

City Parcel No.: 1511L
Property: 7 acres
adjacent to T.P. #1

**AMENDED AND RESTATED LEASE AGREEMENT FOR
AGRICULTURE LAND**

THIS Lease Agreement ("Agreement") is made this 15th day of November, 2016, by and between the City of Salinas, a Charter City and California municipal corporation, hereinafter referred as "CITY" and John S. Tamagni and Sons, Inc., a California Corporation, hereinafter referred as "TENANT."

1. In consideration of the payment of rent by TENANT hereinafter specified, and the covenants and agreements herein contained, CITY does hereby rent to TENANT that certain 7 acres of property in the County of Monterey, State of California, identified in Exhibit "A"(the "premises") attached hereto and made a part hereof, for the **period beginning December 1, 2016 and ending November 30, 2021.** TENANT shall pay annual rent in the total sum of \$6,510, payable as follows: \$3,255 payable due on or before December 1 and May 1 of each year during the term of this agreement, beginning December 1, 2016. Rental payments shall be delivered to City of Salinas, Public Works Department, Engineering and Transportation Division, 200 Lincoln Avenue, Salinas, California 93901.

TENANT and CITY agree that no later than August 1, 2021, TENANT may request in writing an extension of this Agreement for five (5) more years, subject to the re-negotiation of rent and terms of the Agreement, and approval of the City Manager.

2. TENANT hereby covenants and agrees as follows:
 - a. To use the property for the purpose of growing and harvesting agriculture crops only.
 - b. To obey, comply with and abide by any current and future City, County, State or Federal laws, rules, and regulations affecting the premises.
 - c. To pay CITY rent as hereinbefore provided, and to pay when due all utility and other charges (if any) accruing or payable in connection with Tenant's use of said premises during the term of the Agreement.
 - d. To permit CITY or its agents, to enter said premises at any reasonable time for inspection or maintenance of the sewer and storm drain facilities on the property.
 - e. Not to commit, suffer or permit any waste on said property, and not to use or permit the use of said property for any illegal purpose.
 - f. To cultivate, irrigate, fertilize, and otherwise farm the premises in accordance with approved

practices of good husbandry in accordance with standard farming practices of the vicinity.

g. To keep any buildings, fences, irrigation, or other farming facilities on the premises in good repair.

h. Not to interfere with any easements on the property.

3. This Agreement may be terminated by either party at any time during the term of this Agreement by giving the other party notice in writing twelve (12) months prior to the termination date set forth in the written notice, otherwise this Agreement shall terminate on the date herein specified. TENANT shall be entitled only to a refund of rent or portions of rent paid in advance because of notice given by CITY terminating this Agreement, and in no event shall TENANT be entitled to damages of any kind resulting from the early termination of this Agreement, including but not limited to any damages for his failure or inability to harvest any crops then growing on the premises due to the City's notice or for any other reason.

4. All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when personally served on CITY or TENANT or when made in writing and deposited in United States mail, certified, postage prepaid and addressed as follows:

To Tenant: John S. Tamagni and Sons, Inc.
P. O. Box 7398
Spreckels, CA 93962

To City: Public Works Department
Engineering and Transportation Division
City of Salinas
200 Lincoln Avenue
Salinas, CA 93901

The address to which the notices are sent may be changed by written notice given by either party to the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of such notice by personal service.

5. TENANT shall not assign or sublet this lease nor make any alteration on said property without written consent of CITY.

6. TENANT shall not call on CITY to make any improvements or repair on said property of any nature whatsoever, but TENANT hereby specifically covenants and agrees to keep same in good order and condition at his own cost and expense.

7. TENANT shall pay CITY all costs and expenses, including attorney's fees at the market rate or otherwise in a reasonable sum, in any action brought by CITY to recover any rent due and unpaid

hereunder, or for the breach of any of the covenants or agreements contained in the Agreement, or to recover possession of said property, whether such action progresses to judgment or not.

8. If any rent shall be due and unpaid, or if default shall be made on the part of TENANT in any of the covenants or agreements contained in this Agreement, CITY will allow TENANT 10 days to cure such default. If TENANT does not cure the default, CITY, at its option, at any time after such default or breach, without any demand or notice to TENANT, or to any other person, of any kind whatsoever, may re-enter and take possession of said property and remove all persons and possessions therefrom, and TENANT waives any legal remedy to defeat City's rights and possessions hereunder.

9. TENANT will make no claim of any nature against CITY by reason of any damage to said property or to TENANT'S agricultural crops, equipment or supplies, in the event same is damaged or destroyed by any other cause including, but not limited to the movement of water onto the property.

10. CITY will not keep said property insured against fire, flood, earthquake, or other insurable risks, therefore, TENANT will make no claim of any nature against CITY by reason of any damage to said property in the event same or any of TENANT'S agricultural crops, equipment, or other belongings are damaged or destroyed by fire or any other cause.

