

Agency of Agriculture, Food & Markets  
116 State Street  
Montpelier, VT 05620-2901  
[www.VermontAgriculture.com](http://www.VermontAgriculture.com)

## MEMO

To: Sarah London  
From: Sylvia Jensen  
Date: November 20, 2015

Re: Governor's Acceptance & Approval

Attached you will find a Governor's Acceptances for the Huntley/Mordasky Farm in Orwell. A memo outlining the project, map, and draft easement are also included for your review. As you know, 6 V.S.A. §14 requires the Governor approve grants of development rights to the VT Agency of Agriculture, Food, and Markets.

As part of VAAFM's review of the conservation project in advance of your receipt we have conducted/contacted the following resources to confirm there are no outstanding violations within ANR and VAAFM's databases.

- VAAFM
  - ARM Division – none
  - Consumer Assurance:
    - Dairy- none
    - Animal Health- none
- ANR
  - Brownfields Division- none

Attached is a map of the farm project utilizing ANR data layers showing no hazardous wastes on this farm.

**This project is scheduled to close by 12-01-15.** I forwarded a draft copy of the conservation easement and map. Enclosed is a "red-line" easement copy showing the changes to Schedule A. The project map also shows more defined areas for the surface water protection zones.

I have reviewed the documents and obtained VAAFM signatures. Please do not hesitate to contact me via email ([sylvia.jensen@vermont.gov](mailto:sylvia.jensen@vermont.gov)) or phone if you have any questions (782-3388). Once signed please email me for pick up.





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TO: Peter Shumlin, Governor  
FROM: *Deputy Secretary*  
For Charles R. Ross, Jr., Secretary, Vermont Agency of Agriculture, Food & Markets  
DATE: November 12, 2015  
RE: Acquisition of Development Rights – Mordasky, Orwell

Your approval is requested for the Second Amendment to the Grant of Development rights, conservation restrictions, and Right of First Refusal on 342 acres of farmland in Orwell owned by Mark J. Mordasky and Lauren E. Mordasky.

#### I. Description of Property

The 350-acre Huntley Farm was conserved in 1992 and is located on Young Road in Orwell, Vermont. The property consists of 15 acres of prime rated agricultural soils as well as 320 acres of soils with statewide significance. The land has 45 acres of forestland and 95 acres of pasture to go along with the 200 acres of tillable fields. Until recently, all of the land has been used in support of Robert and Susan Balfes' organic dairy farm. However, they have decided it is time to sell the cows and the farm. The retro OPAV will enable Mark and Lauren Mordasky to purchase the Huntley (Balfe) property. A big selling point for them is the fact that the land is contiguous with their own and a good match for their farm.

The OPAV will cover 342 acres rather than 350 because the co-holders approved an 8 acre subdivision in 1999. This land remained protected, but was sold to a neighboring landowner. Whomever owns the remaining 342 acres holds an agricultural easement on the 8 subdivided acres, which allows them to use that land for agricultural purposes. The OPAV conveyed by the Mordaskys will cover the remaining 342 acres, rather than the original 350 acre protected property.

For the past seven years, Mark and his father have run a custom cropping operation, and they have also raised and sold feed on lands they own or rent, including Mark's 150 acre farm and his father's roughly 700 acres. Mark spent six years in the military and, since getting out, he and his father have successfully operated the cropping business, and they have demonstrated that they can produce crops of corn, soybeans and hay that generate sufficient profit to sustain their operation. Adding the Huntley property to their operation will give them an additional 200 tillable acres and allow them to expand their business and secure a greater land base for future production. The OPAV will enable the Mordaskys to afford to purchase the Huntley (Balfe) farm, thereby providing the family with ownership of additional acreage in close proximity to their home farm. This sale would not happen without the OPAV.

As part of the retro OPAV project, Surface Water Protection Zones (SWPZs), consisting of approximately 28 acres, will be established to improve water quality and protect the wetland and stream features of the property. A large portion of the SWPZ areas being established are already separated from agricultural



areas by fencing. The remaining SWPZ areas that do not have fencing have had adequate setbacks from agricultural activities.

## **II. Need**

The retroactive Option to Purchase at Agricultural Value will enable Mark and Lauren Mordasky to purchase the Huntley (Balfe) land and expand their farming operations.

## **III. Source of Funds**

The purchase price for the option to purchase at agricultural value is \$125,000. VHCB approved a grant for this project in the amount of \$130,000 (\$125,000 for easement purchase and \$5,000 for third-party costs). Financial leverage for this conservation effort includes a \$10,000 bargain sale.

