



STAFF REPORT

DATE: 3/18/25

Consent

TO: City Council

FROM: Clark Schroeder Special projects

AGENDA ITEM: Farm lease for the 3M land 2025

REVIEWED BY: Nicole Miller- City Administrator

CORE STRATEGIES:

- | | |
|---|--|
| <input type="checkbox"/> Vibrant, inclusive, connected community | <input type="checkbox"/> Efficient, reliable, innovative services |
| <input type="checkbox"/> Responsive, transparent, adaptive governance | <input checked="" type="checkbox"/> Balanced Finances now and future |
| <input type="checkbox"/> Managed Growth | <input type="checkbox"/> Resilient Infrastructure |

BACKGROUND: When the city acquired 180 acres in 2019 from 3M, it had been farmland for many years and the city continued to lease the land for farming in 2020 and 2021. When the city was soliciting proposals for purchase of the land, the lease was allowed to expire, and the land was not farmed for the growing seasons of 2022 and 2023. We leased the land to David See for the 2024 growing season after a RFP was put out to see the highest bidder for leasing the land. David is interested in extending his lease for another year.

ISSUE BEFORE COUNCIL: Should council approve the 2025 lease with David See for the same price as 2024.

PROPOSAL DETAILS/ANALYSIS: Since this land is being leased out it is no longer tax exempt. The rent will go into the city's water fund to pay for the taxes since the land is considered an asset of the water fund. Staff is proposing a one-year lease again because our strategic plan for 2025 guides us to look into how and when we should develop this property. If we don't land on proposals to develop it we could enter into a new lease for 2026.

FISCAL IMPACT: The rent will be applied to the taxes and staff time associated with the lease. Any remaining funds will stay in the water fund.

OPTIONS: Approve or deny.

RECOMMENDATION:

Move to approve 2025 lease with David See Farms for the 3M property.

ATTACHMENTS: 2025 lease with David See Farms for the 3M property.

FARM LEASE

THIS FARM LEASE (this “Lease”) is made effective this _____ day of _____, 2025, by and between the City of Lake Elmo, a Minnesota municipal corporation (the “City”) and David See, d/b/a David See Farms (the “Tenant”).

1. Property Description. The City hereby rents to the Tenant in consideration of the rents and promises hereinafter described a portion of property (the “Property”) consisting of approximately 129 acres. The Property is legally described on Exhibit A attached hereto. The portions of the Property that are being leased to the Tenant are shown on the Exhibit B attached hereto (the “Leased Premises”).
2. Term. The term of this Lease is for one growing season commencing on _____, 2025 and terminating on December 31, 2025, unless otherwise terminated pursuant to the terms herein.
3. Base Rent. Tenant shall pay the City annual rent of \$213.50/acre (“Rent”) in two installments, one installment of \$13,770.75 on April 15, 2025 and the second installment being due on November 15, 2025.
4. Property Taxes. The City shall be responsible for paying the annual real estate taxes attributable to the Property.
5. Quiet Enjoyment. The City warrants that it has full right to execute and to perform this Lease and to grant the estate demised, and that the Tenant, upon the Tenant’s performance of all the terms, conditions, covenants, and agreements on the Tenant’s part to be observed and performed under this Lease, may peaceably and quietly enjoy the Leased Premises subject to the terms and conditions of this Lease.
6. Access to the Leased Premises. The Tenant agrees to permit the City and any authorized representatives of the City to enter the Leased Premises at all times during normal business hours (upon 24 hours’ notice to the Tenant) for the purpose of inspecting the same and conducting such investigations, tests, measurements, and assessments as may be desired by the City. In the event of an emergency constituting a danger to life, health, safety, or property, the City may enter the Leased Premises at any given time without the consent of or notice to the Tenant.
7. Tenant Obligations. The Tenant shall be responsible for paying or doing the following:
 - A. The Tenant shall use the Leased Premises for agricultural purposes only, which includes farming and cultivation. During farming operations, the Tenant must fertilize and lime the soil on the Leased Premises in order to keep the proper elements in the soil and at a proper pH for crop production. The Tenant shall not use any herbicides that will have any residual carry over effect on the Leased Premises or any other properties or bodies of water that are in the vicinity of the Leased Premises. The Tenant shall not keep any farm animals, livestock, or poultry

on the Leased Premises. The Tenant agrees to use normal and customary farming practices in the care and maintenance of the Leased Premises and, without limiting normal practices, keep the Leased Premises free of noxious weeds to the greatest extent possible;

