



ORIGINAL

Contract Number
15-720 A-1

SAP Number

Real Estate Services Department

Department Contract Representative	<u>Terry W. Thompson, Director</u>
Telephone Number	<u>(909) 387-5252</u>
Contractor	<u>American Beef Packers, Inc.</u>
Contractor Representative	<u>Gerben Hettinga</u>
Telephone Number	<u>(951) 218-1994</u>
Contract Term	<u>10/15/2015 -10/31/2025</u>
Original Contract Amount	<u>\$314,947.00</u>
Amendment Amount	<u>\$414,000.00</u>
Total Contract Amount	<u>\$728,947.00</u>
Cost Center	<u>7801202734</u>
GRC/PROJ/JOB No.	<u>87003524</u>
Internal Order No.	<u></u>

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the County of San Bernardino ("COUNTY"), as landlord, and American Beef Packers, Inc. ("TENANT"), as tenant, have previously entered into a Lease Agreement, Contract No. 15-720 dated October 6, 2015 ("the Lease"), wherein the COUNTY leases certain premises, as more specifically set forth in the Lease, to TENANT for a term that is scheduled to expire October 31, 2020, and;

WHEREAS, the COUNTY and TENANT now desire to amend the Lease to extend the term of the Lease from November 1, 2020 through October 31, 2025 through a negotiated term extension and amend certain other terms and conditions of the Lease as more specifically set forth in this amendment ("First Amendment").

NOW, THEREFORE, in consideration of mutual covenants and conditions and the foregoing recitals, which are incorporated by reference, the parties hereto agree the Lease is amended as follows:

1. Effective November 1, 2020, EXTEND the term of the Lease in Paragraph 3., TERM, from November 1, 2020 through October 31, 2025 ("First Extended Term").
2. Effective November 1, 2020, DELETE in its entirety Paragraph 4., RENT, and SUBSTITUTE therefore a new Paragraph 4., RENT, which shall read as follows:

“4. **RENT:**

A. TENANT shall pay as rental for the use of the Premises in the sum of Four Hundred Fourteen Thousand and 00/100 Dollars (\$414,000.00) in equal monthly installments of Six Thousand Nine Hundred and 00/100 Dollars (\$6,900.00) in advance on the first day of each and every month of the First Extended Term commencing November 1, 2020 through October 31, 2025.

B. Rent payments shall be made payable to County of San Bernardino, and delivered via United States First Class Mail to: Real Estate Services Department, 385 N. Arrowhead Avenue, San Bernardino, CA 92415-0180. Rent for any partial month shall be prorated on the actual number of days in the month. Monthly rent will not be prorated or refunded if the Lease is terminated by TENANT either voluntarily or by breach of the covenants and conditions contained herein.

C. “Rent” shall mean all monetary obligations of TENANT to COUNTY under the terms of the Lease, except the security deposit. If any payment of Rent is returned for non-sufficient funds (“NSF”) or because TENANT stops payment, then, after that (i) COUNTY may, in writing, require TENANT to pay Rent in cash for three (3) months, and (ii) all future Rent shall be paid by cashier’s check. Rent payments received by COUNTY shall be applied to the earliest amount(s) due or past due. If TENANT has not paid all amounts then due, (i) TENANT has no right to possession or keys to the Premises and; (ii) this Lease is voidable at the option of the COUNTY two (2) calendar days after giving TENANT a Notice to Pay. Notice may be delivered to TENANT in accordance with Paragraph 36, provided that COUNTY may also provide notice to TENANT at TENANT’s last known address. If COUNTY elects to void this Lease, COUNTY shall refund to TENANT all unearned rent and security deposit paid.”

3. Effective November 1, 2020, DELETE in its entirety Paragraph 6., SECURITY DEPOSIT, and SUBSTITUTE therefore a new Paragraph 6., SECURITY DEPOSIT, which shall read as follows:

