

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (the "Amendment"), made this ____ day of _____ 2016, by and between CITY OF STOCKTON, a municipal corporation in the County of San Joaquin, State of California, hereinafter referred to as "CITY," and ROY YATES, hereinafter referred to as "LESSEE."

RECITALS

- A. On October 6, 2014, the CITY and LESSEE executed a Lease Agreement for the lease of excess land located at the Delta Water Supply Project (DWSP) site ("Lease Agreement").
- B. Section 3 of the Lease Agreement states the term of this lease shall be for a period of two (2) years commencing on September 1, 2014 and terminating on August 31, 2016.
- C. Section 4 of the Lease Agreement states LESSEE shall have the option to renew under the same terms and conditions for an additional period of one (1) year upon written request by LESSEE to CITY sixty (60) days in advance of termination of lease period, subject, however, to the approval of the City Manager.
- D. Section 5 of the Lease Agreement states lease of said premises described in Exhibit A, shall be at the rate of TWO THOUSAND FIVE HUNDRED SIXTY DOLLARS (\$2,560) per year payable no later than September 1 of each year that the lease remains in effect. Water provided by the Lessor will be available at the fire hydrant along the south access road for stock watering only for a fee to be paid by LESSEE. Billing for water will be at the current rate for Hydrant Meter Rental and subsequent increases on a monthly basis. The current rate is \$50.00 for installation of meter, \$95.15 per month for meter rental and \$3.22 per 100 cubic feet consumed.

AMENDMENT

The Agreement is hereby amended as follows:

- 1. The term "five (5) years commencing on September 1, 2014 and terminating on August 31, 2019" is inserted in place and in lieu of "two (2) years commencing on September 1, 2014 and terminating on August 31, 2016" in Section 3 of the Lease Agreement.
- 2. The term "one (1) additional five (5) year term" is inserted in place and in lieu of "an additional period of one (1) year" in Section 4 of the Lease Agreement.

3. The following term is added to Section 5 of the Agreement:

“5.1 ADJUSTMENT TO LEASE AMOUNT. The minimum yearly lease amount provided in Section 5. LEASE AMOUNT shall be subject to adjustment at the commencement of the 3rd year of the term and every year thereafter.

The base for computing the adjustment is the Consumer Price Index (All Urban Consumers – All Items) in San Francisco area, published by the United States Department of Labor, Bureau of Labor Statistics (“Index”), which is published for the second month prior to the month in which the term commences September 2016, or the month in which the most recent Calculation Period commences (“Beginning Index”). The period between each adjustment date and the next adjustment date, is referred to herein as the “Calculation Period.” If the index published for the second month immediately preceding the month of the adjustment date (“Extension Index”) has increased over the Beginning Index, the adjusted minimum yearly rent for the following year period shall be set by multiplying the minimum monthly rent, as previously adjusted, by a fraction, the numerator of which is the Extension Index and denominator of which is the Beginning Index. If the Extension Index is equal or less than the Beginning Index, no adjustment shall be made to the minimum yearly rent as previously adjusted. This automatic adjustment shall be calculated using the following formula:

$$A = M \times B/C$$

A = Adjusted minimum monthly rent.

M = Minimum monthly rent stated in Section 5, or in effect at the beginning of the current Calculation Period.

B = “Extension Index,” the Index published for the second month prior to the month in which each rental rate adjustment is to become effective.

C = “Beginning Index,” the Index published for the second month prior to the month in which the term commences or in which the current Calculation Period commences.

In no event shall the minimum yearly rent be reduced by any calculation made pursuant to this section.

If the index is changed so that the base year differs from that used in calculating the Beginning Index, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of the lease, any similar index published by an branch of the United States Government shall be used in order to obtain substantially the same result as if the Index had not been discontinued or revised, and if no such other index is published, another index generally recognized as authoritative shall be substituted by City.”

4. All other terms and provisions of the original Lease Agreement are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

Dated: _____

"LESSEE"

ROY YATES

"CITY"

CITY OF STOCKTON

APPROVED AS TO FORM AND CONTENT

JOHN M. LUEBBERKE
CITY ATTORNEY

By: _____
LAURIE MONTES
DEPUTY CITY MANAGER

By: DEPUTY CITY ATTORNEY