



Auditor

Michael Montplaisir, CPA
701-241-5600
montplaisirm@casscountynd.gov

December 28, 2016

Cass County Board of Commissioners
211 9th Street South
Fargo, ND 58103

Re: Flood lot lease in Pleasant Township

Dear Commissioners:

At the last meeting there was discussion on flood lot leases of county-owned properties and a consensus by the board to move forward with renewal of the current leases. The county has been contacted by two individuals requesting to lease a 5.26 acre lot in Pleasant Township.

Bryan Riedinger is the current lessee and began leasing the lot in 2016. Mr. Riedinger lives in Fargo and wants to renew his lease. I have been contacted by Jerome Nipstad who farms the land around this lot and also wants to lease the property. In addition, Mr. Nipstad mows the ditches next to the county-owned lot.

I am bringing this request to you to decide on how to proceed with the lease.

Sincerely,

Michael Montplaisir, CPA
Cass County Auditor

PO Box 2806
211 Ninth Street South
Fargo, North Dakota 58108

SUGGESTED MOTION:

Move to lease a 5.26 acre tract owned by Cass County and located in Section 27 Township 137 Range 49 (Pleasant Township) with _____.

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RECEIVED
CASS COUNTY COMMISSION

DEC 5 2016

Cass County Commission

December 1, 2016

I am writing to request that if the Cass County Commission rent out the flood buy-out lots again in 2017, we would be interested in renting one of the lots. The lot I am referring to is located in section 27-137-49. My grandsons have had their deer stands on that lot the last 2 years. When they came to work on their stands this summer someone had removed their stands and said they had rented that lot from the county. We farm the land all around this lot and that is why they have had their stands set up there.

If you have any questions regarding this situation you can call me, Jerome Nipstad, at 588-4356 or 238-6616. Thank you for your attention to this matter.



Jerome Nipstad

5281 172nd Ave SE

Hickson, ND 58047

LEASE OF PROPERTY

COPY

THIS LEASE is made by and between Cass County, North Dakota (hereinafter "County") and Bryan Riedinger, 1333 4th Street North, Fargo, North Dakota 58102 (hereinafter "Lessee").

THE PARTIES HEREBY COVENANT AND AGREE AS FOLLOWS:

1. Property: The County hereby offers to lease, and the Lessee agrees to lease, the property situated in the Township of Pleasant, County of Cass, State of North Dakota, described as: 27-137-49 Commencing at the NW corner of NE ¼ of NW ¼ of Section 27 then South 400' parallel to the West section line; then East 573' parallel to the North section line; then North parallel to the West section line to the North section line; then West along the North section line to the point of beginning. Said tract contains 5.26 Acres more or less. Parcel No. 57-0000-10371-010 (hereinafter "property").
2. Term: The term of this lease shall commence on January 1, 2016 and expire at midnight on December 31, 2016.
3. Rent: Rent shall be \$10 dollars per year, payable in advance of the commencement day, to the County by and through the Cass County Auditor at the address given in the section herein entitled Notices.
4. Use: The property shall only be used for purposes consistent with those contained in Exhibit 1 (attached). Furthermore, the property shall not be used for, among other purposes, parking vehicles; building any kind of structure without prior written approval of the County; storage of any kind of equipment or personal property; placement of any signs; raising or keeping of animals; or disposal of any kind of materials, whether hazardous or not. The determination of compliance with these limitations on use of the property shall be at the County's sole discretion.
5. Delivery of Possession: Lessee acknowledges that Lessee has inspected the property and accepts it as suitable for the purpose and use described in this Lease and that the property then complies with the use limitations.
6. Insurance: At all times during the term of this Lease, Lessee shall maintain at Lessee's sole expense, public liability and property damage liability insurance in an amount not less than \$500,000. Lessee shall deliver to County a copy of the certificate of insurance prior to the commencement, and renewal if applicable, of this Lease. County makes no representation that the limits of liability specified herein are adequate to protect Lessee.
7. Indemnification: County shall not be liable for any damage to Lessee, or any other person, or to any property, occurring on the premises or any part thereof, unless such damage is the proximate result of the negligence of an unlawful act of the County. Lessee agrees to hold the County harmless from any claims for damages occurring on the property, no matter how caused, except for injury damages for which County is legally responsible.

8. Ordinances and Statutes: Lessee shall comply with all statutes, ordinances and requirements of municipal, state and federal authorities.
9. Assignment and Subletting: Lessee shall not assign this Lease or sublet any portion of the property without prior written consent of the County.
10. Entry/Inspection of Property: Lessee shall permit County or County's agents to enter and inspect the property at any reasonable time for the purpose of verifying compliance with the terms of this Lease.
11. Maintenance: Lessee shall, at his/her own expense, and at all times, remove snow from any sidewalks, keep the property clear of rubbish or weeds, regularly mow the grass, irrigate or water the property in a manner sufficient to maintain the property but not in a manner inconsistent with governing statutes, ordinances or rules.
12. Default - Event: Lessee will be in default of this Lease for failure to timely pay any rent, or failure to abide by any material terms or conditions of this Lease including, but not limited to, the limitations on use of the property, and such default continues for ten (10) days after written notice from County.
13. Default - County's Remedies: If any one or more of the default events set forth herein occurs, then the County may, in its sole discretion, do one or more of the following:
 1. Give Lessee written notice of its intention to terminate this Lease on the date of such notice, or on any later date that the County may specify in such notice. On the date so specified in such notice, Lessee's right to use of the property will cease and the Lease will be terminated.
 2. Remove personal property and/or other materials that reflect an inappropriate use of the property, and charge Lessee a reasonable sum for removal, storage or/and disposal of such items.
 3. Collect all reasonable attorney fees, costs and disbursements that may arise as a result of any suit filed as a result of Lessee's default.
 4. Exercise such rights or remedies that may be provided by law.
14. Notices: Any notice which either party may or is required to give, may be given by mailing the same, postage prepaid, to the Lessee or County at the respective addresses given below, or at such other places as may be designated by the parties in writing from time-to-time, or may be delivered in person.