**APPROVAL AND ACCEPTANCE OF  
DEVELOPMENT RIGHTS IN REAL PROPERTY**

Now come Peter Shumlin, Governor, and Charles R. Ross, Jr., Secretary, the undersigned, and hereby approve and accept the Second Amendment to Grant of Development Rights, Conservation Restrictions and Right of First Refusal for 342 acres, of land owned by Mark J. Mordasky and Lauren E. Mordasky located in the Town of Orwell, Vermont, by the Vermont Agency of Agriculture, Food and Markets. The Amendment to the Grant is to be recorded in the Land Records of the Town of Orwell.

This action is taken pursuant to the authority vested in the Governor and the Secretary of the Vermont Agency of Agriculture, Food and Markets by Title 6, Chapter 1, Section 14 of the Vermont Statutes Annotated.

STATE OF VERMONT

Date

11/24/15

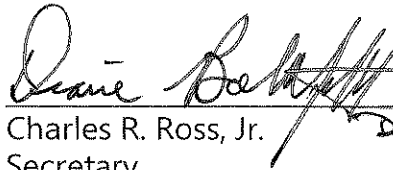
  
\_\_\_\_\_  
Peter Shumlin  
Governor

VERMONT AGENCY OF AGRICULTURE,  
FOOD AND MARKETS

Date

11/20/15

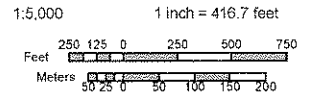
For

  
\_\_\_\_\_  
Charles R. Ross, Jr.  
Secretary

  
Deputy Secretary

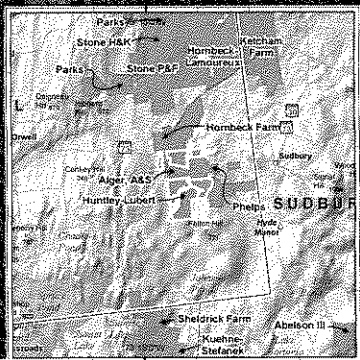
**Vermont Land Trust**  
 Huntley-Lubert (Mordasky) Farm  
 Town of Orwell  
 Addison Co., VT  
 December 2015  
 VLT Project #400050 VHC# #1992-042-002

The Huntley-Lubert (Mordasky) Farm Conservation Plan is based on 2011 DigitalGlobe-Microsoft orthophotos.



- Protected Property
- Complex Boundary
- SWPZ (Surface Water Protection Zone)

**Farmstead Complex**  
 28.0 acres



ACREAGE INFORMATION'	
Tillable	210.5 acres
Open Land/Pasture	14.5 acres
Woods	76.0 acres
Wetland	33.0 acres
Farmstead Complex	8.0 acres
<b>Total Protected Property</b>	<b>342.0 acres</b>

This map is not a survey or subdivision plat, and should not be used or construed for such purposes. It was prepared without the benefit of field measurements or extensive title research. It is intended solely to assist the owner(s) of the conserved land and the holder(s) of the conservation easement in the administration and interpretation of the conservation easement by clearly depicting the presumed boundaries of the protected property, calculating the approximate acreages, and showing the approximate locations of any excluded lands, farmstead or homestead complex, farm labor housing complex, or special treatment areas.

**THIS MAP IS NOT A SURVEY**

Reviewed and Accepted by:

Mark J. Mordasky \_\_\_\_\_ Date \_\_\_\_\_

Lauren E. Mordasky \_\_\_\_\_ Date \_\_\_\_\_

Duly Authorized Agent of Vermont Land Trust, Inc. \_\_\_\_\_ Date \_\_\_\_\_

1. All acreage is approximate, and exclusion of public road rights of way.

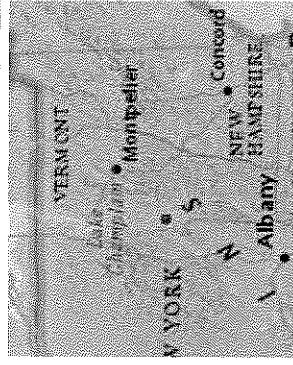




# Natural Resources Atlas

Vermont Agency of Natural Resources

vermont.gov



## LEGEND

- Landfills
  - OPERATING
  - CLOSED
- Hazardous Waste Site
- Hazardous Waste Generators
- Brownfields
- Salvage Yard
- Underground Storage Tank (w/)

## NOTES

Map created using ANR's Natural Resources Atlas



1: 12,638

November 16, 2015

642.0 0 321.00 642.0 Meters

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere

1" = 1053 Ft.

