

CITY OF CORPUS CHRISTI, TEXAS
DEPARTMENT OF ENGINEERING SERVICES
Property and Land Acquisition Division

FARM LEASE AGREEMENT

STATE OF TEXAS §

KNOW ALL BY THESE PRESENTS:

COUNTY OF NUECES §

This farm lease agreement ("Lease") is entered into this by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City"), and LA Farms ("Lessee"), a Texas general partnership, in consideration of the mutual covenants contained in this Lease.

1. **PREMISES.** The City leases to Lessee **940 acres** (the "Premises"), more particularly described as all of Section 22 and the north one half of Section 41 of the Santa Cruz Ranch, also known as Laureles Farm Tracts, out of a 2,273.59 acre tract described by the metes and bounds in "**Exhibit A**" and shown in the aerial map referenced as "**Exhibit B**", both exhibits being attached and incorporated by reference in this Lease as if each exhibit were set out here in their entireties.

2. **PURPOSE.** The purpose of this Lease, between City and Lessee, is to enable Lessee to utilize the Premises for the farming of crops and for no other purpose.

3. **LEASE TERM.** This Lease is for a **five-year term** beginning **November 1, 2017**, and ending at midnight on **October 31, 2022**, subject to prior termination as set out in this Lease. For annual lease payment purposes, November 1st of every succeeding calendar year following the execution of this Lease is deemed the anniversary date of the Lease ("Anniversary Date").

4. **LEASE PAYMENT.**

A. Upon Lessee's execution of this Lease and the City Council's approval, Lessee must pay the City an annual lease payment of **\$98,700** which is based on \$105.00 per acre x 940 acres ("Lease Payment"). Any one-time bonus payment that was included in a bid by Lessee and accepted as consideration for this Lease must also be remitted with the initial Lease Payment. The Lease Payment is due at the beginning of the Lease and on or before each Anniversary Date.

B. The Lease Payment must be delivered or mailed to:

City of Corpus Christi
Department of Financial Services
A/R - Collections Section Manager
P. O. Box 9277
Corpus Christi, Texas 78469-9277

C. Lease Payments are not refundable if this Lease is terminated prior to completion of its full five-year term.

D. In the event Lessee holds over beyond the expiration of the term herein provided with the consent, express or implied, of the City, any such holdover is a tenancy at sufferance and such holdover period will only be from month-to-month and subject to the conditions of this Lease.

Lessee acknowledges and agrees in advance that any such holdover does not constitute a renewal of this Lease, and any holdover period is subject to Lessee's payment of a monthly rental amount equal to 1/12 of the last annual Lease Payment.

5. ACCEPTANCE OF PREMISES DISCLAIMER.

A. LESSEE ACKNOWLEDGES THAT IT IS LEASING THE PREMISES "AS IS" WITH ALL FAULTS AS MAY EXIST ON THE PREMISES AND THAT NEITHER LESSOR, NOR ANY EMPLOYEE OR AGENT OF LESSOR, HAS MADE ANY REPRESENTATIONS OR WARRANTIES AS TO THE CONDITION OF SUCH PREMISES. LESSEE HEREBY WAIVES ANY AND ALL CAUSES OF ACTION, CLAIMS, DEMANDS, AND DAMAGES BASED ON ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF SUITABILITY FOR A PARTICULAR PURPOSE, ANY AND ALL WARRANTIES OF HABITABILITY, AND ANY OTHER IMPLIED WARRANTIES NOT EXPRESSLY SET FORTH IN THIS LEASE.

B. LESSEE ACKNOWLEDGES AND AGREES THAT, UPON LESSEE'S REQUEST PRIOR TO THE EXECUTION OF THIS LEASE, LESSEE HAS BEEN PROVIDED, TO ITS SATISFACTION, THE OPPORTUNITY TO INSPECT THE PREMISES FOR ANY DEFECTS AS TO THE SUITABILITY OF SUCH PROPERTY FOR THE PURPOSE TO WHICH LESSEE INTENDS TO USE THE PREMISES, AND IS RELYING ON ITS OWN INSPECTION.

