

EXHIBIT C

LEASE AGREEMENT

1. PARTIES. This Lease Agreement (“Lease”), effective when fully executed by all parties (the “Effective Date”), is made by and between the City of Santa Rosa, a municipal corporation (“City”) and John E. Barella and Andrea M. Barella, Trustees of the John and Andrea Barella Family Trust (“Tenant”).

2. PROPERTY.

2.1. City and Tenant are parties to that certain Agreement for Purchase and Sale of Real Property and Escrow Instructions dated January 20, 2021 (“Purchase Agreement”), pursuant to which Tenant desires to sell to City and City desires to buy from Tenant that certain real property commonly known as 7700-7750 Lakeville Highway, Petaluma, California, Sonoma County Assessor’s Parcel Numbers 068-130-001 and 068-130-008, and the buildings and other improvements thereon (hereinafter the “Property”).

2.2. From and after the Commencement Date (as defined below), City hereby leases to Tenant and Tenant leases from City that portion of the Property identified as Assessor’s Parcel Number 068-130-001 containing the existing residence/office of approximately 1,148 square feet, a garage of approximately 1,344 square feet, a metal and fiberglass storage building of approximately 15,000 square feet and a metal barn of approximately 5,000 square feet located on the northeastern side of the Property at 7700 Lakeville Hwy, Petaluma, CA 94954, consisting of 13.6 acres more or less as described and depicted on Exhibit A and Exhibit A-1 attached hereto and made part of this Lease (hereinafter the “Premises”).

2.3. Tenant acknowledges that City retains the right to exclusive use and possession of the remainder portion of the Property, of which the Premises is a part. Tenant accepts the Premises and this Lease subject to City’s rights as herein set forth and Tenant agrees not to disrupt, disturb or interfere with City’s use of the remainder of the Property or City’s access thereto, which shall be via the Premises. Tenant hereby acknowledges and agrees to grant access to City and City’s employees, agents, subcontractors, licensees and invitees over, across and along the Premises as necessary for City and City’s employees, agents, subcontractors, licensees and invitees to reach the non- leased portion of the Property for the application of biosolids and farming.

3. TERM; OPTION TO EXTEND; TERMINATION RIGHT.

3.1. TERM. Tenant shall have the right to continue occupancy and possession of the Premises following City’s purchase of the Property. The initial term of this Lease (“Term”) shall be from the Closing Date (as defined in the Purchase Agreement) of the Purchase Agreement (the “Commencement Date”) for a term of five (5) years and shall automatically expire without notice on the date which is five (5) years thereafter, unless extended in writing by mutual written agreement or sooner terminated as provided therein.

3.2. OPTION TO EXTEND. Provided that Tenant is not in default under this Lease, and upon mutual agreement of both parties, Tenant shall have the option to extend the Term for an additional term of up to two (2) years (“Extension Term”). For purposes of the Extension Term, the rental rate shall be at a rate equal to Two Thousand and 00/100 Dollars (\$2,000.00) per month. If Tenant elects to exercise its option to extend the Term, it shall provide written notice to City not later than sixty (60) days before the expiration of the Term (“Exercise Notice”), which Exercise Notice will

set forth Tenant's intent to exercise its option hereunder.

3.3. TERMINATION RIGHT. Notwithstanding anything in this Lease to the contrary, the parties hereby acknowledge and agree that either party shall have the option to terminate this Lease with sixty (60) days' advance written notice to the other party.

4. RENT. The initial rent under this Lease ("Rent") shall be One Thousand Dollars (\$1,000) per month, payable in advance on the first day of each month, without notice or demand commencing on the Closing Date and continuing thereafter during the Term. Rent for any period during the Term which is less than one month shall be a prorated portion of the monthly Rent based on a thirty-day month. Rent shall be paid by Tenant without deduction or offset, notice or demand at the place designated by City.

5. USE; POSSESSION.

5.1. The Premises shall be used and occupied by Tenant and its employees for the production of straw wattles and shall not be used for any other unrelated use without the prior written consent of City, which may be withheld in City's sole and absolute discretion. Tenant acknowledges and agrees that in entering into this Lease, it is not relying on any representations of City or any of its officers, agents or employees for permission for any use beyond that expressly provided herein.