“6. **SECURITY DEPOSIT:** COUNTY currently holds a deposit of Eleven Thousand and 00/100 Dollars (\$11,000) to secure the faithful performance by TENANT of the terms of this Lease. Upon TENANT’s execution of the First Amendment, TENANT agrees to increase the security deposit by an additional Two Thousand Eight Hundred and 00/100 Dollars (\$2,800.00) for a total security deposit of Thirteen Thousand Eight Hundred and 00/100 Dollars (\$13,800.00). Said security deposit shall be held by COUNTY and may be used by COUNTY for any lawful purpose including, but not limited to, the compensation of COUNTY for TENANT’s default in the payment of rent, the repair of damages to the leased Premises caused by TENANT, in COUNTY’s discharge of TENANT’s repair and/or maintenance obligations. If used toward rent, repair, maintenance, or damages during the term of tenancy, TENANT agrees to reinstate said total security deposit upon five (5) days’ written notice delivered to TENANT in person or by mail. If used toward repair, maintenance, or damages during the term of tenancy, actual costs plus a twenty percent (20%) Management Overhead Fee will be utilized by COUNTY in COUNTY’ discharge of TENANT’s obligations. COUNTY may maintain the security deposit separate and apart from COUNTY’s rent revenue account or may commingle the security deposit with COUNTY’s rent revenue funds. COUNTY shall not be required to pay TENANT interest on security deposit. Payment of said security shall not in any manner affect TENANT’s obligation to timely pay in full any rent due pursuant to this Lease, including timely payment of the last months’ rent. Payment of said security deposit shall not affect TENANT’s obligations relative to any other provision of this Lease. Upon expiration of this Lease, COUNTY shall refund said security deposit to TENANT minus any outstanding obligations of TENANT due COUNTY at the time. Any costs incurred by the COUNTY to restore the Premises to rental condition (including any unpaid rent and damages) shall be withheld and any refund of TENANT’s security deposit shall be taken from said security deposit in the amount and manner established by Section 1950.5 of the California Civil Code. **THE SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF ANY RENT, INCLUDING BUT NOT LIMITED TO, THE LAST MONTH’S RENT. ”**

4. Effective November 1, 2020, DELETE in its entirety the existing Paragraph 7., OPTION TO EXTEND TERM, and SUBSTITUTE therefore the following as a new Paragraph 7., OPTION TO EXTEND TERM, which shall read as follows:

“7. **OPTION TO EXTEND TERM:** COUNTY gives TENANT the option to extend the term of the Lease on the same provisions and conditions, except for the monthly rent for one (1) two-year period

("extended term") following expiration of the First Extended Term, by TENANT giving written notice of its intention to exercise the option to COUNTY nine (9) months prior to the expiration of the preceding term. Monthly rent for the extended term shall be established by a determination of current market rent for comparable dairy properties in the County of San Bernardino."

5. Effective November 1, 2020, ADD a new sub-paragraph C to Paragraph 17, MAINTENANCE OF PREMISES, which shall read as follows:

"17. MAINTENANCE OF PREMISES

C. TENANT shall immediately notify COUNTY, in writing, of any problem, malfunction or damage with any item including carbon monoxide detector(s) and smoke alarms on the Premises."

6. Effective November 1, 2020, ADD new sub-paragraphs F, G, and H to Paragraph 21, SPECIAL COVENANTS AND AGREEMENTS, which shall read as follows:

"21. SPECIAL COVENANTS AND AGREEMENTS

F. Right to Pre-Move-Out Inspection and Repairs. (i) After giving or receiving notice of termination of a tenancy, or before the expiration of this Lease, TENANT has the right to request that an inspection of the Premises take place prior to termination or expiration of the Lease. If TENANT requests such an inspection, TENANT shall be given an opportunity to remedy identified deficiencies prior to termination or expiration, consistent with the terms of this Lease. (ii) Any repairs or alterations made to the Premises as a result of this inspection (collectively, "Surrender Repairs") shall be made at TENANT's expense. Surrender Repairs may be performed by TENANT or through others, who have adequate insurance and licenses and are approved by COUNTY. The Surrender Repair work shall comply with applicable law, including governmental permit, inspection and approval requirements. Surrender Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Surrender Repairs may not be possible. (iii) TENANT shall (a) obtain receipts for the Surrender Repairs performed by others; (b) prepare a written statement indicating the Surrender Repairs performed by TENANT and the date of such Surrender Repairs; and (c) provide copies of receipts and statements to COUNTY prior to termination or expiration. This paragraph 8.B. does not apply when the tenancy is terminated pursuant to California Code of Civil Procedure § 1161(2), (3), or (4).

G. If TENANT re-keys existing locks or opening devices, TENANT shall immediately deliver copies of all keys to COUNTY. TENANT shall pay all costs and charges related to loss of any keys or opening devices. TENANT may not remove locks, even if installed by TENANT.

H. Statutory Disclosures:

- a. **LEAD-BASED PAINT (If checked):** Premises were constructed prior to 1978. In accordance with federal law, COUNTY gives and TENANT acknowledges receipt of disclosures on the attached form ([lead-paint disclosure form i.e., C.A.R. Form FLD]) and a federally approved lead pamphlet.
- b. **PERIODIC PEST CONTROL (CHECK IF EITHER APPLIES):**
 - i. COUNTY has entered into a contract for periodic pest control treatment of the Premises and shall give TENANT a copy of the notice originally given to COUNTY by the pest control company.
 - ii. Premises is a house. TENANT is responsible for periodic pest control treatment.
- c. **METHAMPHETAMINE CONTAMINATION:** Prior to signing this Lease, COUNTY has given TENANT a notice that a health official has issued an order prohibiting occupancy of the property because of methamphetamine contamination. A copy of the notice and order are attached.

