

RESOLUTION NO. 1201

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO THE LAND RENTAL AGREEMENT BETWEEN THE CITY OF CANBY AND SIMNITT NURSERY, LLC.

WHEREAS, The City of Canby, Oregon, through Ordinance No. 1281, purchased from Janice, Jerome, and Roberta Simnitt, approximately 2.35 acres of land identified as tax lot 200 of tax map 3-1E-28C, and more particularly described as the North one-half of Lot 25, PRUNELAND, in the County of Clackamas and State of Oregon; and

WHEREAS, since the time of the purchase of said property, the City of Canby and Simnitt Nursery, LLC have been parties to a Land Rental Agreement regarding this land; and

WHEREAS, the City of Canby will continue to benefit from extending the Land Rental Agreement for an additional two years.

NOW THEREFORE, IT IS HEREBY RESOLVED by the City of Canby Council that the City Administrator shall execute the Amendment to the Land Rental Agreement as set forth in the attached Exhibit "A".

This Resolution shall take effect on September 17, 2014.

ADOPTED this 17th day of September 2014, by the Canby City Council.



Brian Hodson
Mayor

ATTEST:



Kimberly Scheafer, MMC
City Recorder

Exhibit "A"

**AMENDMENT TO THE LAND RENTAL AGREEMENT BETWEEN CITY OF CANBY,
OREGON, AND SIMNITT NURSERY, LLC**


This amendment to the existing Land Rental Agreement between the CITY OF CANBY (City) and SIMNITT NURSERY, LLC (Simnitt) is to memorialize mutually agreed upon terms of the contract in the following ways:

The Parties, City and Simnitt, agree to extend the Land Rental Agreement for another two years until August 1, 2016. Payments are to continue to be \$900 annually, due August 1 of each subsequent year. A copy of the Land Rental Agreement is attached hereto as Exhibit "A".

IT IS SO AGREED:

SIMNITT NURSERY, LLC

CITY OF CANBY


By: _____
Title: SIMNITT NURSERY
Dated: 9/21/14

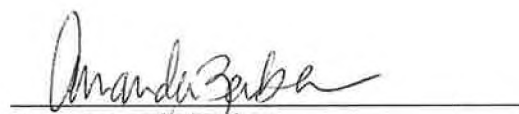

By: Amanda Zeiber
Title: Interim City Administrator
Dated: 09-22-14

Exhibit "A"

CITY OF CANBY

LAND RENTAL AGREEMENT

This land rental agreement is entered into between the CITY OF CANBY, hereinafter referred to as "CITY", a municipal corporation, and SIMNITT NURSERY, LLC, an Oregon limited liability company, its heirs, assigns or purchasers of interest, hereinafter called "SIMNITT". This agreement is made and entered into between these parties on the date of the signatures hereto.

The land consists of approximately 2.35 acres identified as tax lot 200 of tax map 3-1E-28C, and more particularly described as the North one-half of Lot 25, PRUNELAND, in the County of Clackamas and State of Oregon.

This agreement shall be for a term of two (2) years beginning from the date of signatures hereto. The agreement may be modified at any time by mutual agreement of both parties in writing.

The CITY grants permission to SIMNITT to use this property for agricultural purposes upon the following conditions:

1. SIMNITT shall be responsible that no noxious weeds or shrubs be permitted to grow on the property.
2. The described land shall not be used for the placing of any advertising signs, buildings or other structures, and said land shall not be used to store junk, scrap, motor vehicles or parts thereof, debris, trash, waste or other such materials. Except for the growth and sale of farm products, no other commercial use shall be made of the property. In the event of violation of the above conditions, SIMNITT shall be solely responsible for the cost of removal and this agreement may be cancelled immediately by the CITY.
3. CITY shall have the right to terminate, modify or amend this agreement and retake possession of the property at any time such action may be necessary in the public interest, or if SIMNITT fails to comply with the conditions of this agreement, without liability for loss, injury or damage of any nature whatsoever. However, in the event this agreement is terminated during a growing season and not as a result of a breach by SIMNITT of the terms of the agreement, SIMNITT shall be allowed to harvest crops.
4. SIMNITT shall not plant any crops that will not mature for harvest within one (1) month from the end of the term of this Agreement planting date.
5. SIMNITT shall not erect permanent fences unless approval from the CITY is received in advance. SIMNITT shall not install underground pipe, drainage ditching, drill water wells, or make any other improvements without permission from CITY.
6. SIMNITT shall not move, cover, disturb, damage or destroy any boundary markers or stakes on said land.
7. SIMNITT shall not assign this agreement without the prior written consent of CITY. SIMNITT may sublease to Montecucco Farms with the understanding that SIMNITT will still be responsible for the insurance cost and indemnity requirements of this agreement.
8. SIMNITT shall keep the said land free from any liens or encumbrances or claims of any character, which are based upon any act or omission on SIMNITT's part, or which arise

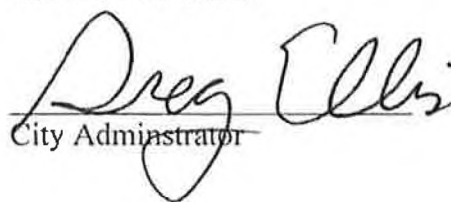
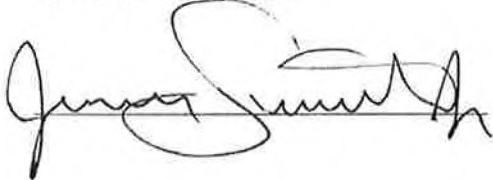
out of his exercise of any right granted or failure to perform any obligation imposed hereunder, and which would in any way become a charge or lien against the said land. SIMNITT shall indemnify and hold harmless CITY from all costs, loss of expense, including attorney fees both at trial and on any subsequent appeal therefrom, which CITY may incur as the result of a breach by SIMNITT of the foregoing obligation.

9. SIMNITT assumes full responsibility and liability for damages or injury to any employees or any member of the public arising out of the activity, including personal injury and for any damage to CITY property.
10. SIMNITT shall indemnify, defend and hold harmless CITY, its officers, agents and employees from all claims, suits or actions of any nature arising out of the occupancy or use of the property by SIMNITT.
11. SIMNITT shall obtain and maintain liability insurance which includes CITY and its officers, agents and employees as additional insured in an amount of not less than 1,000,000.00 combined single limit, bodily injury/property damage for each accident or occurrence.
12. SIMNITT shall be responsible to insure that uses under this agreement are consistent with the local land use plan for the area and shall comply with all applicable federal, state and local laws, regulations and ordinances.
13. SIMNITT shall furnish to the Public Works Director for the CITY, for prior approval, a listing of all crops proposed to be planted and all chemicals to be used on the land as well as a schedule of application of such chemicals. This listing shall be provided by February 1st of each year. No field burning will be allowed.
14. SIMNITT agrees to meet regularly with CITY staff to discuss operation and use of the property and to insure compliance with this agreement.
15. SIMNITT may not store equipment, irrigation pipe or other farm implements on site when not being used without prior approval of the CITY.
16. The rental fee for July 1, 2011-12 year and July 1, 2012-2013 year shall be \$600.00. Payment shall be submitted to CITY by August 1, 2011 for each respective year.

IN TESTIMONY of which, the AGREEMENT has been executed on behalf of the CITY by its City Administrator and has been executed by Jerry Simnitt Jr. representing SIMNITT on this 30th day of June, 2011.

IT IS SO AGREED:

CITY OF CANBY:



City Administrator