- B. The Tenant agrees that throughout the term of this Lease, the Tenant shall not use the Leased Premises for the storage, handling, transportation, or disposal of any Hazardous Substances. "Hazardous Substances" for purposes of this Lease shall be interpreted broadly to include, but not be limited to, any material or substance that is defined, regulated, or classified under any Environmental Law or other applicable federal, state, or local laws and the regulations promulgated thereunder as: (i) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 (14), the Federal Water Pollution Control Act, 33 U.S.C. §1321(14), as now or hereafter amended; (ii) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6903(5) , 6921, as now or hereafter amended; (iii) toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act, 33 U.S.C. §1317(a)(1) as now or hereafter amended; (iv) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. §7412(a)(6), as now or hereafter amended; (v) a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990, 49 U.S.C. §5102(2), as now or hereafter amended; (vi) toxic or hazardous pursuant to regulations promulgated now or hereafter under the aforementioned laws or any state or local counterpart to any of the aforementioned laws; or (vii) presenting a risk to human health or the environment under other applicable federal, state or local laws, ordinances or regulations, as now or as may be passed or promulgated in the future. "Hazardous Substances" shall also mean any substance that after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities and specifically includes, but is not limited to, asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives, and urea formaldehyde;
- C. The Tenant agrees to comply with all statutes, ordinances, rules, orders, regulations, and requirements of the federal, state, county, municipal, watershed, and other units of government regulating the use of the Leased Premises;
- D. The Tenant shall not do anything in or about the Leased Premises which will in any way impair or invalidate the obligation of the insurer under any policy of insurance required by this Lease;
- E. The Tenant shall not make any alterations or improvements to the Leased Premises without the City's prior written consent. Any additions or improvements

authorized by the City shall be made at the Tenant's sole expense and shall remain on the Leased Premises at the expiration of this Lease;

- F. The Tenant shall refrain from using or applying any chemicals or products on the Leased Premises which contain phosphorous;
 - G. The Tenant is not required to plow back the Leased Premises prior to the termination of this Lease; and
 - H. This Lease does not entitle the Tenant to allow or authorize use of the Leased Premises by the Tenant or any of Tenant's invitees for recreational purposes, including, but not limited to, hunting or the riding of snowmobiles, all-terrain, or similar recreational vehicles.
8. Costs Associated with the Lease. The City is not responsible for paying any of the Tenant's costs associated with this Lease, including preparation of the Leased Premises for farming. The Tenant shall pay all costs related to farming the Leased Premises.
9. Insurance. The Tenant shall, at the Tenant's expense during the term of this Lease, keep in full force and effect a policy or policies of "occurrence" based general liability insurance, providing coverage for personal injury, personal property damage, and contractual liability, on terms and with companies acceptable to the City. Such policy or policies shall name both the Tenant and the City as insured parties and shall have combined policy limits in amounts not less than \$1,300,000. Such policy or policies shall provide that 30 days written notice must be given to the City prior to cancellation or termination thereof (with the exception of non-renewal which shall provide for 10 days' notice). The Tenant shall furnish evidence satisfactory to the City at the time this Lease is executed that such coverage is in full force and effect. The Tenant shall also carry insurance for the full insurable value of the Tenant's personal property located on the Leased Premises. The Tenant hereby waives and releases all claims, liabilities, and causes of action against the City and its officials, agents, employees, and contractors for loss or damage to, or destruction of the Tenant's personal property located on the Leased Premises.
10. Indemnification. The Tenant shall hold the City harmless from and indemnify and defend the City against any claim or liability arising in any manner from the Tenant's use, improvement, and occupancy of the Leased Premises, or relating to the death or bodily injury to any person or damage to or loss of any personal property present on or located upon the Leased Premises, including all persons upon the Leased Premises at the Tenant's invitation or sufferance. All personal property and equipment kept, maintained, or stored on the Leased Premises shall be kept, maintained, or stored at the sole risk of the Tenant. The Tenant agrees to pay all sums of money in respect to any labor, service, materials, supplies, or equipment furnished or alleged to have been furnished to the Tenant in or about the Leased Premises and not furnished on order of the City.