C. LESSEE ACKNOWLEDGES THAT ANY AND ALL STRUCTURES AND IMPROVEMENTS, IF ANY, EXISTING ON THE PREMISES ON THE COMMENCEMENT DATE OF THIS LEASE ARE ACCEPTED "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY LESSOR WITH RESPECT TO SUCH STRUCTURES AND IMPROVEMENTS. LESSEE ACKNOWLEDGES THAT IT IS NOT RELYING UPON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION BY LESSOR WITH RESPECT TO ANY EXISTING STRUCTURES OR IMPROVEMENTS, BUT IS RELYING ON LESSEE'S EXAMINATION OF THE SAME.

D. THE CITY, HAVING FEE SIMPLE RIGHTS TO THIS LAND, DOES NOT WARRANT ITS TITLE TO THE PREMISES AND DOES NOT GUARANTEE LESSEE'S QUIET POSSESSION OF SAME. LESSEE ACKNOWLEDGES AND IS AWARE THAT THE PREMISES IS CONTAINED WITHIN A LARGER AREA OF LAND OWNED BY THE CITY AND CURRENTLY USED FOR ACTIVE LANDFILL OPERATIONS AND RELATED PURPOSES. THIS LEASE AND THE RIGHTS AND PRIVILEGES GRANTED LESSEE IN AND TO THE PREMISES ARE SUBJECT TO ALL COVENANTS, CONDITIONS, RESTRICTIONS, AND EXCEPTIONS OF RECORD OR APPARENT. LESSEE ACKNOWLEDGES THAT LESSOR DOES NOT OWN ALL MINERAL AND GAS RIGHTS TO THE PREMISES, AND LESSEE IS SUBJECT TO ANY EXPLORATORY AND PRODUCTION RIGHTS OF THE MINERAL OWNERS AND WHICH COULD PRODUCE DAMAGES TO LESSEE'S LEASEHOLD. NOTHING CONTAINED IN THIS LEASE MAY BE CONSTRUED TO IMPLY THE CONVEYANCE TO LESSEE OF RIGHTS IN THE PREMISES THAT EXCEED THOSE OWNED BY THE CITY.

E. THE PROVISIONS OF THIS SECTION 5 SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

6. USE AND MAINTENANCE.

A. Lessee shall use the Premises for agricultural purposes only and cannot make any other use of the Premises without the prior written consent of the City. Lessee shall take good care of

the Premises and its appurtenances and suffer no waste. Lessee shall keep the Premises in good repair at Lessee's own expense. Lessee shall observe and obey all applicable federal, state, and local laws, rules, and regulations and all rules set out by the City for the operation of the Premises. At the expiration of this Lease, Lessee shall surrender the Premises in as good condition as the same are now in, natural wear and tear and damage from the elements only accepted. Lessee will not permit any alcoholic beverages on the Premises. Lessee agrees to conduct all of Lessee's operations on the leased premises in a reasonable, efficient and prudent manner.

B. Without limiting the foregoing, Lessee specifically agrees:

1. **Chemical Notification.** The use of all agricultural chemicals, fertilizers, and pesticides will be in a lawful, safe, and a prudent manner. The Director of Solid Waste Services will determine and approve the time and place any aerial or ground chemicals, fertilizers, and pesticides will be used due to the proximity of the landfill and its employees and the public. The expressed preference of the City is that spraying by the Lessee occur only on Sundays when the landfill is not open to the public. Under normal circumstances, the notice of intent to use agricultural chemicals, fertilizers and pesticides must be provided in writing no less than 24 hours prior to use and addressed to:

City of Corpus Christi
Director of Solid Waste Services
P. O. Box 9277
Corpus Christi, Texas 78469-9277
Phone: (361) 857-1970
Fax: (361) 857-1971

In the event of crop destruction due to midge insects and under an emergency situation only, Lessee will be allowed to, instead, give a 24-hour notice of crop spraying to the Director of Solid Waste Services, or his designee, by calling (361) 857-1972 or (361) 857-1970.

