

OFFER TO USE

Railroads and Harbors Section
Wisconsin Department of Transportation
P.O. Box 7914
Room 701
Madison, Wisconsin 53707

On this 2nd day of OCTOBER, 2017,

PERMIT USER

R.E. Golden Produce Co, Inc.
1335 Gilson Street
Madison, WI 53715
(608) 255-4802 or (206) 380-7997

DEPARTMENT, LOCATION and TERM

(hereinafter called "Permit User") hereby submits an offer to use and occupy certain property from the Wisconsin Department of Transportation, whose address is shown above, (hereinafter called "Department") the real estate (hereinafter called "the Premises") of the Department situated in the City of Madison, County of Dane, and State of Wisconsin described and shown outlined on the map marked "Exhibit A" attached hereto and hereby made a part hereof, for and during the term of two (2) years, with automatic renewals for two (2) year terms unless Permit User notifies Department in writing of its intent to forego renewal and terminate this permit at the end of the then current two year period, beginning January 1, 2017 unless terminated sooner as provided herein.

PREMISES

- The Premises are located as shown in cross-hatching on Exhibit A attached hereto and hereby made a part hereof located on a part of the State of Wisconsin-owned railroad right of way lying between the Southeasterly lines of Lots 5 and 6 of Block 4 of the Woodlawn Addition to South Madison also known as 1319 and 1335 Gilson Street, Madison, Wisconsin, and a line drawn parallel to and 15 feet distant northwesterly from the centerline of the railroad track as now located containing in the aggregate approximately 5,000 square feet, more or less, except the following described area: A parcel of land which contains a concrete dock which lies in a portion of a Railroad Right-of-way currently owned by the Wisconsin Department of Transportation, lying adjacent to and southeasterly of Lot 6, Block 4, Woodlawn Addition to

South Madison, in the NW 1/4 of the SE 1/4 of Section 26, T7N, R9E in the City of Madison, Dane County, Wisconsin, more particularly described as follows:

Commencing at a the Northeasterly platted boundary corner of said Lot 6, Block 4, Woodlawn Addition to South Madison, said point lying on the northwesterly platted railroad right-of-way line, thence along the southeasterly platted boundary line of said Lot 6 and platted railroad right-of-way line, 2.07 feet along the arc of a 2815.00 radius curve to the right with a chord bearing S 14°46'44" W, 2.07 feet, and a delta angle of 00°02'32", to the point of beginning of this description:

thence S 57°31'56" E, 23.43 feet;

thence S 35°01'36" W, 11.51 feet;

thence S 30°34'00" W, 32.58 feet;

thence N 68°25'21" W, 9.97 feet to a point being the Southeasterly platted boundary corner of said Lot 6, Block 4, said point lying on the said northwesterly railroad right-of-way line; thence along said southeasterly platted boundary line of Lot 6, Block 4, and northwesterly railroad right-of-way line, 48.09 feet along the arc of a 2815.00 radius curve to the left with a chord bearing, N 15°17'22" E, 48.09 feet, and a delta angle of 00°58'44" to the point of beginning containing an area of 737 square feet, or 0.02 acres.

The Premises includes no area closer than 15 feet to the existing railroad track centerline. No snow storage is permitted on any state owned property outside of these Premises.

FENCING

Permit User Agrees to install and maintain at its own cost, a physical barrier on a line located 15 feet distant and parallel to the railroad track centerline on the Premises, a length of 100 feet beginning at the Northeast corner of the Premises and extending southwesterly along said parallel line 100 feet and there terminating. The physical barrier shall consist of any of the following: (1) a 6 foot tall, chain-link type fence of steel construction, (2) temporary concrete barriers, (3) steel plate beam guard, or (4) 6"x6" wood beams installed vertically at intervals of 5 feet and at least 4 feet high from the ground. If Permit User chooses Option (4), Permit User agrees to install at least two (2) pressure treated horizontal 2"x4" beams the entire length of the physical barrier on the railroad side of the 6"x6" wood beams. All costs to install, maintain and replace said fencing shall be paid by the Permit User, except that Permit User will be entitled to a one-time allowance of \$1,000.00 for installation and future maintenance of the horizontal pressure treated 2x4s. Permit User

shall install the physical barrier no later than September 30, 2017.

