

ORDINANCE NO. 2009- 008

**AN ORDINANCE AUTHORIZING THE VILLAGE MANAGER
TO ENTER INTO A FARM LEASE AGREEMENT
FOR THE BOWMAN PROPERTY AND DECLARING AN EMERGENCY**

WHEREAS, the Village has acquired certain real property, referred to as the Bowman property, that is not currently needed for public purposes, but that will be needed in the future; and

WHEREAS, this property is suitable for farming purposes in the interim period until such time as it is needed for public purposes; and

WHEREAS, the property is currently part of the CAUV tax program due to its history of farmland; and

WHEREAS, if the Village does not continue to farm the property, there is a risk that it will removed from the CAUV program, thereby requiring the Village to pay a three year tax recoupment; and

WHEREAS, the Village is authorized to lease real property without publicly advertising and soliciting bids pursuant to its Home Rule authority under the Constitution of the State of Ohio and in conjunction with the Village Charter.

NOW THEREFORE BE IT ORDAINED by the Village Council of the Village of Waynesville, _____ members elected thereto concurring:

Section 1. That the Village Manager is hereby authorized and directed to execute a farm lease agreement substantially in the form of the agreement attached hereto as Exhibit "A."

Section 2. That is Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall be effective immediately upon its passage. The reason for said declaration of emergency is the need to continue farming the property in question during the upcoming farm season such that it remains eligible for the CAUV tax program.

Adopted this _____ day of _____ 2009.

Attest: _____
Staci Morris, Clerk of Council

Earl J. Isaacs, Mayor

VILLAGE OF WAYNESVILLE



**Bowman Property
Lease Agreement**

May 2009

AGRICULTURAL LEASE

This Lease is made and entered into on this _____ day of _____, 2009, by and between the Village of Waynesville (referred to thereafter as "Landlord") and _____ (referred to thereafter as "Tenant").

1. **Lease of Property.** Landlord leases to Tenant, and Tenant leases from Landlord, on the terms and conditions set forth in this Lease, the eighty-eight acre parcel located in Warren County, Ohio, situated behind Bowman Park, and referred to as parcel #6313770030 on the Warren County Auditor's website, which consists of approximately sixty-two tillable acres. The Tenant agrees to inform the Landlord of any discrepancies in this acreage estimation and will pay rent for all acreage farmed. The Landlord and Tenant both acknowledge that the Property does not include any dwellings, houses, barns, or other structures, or any fixtures or equipment that may be located on the Property and both parties are well aware that the entire eighty-eight acre parcel is believed to be located in the floodplain and thus prone to regular flooding.

2. **Term.** This Lease shall be a year-to-year lease beginning May 14, 2009, and ending December 31, 2011. The Landlord may terminate the Lease at any time in the event that it is deemed to be in the best interest of the Landlord to terminate the Lease. In the event the Tenant has crops planted at the time the Landlord initiates termination of the Lease, Landlord hereby agrees that Tenant shall be reimbursed for all documented typical expenses, including the rent monies collected for that given year, and \$50 per acre for the loss of their opportunity to harvest their crops. The Tenant may terminate the lease at any time with thirty days written notice submitted to the Village Manager between December 1st and March 1st in order to provide Landlord ample time to secure a suitable replacement tenant.

3. **Rent.** Tenant agrees to pay the Landlord as rent for the Property \$_____ per acre for an estimated sixty-two (62) acres for a total lease amount of \$_____ per year. The Tenant agrees to pay annual rent, which shall be due by December 1st of each year the property has been farmed by the Tenant. Payments made beyond the due date shall be subject to a 10% charge in addition to the rental costs.

4. **Use and Care of Property.** Tenant will use the Property solely for agricultural purposes as contemplated by this Lease. Tenant agrees to take proper care of the Property, to cultivate, maintain, and manage the Property and the soil in a careful and prudent manner, to control soil erosion as completely as practicable, to protect the underground aquifer/wellfield and to comply with all applicable laws, including, but not limited to, laws pertaining to the protection of the environment. Tenant shall make no alterations or improvements on the Property without Landlord's expressed written consent. Tenant agrees to take responsibility for repairs to any damaged property, or adjacent property, particularly access points.