5.2. Tenant is currently in possession of the Premises and by remaining in possession of the Premises, Tenant shall be deemed to have examined and determined the condition of the Premises and to have accepted the same in its present condition and repair as of the Effective Date and as of the Commencement Date. City makes no warranty or representation concerning the condition of the Premises or its fitness for use for the purpose described above. City has not conducted any independent investigations of the Premises or its condition, including but not limited to CASp inspections for accessibility. It is expressly understood and agreed by the parties hereto that Tenant in executing this Lease is not relying upon any warranties or representations of City regarding the suitability of the Premises for any particular use. Tenant leases the Premises, including the buildings and other improvements of the Premises, AS-IS and with all faults, and assumes all responsibility and all costs of making whatever tenant improvements, alterations, refurbishment and repairs which may be necessary or appropriate for Tenant's use and occupancy.

5.3. Tenant hereby releases, remises, acquits and forever discharges City, its officers, agents, employees, representatives, affiliates, and their respective successors and assigns (collectively, the "Released Parties"), from and against any and all claims, causes of actions, suits, legal or administrative orders or proceedings, demands, damages, punitive damages, losses, costs, liabilities and expenses, whether known or unknown, liquidated or contingent, which Tenant has or may have in the future arising from or in any way relating to the following: (a) the physical condition of the Premises; (b) the existence or presence of any Hazardous Materials (as defined below) on, under or about the Premises and/or the release or discharge of any Hazardous Materials from the Premises; (c) the violations of any applicable statutes or laws with regard to the Premises, including any Hazardous Materials Laws (as defined below); and (e) any and all other matters regarding the Premises, in each case whether existing prior to or after the Commencement Date. Tenant hereby expressly waives any and all rights Tenant may have under Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE

DEBTOR OR RELEASED PARTY.

Tenant expressly waives and relinquishes any and all rights and benefits under any state or federal statute and/or any common law which provides rights and benefits in any way similar to those provided in California Civil Code Section 1542.

- 5.4. Tenant shall promptly comply with all applicable statutes, ordinances, rules, regulations, orders and requirements of any governmental agency in effect during the Term or any part of the Term of this Lease regulating Tenant's use of the Premises. Without limiting the generality of the foregoing, Tenant shall, at Tenant's sole cost and expense, comply with all applicable laws, ordinances and regulations with respect to any and all required permits for operation of the Premises for its intended purpose. Tenant shall also promptly comply with all reasonable rules and requirements issued by City during the Term, so long as such rules and requirements are in conformity with common practice and usage in similar properties, and are not inconsistent with the provisions of this Lease or Tenant's permitted use of the Premises, and providing further that a written copy thereof is received by Tenant sufficiently in advance of the time any new rule is effective. Tenant shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or use the Premises for any unlawful or hazardous purpose.

6. MAINTENANCE, REPAIRS AND ALTERATIONS.

- 6.1. The obligations and duties enumerated below which require Tenant to repair and maintain the Premises are a part of the consideration for City's renting the Premises:

(a) Tenant shall, at Tenant's sole cost and expense, keep and maintain the Premises and every part thereof in good order, condition and repair (normal wear and tear excepted), including without limitation, all plumbing, electrical and lighting facilities, grounds and the exterior of the buildings, including exterior walls, exterior doors and window frames, roofs, gutters and downspouts, heating, ventilation and air conditioning systems, and wiring and plumbing within the walls and floors and equipment within the Premises, fixtures, interior walls and interior surfaces of exterior walls, ceilings, windows, doors, and plate glass, located within the Premises.

(b) If Tenant fails to perform Tenant's obligations under this Section 6.1 City may, at City's option, enter upon the Premises if Tenant fails to cure the deficiency after ten (10) days' prior written notice to Tenant, and put the same in good order, condition and repair, to the same condition as when accepted by Tenant pursuant to Section 5.2 above, and the reasonable cost of such repair shall be due and payable as additional rent to City together with Tenant's next rental installment, provided City has provided Tenant at least ten (10) days' written notice and reasonable opportunity for cure and submits copies of detailed invoices or receipts for the cost of such repairs.