2. **Growth Control.** Lessee will prevent the growth of and keep the Premises (including cultivated fields, turn rows, ditches, fence rows, and lands adjacent to the Premises) free from Johnson grass, Bermuda grass, cockleburrs, burdock plants, and other noxious weeds and undesirable vegetation, and keep the cultivated portion of the Premises free from all sprouts and stumps.
7. **FEES, TAXES & UTILITIES.** Lessee shall pay, if applicable to Lessee's leasehold interest and Lessee's use and business operations at the Premises, all ad valorem taxes, personal property taxes, licenses, utility fees and charges, and all other fees and taxes required to be paid during the this ease. Lessee shall pay, at its sole cost and expense, all taxes, fees, utilities, and charges on or prior to the due date.
8. **RECORDKEEPING.** Lessee will keep an accurate book of accounts regarding all business matters pertaining to the cultivation of the Premises, and these account books must be open to inspection by the Property Manager upon reasonable demand during the City's normal business hours.
9. **INSURANCE.**
 - A. **Coverages.** Lessee must obtain and keep in force during the term of this Lease insurance policy or policies in the amounts and with the types of insurance coverages set out in the attached "Exhibit C," which exhibit is incorporated by reference as if fully set out here in its entirety.

B. **Failure of Lessee.** Failure of Lessee to procure and maintain in force the required insurance coverages constitutes a material breach of the Lease upon which the City may immediately terminate this Lease if Lessee does not furnish proof of the required insurance coverages to the City within 10 days of written notice to Lessee.

C. **Insurance Coverage Adjustments.** The types and amounts of insurance coverage specified in the Lease is subject to adjustment by the City's Risk Manager on the Anniversary Date of the Lease. Notice of any such required adjustment(s) will be provided to Lessee not less than 30 days prior to the Anniversary Date.

10. **FINANCING.** The City recognizes that Lessee may borrow funds for agricultural purposes, or for other purposes, secured by a first lien security interest in Lessee's leasehold estate in the Premises. The fee simple estate of City in the surface estate, burdened by Lessee's leasehold estate, must not be subject to any liens, and any security lien instrument to which Lessee is a party must contain the following language, or other similar language approved in advance by the City Attorney:

"Lender agrees that the lien created by this instrument is effective only as to the leasehold estate of Lessee created under that certain Lease effective on November 1, 2017, by and between the City of Corpus Christi and Lessee, and that this instrument does not affect the fee simple interest in the Premises owned by the City of Corpus Christi. In the event of any foreclosure by any lender of a lien or liens on the Lessee's leasehold estate in the Premises or Lessee's improvements, if any, such lender or other purchaser at foreclosure, its successors and assigns, will succeed to all rights, privileges, and duties of Lessee including, without limitation, the duty to pay rent."

11. **DAMAGE TO CITY OR FRANCHISEE IMPROVEMENTS.** Lessee must pay for all damages to any City or franchisee utility lines and equipment located on the Premises caused by Lessee's farming and agricultural operations and must replace all lines or equipment injured or destroyed as a result of Lessee's farming and agricultural operations. If damage occurs to any gas, storm, wastewater, or water line ("City Improvements"), or to any City equipment located on the Premises, the City's representative will determine the extent of damage and amount of repairs and/or replacement needed to the City Improvements, and, as determined by the City's representative, a City gas, storm, wastewater, or water division crew will be brought in and immediately allowed to make all necessary repairs and/or replacements. For purposes of calculating time, a half-day of four hours or more constitutes a whole working day; any work time in excess of eight hours a day or which occurs on a Saturday, Sunday, or a holiday will be calculated at a daily rate of \$53.77 an hour. An additional fee will be due for the cost of a City inspector at a daily rate of \$286.80 for any portion of a day spent inspecting construction, maintenance, repair, replacement, or relocation of said utility lines and equipment pursuant to this paragraph. A franchisee whose franchisee improvements are damaged will follow the same process as set out for damage to City Improvements. All costs incurred by City (including labor and materials) associated with the repairs and/or replacement of the lines and equipment must be paid by Lessee.

12. **ASSIGNMENT AND SUBLEASING.** Lessee shall not at any time, without the express prior written consent of the City Manager, assign, sublease, or transfer, or permit or participate in any assignment, sublease, or transfer, of this Lease or any of the rights, powers, or privileges granted under this Lease. Consent to an assignment or sublease shall not be unreasonably withheld by City. In the event of an approved assignment or sublease, Lessee shall notify any assignee or sublessee that they shall be liable under all terms, conditions, and obligations of this Lease. Lessee further acknowledges and agrees that, notwithstanding any approved assignment or sublease, Lessee shall

also remain liable under all terms, conditions, and obligations of the Lease unless released in writing by the City Manager.

13. **HUNTING.** This Lease does not grant Lessee any rights to hunt on the Premises, and Lessee will not hunt nor allow any other party to hunt on the Premises without the express written consent of the City Manager.