1cm = 126 Meters

© Vermont Agency of Natural Resources

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

**SECOND AMENDMENT TO  
GRANT OF DEVELOPMENT RIGHTS AND CONSERVATION RESTRICTIONS AND RIGHT OF  
FIRST REFUSAL**

This Second Amendment to Grant of Development Rights and Conservation Restrictions and Right of First Refusal (the "Second Amendment") is entered into by and between MARK J. MORDASKY, and LAUREN E. MORDASKY, both of Orwell, Vermont (hereinafter collectively "Grantor") and VERMONT LAND TRUST, INC. ("VLT"), the VERMONT DEPARTMENT OF AGRICULTURE, FOOD AND MARKETS (now known as Vermont Agency of Agriculture, Food and Markets) ("VAAF"), and the VERMONT HOUSING AND CONSERVATION BOARD, ("VHCB" and together with VLT and VAAF, "Grantees").

**WHEREAS**, on September 29, 1992 Emily Huntley Hopkins, Ronald L. Huntley, Joanne G. Huntley, and Todd L. Huntley, of Orwell (the "Original Grantors") conveyed a Grant of Development Rights, and Conservation Restrictions and Right of First Refusal (the "Original Grant") to the Grantees, which Original Grant is recorded in Book 46, Page 122 of the Orwell Land Records;

**WHEREAS**, on May 5, 1994, the Original Grantors and Grantees entered into a certain Amendment to Grant of Development Rights and Conservation Restrictions and Right of First Refusal (the "First Amendment" and together with the Original Grant, the "Grant"), which First Amendment is recorded in Book 48, Page 357 of the Orwell Land Records;

**WHEREAS**, Ronald L. Huntley and Joanne G. Huntley conveyed the Protected Property (as defined by the Original Grant) to Daniel C. Coutu and Susan B Coutu (the "Coutus") by Warranty Deed dated July 18, 1997 and recorded in the Orwell Land Records in Book 53, Page, 522;

**WHEREAS**, on February 16, 1999, the Grantees issued an Approval of Subdivision and Waiver of Right of First Refusal to the Coutus allowing the Protected Property to be subdivided into two parcels: the approximately 8.08 acre portion of the protected property as depicted on a survey entitled "Lands of Daniel Charles Coutu and Susan Baker Coutu to be Realigned with Anne F. Warner and Phyllis M. Patnode, Easterly and Northerly of Vt. Rt. 73, Easterly of Town Highway No. 13, Orwell, Addison County, Vermont" by Timothy L. Short, dated February 1, 1999 and recorded in Plat Book \_\_, Page \_\_ of the Orwell Land Records (the "Warner-Patnode Parcel"), and the approximately 342 acre remaining portion of the Protected Property (the "Huntley Farm");

**WHEREAS**, the Coutus conveyed the Huntley Farm to Robert J. Balfe by Warranty Deed dated February 22, 2001 and recorded in Book 60, Page 4 of the Orwell Land Records.

**WHEREAS**, Mark J. Mordasky and Lauren E. Mordasky acquired the Huntley Farm from Robert Balfe and Susan Balfe by Warranty Deed dated \_\_\_\_\_, December 1, 2015, and recorded in Book \_\_, Page \_\_; and

**WHEREAS**, Grantor and Grantees desire to amend the Grant with respect to the Huntley Farm only to (i) replace the Right of First Refusal contained therein with an Option to Purchase

at Agricultural Value, to ensure resale of the Huntley Farm at its agricultural value consistent with the goals set forth in 10 V.S.A. §§ 821 and 6301, and (ii) to add protections to the riparian and wetland resources located on the Huntley Farm;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt of which is hereinafter acknowledged, the Grantor, **MARK J. MORDASKY** and **LAUREN E. MORDASKY**, both of Orwell, Addison County, Vermont, on behalf of themselves, and their heirs, executors, administrators, successors, and assigns, pursuant to Title 10 V.S.A Chapters 34 and 155, do freely give, grant, sell, convey and confirm unto the Grantees, the **VERMONT LAND TRUST, INC.**, a Vermont non-profit corporation having its principal place of business in Montpelier, Vermont, the **VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS**, an agency of the State of Vermont, and **VERMONT HOUSING AND CONSERVATION BOARD**, an independent board of the State of Vermont, and their successors and assigns forever, and hereby amend the Grant with respect to the Huntley Farm portion of the Protected Property as follows:

- 1) All references to the "Protected Property" in this Second Amendment shall pertain to the Huntley Farm parcel only.
- 2) A new Section is hereby added to the Grant immediately before the section title "Miscellaneous Provisions" as follows:

**Surface Water Protection Zone**

Those areas on the Protected Property that serve to buffer perennial streams and wetlands, and also the areas within said wetlands themselves, are designated as farmland Surface Water Protection Zones (hereinafter "SWPZ"). The location of each SWPZ is generally represented as "SWPZ" on the Huntley-Lubert (Mordasky) Farm Plan.