11. Assignment and Sublease Prohibited. The Tenant shall not sublet any portion of the Leased Premises or transfer or assign this Lease. The City's right to assign this Lease is and shall remain unqualified.
12. Surrender of Possession. Upon expiration or termination of this Lease, the Tenant shall peaceably surrender the Leased Premises and remove all debris, crops, and personal property from the Leased Premises. The Tenant shall be conclusively deemed to have abandoned any personal property and crops not removed prior to the effective date of the City's termination of this Lease or the Tenant's surrender of the Leased Premises. All debris, crops, and personal property may be removed and disposed of by the City. The Tenant shall be responsible for any removal and disposal costs.
13. Holding Over. If the Tenant remains in possession of the Leased Premises after the expiration or termination of this Lease, the Tenant shall be deemed to be occupying the Leased Premises as a tenant at sufferance, subject to all the conditions, provisions, and obligations of this Lease insofar as the same can be applicable to a tenancy at sufferance, including, but not limited to, the duty to pay rent.
14. Sale or Encumbrance of the Leased Premises. If the City sells or otherwise voluntarily conveys the Leased Premises during the term of this Lease, and the City does not terminate this Lease pursuant to the terms herein, this Lease shall be subject to the rights of the purchaser of the Leased Premises from the City and the Tenant shall attorn to the rights of the purchaser.
15. Tenant's Default.
 - A. Events of Default: The occurrence of any one or more of the following events shall constitute an Event of Default:
 - (1) The Tenant's failure to pay rent when due;
 - (2) The Tenant's failure to maintain the insurance required pursuant to paragraph 9 above, which failure remains uncured for 15 days following the City's written notice to the Tenant of the Tenant's failure to perform such obligation;
 - (3) The Tenant's attempt to sublet any portion of the Leased Premises, or assign the Tenant's interest under this Lease;
 - (4) The Tenant's failure to fully perform any of the Tenant's obligations, other than the obligations referenced in subsections (1), (2) or (3) above, which failure remains uncured for 30 days following the City's written notice to the Tenant of the Tenant's failure to perform such obligation; or
 - (5) The Tenant's filing, or having filed against the Tenant, any bankruptcy or debtor proceedings or proceedings for the appointment of a receiver or

trustee of all or any portion of the Leased Premises, or if the Tenant makes an assignment for the benefit of creditors.