14. **NO AUTHORITY TO INSTALL OR CONSTRUCT IMPROVEMENTS.** Lessee does not have any authority or right under this Lease to install or construct any temporary or permanent improvements, including structures, on the Premises.

15. **NO DEBTS.** Lessee shall not incur any debts or obligations on the credit of the City during the term of this Lease.

16. **ENTRY BY CITY.** The City, by and through its officials, officers, employees, and agents, has the right at all times during the Lease term to ingress and egress to the Premises for the purpose of conducting any business incident to the activities of the City and for purposes of inspection, repair, fire or police action, and enforcement of the terms of this Lease, and includes the regular and necessary operation of vehicles and equipment on the shared roadways bisecting and crossing the Premises.

17. **NOTICES.**

A. All notices, demands, requests or replies provided for or permitted by this Lease must be in writing and delivered by any one of the following methods: (1) by personal delivery; (2) by deposit with the U.S. Postal Service as certified mail, return receipt requested, postage prepaid; or (3) by deposit with an overnight express delivery service, and sent to the following address:

If to City:

City of Corpus Christi
Property Manager, Engineering Department
P. O. Box 9277
Corpus Christi, Texas 78469-9277
Phone: (361) 826-3500
Fax: (361) 826-3501

If to Lessee:

LA Farms
Attn: Austin Harwell or Laura Harwell
3761 FM 665
Robstown, TX 78380
Phone: (361) 813-8880
Fax: None

B. Notice deposited with the U.S. Postal Service in the manner described above will be deemed effective two business days after deposit, postage prepaid. Notice by overnight express delivery service will be deemed effective one business day after delivery to the overnight express carrier, with proof of receipt.

C. Either party may notify the other, in the manner described above, of a change of address. Any such change of address must be sent within 10 days of the effective date of the change.

18. **INDEMNITY.** *LESSEE WILL FULLY INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, EMPLOYEES, AND AGENTS ("INDEMNITEES") FROM AND*

AGAINST ANY AND ALL LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS AND ACTIONS OF ANY NATURE WHATSOEVER ON ACCOUNT OF PERSONAL INJURIES (INCLUDING, WITHOUT LIMITATION ON THE FOREGOING, WORKERS' COMPENSATION AND DEATH CLAIMS), OR PROPERTY LOSS OR DAMAGE OF ANY KIND WHATSOEVER WHICH MAY ARISE OUT OF OR IN ANY MANNER BE CONNECTED WITH, OR IS CLAIMED TO ARISE OUT OF OR BE IN ANY WAY CONNECTED WITH, THE PERFORMANCE OF THIS LEASE BY LESSEE. LESSEE SHALL, AT LESSEE'S OWN COST AND EXPENSE, INVESTIGATE ALL SUCH CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, PAY ALL CHARGES OF ATTORNEYS, AND PAY ALL OTHER COSTS AND EXPENSES OF ANY KIND, INCLUDING EXPERT WITNESS FEES, ARISING FROM ANY SUCH LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, AND ACTIONS.

19. DEFAULT AND TERMINATION.

A. If Lessee defaults in performance of any of the promises or covenants contained herein, City may terminate this Lease following written notice to Lessee of the default and a reasonable opportunity to cure. Upon the occurrence of any uncured event of default, the City may, at its option, in addition to any other remedy or right given hereunder or by law, give notice to Lessee that this Lease terminates upon the date specified in the notice. Once terminated, the City has the right, without further notice to Lessee, to re-enter the Premises and remove all persons therefrom without being deemed guilty in any manner of trespass and also without prejudice to any remedies against Lessee for arrears of rent or breach of covenant.

B. In the event that any rent is due and unpaid under the Lease, the City may resume possession of the Premises and relet the same for the remainder of this Lease term at the best rent the City may obtain, for the account of the Lessee, who must pay any resulting deficiency; and the City will have a lien as security upon all crops, goods, wares, chattels, implements, fixtures, furniture, tools, and other personal property which are located or were placed on the Premises, which lien is cumulative of and in addition to any statutory landlord's lien created by law.

C. In the event Lessee has paid the full cash rent at the start of the Lease or any applicable annual Anniversary Date, Lessee shall have the right to harvest any existing crops that have been planted prior to the termination of the Lease.