Within the SWPZ, the goals, prescriptions and restrictions of this Surface Water Protection Zone Section are in addition to the provisions of paragraphs 1 through 14, and where inconsistent, the provisions of this Surface Water Protection Zone Section shall control.

1. The principal goal of this Grant within the SWPZ is the protection of surface waters and wetlands, in part through the establishment and maintenance of a high quality naturally vegetated buffer. The SWPZ provides an array of ecological benefits including but not limited to:

- a) protecting aquatic and wetland plants and animals from disturbance;



- b) preventing wetland and water-quality degradation;
- c) providing important terrestrial and aquatic plant and animal habitat; and
- d) providing organic matter, nutrients, shade, and large diameter coarse woody debris for the benefit of wetland, riparian, and aquatic systems.

2. Within the SWPZ, Grantor shall obtain Grantees' prior written approval for any agricultural, forest management or recreational activities, such approval to be granted, conditioned or denied in Grantees' sole discretion. Without limiting the foregoing, all activities within the SWPZ shall be consistent with the goals set forth in section number 1 above.

- 3) Revising Schedule A to reference the Huntley-Lubert (Mordasky) Farm Plan, which depicts the SWPZs described above.
- 4) The following paragraph is hereby inserted as the last paragraph of the Schedule A:

**NOTICE: Unless otherwise expressly indicated, the descriptions in this Schedule A and in any subsequent Schedules are not based on a survey or subdivision plat.** The Grantor and Grantees have used their best efforts to depict the approximate boundaries of the Protected Property and any excluded parcels, building envelopes or ecological protection zones on a plan entitled "**Vermont Land Trust – Huntley-Lubert (Mordasky) Farm, Town of Orwell, Addison Co., VT, December 2015**" signed by the Grantor and VLT (referred to throughout this Grant and its Schedules as "Huntley-Lubert (Mordasky) Farm Plan"). The Huntley-Lubert (Mordasky) Farm Plan is based upon Vermont Base Map digital orthophotos and other information available to VLT at the time of the Plan's preparation. Any metes and bounds descriptions included in the Schedules herein are approximate only. They are computer generated and are not the result of field measurements or extensive title research. The Huntley-Lubert (Mordasky) Farm Plan and any metes and bounds descriptions herein are intended solely for the use of the Grantor and Grantees in establishing the approximate location of the areas described and for administering and interpreting the terms and conditions of this Grant. No monuments have been placed on the ground. The Huntley-Lubert (Mordasky) Farm Plan is kept by VLT in its Stewardship Office. **The Huntley-Lubert (Mordasky) Farm Plan is not a survey and must not be used as a survey or for any conveyance or subdivision of the land depicted thereon.**

- 5) The following sentence is hereby inserted as the last sentence of the second paragraph of the Grant:

Grantor and Grantees also recognize that the objectives of ensuring that working and productive agricultural lands remain available for production agriculture, affordable and owned by persons actively engaged in farming will be

further advanced by the Option to Purchase at Agricultural Value, as incorporated below.

- 6) Replacing all references to the "right of first refusal" within the Grant with "option to purchase".
- 7) Deleting the Right of First Refusal Section of the Grant in its entirety and replacing it with the following:

**Option to Purchase at Agricultural Value.**

Grantees shall have an option to purchase the Protected Property at its agricultural value in accordance with the terms and provisions of this Option to Purchase at Agricultural Value ("this Option"). This Option is an integral part of this Grant and constitutes a restriction and a right and interest in real property that runs with the land. This Option shall be perpetual in duration and is given on the following terms and conditions.

1. **Option Trigger.** Grantor shall not sell, transfer or convey the Protected Property, in whole or in part, without first offering the Protected Property for sale to Grantees pursuant to this Option; provided, however, that the following described transactions shall not trigger Grantees' rights under this Option:

