



**Antonio Araujo**  
Mayor

**Leticia Miranda**  
Alderman Place 1

**David Cantu**  
Alderman Place 2

**Lorenzo E. Leyva Sr.**  
Alderman Place 3

**Maria Covernali**  
Alderman Place 4

**George Almanzar**  
Alderman Place 5

### **RESOLUTION NO. 2003R.04**

#### **A RESOLUTION APPROVING A NEW LEASE AGREEMENT OF MUNICIPALLY-OWNED REAL PROPERTY BETWEEN THE SKOV FAMILY TRUST AND THE CITY OF SAN ELIZARIO FOR FARMING PURPOSES**

#### **RECITALS**

WHEREAS, the City of San Elizario ("City") recently acquired by donation a 116.35-acre tract for public purposes; and

WHEREAS, long-term plans for the development of the tract will be created and implemented by the City Council of the City; and

WHEREAS, in the interim, the City Council desires to maximize use of this tract and to generate revenue by leasing the property for farming purposes; and

WHEREAS, the first Lease Agreement was entered into by and between the Parties and effective January 1, 2017 for lease of a portion of that property owned by the City of San Elizario for use by Lessee for farming purposes which was amended on or about March 13, 2018 and on or about February 12, 2019; and

WHEREAS, a new lease agreement meets the intended purposes propounded by the City Council; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council finds that it is necessary and proper for the good government, and order of the City to lease municipally-owned undeveloped land for farming.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of San Elizario, Texas, that:

1. The foregoing Recitals are hereby adopted as facts and incorporated fully herein.
2. The City Council of the City of San Elizario hereby approves the *Lease Agreement 2020* ("Agreement"), attached hereto as *Attachment A* and incorporated fully herein, by and between Skov Family Trust *dba* Skov Family Farms and the City for the lease of municipally-owned land for farming production.
3. The Mayor is hereby authorized to execute the Agreement on behalf of the City.
4. All resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters regulated, herein.
5. Should any of the clauses, sentences, paragraphs, sections or parts of this Resolution be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Resolution.
6. This Resolution shall be effective immediately upon passage and approval.

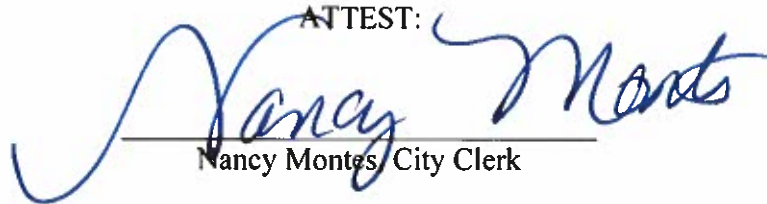
**PASSED AND APPROVED** this, the 14 day of January, 2020, by a vote of 4 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

**CITY OF SAN ELIZARIO, TEXAS**



Antonio Araujo, Mayor

ATTEST:



Nancy Montes, City Clerk

**Lease Agreement 2020**

for the Lease of Municipally-Owned Land

between

Skov Family Trust *dba* Skov Family Farms

and

the City of San Elizario, Texas

*Effective January 1, 2020*

# LEASE AGREEMENT

This Lease Agreement ("Agreement") is made and entered into by and between the City of San Elizario, Texas, a general-law municipality ("Lessor"), and Skov Family Trust *dba* Skov Family Farms ("Lessee"), individually "Party", collectively the "Parties.

## RECITALS

**WHEREAS**, the first Lease Agreement was entered into by and between the Parties and effective January 1, 2017 for lease of a portion of that property owned by the City of San Elizario for use by Lessee for farming purposes which was amended on or about March 13, 2018 and on or about February 12, 2019; and

**WHEREAS**, the Parties desire to enter into a new lease for a new three-year term, effective January 1, 2020, which will supersede the provisions of the prior lease which provided for a month to month tenancy upon the expiration of the term.

In consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Lease; Premises Description.** Lessor hereby leases to Lessee 78.25 acres, ("Premises"), as depicted in *Exhibit A*, attached hereto and incorporated fully herein, and which is a portion of a municipally-owned tract situated in the City of San Elizario wholly and legally described as:

Being a 116.35 acre tract, located by the intersection of Herring Road and Chicken Ranch Road, and also legally described as 35 San Elizario TR 1.

The area of the Premises does not include existing residential and other buildings presently on the 116.35 acre tract and the area reserved by the City for its urban agricultural project. Hunting rights are not included in this Lease.