ACCEPTANCE

Upon acceptance by Department of Permit User's OFFER TO USE, said OFFER TO USE shall become an agreement binding upon the parties hereto.

This permit is made upon the following express covenants and agreements, each of which is made an express condition hereof:

PAYMENT

1. (a) Permit User covenants and agrees to pay Department as payment for the use of the Premises the sum of One Thousand Dollars (\$1000.) per year payable in advance, the first payment of which is due January 1, 2017. Permit User may, at its option, apply the one-time \$1,000.00 allowance against the 2017 use payment.

PAYMENT REVIEW

(b) Department reserves the right to review and revise the payment applicable to this permit upon (1) any change in usage of the Premises, or (2) any extension or renewal of the permit term, including automatic renewals. Department shall provide sixty (60) days written notice to Permit User in the event Department revises the payment for the next two year period.

PURPOSE

2. The Premises shall be used for the following purpose(s) only: Unpaved or paved area for parking and driveway and snow storage only.

Permit User agrees to handle only such articles as are appropriate to this type of business, occupancy or use.

SPECIAL ASSESSMENTS

3. (a) In the event the Premises or any part thereof shall be subject to any special assessment or special tax for public improvement, Permit User agrees to reimburse Department the total cost of such assessment within 20 days after presentation of a bill therefor. In default of such reimbursement, all sums so paid by Department shall be deemed an addition to payment and recoverable as such.

TAXES

(b) Permit User shall pay all real estate taxes or other charges applicable to or assessed against the Permit User, the Premises, the business conducted thereon, and the improvements placed thereon for each year of term of this permit even though such taxes or charges may not become due and payable until after the expiration or termination of this permit. The general taxes for the year in which the term of this permit shall commence shall be prorated from January 1st to the date on which the term of this permit commences. If Department shall terminate this permit during the term hereof for any reason, the general taxes for the year in which the permit is so terminated shall be prorated from January

1st to the date on which Permit User shall deliver possession of the Premises to Department. If Permit User shall terminate this permit during the term hereof for any reason, the general taxes for the full year in which the permit is so terminated shall be paid by Permit User. Final tax payments will be computed on the basis of the most recent tax bill.

(c) If any such taxes or charges shall have been paid by Department, Permit User agrees to reimburse Department within 20 days after presentation of a bill thereof. In default of such reimbursements, all sums so paid by Department shall be deemed an addition to payment and recoverable as such.

TERMINATION, REFUND

4. Department may terminate this permit upon either of the following occurrences:

(a) Breach by Permit User pursuant to Section 18 of this permit. Department shall provide written notice of a breach to Permit User specifying the nature of the breach and the action required to cure the breach. Permit user shall have a period of thirty (30) days to cure a breach from the date Permit User receives the notice. Department may terminate this permit immediately upon written notice to Permit User if a breach has not been cured within the thirty (30) day period.

(b) Department determines in its sole discretion that the Premises is needed exclusively for railroad purposes. Department shall provide Permit User 6 months' written notice of termination of this permit pursuant to such a determination.

5. Permit User may terminate this permit upon 60 days' written notice to Department.

Upon any such termination if payment shall have been paid in advance, Department shall refund to Permit User the unearned portion thereof for the period extending beyond such date of termination.

NO ASSIGNMENT

6. There shall be no sale, assignment, transfer, or underletting of this permit by Permit User unless Permit User receives written permission from Department. No act of Department, including acceptance of money by Department from any other party, shall constitute a waiver of this provision.

7. (a) No new buildings of any type will be permitted to be erected on Department's property.

(b) Any violation of these restrictions contained in this Section 7 will result in the termination of this permit in accordance with the provisions herein. Any existing buildings or structures located on the Premises prior to the commencement of this permit are an exception to subsections (a) and (b) of this Section 7.

(c) Department's knowledge of any non-compliance with the above conditions shall not constitute a waiver of Department's right to recover for damages to persons or property as may result therefrom.