- a) Any mortgage, pledge, or other assignment of the Protected Property to a lender as security for indebtedness, provided the Grantees' interest under this Option is treated as an interest in real estate such that in the event of foreclosure Grantees are deemed necessary parties defendant in such foreclosure case and have the right to redeem the Protected Property from the foreclosure action; and
- b) Any conveyance of the Grantor, by gift, inheritance, sale or other transfer, to Grantor's family, defined as: (a) any spouse of Grantor and any persons related to Grantor by blood to the 4th degree of kinship or by adoption, together with spouses of family members, (b) a corporation, partnership or other entity which is wholly owned and controlled by Grantor or Grantor's family (as defined herein), (c) any estate of Grantor or Grantor's family, and (d) all owners of a Grantor corporation, partnership, trust or other entity who are related to each other by blood to the 4th degree of kinship or by adoption, together with spouses of family members; and
- c) Any conveyance of the Protected Property to a person who presently earns at least one-half of his or her annual gross income from the "business of farming," as that term is defined in Regulation 1.175-3 issued under the Internal Revenue Code of 1986 and who, in connection with the farming operations on the Protected Property, will continue to earn at least one-half of his or her annual gross income from the "business of farming" ("a Qualified Farmer"); and

- d) Any lease to a Qualified Farmer or a lease having a term of 15 years or less, including renewal rights; provided, however, that any such lease shall expressly provide that, unless otherwise agreed by Grantees, the lease shall terminate and possession shall be delivered free and clear of any rights of the tenant upon a closing of the sale of the Protected Property following exercise of this Option.

This Option shall apply to all other sales and conveyances of the Protected Property, including any sale or conveyance of any interest in the Protected Property including any conveyance by, or conveyance of any interest in a corporation, limited liability company, partnership or other holding entity.

2. **Notice of Intent to Sell.** Whenever Grantor receives an offer from a person or persons ("Buyer") to purchase or lease for a term in excess of fifteen (15) years, including renewal rights, all or any part of the Protected Property including an offer involving property other than the Protected Property ("the Offer"), and Grantor accepts the Offer subject to this Option, Grantor shall deliver to Grantees at their principal places of business by certified mail, return receipt requested a Notice of Intent to Sell, which notice shall include:

- a) A complete duplicate of the Offer, together with such other instruments as may be required to show the bona fides of the Offer; and
- b) A written description of the Buyer's training and experience as an agricultural producer and an agricultural business plan for the Protected Property, including a description of the agricultural activities to be conducted or facilitated by Buyer, proposed improvements to the Protected Property, and a statement of anticipated agricultural income and expenses for the three-year period following Buyer's acquisition of the Protected Property or, if Buyer has no such training and experience or intention of operating an agricultural business on the Protected Property, a written statement to that effect; and
- c) If the Buyer is purported to be a Qualified Farmer or family member, the documents necessary to establish the Buyer as such, including the Buyer's most recent federal income tax filing, if applicable; and
- d) The Grantor's current mailing address.

Information delivered to Grantees pursuant to this clause shall remain confidential and shall not be released to any person or entity not a party to this Grant, without the prior consent of Grantor.

3. **Exercise of Option.** This Option may be exercised by Grantees as follows:

- a) A Grantee shall give written Notice of Intent to Exercise not more than thirty (30) days following receipt of the Notice of Intent to Sell described in Section 2 of this Option; failure by a Grantee to provide such notice shall constitute a waiver of its rights under this Option; and
- b) Thereafter, Grantor and Grantee shall fix the purchase price for the Protected Property by establishing a Price Agreement in the manner described in Section 4 of this Option, below.
- c) A Grantee shall exercise this Option by giving written Notice of Intent to Purchase not more than thirty (30) days following Grantor's and Grantee's establishment of the Price Agreement.

Notices required by this Section number 3 shall be delivered to Grantor either personally or by certified mail, return receipt requested to the address provided by Grantor in the Notice of Intent to Sell described in Section 2 of this Option, above. In the event that more than one Grantee exercises this Option, the Vermont Land Trust, Inc. shall have first priority, the Vermont Housing and Conservation Board second priority, and the Vermont Agency of Agriculture, Food and Markets third priority. The Grantee with highest priority which exercises this Option is hereafter referred to in Sections 4, 5 and 6 of this Option as "Grantee."

4. **Purchase Price.** The Purchase Price shall be determined by mutual agreement of Grantor and Grantee; provided that if no such agreement can be reached, the purchase price of the land only shall be the greater of:

- a-1) \$411,681.00 plus an inflation adjustment determined by multiplying the foregoing value by 1 (one) plus the fractional increase calculated from the date hereof in the Consumer Price Index for all Urban Consumers, Northeast, All Items published by the Bureau of Labor Statistics, U.S. Department of Labor, or a successor index published by the United States government to the date of the Offer; or
- a-2) The full fair market value of all Protected Property land subject to the Offer (including the site of any structures) assuming its highest and best use is commercial agricultural production commonly occurring within the market area where the Protected Property is located on the date of the Offer, as determined by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee. Permanently installed land improvements, such as in-ground irrigation systems, farm roads, and drainage tiling shall be considered part of the land. This appraisal shall take into consideration the permitted and restricted uses set forth in, and

the impact on value caused by the Grant.