(c) On the last day of the Term, as may be extended, or on any sooner termination, Tenant shall surrender the Premises to City in as good a condition as received, broom clean, ordinary wear and tear excepted. City shall inspect the Premises prior to Tenant's departure and notify Tenant in writing of City's requirements to return the Premises to good condition, ordinary wear and tear excepted.

(d) Tenant shall promptly give City written notice of any damage, destruction or deterioration of or to the Premises, including without limitation the discharge by Tenant of any hazardous materials which are not immediately and completely remedied by Tenant.

(e) All work done by Tenant under this provision shall be done in a good and workmanlike manner, and in compliance with all applicable laws, permitting requirements, and all ordinances, regulations and orders of governmental authority.

6.2. Tenant agrees not to make any alterations of, changes in, or additions to the Premises without the prior written consent of City. Any request for alteration should also inquire as to whether such alteration will be required to be removed by Tenant at the end of the Term, or alternatively whether such alteration may remain on the Premises. Tenant agrees that should City give written consent, that unless otherwise agreed to in writing, all such alterations, additions and improvements, including fixtures, made in, to or on the Premises shall be made at the sole cost and expense of Tenant and shall (except for unattached movable personal property not the property of City) become the property of City and shall remain upon and be surrendered with the Premises. If, at the time of consent of the proposed alteration, City requires removal of the alteration at the end of the Term, then Tenant shall restore the Premises to the same condition as before the alteration, entirely at Tenant's cost and expense.

(a) Tenant covenants and agrees to indemnify, defend and hold harmless City, its officers, agents and employees from all claims, liens or demands arising out of any work performed, materials furnished, or obligations incurred by or for Tenant upon the Premises during the Term, as may be extended.

(b) All work done by Tenant under these provisions shall be done in a good and workmanlike manner, and in compliance with all applicable laws, permitting requirements, and all ordinances, regulations and orders of governmental authority.

7. TAXES. Tenant is hereby specifically made aware of the terms of Revenue & Taxation Code 107.6 (possessory interest tax). Tenant shall be solely responsible for any and all taxes that may be assessed as a result of Tenant's lease and occupancy of the Premises under this Lease and shall pay all in a timely manner so as to avoid any fines or penalties that may be assessed to the Premises. Tenant shall indemnify, defend and hold City harmless from and against any taxes, fines, penalties or other charges against the Premises or City in connection with Tenant's rights and interest under this Lease and the use of the Premises hereunder.

8. INDEMNITY AND INSURANCE.

8.1. Tenant agrees to indemnify and defend City from any claims, demands, causes of action and liability of any nature and any reasonable expense incident to the defense, for injury to or death of persons or loss of or damage to property occurring on or about the Premises arising out of or resulting from Tenant's use, and use by its employees, contractors, clients, invitees and guests, occupation of the Premises, any improvements made thereon, or the condition of the Premises, during the Term, as may be extended, excepting only that caused by the sole, active negligence or intentional misconduct of City, its officers, agents, licensees, invitees, volunteers, or employees.

- 8.2. Tenant shall, at all times during the Term, maintain and keep in full force and effect, policies of insurance covering the Premises and Tenant's use thereof in the amounts and coverages set forth in Attachment One attached hereto. City reserves the right to modify these insurance requirements while this Lease is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. Failure to maintain the insurance required hereunder shall be an event of default under this Lease.
- 8.3. Except to the extent caused by the sole, active negligence or intentional misconduct of City, its employees, agents, contractors, guests or invitees, Tenant agrees that City shall not be liable for injury to Tenant's business or any loss of income therefrom or damages to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, contractors or any other person on or about the Premises or Property by or through Tenant, nor shall City be liable for injury to Tenant's employees, agents, contractors, clients, guests or invitees whether such damage or injury is caused by or results from fire, steam, electricity, water or rain, or from breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause.
- 8.4. Tenant agrees to pay for all damage to the Premises and Property caused by Tenant, its employees, agents, contractors, clients, guests or invitees misuse or neglect of said Premises and its apparatus and appurtenances.

