

FIFTH AMENDMENT TO AGREEMENT

THIS FIFTH AMENDMENT TO LEASE AND AGREEMENT (Fifth Amendment) made and entered into as of _____, 2022, (Effective Date) is entered into between the CITY OF FRESNO, a California municipal corporation (Lessor), and James Cook, an individual (Lessee).

RECITALS

WHEREAS, the Lessor and Lessee entered into a "Lease and Agreement Between City of Fresno and James Cook Regarding Fresno-Clovis Regional Wastewater Reclamation Facility Properties and Effluent for APNs: 327-030-41, 327-030-22s, 327-040-08, 327-040-11, 327-040-26," effective January 1, 2017 (Agreement), for Lessee to lease five parcels at Lessor's Fresno-Clovis Regional Wastewater Reclamation Facility (Leased Premises); and

WHEREAS, in accordance with the terms of the Agreement, Lessee has been using the Leased Premises to cultivate and harvest fiber, feed, seed, and food crops/products to be used solely for non-human consumption and has been irrigating the Leased Premises with recycled undisinfected secondary effluent; and

WHEREAS, the Lessor and Lessee through a First Amendment to Agreement modified the Agreement by removing one of the parcels (APN 327-030-41) from the leasehold as of January 1, 2019, and adjusted the fees accordingly; and

WHEREAS, the Lessor and Lessee through a Second Amendment to Agreement modified the Agreement by adding a parcel (APN 327-030-38T) to the leasehold as of April 1, 2019, adjusted the fees accordingly, and allowed for five one-year renewal options; and

WHEREAS, the Lessor and Lessee through a Third Amendment to Agreement removed one of the parcels (APN 327-030-38T) from the leasehold and adjusted the fees accordingly, and extended the Agreement through December 31, 2020; and

WHEREAS, through a Fourth Amendment to the Agreement, the Lessor forbore the April 15 and July 15 rental fee installments through December 31, 2020; and

WHEREAS, a new project will be taking over a portion of APN 327-030-22s of approximately 91 acres currently farmed by the Lessee and Lessee wish to continue farming on the remaining 36 acres of that APN.

AMENDMENT

NOW, THEREFORE, in consideration of the above recitals, which recitals are contractual in nature, the mutual promises herein, and for good and valuable consideration hereby acknowledged, the parties hereby agree that the aforesaid Agreement is amended as follows:

1. Lease Article I Section A, Grant and Description of Leased Premises is amended to read as follows:

"APN 327-030-22S, 36 acres"

2. Lease Article II Section A, Annual Rental Fee and Due Date is amended to read as follows:

“Commencing on the Effective Date of this Lease and continuing thereafter during the term of this Lease, as additional consideration to the public purposes and uses underlying this Lease including disposition and recycling of Effluent, Lessee shall pay to Lessor and annual rental fee for the Leased Premises according to the following schedule, subject to non-renewal/earlier termination as provided in this Lease:

- Year 2022 \$189,908.00
- Year 2023 \$189,908.00
- Year 2024 \$189,908.00”

3. This Fifth Amendment shall become part of and subject to the terms and conditions of the Agreement, which except as modified herein, remains unchanged and in full force and effect.

4. Should any term and condition expressly set forth in this Fifth Amendment conflict with the terms and conditions of the Agreement, the terms and conditions expressly set forth in this Fifth Amendment will prevail.

5. By signing below, the undersigned certify that they have read and understand, and agree to be legally bound by this Fifth Amendment.

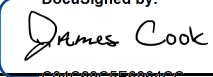
[Signatures follow on the next page]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the day and year first above written.

CITY OF FRESNO,
A California municipal corporation

By: _____
Director Georgeanne white Date
Department of Public Utilities

JAMES COOK,
An individual:

By:  _____ 12/29/2021
Name: James Cook
Date

Title: an individual

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By:  _____ 1/4/2022
Jennifer M. Quintanilla Date
Senior Deputy City Attorney

ATTEST:
TODD STERMER, CMC, MMC
City Clerk

By: _____
Clerk Attesting Date
Deputy

Addresses:
LESSOR:
City of Fresno
Attention: Ms. Jennifer Loving-Biggert
Project Manager
5607 W. Jensen Ave
Fresno, CA 93706
Phone: (559) 621-5130
FAX: (559) 498-1700

LESSEE:
Mr. James Cook
4042 S. Academy
Sanger, CA 93657
Phone: (559) 307-6272
FAX: N/A