B. City's Remedies: If an Event of Default occurs, the City shall have the following remedies;

- (1) The City may, but shall not be obligated to, and without notice to or demand upon the Tenant and without waiving or releasing the Tenant from any of the Tenant's obligations under this Lease, pay or perform any obligations of the Tenant; pay any cost or expense to be paid by the Tenant; obtain any insurance coverage and pay premiums therefor; and make any other payment or perform any other act on the part of the Tenant to be made and performed as provided for in this Lease, in such manner and to such extent as the City may deem desirable, and in exercising any such right, may also pay all necessary and incidental costs and expenses, employ counsel and incur and pay attorneys' fees. The Tenant shall pay costs to the City upon demand with interest at seven percent per annum.
- (2) The City may terminate this Lease by written notice to the Tenant in which case the Tenant shall vacate the Leased Premises in accordance with paragraph 12 of this Lease. Neither the passage of time after the occurrence of an Event of Default nor the City's exercise of any other remedy with regard to such Event of Default shall limit the City's right to terminate the Lease by written notice to the Tenant.
- (3) The City may, whether or not the City has elected to terminate this Lease, immediately commence summary proceedings in unlawful detainer to recover possession of the Leased Premises. In the event of the issuance of a writ of restitution in such proceeding, upon the City's reentry upon and repossession of the Leased Premises, the City may remove the Tenant and all other persons from the Leased Premises (subject to the Tenant's right and responsibility to remove the Tenant's personal property pursuant to paragraph 12 of this Lease). In the event the City reenters the Leased Premises pursuant to this paragraph and the Tenant fails to remove the Tenant's personal property within the time period provided in paragraph 12, all items of personal property not removed by the Tenant within said period shall be deemed abandoned, and title thereto shall transfer to the City at the expiration of such period or, upon the Tenant's vacation of the Leased Premises. These items may be disposed of by the City. The Tenant shall be responsible for any disposal costs.
- (4) In addition to all other remedies of the City, the City shall be entitled to reimbursement upon demand of all reasonable attorneys' fees which it incurs in connection with any Event of Default.

- (5) The City may initiate legal proceedings to enforce the provisions of this Lease.

No remedy provided for herein or elsewhere in this Lease or otherwise available to the City by law, statute, or equity, shall be exclusive of any other remedy, but all such remedies shall be cumulative and may be exercised from time to time and as often as the occasion may arise.

16. Loss and Damage. The Tenant assumes and bears the risk of all loss and damage to the Leased Premises from any and every cause whatsoever, whether or not insured, except in the case of gross negligence or intentional misconduct on the part of the City, its officials, employees, agents, or contractors. No loss or damage to the Leased Premises or any part thereof shall impair any obligation of the Tenant under this Lease and the Lease shall continue in full force and effect unless the Tenant is unable to use the Leased Premises for the purposes intended under this Lease.
17. Eminent Domain. If an eminent domain or condemnation proceeding is commenced with respect to the Leased Premises during the term of this Lease, the following provisions shall apply:
- A. If a public or private body with the power of eminent domain or condemnation (“Condemning Authority”) acquires all of the Leased Premises through the exercise of its power of eminent domain or condemnation or as a result of a sale in lieu thereof, this Lease shall cease and terminate as of the date the Condemning Authority acquires possession.
 - B. If a Condemning Authority acquires only a part of the Leased Premises, and such acquisition materially affects the Leased Premises so as to render the Leased Premises unsuitable for the Tenant, in the absolute discretion of the Tenant, then this Lease shall cease and terminate as of the date the Condemning Authority acquires possession.
 - C. If a Condemning Authority acquires only a part of the Leased Premises and such acquisition does not render the Leased Premises unsuitable for the Tenant in the absolute discretion of the Tenant, this Lease shall continue in full force and effect.
 - D. The City shall be entitled to the award paid in any condemnation acquisition under power of eminent domain or the proceeds of a sale in lieu thereof, and the Tenant shall not receive any portion of such award.
 - E. Although all damages in the event of any condemnation shall belong to the City whether such damages are awarded as compensation for diminution in value of the leasehold or to the fee of the Leased Premises, the Tenant shall have the right to claim and recover from the Condemning Authority, but not from the City, such compensation as may be separately awarded or recoverable by the Tenant, in the

Tenant's own right on account of any and all damage to the Tenant by reason of the condemnation and for or on account of any cost or loss to the Tenant.

18. Limitation of Warranties and Liability. In no event shall the City be liable for special, incidental, or consequential damages, including but not limited to lost profits, lost business opportunity, or damages related to Tenant's use or intended use of the Leased Premises.
19. Lease is Binding. This Lease shall be binding upon the parties hereto and their heirs, successors and assigns.
20. Notification. Notices related to this Lease shall be sent to the following addresses:
 - A. As to the City: City of Lake Elmo
3880 Laverne Avenue N.
Lake Elmo, MN 55042
Attn: City Administrator
 - B. As to the Tenant: David See
D/B/A David See Farms

or to such other address as either party may notify the other of pursuant to this paragraph.