9. DAMAGE OR DESTRUCTION.

- 9.1. In the event of damage or destruction of the Premises, not otherwise the responsibility of Tenant hereunder, during the Term of the Lease, City shall, to the extent of available insurance proceeds, repair the damage to the Premises, provided such repairs can be made within sixty (60) days under the laws and regulations of state, federal, county or municipal authorities, but such destruction shall in no way annul or void this Lease except if such damage or destruction is without fault of Tenant and/or Tenant's agents, contractors, employees and invitees, in which case Tenant may opt to terminate this Lease immediately. If the repairs cannot be made in sixty (60) days, either party has the option to terminate this Lease. City shall provide Tenant with written notice of City's election to terminate within thirty (30) days after such damage or destruction. If City elects to repair and restore the Premises but fails to do so within sixty (60) days of the event causing the damage, Tenant may elect to terminate this Lease. Tenant shall not be responsible for Lease payments during the time the Premises were unusable or following termination.
- 9.2. If the damage or destruction does not result from a peril covered by insurance, either that carried by the Tenant or City, City may, at its sole election, either repair and restore the Premises or terminate this Lease; provided, however, that Tenant may elect to restore the Premises to substantially the same condition as they were in immediately before destruction at Tenant's cost, in which event such damage or destruction shall not terminate this Lease. Tenant shall, at City's option, restore the Premises if the destruction is caused by the negligence, intentional act(s) or omission(s) of Tenant.
- 9.3. Notwithstanding anything in this Lease to the contrary, if at any time during the Term of this Lease any governmental agency having jurisdiction over the Premises, other than City, shall require the making of any repairs, improvements or alteration to the buildings or Premises:

(a) City may, but shall not be required to, elect, in City's sole and absolute discretion, to make said repairs, improvements or alterations to the Premises, in which event this Lease shall continue in full force and effect;

(b) If City, in City's sole and absolute discretion, elects not to make said repairs, improvements or alterations to the Premises, then Tenant shall have the right, at Tenant's sole option and at Tenant's sole cost and expense, to make such repairs, improvements or alterations and to continue this Lease in full force and effect; or

(c) If neither Tenant or City elects to make such repairs, improvements or alterations, then, Tenant shall be required to vacate and surrender to City such portion of the building(s) or Premises (together with exclusive or non-exclusive access thereto) upon which the repairs or alterations are required without making such repairs or alterations, and continue the Lease in effect as to the balance of the Premises but with a proportionate reduction, adjustment or abatement of the Rent or other charges due hereunder, if any. However, if Tenant determines that the remaining available portion of the Premises is inadequate for Tenant's permitted use of the Premises, Tenant may terminate the Lease and neither party shall have any further liability to the other.

10. UTILITIES. Tenant shall pay for gas, power, water, sewer, garbage collection service, telephone and other communication services supplied to the Premises. City shall not be responsible to Tenant for any disruption, decrease or loss in utility services. The garbage collection services will provide sufficient container capacity and sufficient frequency of collection to ensure that the Premises are maintained in a safe and sanitary condition in compliance with applicable health and safety laws and regulations.

11. SURRENDER OF PREMISES; HOLDING OVER. On the termination or the end of any extension or renewal of this Lease, Tenant shall promptly surrender and deliver the Premises to City in as good condition as they are as of the Effective Date, reasonable wear and tear excepted and shall assure any subtenants or other users of the Premises have ceased their use of the Premises as of, or prior to, the expiration date. At the end of the Term, or Extension Term, as may be applicable, should Tenant hold over for any reason, it is agreed that in the absence of a written agreement to the contrary, that tenancy shall be from month-to-month only and not a renewal of this Lease, nor an extension for any further term. Tenant shall pay a monthly amount equal to One Hundred Twenty-Five Percent (125%) of the Rent payable prior to the end of the then-current Term and the month-to-month tenancy shall be subject to every other term, covenant, and condition in this Lease that is consistent with and not contrary to a month-to-month tenancy.

12. HAZARDOUS MATERIALS.

12.1. "Hazardous Materials Laws" means any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises, or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. §9601, et seq., the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq., the California Hazardous Waste Control Act, Cal. Health and Safety Code §25100, et seq., the Carpenter-Presley-Tanner Hazardous Substances Account Act, Cal. Health and Safety Code §25300, et seq., the Safe Drinking Water and Toxic Enforcement Act, Cal. Health and Safety Code §25249.5, et seq., the Porter-Cologne Water Quality Control Act, Cal. Water Code §13000, et seq., any

amendments to the foregoing, and any similar federal, state or local laws, ordinances, rules, decrees, orders or regulations.