11. TENANT, throughout the duration of this Agreement, shall maintain comprehensive general liability and property damage insurance covering all operations of the TENANT, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

12. TENANT shall maintain the following minimum insurance coverage and limits:

General Liability:

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|---|-------------|
| <i>Combined Single Limit Per Occurrence</i> | \$1,000,000 |
|---|-------------|

| | |
|--------------------------|-------------|
| <i>General Aggregate</i> | \$2,000,000 |
|--------------------------|-------------|

Property Damage Insurance:

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|---|------------|
| <i>Combined Single Limit Per Occurrence</i> | \$ 300,000 |
|---|------------|

Workers Compensation:

Statutory

13. All insurance companies affording coverage to the TENANT shall be an insurance organization authorized by the Insurance Commissioner of the State Department of Insurance to transact the business of insurance in the State of California. All insurance companies, with the exception of Workers Compensation, affording coverage to the TENANT shall be required to add the City of Salinas, its officers, employees, and agents as additional insured by endorsement under the insurance policy and shall stipulate that this insurance policy will operate as primary insured and that no other insurance affected by the City will be called upon to contribute to a loss covered thereunder. The policy shall

contain no special limitations on the scope of the protection afforded the CITY, its officers, employees, or agents.

14. All insurance companies affording coverage shall provide thirty (30) day written notice to the City of Salinas should the policy be canceled or reduced in coverage before the expiration date. For the purposes of this notice requirement, any material change prior to expiration shall be considered cancellation.

15. TENANT shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the CITY's Risk and Benefits Analyst, concurrently with the submittal of this Agreement. A statement on the insurance to notify the certificate holder, "but failure to do so shall impose no obligation or liability of any kind upon the company, its agents or representatives" does not satisfy the requirements of subsection 13 herein. The TENANT shall ensure that the above quoted language is stricken from the certificate by the authorized representative of the insurance company. The insurance certificate shall also state the unpaid limits of the policy.

16. TENANT shall provide a substitute certificate of insurance no later than ten (10) days prior to the policy expiration date. Failure by the TENANT to provide such a substitution and extend the policy expiration date shall be considered a default by TENANT and may subject the TENANT to legal action by City. In the event TENANT is unable to provide a substitute certificate of insurance within the time prescribed in this subsection, TENANT shall provide written confirmation of renewal, in a form satisfactory to the CITY, to act as proof of insurance only until such time as a certificate of insurance has been received by the CITY.

17. Maintenance of insurance by the TENANT as specified in the Agreement shall in no way be interpreted as relieving the TENANT of any responsibility whatever and the TENANT may carry, at its own expense, such additional insurance as it deems necessary.

18. TENANT shall indemnify, defend, and hold the CITY, officers, employees and agents, harmless from all liability claims, damages (whether in tort or contract), fines, penalties including reasonable attorney's fees and expenses arising from or related to this Agreement.

19. TENANT agrees to provide, at his sole cost and expense, a source of irrigating crops planted on the demised premises.

20. TENANT agrees to pay all taxes and assessments levied against all personal property of TENANT and all taxable improvements placed on said property accessible to TENANT. Pursuant to Revenue and Taxation Code 107.6, TENANT is notified that this Agreement may create a possessory interest tax and TENANT is responsible for the payment of any possessory interest taxes which may be levied.

21. TENANT shall not store or dispose of any hazardous materials or substances on the premises and will comply with federal, state, and local laws and regulations relating to fertilizers and pesticides, and shall timely comply with the orders of any governmental agencies relating thereto.
22. TENANT shall notify CITY in writing within a reasonable time of any release of hazardous substances and of any hazardous substances that have come to be located on or beneath the leased premises, pursuant to Health and Safety Code section 25359.7. TENANT shall defend and indemnify the City, its officers, employees, and agents from all liability, costs, fines, penalties, and expenses from the release, presence, storage, cleanup, or disposal of hazardous substances on or beneath the leased premises.
23. TENANT shall certify in writing to CITY that the leased premises are free of any contamination from hazardous materials and wastes as defined by federal or state law upon expiration of this Agreement.
24. TENANT shall at its sole expense provide CITY with written documentation of testing processes and results, with dates thereof, of soil and hazardous materials testing conducted by a competent third party familiar with applicable federal and state laws and regulations. Such testing shall be conducted no more than 30 calendar days prior to the expiration of this Agreement.
25. TENANT shall at its sole expense remove all items of personal property and restore the premises to its condition at the inception of this Agreement prior to the expiration of this Agreement.

IN WITNESS WHEREOF the parties hereto have set their hands and seals on the day and year in this Agreement first above written:

CITY:

SALINAS, a municipal corporation

TENANT:

RAY CORPUZ
City Manager

JOHN S. TAMAGNI
President

RECOMMENDED FOR APPROVAL:

GARY PETERSEN
Public Works Director

RICHARD TAMAGNI
Secretary

APPROVED AS TO FORM

CHRISTOPHER A. CALLIHAN
City Attorney

ATTEST:

PATRICIA BARAJAS
City Clerk

EXHIBIT A
LEASED PREMISES
APN: 207-023-006 and 007