21. Entire Lease. It is understood that this Lease contains all agreements, promises, and understandings between the City and the Tenant regarding the subject matter hereof. This Lease supersedes any prior agreements between the parties regarding the subject matter hereof and any prior lease related to the Leased Premises. No modification to this Lease is binding unless made in writing and signed by the City and the Tenant.
22. Choice of Law. The laws of the State of Minnesota shall govern the validity, performance and enforcement of this Lease.
23. Waiver. No waiver of the City's remedies upon the occurrence of an Event of Default shall be implied from any omission by the City to take any action on account of such Event of Default, and no express waiver shall affect any Event of Default other than the Event of Default specified in the express waiver and such an express waiver shall be effective only for the time and to the extent expressly stated. One or more waivers by the City shall not be construed as a waiver of a subsequent Event of Default.
24. Relationship of Landlord and Tenant. This Lease does not create the relationship of principal and agent, partnership, joint venture, or of any association between the City and the Tenant, the sole relationship between the parties hereto being that of landlord and tenant under this Lease.

25. City's Disclaimer of Warranty. The City disclaims any warranty that the Leased Premises is suitable for the Tenant's use.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

CITY OF LAKE ELMO

By: _____
Charles Cadenhead
Its: Mayor

By: _____
Julie Johnson
Its: City Clerk

TENANT

By: _____
David See, d/b/a David See Farms

EXHIBIT A

Legal Description of the Property

Parcel A (Certificate of Title No. 61999):

That part of the Northwest Quarter and the Southwest Quarter of Section Sixteen, Township 29 North, Range 21 West, Washington County, Minnesota described as follows: Beginning at the northeast corner of the Southeast Quarter of said Northwest quarter of Section Sixteen; thence West, along the North line of the South half of said Northwest quarter, a distance of One hundred twenty-four and four-ninths (124 and 4/9ths) rods; thence South, parallel with the west line of said Section 16, a distance of 594 feet to a point; thence West, parallel with the north line of Southwest Quarter of said Northwest Quarter, to the west line of said section; thence South along the west line of said section, a distance of 723.63 feet to the southwest corner of said Southwest Quarter of the Northwest Quarter; thence South 00 degrees 03 minutes 55 seconds East, bearing oriented to the Washington County Coordinate System, North American Datum 1983, along the west line of the Northwest Quarter of the Southwest Quarter, a distance of 115.20 feet; thence North 89 degrees 51 minutes 08 seconds East, a distance of 815.00 feet; thence South 00 degrees 03 minutes 55 seconds East, parallel with said west line, a distance of 400.00 feet to its intersection with the north line of State Trunk Highway No. 5; thence South 89 degrees 51 minutes 08 seconds, West along said north line, a distance of 815.00 feet to its intersection with the west line of the Northwest Quarter of the Southwest Quarter; thence southerly, along said west line to the southwest corner of said section; thence East on the South line of said section to the Southeast corner of the West one half of said Southwest quarter; thence North on the East line of West one-half of said Southwest quarter to the North line of the Chicago & North Western Railway Company (formerly The Chicago, St. Paul, Minneapolis and Omaha Railway Company) railroad right-of-way; thence Easterly along the North line of said right-of-way to the East line of the Southwest quarter of said section; thence North along the East line of the Southwest quarter and of Northwest quarter of said section to the place of beginning; except railroad right-of-way across the Southwest Quarter of said Southwest quarter; according to the U.S. Government survey thereof.