D. The failure of City or Lessee to insist on strict performance of any of the terms, covenants, or conditions of this Lease is not a waiver of any right or remedy that City or Lessee may have and is not a waiver of the right to require strict performance of all the terms, covenants and conditions of the Lease thereafter nor is deemed to be a waiver of any remedy for the subsequent breach or default of any term, covenant or condition of the Lease.

20. REMOVAL OF PERSONAL PROPERTY. It is Lessee's responsibility to remove its personal property of every kind and type from the Premises prior to termination or expiration of the Lease. Lessee agrees that any personal property remaining on the Premises after the termination or expiration of the Lease automatically becomes the City's property without any further notice, action, or process of law for disposition by the City as the City deems appropriate in the City Manager's sole discretion, without compensation to Lessee. Lessee shall also be invoiced for the City's costs to remove Lessee's personal property from the Premises after termination or expiration of the Lease, and Lessee shall pay the invoice within 30 days of receipt.

21. CONDITION OF PROPERTY UPON EXPIRATION OR TERMINATION. Lessee covenants and agrees that, upon expiration or any earlier termination of this Lease, however caused, Lessee shall quit and surrender the Premises and perform all repairs reasonably necessary to restore the Premises to the same condition it was in at the time this Lease was entered into, reasonable wear and tear, acts of God, fire and flood damage or destruction where Lessee is without fault, excepted.

22. RIGHTS OF THE CITY.

A. The City reserves the right to sell, use, or lease for a governmental or public use different from the present use all or any part of the Premises at any time during the term of this Lease. Should the Premises be sold, used, or leased before expiration of this Lease and the purchaser or lessee is not willing to take the property subject to this Lease and demands immediate possession, then the Lessee agrees to vacate within 30 days following receipt of the notice to vacate. Should it become necessary for Lessee to vacate in case of a sale or lease, then, the City will pay Lessee, for the Premises or portion thereof vacated, the following amounts, to-wit: a proportionate share of the then-applicable annual Lease Payment paid, which share is determined by dividing (i) the number of days of the term remaining after vacation by Lessee by (ii) the total number of days in the term, and multiplying the resulting percentage by the annual Lease Payment amount paid by Lessee.

B. The City reserves and excepts from this Lease those easements reasonably necessary for the purpose of assigning, exploring, prospecting, mining, drilling, developing, producing, saving, transporting, storing, treating, removing, and owning the reserved minerals and oil and gas in the Premises to the extent such easements are implied under Texas common law to allow accessed to severed estates.

C. City retains the right to use or cross the Premises with utility lines and easements. City may exercise these rights without compensation to Lessee for damages to the Premises from installing, maintaining, repairing, or removing the utility lines and easements. City must use reasonable judgment in locating the utility lines and easements to minimize damage to the Premises.

D. It is understood and agreed by Lessee that the City retains sole authority to negotiate settlement of any and all claims for damage by reason of activities in connection with the operation, development, and exploration for oil, gas, and other minerals on the Premises. Lessee shall promptly notify the City of any and all damages to the Premises and/or crops growing thereon that may be occasioned by operation, development, or exploration for oil, gas, or other minerals, or that may be occasioned by any other activity during the Lease term, which Lessee observes, learns of, or has reason to be made aware of any such damage.

23. CONDEMNATION. If the whole or a substantial part of the Premises are taken or condemned by the City, or any entity with legal authority to exercise eminent domain rights, for any public use or purpose, then and in that event, the term of this Lease shall cease and terminate from the date when possession of the part or whole so taken or condemned is required for such use or purpose. If less than a substantial part of the Premises are taken or condemned by the City and, as a result thereof, Lessee believes the ability to continue the purpose of this Lease has been eliminated, the question of a possible partial Lease Payment refund, if any, may be submitted in writing by Lessee to the City for consideration.

24. DISCLOSURE OF INTERESTS AND STATE OF TEXAS FORMS. Lessee agrees to comply with City of Corpus Christi Ordinance No. 17112 and complete the *Disclosure of Interests* form ("Exhibit D") as part of this Lease contract. Lessee agrees to comply with Texas Government Code Section 2252.908 and complete Form 1295 *Certificate of Interested Parties* as part of this Lease contract. For

more information, please review the information on the Texas Ethics Commission's website at <https://www.ethics.state.tx.us>. Lessee also agrees to comply with Chapter 176 of the Texas Local Government Code and file Form CIQ with the City Secretary's Office, if required. For more information and to determine if you, as Lessee, need to file a Form CIQ, please review the information on the City Secretary's website at <http://www.cctexas.com/government/city-secretary/conflict-disclosure/index>.

