

LICENSE AGREEMENT
Watsonville Slough Farms

This license agreement (“**Agreement**”) is made and entered into effective _____, 2024 (“**Effective Date**”), by and between Land Trust of Santa Cruz County (“**Land Trust**”), a California non-profit public benefit corporation (“**Land Trust**”), and the City of Watsonville (“**City**”), an incorporated charter city in the State of California, with regard to the following.

A. Land Trust owns certain real property in Santa Cruz County, California, called the **Watsonville Slough Farms**, located at 275 Lee Road, Assessor Parcel Number(s) 052-081-37, 052-081-35, and 052-081-34 (“**Property**”), and which is shown on the map attached hereto and incorporated herein as Exhibit A (“**Property Map**”).

B. The City is the lead agency for the Lee Road Trail Project (“**Trail Project**”), a 1.43-mile paved pedestrian/bicycle trail identified in the City of Watsonville Trails and Bicycle Master Plan. This proposed trail segment extends south from Harkins Slough Road along Lee Road, across Struve Slough and south along Lee Road to West Riverside Drive. Phase 1 of this project is anticipated to be built in late 2024 and part of 2025, and will extend from Harkins Slough Road along Lee Road to the entrance of the Watsonville Slough Farms at 275 Lee Road.

C. Land Trust desires to grant, and the City desires to accept, a nonexclusive license to allow the City to utilize a portion of the Watsonville Slough Farms for the purpose of a temporary construction staging area to support implementation of the Lee Road Trail Project. This area is comprised of approximately 1.1 acre (approximately 48,000 square feet), and is shown as the “**Temporary Construction Staging Area**” on Exhibit B.

THEREFORE, for, in consideration of the foregoing, which are incorporated herein by reference, and for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Land Trust and the City agree as follow:

1. Grant of License; Term. Land Trust hereby grants, and the City accepts, a nonexclusive license to allow the City to utilize the Temporary Construction Staging Area for the purpose of a temporary construction staging area on the terms and conditions set forth in this Agreement. The term of this Agreement is for the actual duration of the trail construction period which is anticipated to commence on approximately December 2024 and end on approximately December 31, 2025.

2. As Is Condition of Property. Land Trust makes no warranties or representations to the City concerning the suitability of the Property or any portion thereof for the purpose of construction equipment staging. The City is fully aware of the needs of a laydown area for the duration of construction and has determined, based solely on its own inspection, that Temporary Construction Staging Area is suitable for this intended use. The City accepts the Temporary Construction Staging Area in its present condition “AS IS, WITH

ALL FAULTS,” without representation or warranty of any kind, and subject to all applicable laws, statues, ordinances, rules and regulations governing the use, occupancy and management of the Temporary Construction Staging Area. Without limiting the forgoing, this Agreement is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Temporary Construction Staging Area, or any portion thereof, whether or not recorded.

(a) The City agrees, on the last day of the Agreement term, to surrender the Temporary Construction Staging Area to Land Trust in substantially the same condition as when received, excepting only changes agreed to by Land Trust and changes resulting from natural casualties (except as provided in Paragraph 7, regarding insurance). The condition of soil and vegetation in the Temporary Construction Staging Area shall be restored to substantially the condition that existed prior to the City’s use.

3. Payment.

The City shall pay Land Trust \$1 per year for the use of the Temporary Construction Staging Area.

4. Operations on the Premises. The City’s use of the Temporary Construction Staging Area shall be subject to the following conditions, in addition to any others set out in this Agreement:

(a) Activities. The City shall use the Temporary Construction Staging Area solely for the purpose of staging of equipment and construction related activities during the construction of Phase 1 of the Lee Road Trail Project. There shall be no activities or disturbances on Land Trust’s property outside of the Temporary Construction Staging Area, as shown on Exhibit B. All equipment operation, vehicle parking, equipment storage, etc. must occur only within the area shown on Exhibit B as the Temporary Construction Staging Area.

(b) Best Management Practices. The City shall carry on all of the activities specified under subparagraph (a) above in accordance with best management practices as described in the Project’s Mitigation Monitoring and Reporting Program (MMRP) as included in the Lee Road Trail Project Mitigated Negative Declaration (MND). The City shall be responsible for maintaining the current certification of the compliance with the Project MMRP.

