

COPY

KONYN DAIRY

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement is executed by and between the City of San Diego, a municipal corporation, herein called "City," and Frank S. Konyyn and Marie D. Konyyn, husband and wife, hereinafter called "Lessee", to amend the original lease agreement between the parties filed as Document 766987, as follows:

1. Exhibit A of the lease agreement is hereby deleted and replaced with a new Exhibit A, a copy of which is attached to this amendment and incorporated herein. An exact legal description of the premises will be attached subsequent to execution of this amendment and marked Exhibit A-1.
2. Section III, Paragraph A, Rent - the first paragraph beginning with "The rent during the entire term of this agreement" and ending with "according to the following method of computation" is changed to read as follows:

The rent during the term of this agreement is payable to the Office of the City Treasurer monthly in advance beginning on the first day of the calendar month immediately following execution of this amendment by the City Manager. For the first five-year period following the effective date of this amendment, the monthly rent shall be the sum of \$612.90. At the beginning of the sixth year following the effective date of this amendment, the rent for the remaining term shall be adjusted upward or downward and an additional adjustment shall be made at the expiration of each five-year period thereafter according to the following method of computation:

The remainder of Paragraph A, Rent, beginning at the top of page 3 of the lease agreement shall remain unchanged.

Section IV, Paragraph C, Restrictive Conditions, is hereby amended by adding the following to subparagraph 18b:

No taking of that portion of the leased premises added by this first amendment (the nine houses plus the acreage south of the original leasehold) shall constitute grounds for the City to determine that the remaining leasehold is not of such form, shape or size as to render it not effectively and practically useable.

Section V, Special Conditions, is hereby amended by adding the following paragraphs B and C:

DOCUMENT NO. RR-265909-1

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OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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B. City-Owned Farm Houses and Well

1. City-owned farm houses 1, 2, 3, 5, 9, 10, 11, 12 and 13, along with the property upon which they are situated, as shown by Exhibit B attached, are hereby incorporated herein to the lease agreement and made a part of the leased premises.
2. City shall assign to Lessee the well serving houses Nos. 1, 2, and 14 commonly referred to as the "Cloverdale Well." Lessee shall allow TMY Farms or its successor in interest to use said well to continue providing water for house No. 14, and TMY Farms shall be responsible for its proportionate share of all future costs of maintaining the well, including utility costs. The assignment of the "Cloverdale Well" and all of its existing waterlines to Lessee shall occur simultaneously with the execution of this amendment.
3. ^{for the purposes of supplying potable water to houses 3 & 5} Lessee shall not be charged any rent for the use of the City-owned farm houses. Provided, however, Lessee agrees to pay the City a rent of \$114 per year for each parcel shown on Exhibit B, attached, upon which each of the houses is situated. For example, for the first five years following execution of this amendment, Lessee shall pay the City an annual rent of \$1,026 for the nine parcels upon which the City-owned houses 1, 2, 3, 5, 9, 10, 11, 12, and 13 are situated. Said rental shall be computed with the land rent for the leased premises and become an additional part of the annual rent paid by Lessee. (This figure is already reflected in rent charged under Section III, Paragraph A, of this amendment.)

At the end of each five-year period following execution of this amendment, the rent paid by Lessee for the land upon which the City-owned houses are situated shall be adjusted upward as or downward ^{as warranted} provided for in Section III Consideration, Paragraph A, Rent, of the lease agreement.

In the event any of the houses are removed, the City Manager shall have the right to delete the parcels upon which the houses were situated from the lease agreement and to adjust the rent accordingly.

4. Lessee agrees to repair and maintain all the above City-owned houses in a manner acceptable to City and in accordance with the City of San Diego Building Code. Lessee also agrees to supply pressurized potable water to all houses.

Furthermore, however, with respect to houses 3 and 5 which have been declared to be substandard by City because of their poor physical condition and lack of pressurized potable water, Lessee specifically agrees to repair both dwellings in a manner acceptable to City and to supply them with pressurized potable water within 180 days following execution of this lease amendment. All costs related to the repair of the two houses, as well as the cost of supplying them with pressurized potable water, shall be the sole responsibility of Lessee.

At the end of said 180-day period, City shall inspect houses 3 and 5. If the physical condition of either or both of the buildings remains unacceptable to City, or if the water supplied to the occupant is tested by City and found to be unpressurized or non-potable, City may give Lessee 30 days written notice to remove the structure(s).