25. MODIFICATIONS. No changes or modifications to this Lease may be made, nor any provision waived, unless in writing and signed by a person authorized to sign lease agreements on behalf of each respective party.

26. COMPLIANCE WITH LAWS. Lessee, its employees, representatives, and agents, as a condition of this Lease, agrees to and must comply with all applicable federal, State, and local laws, rules, and regulations which apply to Lessee's use and occupancy of the Premises and Lessee's operations and activities conducted on and at the Premises. Lessee, at Lessee's sole cost and expense, will fulfill all ordinances of the City applicable to the Premises, and Lessee's operations thereon, and all orders and requirements imposed by the Health, Sanitation, Solid Waste Operations, Fire, and Police Departments of the City for the correction, prevention, and abatement of nuisances occurring on or at, or connected to, the Premises during this Lease.

27. RELATIONSHIP OF THE PARTIES. This Lease establishes a landlord/tenant relationship, and none other, and this Lease must be construed conclusively in favor of that relationship. In performing this Lease, both City and Lessee will act in an individual capacity and not as agents, representatives, employees, employers, partners, joint venturers, or associates of one another. The employees or agents of either party shall not be, nor be construed to be, the employees or agents of the other party for any purpose whatsoever.

28. INTERPRETATION. This Lease must be interpreted according to the Texas laws which govern the interpretation of contracts. Venue lies in Nueces County, Texas, where this Lease was entered into and will be performed. The headings contained in this Lease are for convenience and reference only and are not intended to define or limit the scope of any paragraph or provision.

29. SEVERABILITY. If, for any reason, any section, paragraph, subdivision, clause, provision, phrase, or word of this Lease or the application hereof to any person or circumstance is, to any extent, held illegal, invalid, or unenforceable under present or future law or by a final judgment of a court of competent jurisdiction, then the remainder of this Lease, or the application of said term or provision to persons or circumstances other than those as to which it is held illegal, invalid, or unenforceable, will not be affected thereby, for it is the definite intent of the parties to this Lease that every section, paragraph, subdivision, clause, provision, phrase or word hereof be given full force and effect for its purpose. To the extent that any clause or provision is held illegal, invalid, or unenforceable under present or future law effective during the term of this Lease, then the remainder of this Lease is not affected thereby, and in lieu of each such illegal, invalid, or unenforceable clause or provision, a clause or provision, as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid and enforceable, will be added to this Lease automatically.

30. BINDING AGREEMENT. It is mutually understood and agreed that the covenants, conditions, and provisions contained in this Lease to be performed by the respective parties are binding on the parties and their respective successors, assigns, and heirs.

31. ENTIRETY CLAUSE. This Lease and the exhibits incorporated and attached hereto constitute the entire agreement between the City and Lessee for the use granted. All other agreements, promises and representations with respect thereto, unless contained in this Lease, are expressly revoked, as it is the intention of the parties to provide for a complete understanding within the

provisions of this document, and the exhibits incorporated and attached hereto, the terms, conditions, promises, and covenants relating to Lessee's use of the Premises.

Executed in triplicate by the parties. By Lessee's execution below, Lessee acknowledges that Lessee has read this Lease and understands that this Lease is not binding on the City until properly authorized by the City Council and executed by the City Manager or her designee.

LESSOR: CITY OF CORPUS CHRISTI

ATTEST:

Valerie H. Gray, P.E.
Executive Director of Public Works

Rebecca Huerta
City Secretary

APPROVED AS TO LEGAL FORM: October 17, 2017
MILES RISLEY, CITY ATTORNEY

Elizabeth Hundley
Elizabeth Hundley, Assistant City Attorney

LESSEE: LA Farms, a Texas general partnership

Austin Harwell
Austin Harwell, Partner

Laura Harwell
Laura Harwell, Partner

10/17/17
Date

10/17/2017
Date

Attached and Incorporated by Reference:

Exhibit A – Metes and Bounds Description of Premises

Exhibit B – Aerial Depiction of Premises

Exhibit C – Insurance Requirements

Exhibit D – Disclosure of Interest

"EXHIBIT A"