(c) Waste. The City shall not cause or permit (i) any waste on the Temporary Construction Staging Area (ii) any public or private nuisance thereon; or (iii) any condition which violates any standard form policy of liability insurance covering the Temporary Construction Staging Area, provided the requirements of such policy have been delivered to the City in writing. The City shall maintain the Temporary Construction Staging Area free of all trash, abandoned vehicles and all other offensive materials. The City will provide adequate trash containers and portable toilets. Land Trust shall notify the City of unacceptable trash accumulation or any condition which, in Land Trust’s

reasonable opinion, is unsafe or in violation of this Agreement and, if the condition is not rectified by the City within ten (10) days after being given written notice thereof, Land Trust shall have the right to rectify the condition and to bill the City for the reasonable cost of cleanup. Motor oil, tractor fluids or other vehicular materials, new or used, must be stored in a manner such that no spillage or exposure to the weather will occur. Used motor oil and other such toxic materials must be properly removed from the Temporary Construction Staging Area in a timely manner.

5. Hazardous and Toxic Materials. As used in this Agreement, the term “**Hazardous Materials**” shall mean any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including but not limited to substances defined as “hazardous substances”, “hazardous materials”, or “toxic substances” in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S. Code. Sections 9601 et seq. (“**CERCLA**”); as amended by The Superfund Amendments and Reauthorization Act (“**SARA**”); or the Hazardous Materials Transportation Act, 42 U.S. Code. Sections 6901 et seq; and those substances defined as “hazardous wastes” in Section 25117 of the California Health and Safety Code, and in any regulations adopted and publications promulgated pursuant to the foregoing or any similar laws, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof.

At all times during the Agreement term, the City shall strictly comply with any and all requirements of any federal, state, county or municipal statute, law, rule, administrative order, regulation or ordinance governing the use, operation, creation, management, transportation, storage, generation or disposal of Agrochemicals and Hazardous Material and/or relating to clean water, including specifically, but limited to, CERCLA, the Carpenter-Presley-Tanner-Hazardous Substance Account Act, and the Safe Drinking Water and Toxic Enforcement Act of 1986. The City shall indemnify, defend and hold harmless Land Trust, and its officers, directors, employees, agents, and tenants from and against any and all liabilities, claims, judgments, awards, settlements, damages and costs (including attorneys’ and consultants’ fees and costs); including, without limitation, those incurred for testing, remedial investigation, removal, interim and final remedial action, cleanup, abatement or other remedial work, natural resource damages, personal injury or property damages, fines and penalties arising from the presence of Hazardous Materials on, in or under the Temporary Construction Staging Area or in the ground or surface waters of the Temporary Construction Staging Area to the extent caused by the City’s operations under this Agreement. Provided, however, that the City shall not be responsible with respect to, or have any obligation to clean up, any Hazardous Materials which were brought onto or used on the Property by anyone other than the City and/or its employees, contractors, agents, and/or invitees. The provision of this Paragraph shall survive the expiration or termination of the Agreement.

6. Temporary Construction Staging Area Security. The City shall ensure that all gates are closed and locked when the City or any of the City’s employees, representative, agents, or invitees are not present at the Temporary Construction Staging Area. The City may alter gates, fences or ditches to facilitate access to the staging area, but such alterations

must be made in a manner that preserves the ability secure the Temporary Construction Staging Area by gates, fences and ditches. The City shall ensure that all gates are closed and locked from 6:00 PM to 6:00 AM. All gates shall be locked during all Saturday and Sunday hours. The Land Trust must have the ability to access and inspect the Temporary Construction Staging Area at all times upon reasonable notice to the City. The Land Trust shall not be held responsible for any theft of the City's equipment or material, or that of their employees, contractors, agents staged within the Temporary Construction Staging Area. The City shall be responsible for repairing gates, fences and ditches damaged by vandalism within 72 hours to prevent trespass and notifying the Land Trust immediately of any such vandalism.

7. Liens. The City shall not suffer or permit to be enforced against the Property, or any part thereof, any mechanics', laborers', materialmen's, contractors', subcontractors', or any other liens arising from, or any claims for damages growing out of, any work or other activities of the City under this Agreement (collectively, "**Liens**"). The City hereby protects, defends, indemnifies and agrees to hold Land Trust and the Temporary Construction Staging Area free and harmless from all liability for any and all such Liens, together with all costs and expenses, including, but not limited to, attorneys' fees and court costs incurred by Land Trust in connection therewith.

8. Repair of Damage. The City agrees, at its sole expense, to repair or replace any damage to the Temporary Construction Staging Area which is in any material manner whatsoever damaged, destroyed or removed in connection with the exercise by the City or its agents, contractors or subcontractors of the rights herein granted.

9. Indemnification of Land Trust. The City shall indemnify and defend Land Trust and its officers, directors, employees, representatives, agents, contractors, and invitees against, and shall hold such indemnified parties harmless of and from, any and all claims, liabilities, losses, fines, penalties, costs, damages, and expenses of any kind or nature whatsoever (including, but not limited to, attorneys' fees and expenses, as well as costs of suit, whether incurred at the trial, appellate, or administrative level) which any of such indemnified parties may sustain, incur, or suffer, or to which any of such indemnified parties may be subjected, to the extent resulting from or in connection with the use or operation of the Temporary Construction Staging Area or (where applicable to this Agreement) any other part of the Property by the City or any of the City's employees, representatives, agents, contractor's, or invitees, whether or not such use is permitted under this Agreement. The City's indemnification obligations shall survive the termination or expiration of this Agreement.