County: P.O. Box 2806, 211 9th Street South, Fargo ND 58108-2806

Lessee: 1333 4th Street North, Fargo ND 58102

15. Binding Effect: All the provisions hereof shall extend to and be binding upon, and in favor of or against (as the case may be), the heirs, executors, administrators, guardians, assigns and successors in interest of the parties hereto.
16. Severability: If any provision of this Lease should be found invalid or unenforceable, then the rest and remainder of the provisions shall remain valid and enforceable.
17. Entire Agreement: This Lease represents the entire agreement between the parties and there are no collateral or oral agreements or understandings and any executory agreement hereafter made shall be made ineffective to change, modify or discharge this lease, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought.
18. Construction: All provisions hereof and words and phrases used herein shall be governed and construed under the laws of the State of North Dakota.
19. Time is of the Essence: Time is of the essence for each term and provision of this lease.
20. Effective Date: The effective date of this lease is January 1, 2016, regardless of the day that the parties may have signed this agreement.

IN WITNESS WHEREOF, the parties hereto affix their signatures:

Bryan Riedinger
Lessee

Cass County

Mary Scherling 3-21-2016
By: Chair
Cass County Board of Commissioners

EXHIBIT 1

Additional Lease Terms and Conditions

WHEREAS, Cass County North Dakota became the rightful owner of certain real property, more fully described in the attached Lease, through the use of certain disaster relief funds under Section 404 of the Stafford Act; and

WHEREAS, the terms of the Stafford Act, and related regulations and agreements (e.g., FEMA-State Agreement) require that Cass County agree to conditions which are intended to restrict the use of the land to open space in perpetuity in order to protect and preserve natural flood plain values;

NOW, THEREFORE, the attached Lease is made subject to the following additional terms and conditions:

21. Terms. Pursuant to the terms of the Stafford Act, regulations promulgated thereunder (44-C.F.R. 206-434), as they read now and may be amended in the future, and the FEMA-State Agreement, the following conditions and restrictions shall apply to the leased property:
 - (a) Compatible Uses. The land shall be used for purposes compatible with open space, recreational, or wetlands management practices; in general, such uses include parks for outdoor recreational activities, nature reserves, unimproved previous parking lots and other uses described in 44 C.F.R. Section 206-434, as it reads now and may be amended in the future.
 - (b) Structures. No new structures shall be erected on the property other than:
 - (1) a public facility that is open on all sides and functionally related to the open space use;
 - (2) a restroom; or
 - (3) a structure that is compatible with the uses described in Paragraph 1(a), above, and approved by Cass County in writing prior to the commencement of the construction of the structure.
2. Inspection. FEMA, its representatives, and assigns, including Cass County, shall have the right to enter upon the property, at reasonable times and with reasonable notice, for the purpose of inspecting the property to ensure compliance with the above terms.
3. Enforcement. Any violation of these terms may, at Cass County's sole discretion, be deemed a default with all the rights and remedies available under the attached Lease.









Worden, Heather

From: Berndt, Keith
Sent: Thursday, March 03, 2016 11:25 AM
To: Montplaisir, Michael; Worden, Heather
Cc: Benson, Jason
Subject: FW: Flood Lot Lease Example

I guess it would be OK to forward a lease to him although I can't imagine what he wants it for

From: Bryan [mailto:riedingerb@gmail.com]
Sent: Thursday, March 3, 2016 11:09 AM
To: Berndt, Keith
Subject: Re: Flood Lot Lease Example

Thank you for sending me the pictures and copy of the contract I read it and yes I am still interested in leasing it

Sent from my iPhone

On Mar 3, 2016, at 9:38 AM, Berndt, Keith <BerndtK@casscountynd.gov> wrote:

Bryan,

I understand you are interested in leasing the County owned property along the Wild Rice River on the South side of Cass Highway 18. I've enclosed a blank contract for your information. Before approving a lease, I wanted to make sure you were familiar with all of the limitations on what the property can be used for. Please take a look at the contract and confirm that you are still interested. I've also attached some photos of the property FYI.

Keith Berndt, PE
Cass County Administrator
701-241-5770

From: Worden, Heather
Sent: Thursday, March 3, 2016 9:32 AM
To: Berndt, Keith
Subject: Flood Lot Lease Example

From: Bryan [mailto:riedingerb@gmail.com]
Sent: Wednesday, March 02, 2016 1:56 PM
To: Worden, Heather
Subject: Re: Lease of County Flood Lot

1333 4 th street north fargo ND 58102

Sent from my iPhone