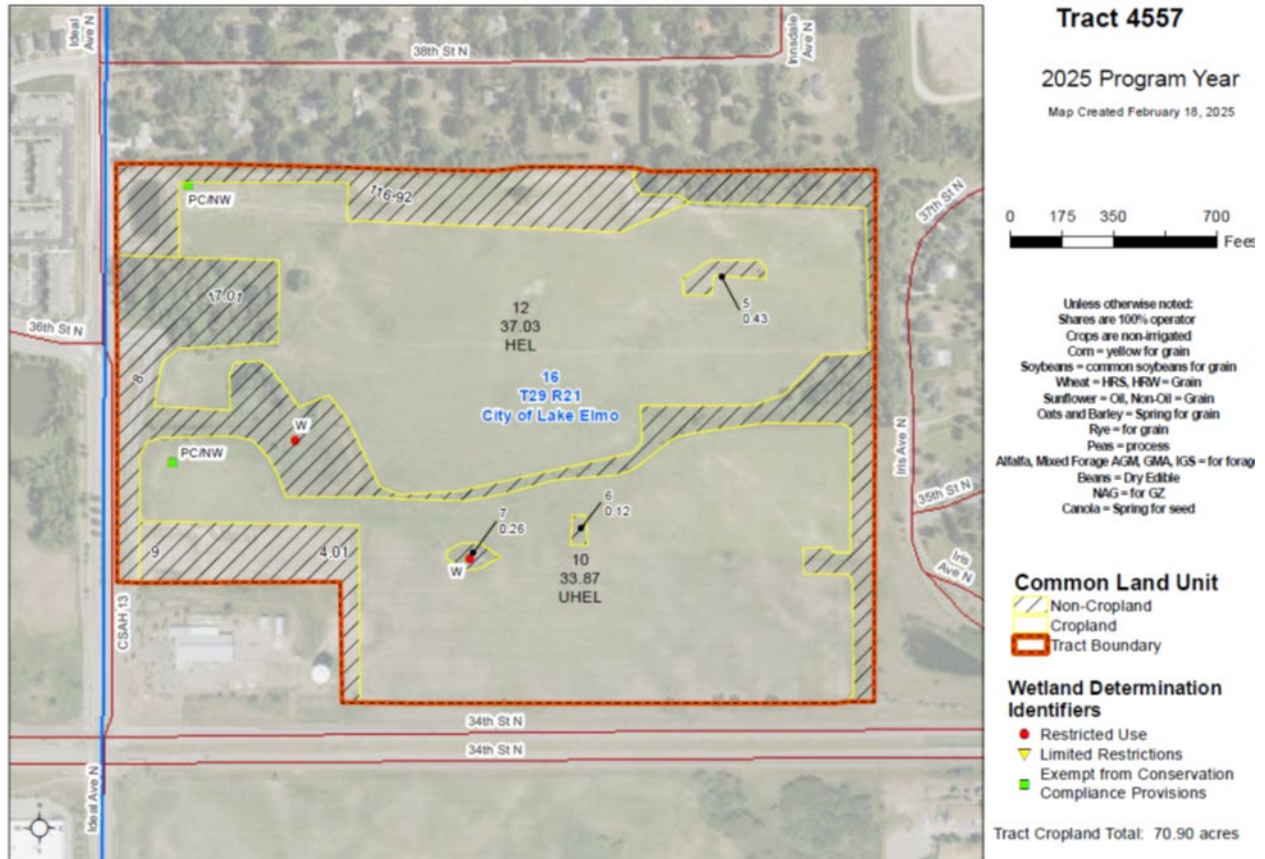
Parcel B (Certificate of Title No. 64815):

