenosha
Board of Supervisors
Resolution No. ____

Subject: A RESOLUTION TO LEASE KENOSHA COUNTY PROPERTY LOCATED AT 1301 85 th STREET TO SQUARE DEAL TREES LLC FOR TWO MONTHS FOR THE SUM OF \$250			
Original <u> X </u>	Corrected <u> </u>	2 nd Correction <u> </u>	Resubmitted <u> </u>
Date Submitted: /2024		Date resubmitted:	
Submitted by: The Finance/Administration Committee and the Public Works/Facilities Committee			
Fiscal Note Attached: <u> </u>		Legal Note Attached: <u> </u>	
Prepared By: John F. Moyer			

Whereas, Kenosha County recently acquired the property located at 1301 85th St., Kenosha, WI 53143, and

Whereas, this lot had been used in November and December as a Christmas tree lot for more than 30 years and Kenosha County was approached by the LLC which has been selling trees there by arrangement with the predecessor owner in order to continue for two more years to sell trees at the lot, and

Whereas, the property is currently vacant and its historic use and community familiarity support use by Square Deal Trees LLC and in the near-term it would be in the County's best interest to enter a short lease with a viable tenant, to assist in covering the on-going maintenance of the property, and

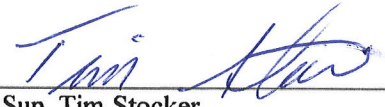
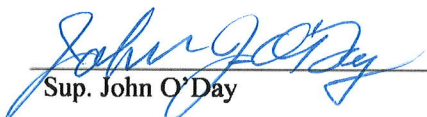
Whereas, the County was asked by Square Deal Trees LLC. to enter into a one-year lease (subject to one equivalent renewal term for 2023) for the vacant grass lot property, for the sum of \$250, to operate a small, private, tree lot for holiday sales between November 1 and December 26, and after those terms were both executed without issues or problems, it became clear that the County would continue to occupy the property in 2024 and 2025, and

Whereas, the proposed use would be consistent with the property's current zoning, offer some short-term financial assistance for the property's maintenance and provide a venue for the continuation of a long-time holiday tree sales opportunity in the community.

NOW THEREFORE BE IT RESOLVED, The County Board of Supervisors approves the lease of the Kenosha County property located at 1301 85th St., Kenosha, WI, for \$250 per two month term, and along the terms of the attached lease; and the County Clerk and County Executive are authorized to sign all necessary documents.

Respectfully Submitted:

PUBLIC WORKS/FACILITIES COMMITTEE

	Aye	Nay	Abstain	Excused
 Sup. Mark Nordigian, Chairperson	☒	☐	☐	☐
 Sup. Zach Stock, Vice Chairperson	☒	☐	☐	☐
 Sup. Laura Belsky	☒	☐	☐	☐
 Sup. Aaron Karow	☒	☐	☐	☐
Sup. Brian Thomas	☐	☐	☐	☐
 Sup. Tim Stocker	☒	☐	☐	☐
 Sup. John O'Day	☒	☐	☐	☐

FINANCE/ADMINISTRATION COMMITTEE

	Aye	Nay	Abstain	
_____ Supervisor Terry Rose, Chair	☐	☐	☐	☐
_____ Supervisor Dave Geertsen, Vice-Chair	☐	☐	☐	☐
_____ Supervisor John Poole	☐	☐	☐	☐
_____ Supervisor Erin Decker	☐	☐	☐	☐
_____ Supervisor Tim Stocker	☐	☐	☐	☐
_____ Supervisor John Franco	☐	☐	☐	☐
_____ Supervisor Bill Grady	☐	☐	☐	☐

Kenosha County
Administrative Proposal Form

1. Proposal Overview

Division: Planning and Development Department: Public Works

Proposal Summary (attach explanation and required documents):

This Resolution will allow a lease agreement between Kenosha County and Square Deal Trees, LLC for sale of Christmas trees on a vacant lot owned by Kenosha County. Specifically, it allows tree sales on the corner of Sheridan Road and 85th St. where such sales have been occurring for many years through arrangement of a predecessor owner. Due to delay in moving Human Services operations, the lot is available for this purpose in 2024 and, potentially in 2025.

Dept./Division Head Signature: Shelly Billingsley

Print Name: Shelly Billingsley

Date: 1-24-24

2. Department Head Review

Comments:

Recommendation: Approval ☐ Non-Approval ☐

Department Head Signature: Shelly Billingsley

Print Name: Shelly Billingsley

Date: 1-24-24

3. Finance Division Review

Comments:

The lease was drafted for a rental amount equal to approximately two months of property tax on the subject parcel. The lease was drafted by the office of Corporation Counsel.