HOUSEKEEPING

8. (a) Permit User shall at all times keep the Premises and all buildings and other structures thereon in good condition and repair, including the painting thereof. Permit User shall not post, paint, or place, or permit others to post, paint or place on the Premises any advertisement or sign not related directly to Permit User business. Any sign permitted must be in conformity with Section 84.30 Wis. Stats.

(b) Permit User agrees, during the term of this permit, to not interfere with railroad operator's access to the railroad track and structures lying on property for which this permit is granted.

DRAINAGE

9. Permit User agrees not to place or move any snow within 15 feet of the centerline of the railroad track nor otherwise outside of the Premises nor alter in any way the drainage on either the Premises or Department's adjoining land.

POLLUTANTS CONTAMINANTS

10. (a) Permit User further agrees to comply with all ordinances, laws, rules, or regulations enacted by any governmental body or agency relating to the control, abatement or emission of air and water contaminants; and to proper disposal of refuse, solid wastes or liquid wastes, or any other ordinance, laws, rules or regulations which may be applicable to it or its activities on the permitted Premises. Permit User shall bear all cost and expense arising from compliance with said ordinances, laws, rules, or regulations, and shall indemnify and save harmless Department from all liability, including, without limitation, fines, forfeitures and penalties arising in connection with such ordinances, laws, rules or regulations.

(b) The Permit User shall, at its own expense, investigate all such claims and demands, attend to their settlement

or other disposition, defend all actions thereon, and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

CLEARANCES

11. (a) If the Premises encompass an industry track then no excavations, buildings, structures, or obstructions of any kind shall be placed nearer than 15 feet laterally of the track center line. No building or structure on the Premises shall have a swinging door, window, or other device opening or swinging toward any railroad track, which, when open or extended toward the track, will be within said distances of the track.

(b) In the event this permit covers any air rights over Department's trackage, then no building, obstructions, cables, wires, or any other facilities or obstructions shall be placed or constructed within 23 feet vertically of the top of any railroad track, except as otherwise approved by Department.

DEPARTMENT'S FACILITIES

12. Department reserves the right to maintain or relocate its existing track facilities, or to construct and thereafter maintain new facilities, on or near the vicinity of the Premises with no liability for damages to Permit User's interests or property resulting from such activities.

RELOCATION OF UTILITY OR FACILITIES

13. Permit User accepts the Premises subject to rights of any other party, including Department, in and to any existing conduits, sewer waterlines, gas lines, power lines, drainage facilities, telephone, or other wires, and poles and utilities or facilities of any kind whatsoever, whether or not of record. Should it at any time become necessary to relocate any of same by reason of this permit, Permit User shall bear and pay the cost of so doing.

ROADWAYS ACCESS

14. (a) Permit User accepts the Premises subject to rights of any party including Department, in and to any existing roadways, easements, permits, or licenses. Permit User agrees to provide Department, and other tenants and permittees of Department, access over and through Premises on these existing roadways should such access be deemed necessary by Department. Permit User further agrees that Department shall not be responsible for the care of maintenance of said roadways.

DEPARTMENT'S TITLE

15. Department makes no covenant for quiet enjoyment of the Premises. Permit User assumes any damages Permit User may sustain as a result of, or in connection with, any want or failure at any time of Department's title to the Premises.

LIENS

16. Permit User agrees not to suffer or permit any lien of mechanics or materialmen to be placed upon the Premises or any part thereof and, in case of any such lien attaching, to immediately

pay off and remove same. It is further agreed by the parties hereto that Permit User has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Permit User, operation of law or otherwise, to attach to or to be placed upon Department's title or interest in the Premises, and any and all liens and encumbrances created or suffered by Permit User shall attach to Permit User's interest only.

HOLD-OVER

17. It is further agreed that in case Permit User, with the consent of Department holds possession of the Premises beyond the term of this permit, such action of the parties shall have the effect of extending the term of this permit on a month-to-month basis, subject in all respects to all of the terms, conditions, covenants and agreements of this permit, including all rights of termination in all respects as herein provided.