12.2. Hazardous Materials. "Hazardous Materials" means any chemical, compound, material, substance or other matter that: (a) is defined as a hazardous substance, hazardous material, hazardous waste or toxic substance under any Hazardous Materials Law; (b) is controlled or governed by any Hazardous Materials Law or gives rise to any reporting, notice or publication requirements hereunder, or gives rise to any liability, responsibility or duty on the part of Tenant or City with respect to any third person hereunder; or (c) is flammable or explosive material, oil, asbestos, urea formaldehyde, radioactive material, nuclear medicine material, drug, vaccine, bacteria, virus, hazardous waste, toxic substance, or related injurious or potentially injurious material (by itself or in combination with other materials).

12.3. Use. Tenant shall not allow any Hazardous Material to be used, generated, manufactured, released, stored or disposed of on, under or about, or transported from, the Premises, unless: (a) such use is specifically required in the ordinary course of Tenant's business operations on the Premises; and (b) such use is conducted in compliance with applicable laws and the provisions of this Section 12, and further provided that Tenant shall handle, use, store and dispose of such Hazardous Materials in a safe and lawful manner and shall not allow such Hazardous Materials to contaminate the Premises.

12.4. Compliance with Laws: Handling of Hazardous Materials. Tenant shall strictly comply with, and shall maintain the Premises in compliance with, all Hazardous Materials Laws. Tenant shall obtain, maintain in effect and comply with the conditions of all permits, licenses and other governmental approvals required for Tenant's operations on the Premises under any Hazardous Materials Laws, including, but not limited to, the discharge of appropriately treated Hazardous Materials into or through any sanitary sewer serving the Premises and the use of private disposal service licensed to remove, transport and dispose of Hazardous Materials. At City's request, Tenant shall deliver copies of, or allow City to inspect, all such permits, licenses and approvals. All Hazardous Materials removed from the Premises shall be removed and transported by duly licensed handlers to duly licensed disposal facilities, in compliance with all Hazardous Materials Laws. Tenant shall perform any monitoring, investigation, clean-up, removal, detoxification, preparation of closure or other required plans and any other remedial work (collectively, "Remedial Work") required as a result of any release or discharge of Hazardous Materials affecting the Premises or any violation of Hazardous-Materials Laws by Tenant or any successor or sublessee of Tenant or their respective agents, contractors, employees, licensees or invitees. City shall have the right in City's sole and absolute discretion (but not the obligation) to intervene at Tenant's cost and expense, in any governmental action or proceeding involving any Remedial Work, and to review and approve performance of the Remedial Work, in order to protect City's interests. Tenant shall not enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to Hazardous Materials without notifying City in writing and providing ample opportunity for City to intervene.

12.5. Notice; Reporting. Tenant shall notify City, in writing, and provide copies of any written notices or related correspondence received by Tenant within three (3) business days after any of the following: (a) Tenant has knowledge, or has reasonable cause to believe, that any Hazardous Material has been released, discharged or is located on, under or about the Premises, whether or not the release or discharge is in quantities that would otherwise be reportable to a public agency; (b) Tenant receives any order of a governmental agency requiring any Remedial Work pursuant to any Hazardous Materials Laws; (c) Tenant receives any warning, notice of inspection, notice of violation or alleged violation, or Tenant receives notice or knowledge of any proceeding,

investigation of enforcement action, pursuant to any Hazardous Materials Laws; or (d) Tenant receives notice or knowledge of any claims made or threatened by any third party against Tenant or the Premises relating to any loss or injury resulting from Hazardous Materials. If the potential risk of any of the foregoing events is material, Tenant shall deliver immediate oral notice to City, in addition to written notice as set forth above. Tenant shall promptly deliver to City copies of all test results, reports and business or management plans required to be filed with any governmental agency pursuant to any Hazardous Materials Laws.

