

REPORT TO THE CITY COUNCIL

December 12, 2019

FROM: MICHAEL CARBAJAL, Director
Department of Public Utilities

THROUGH: BRIAN S. SPINDOR, PE,^(WA) Assistant Director
Department of Public Utilities – Wastewater Management Division

BY: ROSA LAU-STAGGS, Wastewater Manager - Environmental Services
Department of Public Utilities – Wastewater Management Division

SUBJECT

..Title

Actions related to Lease Agreement of City-owned land at the Fresno-Clovis Regional Wastewater Reclamation Facility (RWRF) (Council District 3):

1. Adopt findings of Categorical Exemptions pursuant to Sections 15301/Class 1, 15304/Class 4, and 15325 /Class 25 of the California Environmental Quality Act (CEQA) Guidelines.
2. Approve a Third Amendment to the Lease and Agreement with Mr. James Cook for 550 acres of City-owned land at the RWRF, deleting APN 327-030-38T to the leasehold, with a revised revenue of \$233,770 per year.
3. Approve first one-year extension of the Lease and Agreement for the period of January 2020 to December 2020.

..Body

RECOMMENDATIONS

Staff recommends City Council adopt findings of Categorical Exemptions pursuant to Section 15301, 15304, and 15325 of the CEQA Guidelines; approve a Third Amendment to the Lease and Agreement (Lease) with Mr. James Cook, an individual, deleting APN 327-030-38T to the leasehold as of October 24, 2019, and authorizing the Department of Public Utilities Director or designee to execute the Third Amendment on the City's behalf.

EXECUTIVE SUMMARY

On December 8, 2016, the City Council approved the Lease between the City of Fresno and Mr. James Cook for the lease of various APNs totaling 550 acres of City-owned land at the RWRF. The Lease permits the lessee to plant non-food crops irrigated with secondary treated wastewater or final effluent (Direct Reuse) provided by the RWRF. The term of the Lease is January 1, 2017, through December 31, 2019, with the option of two one-year extensions. The First Amendment removed APN 327-030-41 from the Lease. The Second Amendment added APN 327-030-38T and three additional options for one-year extensions to the Lease totaling five one-year extensions. The Third Amendment deletes APN 327-030-38T. The cost of the lease after approval of this amendment

and subsequent optional extensions will be \$233,770 per year for a total revenue of \$1,168,500 if all five (5) one-year extensions are exercised.

BACKGROUND

Wastewater Management Division (WMD) operates the RWRF which is regulated under Waste Discharge Requirements (WDR) Order No. R5-2018-0080 issued by the California Regional Water Quality Control Board, Central Valley Region (Board). The Board encourages use of recycled water to reduce the amount of secondary treated wastewater (effluent) sent to disposal ponds. WMD leases several tracts of land within the boundaries of the RWRF and recycled water is provided to farmers furthering the use of this valuable resource. Recycled water at the secondary treatment level produced at the RWRF meets Title 22 Recycled Water Criteria and can only be used to irrigate crops not for human consumption, such as cotton, or crops used for animal feed, such as alfalfa, Sudan grass, forage, winter wheat, silage corn and other fibrous crops.

The City advertised for the lease of various APNs at the RWRF in the classified section of the local newspaper. Information forms were sent to area farmers and parties inquiring about the lease of the property. Three farmers submitted lease proposals. Mr. James Cook was determined to provide the best value for the City of Fresno at \$482.00 per acre for a total of 550 acres (all parcels).

On December 8, 2016 the City Council approved the Lease with Mr. Cook. The Lease, is for a period from January 1, 2017 through December 31, 2019, with an option of two one-year extensions at rate of \$265,100.00 per year, totaling \$795,300 or \$1,325,500 if the two one-year options are exercised. On January 1, 2019 65 acres were removed (First Amendment) from the Lease adjusting the annual rate to \$233,770. The Second Amendment added 51 acres to the Lease starting April 1, 2019, and adjusted the annual rate to \$258,352.00 with three additional one-year extensions for a total of five (5) one year extensions after expiration of the Lease and Agreement.. The City Council approved the Second Amendment with conditions which include seeking Council approval prior to the granting of the first one-year extension.

This Third Amendment deletes 51 acres and adjusts the annual rate to \$233,770 with one last quarterly payment of \$58,442.50 due by December 2019.

The Lessee has submitted a request to extend the Lease and Agreement for the period of January 2020 through December 2020. This is the first of five optional extensions as indicated in the Lease and Agreement at the annual rate of \$233,770. If all five one-year extensions are exercised, revenues will be \$1,168,500 to the Wastewater Management Division Enterprise Fund.

The City Attorney has reviewed and approved the Third Amendment as to form.

ENVIRONMENTAL FINDINGS

Staff has performed Environmental Assessment No. P19-03800 of this project and has determined that it falls within the Categorical Exemption set forth in section 15301 (Class 1/Existing Facilities) for the CEQA guidelines which exempts operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public structures and facilities involving no expansion of use beyond that existing at this time because the authorized use specifically included in the Lease and Agreement continues the historical use of the properties for agricultural purposes.

Staff has determined that it also falls within the Categorical Exemption set forth in section 15304 (Class 4/Minor Alterations to Land) of the CEQA guidelines which applies to minor alterations in the condition of land, water, and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry or agricultural purposes, because the limitations of use expressly prohibit the construction of improvements as well as the alteration, improvement, or removal of trees upon the leased premises, minimizing possible alterations.

Staff has determined that the Lease and Agreement also falls within the Categorical Exemption set forth in section 15325(Class 25/Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources) of the CEQA guidelines which applies to the preservation of open space, habitat, or historical resources and specifically to the acquisition, sale, or other transfer of areas to allow continued agricultural use of the areas, because the Lease and Agreement continues the agricultural use of the property.

Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

LOCAL PREFERENCE

Local preference was not considered because a bid or award of a construction or services contract is not included.

FISCAL IMPACT

There is no fiscal impact. The cost per acre remains at \$482. Anticipated gross revenues after the amendment is \$58,442.50 for the remainder of the Lease (December 31, 2019). The annual revenue will be adjusted to \$233,770, with a total \$1,168,850 if the five one-year extensions are exercised that will go to the Wastewater Enterprise Fund.

Attachments:

Attachment 1 - Third Amendment to Lease and Agreement between the City of Fresno and James Cook for the lease of 550 acres of farmland at the Fresno-Clovis RWRF

Attachment 2 - Second Amendment to Lease and Agreement between the City of Fresno and James Cook for the lease of 550 acres of farmland at the Fresno-Clovis RWRF

Attachment 3 - First Amendment to Lease and Agreement between the City of Fresno and James Cook for the lease of 550 acres of farmland at the Fresno-Clovis RWRF

Attachment 4 - Lease and Agreement between the City of Fresno and James Cook for the lease of 550 acres of farmland at the Fresno-Clovis RWRF

Attachment 5 – Memorandum Leasehold Values for Farmland at the RWRF. Lease Process and Regulations

Attachment 6 – Request for a one-year extension of Land Lease by James Cook