If at any time during the term of this lease Lessee is unable to provide pressurized potable water from existing sources and the City has available an alternate source of pressurized potable water, Lessee shall have the right to tie into said water supply. In such event, Lessee shall pay all costs and normal City fees in connection with any such tie-in and shall pay City its established rates for the water.

5. Lessee may sublease the City-owned houses to persons employed on the leased premises or to employees of other City agricultural lessees in San Pasqual Valley. In the event one or more of the houses cannot be leased to the aforementioned employees, Lessee may sublease the building(s) to parties working outside the San Pasqual Valley area. Provided, however, in this event, Lessee agrees to execute a written sublease agreement outlining all terms and conditions of the sublease agreement and to submit said sublease agreement to the City Manager for his approval and further agrees that City shall be paid 50 percent of the total monthly rental fee paid by such sublessee to

Lessee. Provided, however, Lessee may deduct the rent, taxes and expenses of upkeep for the land upon which the house is situated prior to computing the City's share of the proceeds from the sublease.

6. Lessee agrees that the cost of repairing and maintaining the City-owned farm houses as well as the cost of providing the occupants with an adequate supply of pressurized potable water shall be Lessee's sole responsibility.
7. City may inspect any or all of the City-owned farm houses to determine if they are being properly repaired and maintained and that pressurized potable water is available to the occupants. In the event the inspection reveals that the physical condition of any or all of the houses has been allowed to deteriorate and that the building(s) are not properly maintained, City may give Lessee 90 days written notice to complete the repairs necessary to restore the building(s) to a physical condition acceptable to City. At the end of the 90-day period, City shall reinspect the house(s). If the physical condition of the structures remains unacceptable, Lessee shall be given 30 days written notice to remove the building(s).

In the event the water supplied to any or all of the houses is tested and found to be non-potable, Lessee shall be given written notice by City that an alternate source of potable water must be supplied to the occupants. If pressurized potable water is not provided to the house(s) within a 90-day period, City may give Lessee 30 days written notice to remove the structure(s).

In the event Lessee is given written notice by City to remove the house(s), the cost of demolition and removal of all material and debris from the premises shall be the sole responsibility of Lessee.

Nothing contained in this section shall preclude the County or any other governmental agencies from enforcing the laws applicable to the residential structures.

C. Disposal of Wastewater

1. Disposal of wastewater from the Dairy and other leased areas shall be in accordance with the waste discharge requirements of the State of California Regional Water Quality Control Board of San Diego, and the State of California State Water Resources Control Board, and such discharge shall be the sole responsibility of Lessee. Wastewater shall include the following:
 - a. Wastewater collected in the milk barn area which has been used for cow washing, equipment and barn wash down, and feed ramp flushing, together with existing adjacent corral runoff all of which is presently discharged via pipeline from the milk barn to an area on the leased premises immediately south of the Dairy.
 - b. Wastewater originating from precipitation coming in contact with corral areas and stock pile manure.
 - c. All other wastewater including wastewater discharged from the calf raising facility.
2. Lessee agrees to disperse all wastewater generated by the Dairy in a legal method acceptable to and approved by the State of California Regional Water Quality Control Board and the State of California State Water Resources Control Board and to ensure said wastewater does not flow into the San Dieguito River or its tributaries. Lessee further agrees to comply with all monitoring and reporting requirements contained in any and all orders issued by the State of California Regional Water Quality Control Board and or the State of California State Water Resources Control Board. Lessee fully understands failure to comply with said monitoring and reporting requirements or any other requirement established by the aforementioned State agencies shall be grounds for City taking action under Section IV, Paragraph C24 of this agreement to terminate this lease.

D. Removal of Houses

At any time during the lease or up to 45 days following the termination or expiration of the lease, Lessee shall be allowed to move the structure he is presently occupying as his residence across City-owned land to property owned by Lessee. Provided, however, movement of the structure shall be coordinated with City and TMY Farms or its successors so as to not interfere with farming operations. In the event moving the structure causes damages and/or destruction to farmland, growing crops, trees or shrubs, Lessee shall be solely responsible for and pay for such damages.

Nothing herein is intended to modify or alter any other covenants of this lease agreement.

THE CITY OF SAN DIEGO

Date JUN 09 1986

By *David Shorsky*
ASSISTANT TO THE City Manager

FRANK J. KONYN AND MARIE D. KONYN

By *Marie D. Kony*
By *Frank J. Kony*

APPROVED as to form and legality this 23rd day of June, 1986

By *J. Gaudin*
City Attorney

WRK:sn-w(62-8)
1-10-86

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