No livestock shall be permitted on the Property for any purposes whatsoever. Tenant will not allow waste on or damage to the Property. Tenant will not store or leave automobiles, trucks, tractors or

other farm equipment on the Property, except in the normal course of planting, cultivating and harvesting. Tenant shall use insecticides or herbicides approved by the Landlord and only in a manner consistent with other actual or potential uses of the Property and adjacent lands. The Landlord's approval of the said **insecticides and herbicides shall be dictated by feedback from relevant regulating organizations such as the Ohio Environmental Protection Agency.**

The Landlord agrees to consider reimbursing the Tenant, in part or in full, the costs of improving the property through excavation and repair of a levee or a dike in order to prevent excessive flooding of the parcel, but Landlord assumes no legal responsibility, liability or risk associated in any way with the said improvements and Landlord makes no guarantee as to the effectiveness of the improvements. No such improvements shall be made without prior expressed written consent from the Landlord.

5. **Environmental Covenants.** Tenant shall not, in violation of any Environmental Laws (as defined herein), use all or any portion of the Property, which lies within a "wellhead protection area," for the generation, treatment, storage, disposal or release of any pollutants, dangerous substances, toxic substances, hazardous waste, hazardous materials or hazardous substances as defined in or pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act of 1976, as amended or any other environmental, health or safety related federal, state or local law, ordinance, rule or regulation (the "Environmental Laws"). Tenant specifically agrees to indemnify and hold harmless Landlord (the Village of Waynesville), its elected and appointed officials, officers, managers, employees, agents, and volunteers from any and all claims, liabilities, costs or expenses, including reasonable attorney fees and any costs of all necessary clean up activities as a result of the release of such hazardous materials arising out of or related to the generation, treatment, storage, disposal or release of these materials by Tenant, their family members, invitees, or other agents.

6. **Insurance and Liability.** Tenant shall maintain commercial general liability insurance suitable for farming operations (including automobile and farming equipment), for personal injury, death and property damage in an amount satisfactory to Landlord and adequate workers' compensations insurance in compliance with the laws and statutes of the State of Ohio. Landlord shall be an additional, insured on any such policy. Upon request, Tenant will provide Landlord with certificates of any insurance policy and shall demonstrate compliance with the Ohio labor laws. All personal property temporarily stored on the Property by Tenant shall be at Tenant's sole risk.

7. **Indemnification.** Tenant shall indemnify, defend and hold harmless the Landlord, its elected and appointed officials, its officers, managers, employees, and agents from and against any and all judgments, orders, claims, liabilities (including environmental claims and charges, statutory liability, liability under workers' compensation laws and other applicable employment laws, etc.), injuries, losses, damages, costs and expenses which arise directly or indirectly out of or in connection with any occurrence on or about the Property, the use and occupancy of the Property by Tenant, his invitees, employees, agents or contractors or the breach of any of Tenant's obligations under this Lease.

8. **Right of Entry.** Landlord reserves the right to enter upon the Property to inspect the same, to make improvements, and for any and all lawful purposes arising from the ownership of the Property. Landlord also reserves the right to enter Property in order to explore possible future non-agricultural use of the Property so long as it does not unreasonably interfere with the rights of the Tenant as provided in this Lease.

9. **Default.** It is agreed that any violation of this Lease by either party shall, after ten (10) days notice (during which the default may be cured), be just cause for immediately terminating this lease. Such termination shall be in addition to any other remedies that may be available at law or in equity.

10. **Possession at End of Lease.** Upon termination of this Lease, Tenant will provide possession of the Property to Landlord without further notice, and in as good order and condition as when the same was entered by Tenant.

11. **Assignment and Subleasing.** Tenant shall not assign this Lease or sublet the Property in whole or in part without Landlord's expressed written consent. Subject to this limitation, this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, personal representatives, successors and assigns.

12. **Miscellaneous.** This Lease sets forth the entire agreement of the parties and supersedes any prior understandings. This Lease may be modified only by written agreement of both parties. No waiver of any provision of this Lease shall be effective unless in writing, and no waiver on one occasion shall constitute a waiver on any further occasion. The provisions of this Lease shall be severable and the invalidity of one provision shall not affect any others. IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

Landlord Signature	Print Name	Date
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Tenant Signature	Print Name	Date
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Attest	Print Name	Date
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