METES AND BOUNDS DESCRIPTION of a 2,273.59-Acre Tract

Being 2,293.25 acres of land (gross), more or less, being all of Section 22, all of Section 41, the south one half (S ½) of Section 42, the north one half (N ½) of Section 43, and the north one half (N ½) of Section 44, Santa Cruz Ranch, known as Laureles Farm Tracts, as shown by the map recorded in Volume 4, Page 36, Map Records of Nueces County, Texas, and being the same property conveyed to John O. Chapman, Jr. by instruments recorded in Volume 341, Page 466 and Volume 341, Page 468, Deed Records of Nueces County, Texas, save and except 18.50 acres recorded in Volume 2214, Page 123, Deed Records of Nueces County, Texas, 1.16 acres of an unrecorded but monumented additional thirty-foot right-of-way for County Road 57 out of Section 22, Cause No. 94-1673-3 County Court at Law Number Two, Nueces County, Texas and subject to, but not excepted, 5.47 acres recorded in Volume 523, Page 524, Deed Records, Nueces County, Texas, 0.05 acres recorded in Volume 955, Page 601, Deed Records, Nueces County, Texas, leaving a net acreage of 2,273.59 acres, more or less, and said 2,273.59 acres tract being more particularly described by metes and bounds based on an on the ground survey as follows:

Beginning at a found cotton spindle for the northwest corner of this tract, said spindle being on the northwest corner of said Section 22, the same being the northeast corner of Section 21, and also lying on the centerline on County Road 20;

Thence North 89 56' 20" East, along the north boundary of this tract, at the same being the centerline of County Road 20, 5,280.30 feet to a set P.K. Nail being the northeast corner of this tract, and said Section 22, and also the intersection of the centerline of CR 20 and CR 57;

Thence South 00 03' 40" East along the east boundary of this tract, at 5,279.72 feet, pass the southeast corner of Section 22, the same being the northeast corner of Section 41, at 10,559.42 feet pass the southeast corner of Section 41, the same being the northeast corner of Section 44, in all 13,199.27 feet to a found cotton spindle for the southeast corner of this tract;

Thence South 89 56' 20" West, along the south boundary of this tract at 30.00 feet pass a set 5/8-inch rod, at 2,639.30 feet pass a set 5/8-inch iron rod, at 5,278.60 feet pass a set 5/8-inch iron rod on the west boundary of Section 44, the same being the east boundary of Section 43, at 7,918.60 feet pass a set 5/8-inch iron rod, in all 10,995.63 feet to a set 5/8-inch iron

rod for the southwest corner of this tract being on the west boundary of Section 43;

Thence North 00 14' 01" West, along the west boundary of this tract and Section 43, at 2,638.65 feet pass a set 5/8-inch iron rod at the northwest corner of Section 43, the same being the southwest corner of Section 42, in all 5,277.30 feet to a found 5/8-inch iron rod for the southwest corner of this tract;

Thence North 89 56' 04" East, along the southmost north boundary of this tract, at 3,092.91 feet pass a set 5/8-inch iron rod, in all 5,732.91 feet to a found 2-inch iron pipe for an inside corner of this tract being on the east boundary of Section 42, the same being the west boundary of Section 41;

Thence North 00 04' 23" West, along the west boundary of this tract and Section 41, at 2,640.52 feet pass a set 5/8-inch iron rod at the northwest corner of Section 41, the same being the southwest corner of Section 22, at 5,281.04 feet pass a set 5/8-inch iron rod, in all 7,921.55 feet to a point of beginning and containing 2,293.25 gross acres of land, more or less inclusive of said 18.50 acre tract of 2,273.59 net acres of land. Included within this 2,273.59 acres are roadway right-of-ways shown within Sections 22, 41, 42, 43, and 44 on the recorded map, but not defined as to width.