CAUSES FOR BREACH

18. It is agreed that upon the happening of any of the following: (1) If Permit User defaults in any of Permit User's undertakings in this permit, or (2) if any voluntary or involuntary petition or similar pleading under any bankruptcy act be filed by or against Permit User, or (3) if the leasehold interest of Permit User be levied upon or attached by process of law, or (4) if Permit User makes an assignment for the benefit of creditors, or (5) if a receiver be appointed for any property of Permit User thereupon ipso facto and without entry or other action by Department, then such event or action shall be deemed to constitute a breach of this permit and this permit shall cease and be terminated according to Section 4.

SURRENDER OF PREMISES/ CLEARANCE OF LAND

19. (a) Upon the termination of this permit by any manner, means, or contingency whatsoever, Permit User shall without further notice of demand deliver possession of the Premises to Department in as good condition as when entered upon. Permit User hereby agrees to remove all buildings, structures, foundations, footings, materials, signs, debris, or any other articles, structures or facilities owned by Permit User or permitted to be placed on the Premises by Permit User before the termination of this permit.

(b) If Permit User shall fail to so remove such property, Department may tear down, remove, or sell such property, or any part thereof, without any liability for damage therefor in any respect whatsoever and Permit User shall promptly pay Department for any and all expenses incurred by Department in tearing down, removing, or selling such property.

WAIVER OF REMEDIES

20. (a) No waiver of any default of Permit User shall be implied from omission by Department to take any action on account of such default. 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. No receipt of

money by Department from Permit User (1) after any default by Permit User, (2) after the termination of this permit, (3) after the service of any notice or demand or after the commencement of any suite, or (4) after final judgment for possession of the Premises, shall waive such default or reinstate, continue, or extend the term of this permit or affect in any way any such notice or suit, as the case may be.

(b) The erection of buildings or other improvements on the Premises shall not constitute a waiver or affect in any way the right of either party to terminate this permit.

RIGHTS ARE CUMULATIVE

21. All rights and remedies of Department shall be cumulative, and none shall exclude any other rights and remedies allowed by law.

NOTICES

22. All notices, demands, elections, and other instruments required or permitted to be given or made by either party upon the other by terms of this permit or any statute shall be in writing. They shall be deemed to have been sufficiently served if sent by certified mail with proper postage prepaid to Department or Permit User at the respective address first above shown. Such notices, demands, elections and other instruments shall be considered as delivered to recipient on the third business day after deposit in the U.S. Mail.

ENTIRE AGREEMENT

23. All of the representations and obligations of Permit User are contained herein. No modification, waiver, or amendment of this permit, or any of its terms, shall be binding upon Department unless it is in writing and signed by a duly authorized officer of the Department.

JOINT OBLIGATION

24. In the event that Permit User embraces two or more individuals or corporations, the covenants and agreements herein contained shall be the joint and several obligations of each of such persons or corporations.

COMPLIANCE

25. Permit User shall maintain and use the Premises and buildings and structures thereon in accordance with the requirements of all local ordinances, state and federal laws in effect during the term of this permit.

INDEMNIFICATION

26. (a) Permit User accepts this permit for use of the Premises with knowledge of the existence of railroad tracks upon or in the vicinity of the Premises and of all the risks of damage or injury which might or could occur to properties, persons upon or in the vicinity of the Premises from or in connection with the operation of railway equipment, or from or in connection with the operation, use, maintenance, or improvement of said tracks. It

is agreed, one of the material considerations of this permit and without which this permit would not be granted, that Permit User assumes such risks and agrees to save and hold the Wisconsin Department of Transportation and any railroad authorized to operate on Department property, harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with any act, omission or operation of Permit User, their agents, servants, subcontractors or employees, or which arises out of or is connected with, or is claimed to arise out of or be connected with any accident or occurrence which happens or is alleged to have happened in or about the Premises. Permit User shall at its own expense, investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

27. In the event any of the terms or provisions of this permit have been carried out or performed prior to the date of execution hereof, or if Permit User has occupied the Premises prior to Department's acceptance of this OFFER TO USE, it is understood and agreed that this OFFER TO USE shall nevertheless be of the same force and effect as though same had been executed by the parties prior to such performance or occupancy.