2. **Lease Rental.** Lessee shall pay an annual lease rent of \$100.00 per acre, for a total amount of \$7,825 of the lease term, beginning on the effective date or within 15 days after the execution of this lease, whichever is later, and thereafter on January 1<sup>st</sup> of each successive year of this agreement. Should the lease become a month-to-month tenancy upon the end of the term, Lessee shall pay a monthly lease rent of 1/12<sup>th</sup> of the annual amount on the first day of each month. The lease payments shall be made to Lessor at the address specified herein.
3. **Term; Effective and Expiration Dates; Renewal.** The lease term begins January 1, 2020 ("Effective Date") and ends December 31, 2022 ("Expiration Date"). Upon the expiration date, this lease automatically renews on a month-to-month basis unless either Party provides the other Party written notice of termination not less than 30 days before the expiration date.

4. **Failure to Vacate upon Termination.** Should the Lessee fail to vacate the Premises upon termination of this Agreement, the Lessor shall be entitled to collect a fee in an amount equal to three (3) times the annual lease rental (calculated on a monthly basis) for each month or portion thereof the Lessee remains over, in addition to legal costs incurred for recovery.
5. **Acceptance of Premises.** This lease is subject to any and all restrictions, covenants, conditions, easements and oil, gas, mineral or development leases, if any, affecting the Premises, and to all zoning laws, regulations and municipal ordinances and other governmental authorities. Lessor represents the Premises are in compliance with all applicable statutes, laws, regulations, codes and orders. By taking possession of the Premises, Lessee accepts the Premises in the condition existing as of the Effective Date. Lessor makes no representation or warranty with respect to the condition of the Premises and Lessor shall not be liable for any latent or patent defect in the Premises, including that which may arise from the Comanche Trail/ETP pipeline easement.
6. **Terms of Use; Lessee's Obligations.**
  - a. Lessee shall use the Premises for farming and farm production and shall employ all methods of farming customarily practiced in the area which shall be in accordance with all federal and state agricultural regulations including quarantine programs and plowing up or destruction of diseased or infested crops.
  - b. Lessee shall furnish and provide the material, equipment and labor for farming operations.
  - c. Lessee shall not permit the creation of any nuisance on the Premises nor allow the Premises to be used for any unlawful purpose.
  - d. Lessee accepts the Premises "as is" and shall not make any improvements, alterations or additions to the Premises without the Lessor's written consent, which consent may not be unreasonably withheld.
  - e. Lessee shall maintain the Premises and improvements in a safe and good condition and perform repairs as may be needed at Lessee's expense.
  - f. Lessee shall pay for any damages to Premises accrued during the rental period resulting from Lessee's negligence.
  - g. Lessee shall restore the Premises at its expense to its original state existing as of the effective date, reasonable wear and tear excepted, upon termination of this Agreement.
7. **Electric Utilities.** Lessee shall pay for electricity used by Lessee at the Premises upon presentation of the invoice by the Lessor. Lessor acknowledges that it does not guarantee uninterrupted electrical service and shall not be responsible for electrical outages or interruptions in electrical service used by the Lessor.

8. **Water Rights; Irrigation.** Lessor is the owner of water rights or its 116.35 acre tract. Upon consultation with Lessee, Lessor shall annually execute the annual contract with the El Paso County Water Improvement District No. 1 (EPCWID 1) for water use for farming purposes on the Premises during the farming season by Lessee. Thereupon, Lessee shall pay for all water used by Lessee for farming during that contract year and season. Lessee shall submit payment in full to Lessor within 30 days of presentation by the Lessor of the invoice for water used from the EPCWID 1. Lessee shall conduct all irrigation in accordance with all rules and regulations of the appropriate governing entity, including the EPCWID 1. In addition to use of the water for farming on the premises, Lessee shall irrigate at no cost to Lessor existing pecan trees.
9. **Taxes.** Lessee shall pay all real, water, and personal property taxes associated with and assessed on the Premises, if any, during the term of this Lease Agreement. All such payments shall be made no later than December 31<sup>st</sup> of each year of this agreement, and evidence of all such payments shall be provided to Lessor at least ten (10) days prior to the due date of each required payment.
10. **Insurance.** Lessee shall maintain appropriate levels of comprehensive commercial general liability insurance to include property insurance, worker's compensation insurance and employer's liability insurance, if and as applicable, naming the Lessor as additional insured. Certificates of insurance for each insurance policy, along with written evidence of payment of required premiums, shall be filed and maintained with Lessor annually during the term of the Lease Agreement. Lessee shall immediately advise Lessor of any claim or litigation that may result in liability to Lessor and of cancellations of any policies.
11. **Indemnification.** The Lessee agrees to and shall indemnify, defend, and hold harmless the Lessor, and its officers, agents, and employees against all claims, suits, demands, judgments, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property, which arises from or is in any manner connected to or caused in whole or in part by the Lessee's use of the Premises. This indemnification provision, however, shall not apply to any claims, suits, damages, costs, losses, or expense arising solely from the negligent or willful acts of the Lessor, provided that, for the purposes of the foregoing, the Lessor's act of entering into this Agreement shall not be deemed to be a "negligent or willful act".
12. **Hazardous Substance Indemnification.** Lessee represents and warrants that its use of the Premises will not generate any hazardous substance, and that it will not store or dispose on the Premises nor transport to or over the Premises any hazardous substance. Lessor represents that it has no knowledge of the existence of any hazardous substance on, in, or under the Premises. Lessee further agrees to hold Lessor harmless from and indemnify Lessor against any release of any such hazardous substance caused by Lessee or its employees or agents and any damage, loss, or expense or liability resulting from such release including all attorneys' fees, costs and penalties incurred as a result thereof. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any Federal, State or local environmental law,

regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

13. **Lessor's Right of Access.** Lessor shall have the right to enter the Premises to inspect the Premises upon advance notice, except in emergency circumstances, to Lessee. Such entry shall not unreasonably interfere with the occupancy of the Premises by Lessee.
14. **Default; Cure; Remedies upon Default.** Either of the following shall constitute an Act of Default, failure by Lessee:
  - a. to pay the annual lease payment;
  - b. to maintain required insurance; or
  - c. to comply with the terms and obligations of this Agreement.

Upon an Act of Default, Lessor shall provide written notice of default to Lessee and a thirty-day opportunity to cure. Failure to cure shall terminate the Agreement, and upon ten days after written notice of termination to Lessee, Lessor shall be entitled to collect from Lessee damages including fees and expenses incurred by Lessor in pursuing its remedies provided by law. Remedies include entry of the Premises and removal of Lessee's personnel and property for storage in a facility at Lessee's expense.

15. **Assignment; Sublease.** Lessee may not assign this Agreement or sublease the Premises without the prior written consent of the Lessor.
16. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement of the Parties and may not be modified except in writing executed by both Parties.
17. **Binding Effect.** This Lease Agreement shall be binding upon the Parties, their successors, personal representatives and assigns.
18. **Waiver of Contractual Right.** The failure of any Party to enforce any provision of this Agreement shall not be construed as a waiver of limitation to that Party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.
19. **Governing Law, Interpretation and Severability.** This Agreement shall be governed by the laws of the State of Texas and venue shall lie in El Paso County, Texas. In the event of any dispute, it shall not be construed for or against either party that such party did or did not author the Agreement. The invalidity or illegality of any provision of this Agreement shall not affect the remaining provisions.
20. **Notice.** Any notice required shall be deemed to be given and delivered when deposited in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate Party at the following addresses:

Lessor:

Lessee:

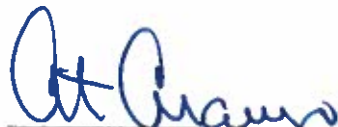
City Administrator  
City of San Elizario  
12710 Church St.  
P.O. Box 1723  
San Elizario, Texas 78642

Skov Family Trust  
Dba Skov Family Farms  
P.O. Box 310  
Clint, Texas 79836

21. **Authorization to Enter Agreement.** The individual signing this Agreement acknowledges that he or she is authorized to do so and warrants that he or she is authorized to commit and bind the party to the terms and conditions of this Agreement.
22. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original instrument, and all of which, when taken together, shall constitute one and the same instrument. Evidence of execution will be acceptable by original signature, email, PDF or facsimile transmission and shall be given the same force and effect as original signatures.

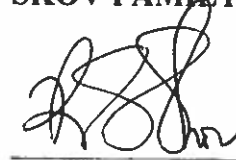
**IN WITNESS WHEREOF**, the Parties have caused this Lease Agreement to be executed individually or by their duly authorized agents as of the dates indicated below:

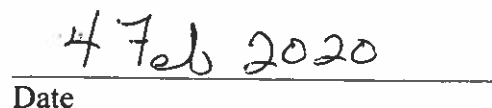
**CITY OF SAN ELIZARIO – LESSOR:**

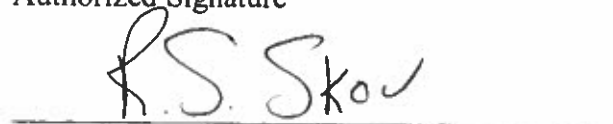
  
\_\_\_\_\_  
Antonio Araujo, Mayor

  
\_\_\_\_\_  
Date

**SKOV FAMILY TRUST DBA SKOV FAMILY FARMS – LESSEE:**

  
\_\_\_\_\_  
Authorized Signature

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Printed Name and Title



**MAP OF LEASED PREMISES**

78.25 acres, the "Premises", depicted in the map herein, and which is a portion of a municipally-owned tract situated in the City of San Elizario wholly and legally described as:

Being a 116.35 acre tract, located by the intersection of Herring Road and Chicken Ranch Road, and also legally described as 35 San Elizario TR 1.