With respect to any agricultural, forestry or minor incidental structures and improvements in existence as of the date of the Offer, then in addition to the foregoing land value, the Purchase Price shall also include:

- b) The value of all such structures and improvements on the Protected Property as of the date of the Offer excluding all land (which is included in the valuation in Section 4a of this Option, above). The value of the structures and improvements shall be determined using the replacement cost approach to valuation (i.e., the cost to replace the structures and improvements with those of comparable size and utility, less depreciation and functional obsolescence) by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee.

With respect to any residence(s) in existence as of the date of the Offer, then in addition to the foregoing land value, the Purchase Price shall also include:

- c) The value of the residence and its appurtenant structures and improvements as of the date of the Offer excluding the value of the land upon which these structures sit (which is included in the valuation in Section 4a of this Option, above). The value of the residence and appurtenant structures and improvements shall be determined using the replacement cost approach to valuation (i.e., the cost to replace the residence, structures and improvements with those of comparable size and utility, less depreciation and functional obsolescence) by a mutually approved disinterested appraiser selected by Grantor and Grantee, with the expense of such appraisal divided equally between Grantor and Grantee.

Grantor and Grantee shall establish the Purchase Price by either entering into a written agreement fixing the Purchase Price as provided in this Section 4 of the Option, within ten working days of reaching mutual agreement or, if no such agreement is reached, the Purchase Price shall be based upon the values determined in accordance with this Section 4 of the Option) which shall be the Purchase Price unless another Purchase Price is mutually agreed upon in writing by the parties within ten working days after the last party's receipt of all appraisals commissioned in accordance with this Section 4 of the Option. The passage of said ten working days shall constitute the effective date of establishing the Purchase Price. ("Price Agreement")

5. **Entry onto the Protected Property.** After receiving the notice from Grantor described in Section 2 of this Option, above, and upon reasonable notice to the Grantor, the Grantee shall have the right to enter upon the Protected Property from time to time for the purpose of preparing for the purchase and disposition of the Protected Property, including but not limited to preparing appraisals, conducting soils tests or engineering studies, advertising,



showing prospective buyers or assignees, or obtaining other information about the Protected Property. Grantee's entry onto or testing of the Protected Property shall be conducted in a manner that minimizes any disturbance to the land and to the use and enjoyment of the Protected Property by the Grantor or any tenants in possession.

6. **Closing of the Purchase.** If this Option is exercised, the parties shall close on the sale on or before thirty (30) days from the delivery of the Notice of Intent to Purchase described in Section 3c of this Option, above, unless otherwise agreed. The following conditions shall apply to said closing:

- a) Grantor shall, by Vermont Warranty Deed, deliver good, clear, record and marketable title to the Grantee, free of all liens or other encumbrances (including discharge or release of outstanding mortgages), sufficient for the Grantee to secure title insurance at Grantee's sole expense. Grantee agrees to accept title subject to (i) customary utility distribution easements, (ii) rights of the public to use roads laid out by municipalities, the state or federal government, (iii) rights of way and other easements that do not, in the Grantee's opinion, materially impair beneficial use of the Protected Property; and (iv) the terms and conditions of this Grant. The state of title to the Protected Property shall be determined by a title examination paid for by the Grantee.
- b) Grantor agree to use reasonable efforts to deliver marketable title as set forth in Section 6a of this Option, above. In the event Grantor are unable to give marketable title, then the Grantee may elect to terminate its exercise of this Option. The Grantee shall have the right to elect to accept such title as Grantor can deliver and to pay the purchase price without reduction.
- c) Grantor agrees to obtain at their sole expense any and all permits and approvals required under law or regulation for the conveyance of the Protected Property to Grantee under this Option. The parties shall extend the closing date as necessary to enable Grantor to obtain all such final permits and approvals.
- d) Grantor represents to Grantee that Grantor is not aware of any hazardous waste having been dumped or placed upon the Protected Property. Grantor will update this representation in writing upon the Grantee's delivery of the Notice of Intent to Exercise described in Section 3a of this Option, above. Grantor agrees that the Grantee may, at the Grantee's expense, perform any and all tests and/or inspections necessary to confirm these representations. In the event that the Grantee discovers that hazardous wastes have been dumped or placed upon the Protected Property, the Grantee may at the Grantee's option declare its exercise of this Option to be null and void.