12.6. Indemnity. Tenant shall indemnify, protect, defend and hold harmless City (and its officers, directors, employees and agents) from and against any and all liabilities, claims, suits, judgments, actions, investigations, proceedings, costs and expenses (including reasonable attorneys' fees and court costs) to the extent arising out of or in connection with any breach of any provisions of this Section 12 or directly or indirectly arising out of the use, generation, storage, release, disposal or transportation of Hazardous Materials by Tenant, or any successor or sublessee of Tenant, or their respective agents, contractors, employees, licensees, or invitees, on, under or about the Premises, including, but not limited to, all foreseeable and unforeseeable consequential damages and the cost of any Remedial Work. Neither the consent by City to the use, generation, storage, release, disposal or transportation of Hazardous Materials nor the strict compliance with all Hazardous Materials Laws shall excuse Tenant from Tenant's indemnification obligations pursuant to this Section 12. Tenant's indemnity obligation in this paragraph does not extend to any liabilities, claims, suits, judgments, actions, investigations, proceeds, costs or expenses arising out of or in connection with City's sole active negligence, or breach of any provision of this Lease, or non-compliance with or violation of any Hazardous Material Laws. The foregoing indemnity shall be in addition to and not a limitation of the indemnification provisions of Section 8 of this Lease. Tenant's obligations pursuant to this Section 12 shall survive the termination or expiration of this Lease.

13. ASSIGNMENT AND SUBLETTING. City hereby agrees that Tenant shall have the right to sublease all or any portion of the Premises to the existing tenant of the Premises as of the Effective Date for the use permitted above, without the need for further consent of City, provided that Tenant shall continue to be solely responsible to City for payment of the rental amount and any other obligations hereunder. Tenant shall not voluntarily or by operation of law assign, transfer, mortgage, sublet or otherwise transfer or encumber ("Transfer") all or any part of Tenant's interest in this Lease or in the Premises. Any attempt at transfer of this Lease or the Premises shall be voidable at the City's option and shall constitute a material breach of this Lease. Given the fact that City is a public agency and not a commercial entity, Tenant hereby acknowledges that this prohibition is reasonable.

14. DEFAULT.

14.1. The occurrence of any of the following events shall constitute a material default and breach of this Lease by Tenant:

(a) Vacation or abandonment of the Premises for a period of ninety (90) days or longer.

(b) The failure by Tenant to make any payment of Rent or other payment required to be made by Tenant under the provisions of this Lease, as and when due.

(c) The failure by Tenant to observe or perform any of the covenants,



conditions or provisions of this Lease to be observed or performed by Tenant within thirty (30) days after receiving written notice thereof, or if such breach cannot be cured within said thirty (30) day period, then the failure to commence cure within said thirty (30) day period and thereafter diligently pursue to completion.

(d) Transfer or attempted transfer of this Lease by Tenant contrary to the provisions of Section 13 above.

14.2. Upon the happening of any such event of default, City shall have the following remedies. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law:

(a) City can continue this Lease in full force and effect and this Lease will continue in effect as long as City does not terminate Tenant's right to possession, and City shall have the right to collect rent when due. During the period Tenant is in default, City can enter the Premises and re-let it, or any part of it, to third parties for Tenant's account. Tenant shall pay to City the rent due under this Lease on the dates the rent is due, less the rent City receives from any reletting. No act by City allowed by this paragraph shall terminate this Lease unless City notifies Tenant that City elects to terminate this Lease. After Tenant's default and for as long as City does not terminate Tenant's right to possession of the Premises, if Tenant obtains City's consent Tenant shall have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability. City's consent to a proposed assignment or subletting shall not be unreasonably withheld. If City elects to re-let the Premises as provided in this paragraph, rent that City receives from reletting shall be applied to the payment of:

(i) First, any indebtedness from Tenant to City other than rent due from Tenant;

(ii) Second, Rent due and unpaid under this Lease. After deducting the payments referred to in this paragraph, any sum remaining from the Rent City receives from reletting shall be held by City and applied in payment of future Rent as Rent becomes due under this Lease. In no event shall Tenant be entitled to any excess Rent received by City.