Recommendation: Approval ☒ Non-Approval ☐

Finance Signature: Patricia Merrill

Print Name: Patti Merrill

Date: 1/24/24

4. County Executive Review

Comments:

Action: Approval ☒ Non-Approval ☐

Executive Signature: Samantha Kerk

Print Name: Samantha Kerk

Date: 1/22/2024

Commercial Lease Agreement

on
1301 85th Street, Kenosha, Wisconsin, a Vacant Lot
Tax Parcel 06-123-18-201-001

Between
County of Kenosha and Square Deal Trees, LLC

This Commercial Lease Agreement (Lease) is entered into on this ____ day of _____, 2024, by and between the County of Kenosha, (Landlord), a Wisconsin municipal government whose principal administrative offices are located at 1010 56th Street, Kenosha, WI 53140, and Square Deal Trees, LLC, (Tenant), a Wisconsin corporation bearing FEIN, 39-1910500 and whose address is W8444 Trillium Lane, Antigo WI 54409. Landlord is the owner of land whose address is: 1301 85th St., Kenosha, Wisconsin 53143, part of which is the property made available for lease, as described herein (Leased Premises, or Premises).

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to rent the Leased Premises from Landlord for the term, at the rental and upon the provisions set forth herein.

THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, it is agreed:

Term

The Initial Term of the Lease shall begin on the 1st day of November, 2024, and end on the 26th day of December, 2024. Landlord shall use its best efforts to put Tenant in possession of the Leased Premises on the beginning of the Lease term. If Landlord is unable to timely provide the Leased Premises, rent shall abate for the period of delay. Tenant shall make no other claim against Landlord for any such delay.

Tenant may renew the Lease for one extended term as above for 2025 **but only at the offer of the Landlord and contingent on lot availability**. Tenant shall exercise such renewal option, if at all, by providing written notice responsive to Landlord offer of renewal by no later than August 15, 2025. The renewal term shall be as set forth in this Lease and otherwise upon the same covenants, conditions and provisions as contained in this Lease.

Rent

Tenant shall pay to Landlord during the Initial Term rent of \$250. Payment shall be made to:

Kenosha County Treasurer's Office
1010 -56th Street
Kenosha, WI 53140

Space Leased.

This Lease Agreement involves tax parcel 06-123-18-201-001, also known as 1301 85th Street, a grassy lot depicted in attached Exhibit One (1). Tenant shall have the right to occupy and use the lot. Tenant shall have the right to use the entire outside yard areas associated with the premises. Tenant may use the

Job Center parking area up to 60 feet contiguous to the lot for parking as it desires. However, the Tenant may only allow customer vehicles to park on the paved drives and paved parking areas, and shall not park customer vehicles on the grass area. Tenant may use any of its own vehicles needed on the grass only as necessary and exercise care not to damage the grass or surface.

Personal Property Tax, Real Estate Tax and other Taxes

- A. Kenosha County is a tax exempt Wisconsin municipal corporation. If Tenant is a tax exempt organization, (under US Tax Code Sec. 501c 3 or otherwise) or becomes tax exempt prior to August 1, 2024, then it is believed by the parties that no real estate tax will be due. However, if any real estate taxes are required to be paid, or any other tax is required of Landlord, due to the rental of this property herein, the obligation to pay such tax will be entirely upon the Tenant as a payment in addition to the rent due under this lease. Tenant agrees to notify Landlord within 14 business days of receiving any decision of a taxing authority that such property is subject to a tax. Likewise, Landlord agrees to notify Tenant within 14 business days of receiving any decision of a taxing authority that such property is subject to a tax. Tenant agrees to pay all such taxes before they become delinquent, and to pay any late fees interest or penalties, in the event of failure to pay such taxes in a timely manner.
- B. Landlord may, with a written 20 day notice to Tenant, require a deposit by Tenant to the Landlord of a sum sufficient to pay any real estate tax imposed upon such property. Failure to make such a deposit within 30 days of such notice would constitute a material breach of this agreement.

Hours of Operation

For reasons of security Tenant shall provide Landlord with the special hours of operation for premises. For normal operations, the hours will be from 8:30 a.m. to 6 p.m., Monday through Sunday.

Prohibited Uses

Notwithstanding the forgoing, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing, selling, using, or giving a teaching lesson using, any explosives, flammables or other inherently dangerous weapon, substance, chemical, item, thing or device. Tenant shall not conduct or permit any illegal activities upon the premises. Tenant shall not obstruct ingress or egress to the Job Center, and shall not allow accumulation of debris. At the end of the lease term, lot shall be left in an undamaged, orderly and clean condition

Sublease and Assignment

Tenant shall not have the right without Landlord's consent, to assign this Lease. Tenant shall not sublease all or any part of the Leased Premises, or assign this Lease in whole or in part without Landlord's consent. Landlord, in its sole discretion and judgment, may grant or withhold such consent.

Repairs

During the Lease term, Tenant shall make, at Tenant's expense, all repairs to the Leased Premises for repairs caused by the negligence of Tenant, or of Tenant's students or guests. All other necessary repairs shall be made by Landlord at Landlord's expense.