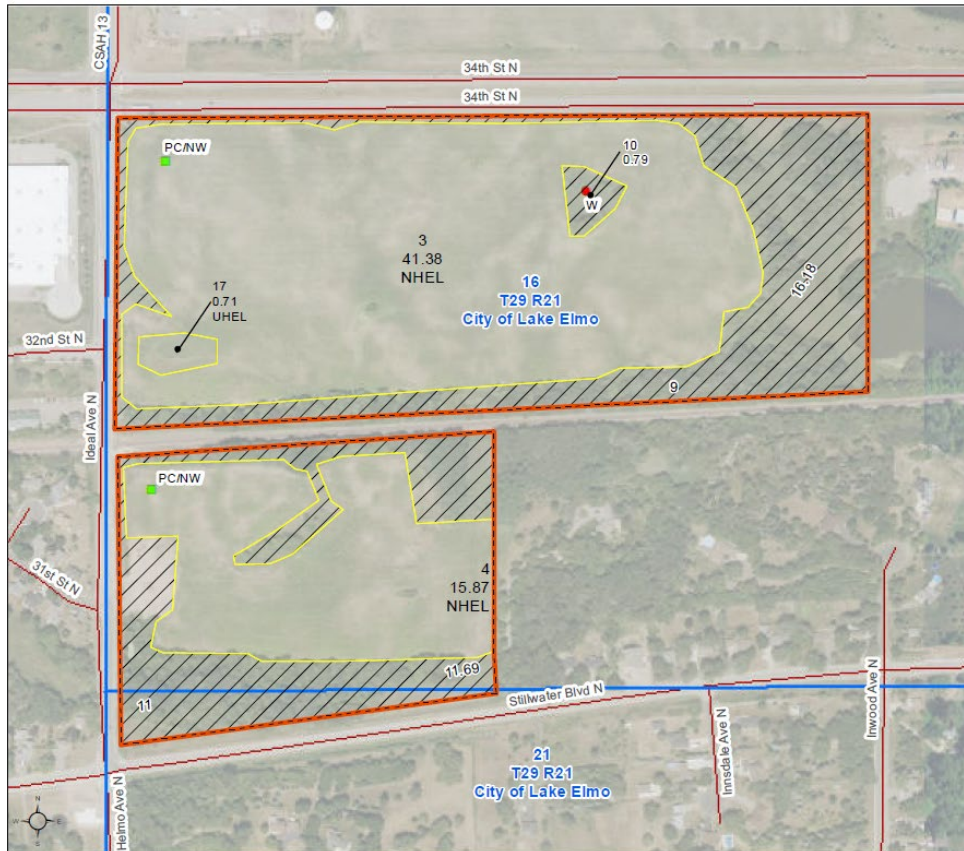
All that part of the South Half of the Northwest Quarter of Section 16, Township 29 North, Range 21 West, Washington County, Minnesota described as follows: Commencing at the northeast corner of said South Half of the Northwest Quarter; thence westerly, along the north line of said South Half of the Northwest Quarter, a distance of one hundred twenty four and four ninths (124 and 4/9ths) rods to the point of beginning of the parcel of land to be described; thence southerly, parallel with the west line of said South Half of the Northwest Quarter, a distance of 594.00 feet; thence westerly, parallel with said north line of the South Half of the Northwest Quarter, a distance of 593.81 feet to its intersection with said west line of the South Half of the Northwest Quarter; thence northerly, along said west line of the South Half of the Northwest Quarter, a distance of 594.00 feet to the northwest corner of said South Half of the Northwest Quarter; thence easterly, along said north line of the South Half of the Northwest Quarter, a distance of 593.81 feet to the point of beginning.

Washington County PID 16.029.21.24.0002

EXHIBIT B

Depiction of the Leased Premises (outlined in red)

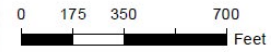




Tract 4558

2025 Program Year

Map Created February 18, 2025



Unless otherwise noted:
 Shares are 100% operator
 Crops are non-irrigated
 Corn = yellow for grain
 Soybeans = common soybeans for grain
 Wheat = HRS, HRW = Grain
 Sunflower = Oil, Non-Oil = Grain
 Oats and Barley = Spring for grain
 Rye = for grain
 Peas = process
 Alfalfa, Mixed Forage AGM, GMA, IGS = for forage
 Beans = Dry Edible
 NAG = for GZ
 Canola = Spring for seed

Common Land Unit

- Non-Cropland
- Cropland
- Tract Boundary

Wetland Determination Identifiers

- Restricted Use
- ▼ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Tract Cropland Total: 57.96 acres