(b) City can terminate Tenant's right to possession of the Premises at any time. No act by City other than giving notice to Tenant shall terminate this Lease. Acts of maintenance, efforts to re-let the Premises or the appointment of a receiver on City's initiative to protect City's interest under this Lease shall not constitute a termination of Tenant's right to possession. On termination, City has the right to recover from Tenant:

(i) The worth, at the time of the award, of the unpaid rent that had been earned at the time of termination of this Lease;

(ii) The worth, at the time of the award, of the amount by which

the unpaid rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided;

(iii) The worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Tenant proves could have been reasonably avoided; and

(iv) Any other amount, and court costs, necessary to compensate City for all detriment proximately caused by Tenant's default.

"The worth, at the time of the award," as used in (i) and (ii) of this paragraph, is to be computed by allowing interest at the maximum rate allowable by law. "The worth, at the time of the award," as referred to in (iii) of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

(c) City, at any time after Tenant commits a default, may cure the default at Tenant's cost following not less than thirty (30) days prior written notice and opportunity to cure.

15. CONDEMNATION.

15.1. If any part of the Premises are condemned for a public or quasi-public use by right of eminent domain, with or without litigation, or transferred by agreement in connection with such public or quasi-public use, by a public agency other than City, and such transfer materially affects Tenant's ability to operate at the Premises, this Lease and the leasehold estate of the Tenant, as to the part taken, shall terminate as of the date title shall vest in the condemner, and Tenant shall have no further obligation to pay Rent once Tenant is no longer in possession of the Premises.

15.2. All compensation awarded upon such condemnation or taking shall belong and be paid to City and Tenant shall have no claim thereto, and Tenant hereby irrevocably assigns and transfers to City any right to compensation or damages to which Tenant may become entitled during the Term of this Lease by reason of the condemnation of all or part of the Premises, except that Tenant shall receive from the award: (i) the pro rata value of Tenant's additions, alterations and improvements as determined by the same appraiser establishing the value of the Premises for City; (ii) the value of Tenant's trade fixtures to the extent taken; and (iii) in the event of a partial taking and Tenant restores the Premises, Tenant shall receive a sum attributable to that portion of the award constituting severance damages for the restoration of the Premises. In addition, Tenant shall not be deprived of making any direct claims against the condemning authority for loss of goodwill and/or relocation assistance payments.

16. MISCELLANEOUS.

16.1. Whenever any notice, approval, consent, request or election is given or made pursuant to this Lease, it shall be in writing. Communication and payments shall be addressed, if to City, at City's address as indicated below or at such other address as may have been specified by prior notice to Tenant, and if to Tenant, at Tenant's address as indicated below or at such other place as may have been specified by prior notice to City. Any communication so addressed shall be deemed duly served when personally served, or if mailed, as of seventy-two hours from the time such notice was deposited in the U.S. Mail, by registered or certified mail, return receipt requested. Any change of address shall be communicated in writing in accordance with the requirements of this provision.

CITY:

Director of Santa Rosa Water  
City of Santa Rosa  
69 Stony Circle  
Santa Rosa, CA 95401

TENANT:

John and Andrea Barella  
496 Jasmin Lane  
Petaluma, CA 94952

With copy to:

Real Estate Manager  
City of Santa Rosa  
69 Stony Circle  
Santa Rosa, CA 95401

- 16.2. Each party hereunder shall provide to the other, and keep updated in the event of any change, the name and contact information for the on-site representative in order to facilitate the coordination of day-to-day operations at the Premises.
- 16.3. The receipt by City of Rent or additional rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived by City, or by Tenant, unless such waiver is in writing signed by the party to be charged. No consent or waiver, express or implied, by City or Tenant to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.
- 16.4. If any term of this Lease shall to any extent be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.
- 16.5. Notwithstanding City's right to access the Property via the Premises without additional notice requirements, City and its agents shall have the right at any time, upon not less than twenty-four hours' notice, except in cases where City believes there exists an emergency in which case such notice shall be deemed waived, to enter upon the Premises, provided that City shall take all reasonable measure to assure that such entry does not interfere with the activities of Tenant on the Premises. Entry may be had for purposes of inspection, serving or posting notices, maintaining the Property, and making any necessary repairs, alternations or additions to the Property to the extent required or permitted to City under this Lease.