10. Insurance. During the Term of this Agreement, the City shall, at the City's sole cost and expense, maintain commercial general liability, automobile liability and worker's compensation insurance against claims for personal injury, death or property to the extent arising from the City's activities on the Temporary Construction Staging Area. All such insurance shall be obtained immediately upon the execution of this Agreement. Upon the request of Land Trust, a certificate of insurance shall be delivered by the City to Land Trust. The general and automobile liability insurance shall not be less than \$1,000,000.00

combined single limit for bodily injury and property damage. Land Trust and the City (and its officials, officers, directors, employees, and agents) shall be named as additional insureds on the commercial general liability insurance and automobile liability insurance.

11. Waiver. The waiver by Land Trust of a breach of any term, covenant, or condition contained in this Agreement shall not be treated as a waiver of such term, covenant, or condition contained in this Agreement.

12. No Third-Party Beneficiary. The Parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege, or benefit on any person or entity other than the Parties hereto and their successors and assigns.

13. Miscellaneous Provisions.

(a) Agreement. The terms of this Agreement are intended by the parties hereto as a final expression of their agreement with respect to the subject matter hereof, and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence of any kind which contradicts the terms of this Agreement may be introduced in any proceedings (judicial or otherwise) involving this Agreement, except for evidence of a subsequent written amendment to this Agreement. This Agreement may not be modified, amended, or otherwise changed in any manner, except by a written amendment executed by all of the parties hereto, or their successors in interest. This Agreement may be executed in multiple counterparts, and each executed counterpart of this Agreement shall be deemed an original for all purposes, despite the fact that not all of the parties are signatories to the same counterpart.

(b) Invalidity. If any provision of this Agreement or the application thereof to any person(s) or circumstance(s) shall to any extent be held to be invalid, illegal, or unenforceable in any respect by any court of competent jurisdiction, and provided that the essential agreement of the parties to this Agreement is not materially altered as a result of such holding: (1) neither the remainder of this Agreement nor the application of such provision to any person(s) or circumstance(s), other than those as to whom or which it is held to be invalid or unenforceable, shall be affected thereby; (2) this Agreement shall be construed as though such invalid, illegal or unenforceable provision had never been contained in this Agreement; and (3) every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(c) Interpretation. In this Agreement, personal pronouns shall be construed as though of the gender and number required by the context, the singular including the plural, the plural including the singular, and each gender including other genders, all as may be required by the context. Wherever in this Agreement the term “and/or” is used it shall mean: “one or the other, both, any one or more, or all” of the things, events, persons or parties in connection with which the term is used. Any and all recitals at the beginning of this Agreement are accurate and shall constitute an integral part of this Agreement, and

this Agreement shall be construed in light of those recitals. Any and all exhibits, schedules, and addenda attached to and referred to in this Agreement are hereby incorporated into this Agreement as fully as if set out in their entirety herein. The headings of the various paragraphs of this Agreement are intended solely for reference purposes, and are not intended for any purpose whatsoever to modify, explain, or place any construction on any of the provisions of this Agreement. This Agreement shall be governed by, construed in accordance with, and interpreted under, the internal law of the State of California.

(d) Successors and Assigns. Subject to any restriction contained in this Agreement on the ability of a party to assign or delegate its rights or obligations under this Agreement, the terms and conditions of this Agreement shall apply to and bind, and shall inure to the benefit of, the heirs, executors, administrators, successors, and assigns of the parties hereto.

(e) Survival of Representations and Obligations. The representations, warranties, covenants, agreements, and obligations of the parties which are set out in this Agreement (including, but not limited to, any indemnification obligations) shall remain in full force and effect after the expiration or earlier termination of this Agreement, in each case until and unless there is a waiver or release of such representation, warranty, covenant, agreement, or obligation by the beneficiary thereof.

(f) Performance and Waiver. Time is of the essence in the performance of each of the obligations of the parties under this Agreement, but no failure of a party to this Agreement to insist upon the timely performance of any obligation by another party shall constitute a waiver of the right to require performance of such obligation, or act as a waiver of the right to require the performance of any other obligation of such party (or any other party).

IN WITNESS WHEREOF, Land Trust and the City have executed this Agreement, effective as of the date first above written.

Land Trust:

City of Watsonville:

LAND TRUST OF SANTA CRUZ COUNTY

By: _____

By: _____

Title: Executive Director

Exhibit A Property Map



Exhibit B
Temporary Construction Staging Area