"EXHIBIT B"



Farm: 3466
Tract: 13100

Nueces County

Wetland Determination Identifiers

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

Wetland identifiers do not represent the size, shape, or specific determination of the wetland. Refer to your original documents on CTP 3.4.15 and attached maps for exact wetland boundaries and labels. or contact "NRC"

Crop Year _____

Map Created: December 5, 2014

0 475 950 Feet



“EXHIBIT C”

INSURANCE REQUIREMENTS

I. LESSEE'S LIABILITY INSURANCE

- A. Lessee must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Lessee must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Lessee must furnish to the City's Risk Manager and the Director of Solid Waste Operations one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies by endorsement, and a waiver of subrogation endorsement is required on GL, AL and WC if applicable. Endorsements must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	Bodily Injury and Property Damage Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Broad Form Property Damage 7. Personal Injury- Advertising Injury 8. Herbicide/ Pesticide Liability	\$1,000,000 Per Occurrence \$1,000,000 Aggregate
FARM AUTO LIABILITY OR AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employers Liability	Statutory and Complies with Part II of this Exhibit. \$500,000/\$500,000/\$500,000

- C. In the event of accidents of any kind related to this contract, Lessee must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Lessee must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Lessee is not domiciled in the State of Texas.
- B. Lessee shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Lessee's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Lessee shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

- D. **Lessee agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Lessee shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Lessee's performance should there be

a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.

- F. In addition to any other remedies the City may have upon Lessee's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Lessee to stop work hereunder, and/or withhold any payment(s) which become due to Lessee hereunder until Lessee demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Lessee may be held responsible for payments of damages to persons or property resulting from Lessee's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Lessee's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.



"EXHIBIT D"
CITY OF CORPUS CHRISTI
DISCLOSURE OF INTEREST

Corpus Christi Code § 2-349, as amended, requires all persons or firms seeking to do business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA". See next page for Filing Requirements, Certification and Definitions.

COMPANY NAME: LA Farms
STREET ADDRESS: 3761 FM 665 P.O. BOX: _____
CITY: Robstown STATE: TX ZIP: 78380

FIRM IS: 1. Corporation ☐ 2. Partnership ☒ 3. Sole Owner ☐
4. Association ☐ 5. Other ☐

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Job Title and City Department (if known)
<u>N/A</u>	_____
_____	_____
_____	_____

2. State the names of each "official" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Title
<u>N/A</u>	_____
_____	_____
_____	_____

3. State the names of each "board member" of the City of Corpus Christi having an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Board, Commission or Committee
<u>N/A</u>	_____
_____	_____
_____	_____

4. State the names of each employee or officer of a "consultant" for the City of Corpus Christi who worked on any matter related to the subject of this contract and has an "ownership interest" constituting 3% or more of the ownership in the above named "firm."

Name	Consultant
<u>N/A</u>	_____
_____	_____
_____	_____

FILING REQUIREMENTS

If a person who requests official action on a matter knows that the requested action will confer an economic benefit on any City official or employee that is distinguishable from the effect that the action will have on members of the public in general or a substantial segment thereof, you shall disclose that fact in a signed writing to the City official, employee or body that has been requested to act in the matter, unless the interest of the City official or employee in the matter is apparent. The disclosure shall also be made in a signed writing filed with the City Secretary. [Ethics Ordinance Section 2-349 (d)].

CERTIFICATION

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested, and that supplemental statements will be promptly submitted to the City of Corpus Christi, Texas, as changes occur.

Certifying Person:

Austin Harwell

Title:

Partner

Signature of
Certifying Person:

AH

Date:

10/17/17

DEFINITIONS

- a. "Board member." A member of any board, commission, or committee of the city, including the board of any corporation created by the city.
- b. "Economic benefit". An action that is likely to affect an economic interest if it is likely to have an effect on that interest that is distinguishable from its effect on members of the public in general or a substantial segment thereof.
- c. "Employee." Any person employed by the city, whether under civil service or not, including part-time employees and employees of any corporation created by the city.
- d. "Firm." Any entity operated for economic gain, whether professional, industrial or commercial, and whether established to produce or deal with a product or service, including but not limited to, entities operated in the form of sole proprietorship, as self-employed person, partnership, corporation, joint stock company, joint venture, receivership or trust, and entities which for purposes of taxation are treated as non-profit organizations.
- e. "Official." The Mayor, members of the City Council, City Manager, Deputy City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judges of the City of Corpus Christi, Texas.
- f. "Ownership Interest." Legal or equitable interest, whether actually or constructively held, in a firm, including when such interest is held through an agent, trust, estate, or holding entity. "Constructively held" refers to holdings or control established through voting trusts, proxies, or special terms of venture or partnership agreements.
- g. "Consultant." Any person or firm, such as engineers and architects, hired by the City of Corpus Christi for the purpose of professional consultation and recommendation.