- d. **BED BUGS:** COUNTY has no knowledge of any infestation of the Premises by bed bugs. See attached Bed Bug Disclosure (C.A.R. Form BBD) for further information. TENANT shall report suspected bed bug infestation to COUNTY or, if applicable, property manager and cooperate with any inspection for and treatment of bed bugs.
- e. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Website maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (COUNTY is not required to check this website. If TENANT wants further information, TENANT should obtain information directly from this website.)
- f. **RESIDENTIAL ENVIRONMENTAL HAZARDS BOOKLET:** TENANT acknowledges receipt of the residential environmental hazards booklet.
- g. **MILITARY ORDNANCE DISCLOSURE:** Premises are located within one mile of an area once used for military training, and may contain potentially explosive munitions.
- h. **FLOOD HAZARD DISCLOSURE:** Flooding has the potential to cause significant damage to personal property owned by TENANT. See attached Tenant Flood Hazard Disclosure (C.A.R. Form TFHD) for additional information.
- i. **TENANT PROTECTION ACT OF 2019 NOTICE:** This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.

7. Effective November 1, 2020, DELETE in its entirety the existing Paragraph 22., COUNTY'S ENTRY ONTO PROPERTY, and SUBSTITUTE therefore the following as a new Paragraph 22., COUNTY'S ENTRY ONTO PROPERTY, which shall read as follows:

"22. COUNTY'S ENTRY ONTO PROPERTY

A. TENANT shall make Premises available to COUNTY or COUNTY's representative for the purpose of entering to make necessary or agreed repairs (including, but not limited to, installing, repairing, testing, and maintaining smoke detectors and carbon monoxide devices, and bracing, anchoring or strapping water heaters, or repairing dilapidation relating to the presence of mold); providing decorations, alterations, or improvements, or supplying necessary or agreed services; or showing the Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, contractors and others (collectively, "Interested Persons"). TENANT agrees that COUNTY and Interested Persons may take photographs of the Premises.

B. COUNTY and TENANT agree that 24-hour written notice shall be reasonable and sufficient notice, except as follows: (1) 48-hour written notice is required to conduct an inspection of the Premises prior to the TENANT moving out, unless the TENANT waives the right to such notice. (2) If COUNTY has in writing informed TENANT that the Premises are for sale, TENANT will be notified orally to show the Premises to actual or prospective purchasers. (3) No written notice is required if COUNTY and TENANT orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement. (4) No notice is required: (i) to enter in case of an emergency; (ii) if the TENANT is present and consents at the time of entry; or (iii) if the TENANT has abandoned or surrendered the Premises."

8. Effective November 1, 2020, DELETE in its entirety the existing Paragraph 40., COUNTY'S RIGHT OF EARLY TERMINATION, and SUBSTITUTE therefore the following as a new Paragraph., 40, COUNTY'S RIGHT OF EARLY TERMINATION, which shall read as follows:

"40. **COUNTY'S RIGHT OF EARLY TERMINATION:** COUNTY has the right to terminate this Lease at any time during the First Extended Term or any further extended terms whenever COUNTY, in its sole discretion, determines that it would be in the COUNTY's best interests to terminate this Lease by providing TENANT with at least 180-days' prior written notice in accordance with Paragraph 36., NOTICES. The COUNTY's Director of the Real Estate Services Department is hereby authorized to give TENANT notice of any termination pursuant to this paragraph on behalf of COUNTY."

9. All other provisions and terms of the Lease shall remain the same and are hereby incorporated by reference. In the event of conflict between this Lease and this First Amendment, the provisions and terms of this First Amendment shall control.

COUNTY: COUNTY OF SAN BERNARDINO

TENANT: AMERICAN BEEF PACKERS, INC.

Curt Hagman

Curt Hagman, Chairman, Board of Supervisors

OCT 27 2020

Dated: _____
 SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
 Clerk of the Board of Supervisors
 of the County of San Bernardino

By *[Signature]*
 Deputy



By *[Signature]*

Name Gerben Hettinga
(Print or type name of person signing contract)

Title President
(Print or Type)

Dated: 7-29-2020

Address 13677 Yorba Avenue
Chino, CA 91710

Approved as to Legal Form
[Signature]
 Agnes Cheng, Deputy County Counsel
 Date 7/23/2020

Reviewed for Contract Compliance

 Date _____

Reviewed/Approved by Department
[Signature]
 Jim Miller, Real Property Manager, RESD
 Date 10/19/2020