Alterations and Improvements

Tenant shall not make, nor permit to be made, alterations or improvement to the Premises, unless Tenant obtains the written consent of Landlord. Tenant shall not damage, disturb, remove or alter any trees, bushes, plants, grass, flowers or other vegetation on premises. If Landlord permits Tenant to make any alterations or improvements, Tenant shall make the same with requirements the Landlord considers necessary or desirable. Tenant shall promptly repair any damage to the Premises caused by any such alterations or improvements. Any alterations or improvements to the Premises, except movable office furniture or equipment and trade fixtures, shall become a part of the realty and the property of the Landlord and shall not be removed by the tenant.

Insurance/ Indemnity

If the Leased Premises is damaged by fire or other casualty resulting from any act of negligence by Tenant or by any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant shall be responsible for the costs of repair not covered by insurance.

Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.

Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the particular activities of each with the premiums thereon fully paid on or before due date. Such insurance policy shall be issued by a Company authorized to do business in Wisconsin and shall afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Upon request, each party shall provide proof of insurance to the other. Neither party shall cancel or amend the terms of such insurance, without providing the other party 30 days advance written notice.

Signs

Signs shall mean all manner of signs, posters, banners, and display materials of all kinds and description. Tenant shall have the right to place on the Leased Premises, at locations approved by Landlord, signs advertising its purpose which are approved in content by Landlord and permitted by applicable municipal or zoning ordinances, and any private restrictions. No other signs are permitted under this lease. Tenant shall repair all damage to the Leased Premises resulting from the installation or removal of signs installed by Tenant.

Additionally, Tenant shall not post, hang, erect, display or permit any political or campaign sign or message, nor any sign which advertises any private company or commercial product (except its own tree sale business).

Entry

Landlord shall have the right to enter upon the Leased Premises at reasonable hours and given a 2 working days notice to inspect the same, provided Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises.

Notice of Vacate and Joint Inspection before Termination Date.

Tenant shall give written notice to Landlord at least thirty-days (30) prior to vacating the Premises at the end of the Lease Term or should funding cease and shall arrange to meet with landlord for a joint inspection of the Premises prior to vacating. In the event of tenant's failure to give such notice or arrange such joint inspection, Landlord's inspection at or after Tenant's vacating the Premises shall be conclusively deemed correct for purpose of determining Tenants responsibility for repairs and restoration.

Building Rules

Landlord shall have the right to create and amend reasonable rules and regulations necessary or desirable to insure the safety, care and cleanliness of the Premises and the preservation of order and safekeeping of the property. Any amendments to rules and regulations shall be set forth in writing, and shall be discussed with Tenant before being placed into effect.

Damage and Destruction

If the Leased Premises or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects, such damage or defects not being the result of any act of negligence by Tenant or by any of Tenant's agents, employees or invitees, that the same cannot be used for Tenant's purposes, then Tenant shall have the right within ninety (90) days following damage to elect by notice to Landlord to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Leased Premises, and if such damage does not render the Leased Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at the cost of the Landlord. In making the repairs called for in this paragraph, Landlord shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of Landlord. Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Leased Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes.

Maintenance Routine maintenance of grounds, including grass cutting, will be performed by Landlord. However, snow and ice removal will be the responsibility of the Tenant. Commercial garbage service will be the responsibility of the Tenant.

Quiet Possession

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

INDEPENDENT CONTRACTOR:

Nothing contained in this Lease shall constitute or be construed to create a partnership or joint venture between Kenosha County or its successors or assigns and Tenant or its successors or assigns. In entering into this lease, and in acting in compliance herewith, Tenant is at all times acting and performing as an independent contractor, an independent business, duly authorized to perform the acts required of it hereunder.

Notice

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

Landlord: Kenosha County Director of Public Works, Shelly Billingsley
19600 – 75th Street
Bristol, WI 53104

For reference- Phone (262) 857-1870

Tenant: James Stanton/Square Deal Trees LLC
W8444 Trillium Lane
Antigo, WI 54409

For reference- Phone (262) 496-5284

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

Waiver

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

Headings/Savings Clause

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease. If any part or portion of this agreement is deemed invalid or unenforceable by a court of law, it shall not affect the balance of the agreement, if any reasonable interpretation can be made to give the balance of the agreement lawful effect and enforcement.

Successors

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

Consent

Landlord shall not unreasonably withhold or delay its consent with respect to any matter for which Landlord's consent is required under this Lease.

Compliance with Law

Tenant and Landlord each shall comply with all federal and State laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises. Likewise, Tenant and Landlord each shall comply with all other federal and state laws and administrative rules, orders, and local ordinances.

Final Agreement

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year written below.

Square Deal Trees LLC.

By: Authorized Representative

Date

Name & Title: Mr. James Stanton

County of Kenosha

Samantha Kerkman, Kenosha County Executive

Date

Regi Waligora, Kenosha County Clerk

Date

Recommended by:

Shelly Billingsley, Director of Public Works

Date

Drafted by:
Kenosha County Corporation Counsel's Office