

## **FIRST AMENDMENT TO AGREEMENT**

THIS FIRST AMENDMENT TO LEASE AND AGREEMENT (Amendment) made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018, is entered into between the CITY OF FRESNO, a California municipal corporation (hereinafter referred to as the 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; and

WHEREAS, the Lessor and Lessee now desire to modify the Agreement by removing one of the parcels from the Agreement as of January 1, 2019, and adjusting the fees accordingly, as set forth below.

### **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 Lease Premises, the first line citing APN numbers is amended to read:

"APN 327-030-41, 65 acres, for Years 2017 and 2018 only."

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 then 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 an annual rental fee for the Leased Premises according to the following schedule, subject to non-renewal/earlier termination as provided in this Lease:

- Year 2017     \$265,100     (January 1, 2017 through December 31, 2017)
- Year 2018     \$265,100     (January 1, 2018 through December 31, 2018)
- Year 2019     \$233,770     (January 1, 2019 through December 31, 2019)
- Year 2020     \$233,770     (Option 1 Extension)
- Year 2021     \$233,770     (Option 2 Extension)

Total annual rental fee in Years 2017 and 2018 hereunder shall be due and payable in advance in four equal installments (\$66,275 each) due and payable on each January 15<sup>th</sup>; April 15<sup>th</sup>; July 15<sup>th</sup> and October 15<sup>th</sup> hereunder. The annual rental fees due hereunder for any period less than a full calendar year shall be prorated.

Total Annual rental fee for Years 2019-2021 shall be due and payable in advance in four equal installments (\$58,442.50 each), due and payable on each January 15<sup>th</sup>, April 15<sup>th</sup>, July 15<sup>th</sup> and October 15<sup>th</sup> hereunder."

3. This 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 or condition expressly set forth in this Amendment conflict with the terms and conditions of the Agreement, the terms and conditions expressly set forth in this Amendment will prevail.

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

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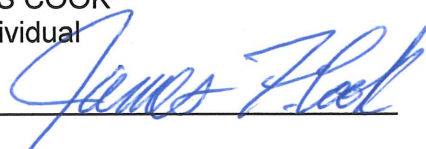
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IN WITNESS WHEREOF, the parties have executed this Amendment, at Fresno, California, the day and year first above written.

CITY OF FRESNO,  
a California municipal corporation

By: \_\_\_\_\_  
Brian S. Spindor  
Assistant Director  
Department of Public Utilities

JAMES COOK  
an individual

By:  \_\_\_\_\_  
James Cook  
Farm Operator

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By: \_\_\_\_\_  
Amanda Freeman, Senior Deputy

ATTEST:  
YVONNE SPENCE, CMC  
City Clerk

By: \_\_\_\_\_  
Deputy

Addresses:

City of Fresno - Regional Wastewater  
Reclamation Facility  
Attn: Mr. Conrad Braganza  
5607 W. Jensen Avenue  
Fresno, CA 93706

Mr. James Cook  
4042 S. Academy  
Sanger, CA 93657