- e) The Grantor and the Grantee shall prorate property taxes as of the date of closing.
- f) The Grantor shall not physically alter the Protected Property or the improvements on the Protected Property or enter into any lease after a Grantee delivers the Notice of Intent to Exercise provided in Section 3a of this Option, above, and while the Grantee may purchase pursuant thereto, except to perform generally accepted agricultural practices and normal repairs. In the event any structure is substantially destroyed by fire or other casualty, Grantee may elect to (1) proceed to closing and accept the proceeds of any insurance policy Grantor may have with respect to such destruction; or (2) if such insurance proceeds are less than the value of the structure as determined under Section 4 of this Option, above, proceed to closing and accept the proceeds of said insurance policy and reduce the purchase price by the difference between such value and insurance proceeds; or (3) withdraw its election to exercise this Option.
- g) The Protected Property shall be conveyed free of all leases, tenancies, tenants and occupants, unless Grantee otherwise agrees in writing.
- h) All personal property, livestock, machinery and equipment not included in the sale shall be removed from the Protected Property, and all other waste and debris shall be removed from the Protected Property prior to closing. Grantor and Grantee will jointly inspect the Protected Property 24 hours prior to closing.
- i) After closing, this Option shall remain in full force and effect with respect to all subsequent conveyances of the Protected Property, except as identified in Section 1 of this Option, above.

7. **Partial Release of Option.** At the request of Grantor, Grantees shall execute a partial release of their rights under this Option Agreement ("the Partial Release"), and upon the first to occur of the following events, the Grantees shall immediately deliver the Partial Release to the Orwell Town Clerk for recording in the Orwell Land Records:

- a) Grantees' failure to deliver the Notice of Intent to Exercise as described in Section 3a of this Option, above;
- b) Grantees' failure to deliver the Notice of Intent to Purchase as described in Section VI(3)(c), above; or
- c) Grantees' election to terminate its exercise of this Option based on title defects as provided in Section VI(6)(b), hazardous materials as provided in Section 6d of this Option, or destruction of structures as provided in Section 6f of this Option.

Should no Grantee exercise this Option as provided in Section 3 of this Option, above, or should a Grantee fail to close following its delivery of the Notice of Intent to Purchase, Grantor may proceed to close on the sale to the Buyer on the terms and conditions described in the Notice of Intent to Sell, within twelve (12) months of the delivery of said Notice to Grantees. Provided, however, this Option shall remain in full force and effect with respect to all subsequent conveyances of the Protected Property, except as identified in Section 1 of this Option above.

8. **Partial Assignment by Grantees.** A Grantee may partially assign its rights under this Option, provided:

- a) No such assignment shall be made prior to Grantor and Grantee establishing the Price Agreement described in Section 4 of this Option, above;
- b) Such assignment shall be in writing, with the assignee undertaking to discharge all obligations of Grantee with respect to purchase of the Protected Property, and a copy of the written assignment shall be delivered to Grantor;
- c) The assignee shall be a party which, in the reasonable opinion of the Grantee, will use or will facilitate the use of the Protected Property for commercial agricultural production; and
- d) The partial assignment shall pertain only to a single exercise of this Option in response to a discrete Notice of Intent to Sell delivered to Grantees. While no consent of Grantor shall be required for said single exercise, no Grantee shall otherwise assign all of its rights and interests under this Option without the prior written consent of Grantor.

8) To correct an error, Schedule C is hereby deleted in its entirety and the following is substituted for it:

**SCHEDULE C  
FARMSTEAD COMPLEX**

The Farmstead complex consists of eight (8) acres, more or less, located adjacent to and easterly of Young Road (Town Highway #36), and is more particularly described as follows, all bearings are referenced to "Grid North":

Beginning at a point on the easterly sideline of the Young Road right of way (assumed 3 rod width) said point being in a northerly direction 1,410 feet along the easterly sideline of the Young Road right of way from a northwest corner of lands n/f Martel; thence proceeding North 3° 30' West 220 feet more or less, along the easterly sideline of the Young Road right of way; thence turning and proceeding