- 16.6. Time is of the essence for each and every provision of this Lease requiring performance within a specified time.
- 16.7. This Lease contains all agreements of the parties with respect to any matter mentioned in this Lease. No prior agreement or understanding pertaining to any such matter shall be affected. This Lease maybe modified in writing only, signed by the parties in interest at the time of the modification.
- 16.8. Each provision of this Lease performable by either party shall be deemed both a covenant and a condition.
- 16.9. In any action to enforce the terms of this Lease, the prevailing party shall be entitled to an award of reasonable attorneys' fees and litigation expenses in addition to other relief.
- 16.10. All exhibits attached to this Lease shall be deemed incorporated herein by this reference and all such exhibits shall be deemed to be a part of this Lease as though set forth in full in the body of this Lease.

IN WITNESS WHEREOF, Tenant and City have executed this Lease as of the date and year first written above.

**TENANT:**

By (Signature): \_\_\_\_\_  
John Barella, Trustee of the John and  
Andrea Barella Family Trust

By (Signature): \_\_\_\_\_  
Andrea Barella, Trustee of the John  
and Andrea Barella Family Trust

**CITY:**

CITY OF SANTA ROSA,  
A Municipal Corporation

By (Signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Ethan Walsh, Best Best & Krieger, LLP

- Attachments
- Exhibit A- Description of Premises
- Exhibit A-1- Depiction of Premises
- Attachment One- Insurance Requirements

EXHIBIT A

PREMISES

The location of Premises (labeled lease back area) is as follows:

Assessor's Parcel Number 068-130-001, containing 13.6 acres more or less at 7700 Lakeville Hwy.,  
Petaluma, CA 94954.

EXHIBIT 'A-1'



**LEASE AREA EXHIBIT**

13.6 ACRES ±

**ATTACHMENT ONE  
INSURANCE REQUIREMENTS FOR LEASE AGREEMENTS**

**A. Insurance Policies:** Tenant shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-:VI or otherwise acceptable to the City.

<b>Insurance</b>	<b>Minimum Coverage Limits</b>	<b>Additional Coverage Requirements</b>
1. Commercial general liability	\$ 2 million per occurrence \$ 2 million aggregate*	Coverage must be at least as broad as ISO CG 00 01 and must include property damage, bodily injury and personal injury coverage. *The general aggregate shall apply separately to this project location or it shall be twice the occurrence limit. <b>Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage.</b>
2. Business auto coverage	\$ 1 million	(For lessees using and/or commercially parking autos on premises) ISO Form Number CA 00 01 covering any auto (Code 1), or if Lessee has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Workers' compensation and employer's liability	\$ 1 million	(For Lessees with employees only) As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Tenant, its employees, agents and subcontractors.
4. Property Insurance	Full replacement cost of tenant improvements	Against all risks of loss to any tenant improvements or betterments with no coinsurance penalty provision.
5. Builder's Risk Insurance	Cost of Renovations/ Construction	



**B. Endorsements:**

1. Liability, umbrella and excess policies shall provide or be endorsed to provide the following: **The City of Santa Rosa, its officers, agents, employees and volunteers are to be covered as additional insureds** with respect to liability arising out of ownership, maintenance, or use of that part of the premises leased to the lessee.
2. The Property insurance shall **name the City of Santa Rosa as Loss Payee.**

**C. Other Insurance Provisions:**

1. For any claims related to this project, **Tenant's insurance coverage shall be primary** and any insurance or self-insurance maintained by City shall be excess of the Tenant's insurance and shall not contribute with it; and,
2. No policy required by this Agreement shall prohibit Tenant from waiving any right of recovery prior to loss. Tenant hereby waives such right with regard to the indemnitees.
3. All insurance coverage amounts provided by Tenant and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
4. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Tenant or City. Self-insured retentions above \$10,000 must be approved by the City. At the City's option, Tenant may be required to provide financial guarantees.
5. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
6. City reserves the right to modify these insurance requirements while this Agreement is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

- D. Verification of Coverage and Certificates of Insurance:** Tenant shall furnish City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by City before tenant takes occupancy and must be in effect for the duration of the Agreement. City reserves the right to require complete copies of all required policies and endorsements.