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North 5° 30' West 180 feet more or less, along the easterly sideline of the Young Road right of way; thence turning and proceeding  
North 5° 15' West 125 feet more or less, along the easterly sideline of the Young Road right of way; thence turning and proceeding  
North 89° East 165 feet more or less, across the Protected Property; thence turning and proceeding  
North 2° East 220 feet more or less, across the Protected Property; thence turning and proceeding  
South 89° 30' East 170 feet more or less, across the Protected Property; thence turning and proceeding  
North 2° East 140 feet more or less, across the Protected Property; thence turning and proceeding  
South 89° 15' East 235 feet more or less, across the Protected Property; thence turning and proceeding  
South 0° 45' West 540 feet more or less, across the Protected Property; thence turning and proceeding  
South 2° 30' West 130 feet more or less, across the Protected Property; thence turning and proceeding  
South 89° 30' West 65 feet more or less, across the Protected Property; thence turning and proceeding  
South 46° 30' West 95 feet more or less, across the Protected Property; thence turning and proceeding  
South 73° 30' West 90 feet more or less, across the Protected Property; thence turning and proceeding  
South 85° 45' West 190 feet more or less, across the Protected Property; thence turning and proceeding  
South 1° West 100 feet more or less, across the Protected Property; thence turning and proceeding  
South 87° 45' West 115 feet more or less, across the Protected Property to the point of beginning.

8)9) \_\_\_\_\_ In all other respects, the Grant remains unchanged and in full force and effect.

TO HAVE AND TO HOLD said development rights, conservation restrictions and option to purchase, as described in the Grant as hereby amended, with all the privileges and appurtenances thereof, to the said Grantees, **VERMONT LAND TRUST, INC., and VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS and VERMONT HOUSING AND CONSERVATION BOARD**, and their respective successors and assigns, to their own use and behoof forever; and **MARK J. MORDASKY and LAUREN E. MORDASKY**, for themselves and their heirs, executors, administrators, successors and assigns, do covenant with the said Grantees, **VERMONT LAND TRUST, INC. and VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS and VERMONT HOUSING AND CONSERVATION BOARD**, and their respective successors and assigns, that until the ensembling of these presents, they are the sole owners of said premises, and have good right and title to convey the same in manner aforesaid, that they are free from every encumbrance, except those of record, not intending to reinstate any interest or right terminated by operation of law, abandonment or 27 V.S.A Ch. 5, Subch 7,

and they hereby engage to warrant and defend the same against all lawful claims whatever,  
except as aforesaid.

The Grantor and the duly authorized agents of the respective Grantees set their hands  
and seals this \_\_\_\_ day of \_\_\_\_\_, 2015.

GRANTOR

\_\_\_\_\_  
Mark J. Mordasky

\_\_\_\_\_  
Lauren E. Mordasky

GRANTEES

Vermont Land Trust, Inc.

By: \_\_\_\_\_  
Its Duly Authorized Agent

Vermont Agency of Agriculture, Food and Markets

By: \_\_\_\_\_  
Its Duly Authorized Agent

Vermont Housing and Conservation Board

By: \_\_\_\_\_  
Its Duly Authorized Agent

STATE OF VERMONT  
\_\_\_\_\_ COUNTY, ss

At \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2015, Mark J. Mordasky and Lauren E. Mordasky  
personally appeared and they acknowledged this instrument, by them sealed and subscribed, to  
be their free act and deed, before me.

\_\_\_\_\_



Second Amendment to  
Grant of Development Rights, Conservation Restrictions and Right of First Refusal  
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Notary Public  
My Commission Expires: 2/10/2019

STATE OF VERMONT  
\_\_\_\_\_ COUNTY, ss

At Montpelier, this \_\_\_\_ day of \_\_\_\_\_, 2015 \_\_\_\_\_, duly authorized agent of the Vermont Land Trust, Inc., personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the Vermont Land Trust, Inc., before me.

\_\_\_\_\_  
Notary Public  
My commission expires: 2/10/2019

STATE OF VERMONT  
WASHINGTON COUNTY, ss

At Montpelier, this \_\_\_\_ day of \_\_\_\_\_, 2015, \_\_\_\_\_, duly authorized agent of the Vermont Agency of Agriculture, Food and Markets, personally appeared and he/she acknowledged this instrument, by him/her sealed and subscribed, to be his/her free act and deed and the free act and deed of the Vermont Agency of Agriculture, Food and Markets, before me.

\_\_\_\_\_  
Notary Public  
My commission expires: 2/10/2019

STATE OF VERMONT  
WASHINGTON COUNTY, ss

At Montpelier, this \_\_\_\_ day of \_\_\_\_\_, 2015 \_\_\_\_\_, duly authorized agent of the Vermont Housing and Conservation Board, personally appeared and he acknowledged this instrument, by him sealed and subscribed, to be his free act and deed and the free act and deed of the Vermont Housing and Conservation Board, before me.

\_\_\_\_\_  
Notary Public  
My commission expires 2/10/2019

Second Amendment to  
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Project Name: Huntley-Lubert Farm, 400050