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8/29/13

CITY OF FRESNO
City Clerk's Office (Original)

FIRST AMENDMENT TO LEASE AGREEMENT

THIS First Amendment is entered into this 29th day of August, 2013, by and between the CITY OF FRESNO, a municipal corporation of the State of California, (hereinafter called "City") and THE MEUX HOME CORPORATION, a California nonprofit corporation (hereinafter called "Tenant").

RECITALS

WHEREAS, the City and Tenant entered into a LEASE AGREEMENT (the "Lease") dated June 23, 2011 which provides for a term which began June 23, 2011 and ends on June 30, 2016 with an option to automatically renew for one additional five year term expiring on June 30, 2021; and

WHEREAS, the parties now desire to amend the Lease as set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals, incorporated herein and mutual covenants hereinafter set forth, the parties hereto agree as follows:

- 1. Section 1 of the Lease is replaced in its entirety as follows:

Section 1: DESCRIPTION OF LEASED PREMISES. City leases to Tenant the property and all structures thereon now or in the future, located at 1007 R Street, Fresno, California, commonly known as the Meux Home, for the purpose of maintaining and operating the existing Meux Home museum for the benefit of the general public.

- 2. Section 10 of the Lease is amended to add the following:

Tenant will notify City at least 7 days prior to the commencement of any construction. City shall have the right to post and keep posted on the Leased Premises, and record, a Notice of Non-responsibility. Tenant shall keep the Leased Premises free from any and all liens and encumbrances arising out of or in any way connected with the work performed, materials furnished or obligations incurred by Tenant in connection with any alteration, addition or improvement of the Leased Premises.

Tenant shall prepare a work plan and cost estimate which describes in detail and with specificity the nature, scope, location, estimated costs and purpose of all of Tenant's improvements and activities to be performed on the Leased Premises, including, without limitation, the specific areas in which Tenant and Tenant's representatives, may have access and may conduct Tenant's activities and a schedule of Tenant's activities (the "Work Plan"). The Work Plan will be submitted to the following person at City for

APPROVED BY CITY COUNCIL
Aug 29, 2013
By Sherrin J. Badutche
DEPUTY

approval: Bruce Rudd, City Manager, 2600 Fresno Street, Fresno, California 93721. Tenant acknowledges and agrees that City's review of the Work Plan is solely for the purpose of protecting City's interests, and shall not be deemed to create any liability of any kind on the part of City, or to constitute a representation on the part of City that the Work Plan is adequate or appropriate for any purpose, or complies with applicable legal requirements. Tenant and Tenant's representatives shall not commence activities associated with the Tenant's improvements on the Leased Premises without the prior written consent of City to the Work Plan as set forth above, which consent shall be at City's sole and absolute discretion. Tenant agrees and covenants that all of Tenant's activities shall be performed in strict compliance to the approved Work Plan.

Tenant covenants and agrees to cooperate with City and abide by any and all orders or instructions issued by City, its employees, agents or representatives. City reserves the right to restrict access to the Leased Premises in the event of fire, earthquake, storm, riot, civil disturbance, or other casualty or emergency, or in connection with City's response thereto, or if emergency repairs or maintenance are required to City facilities within or in the vicinity of the Leased Premises, or otherwise when City deems it advisable to do so.

Tenant covenants and agrees that Tenant shall conduct Tenant's activities in compliance with the Work Plan approved by City and in such a manner so as to protect the Leased Premises, City's facilities, the environment and human health and safety. Except as may be expressly provided in such Work Plan, Tenant shall not cause or permit any Hazardous Substances, as defined by any state, federal or local law or regulation, to be brought upon, produced, stored, used, discharged or disposed of on, or in the vicinity of, the Leased Premises. In the event City determines that Tenant's activities in any way endanger the Leased Premises, City's facilities, the environment, or human health and safety, City may, at City's sole discretion, require that Tenant halt Tenant's activities until appropriate protective measures may be taken to eliminate such endangerment to City's satisfaction. Tenant shall hold City harmless from any claims in any way resulting from any delay under this section. City's right to halt activities under this section shall not in any way affect or alter Tenant's insurance or indemnity obligations under this Lease, nor shall it relieve Tenant from any of Tenant's obligations hereunder that pertain to health, safety, or the protection of the environment.

Tenant shall comply, at Tenant's sole cost and expense, with all applicable Legal Requirements when conducting Tenant's activities and Tenant shall obtain, at Tenant's sole cost and expense any and all necessary permits, authorizations and approvals applicable to Tenant's activities. City shall have a right to observe Tenant's activities at any time to confirm Tenant's compliance with the requirements of this Lease and applicable laws.

3. Section 11 of the Lease is replaced in its entirety as follows:

11: REPAIRS AND MAINTENANCE. Tenant agrees that it will, at its own cost and expense, keep the Leased Premises and each and every part thereof, in good condition and repair during the term of this Lease, including all plumbing and heating equipment, and make all

cosmetic and structural repairs to the Leased Premises as the necessity thereof exists, except as otherwise provided in this Section. Tenant agrees to provide for all necessary interior and exterior structural repairs and maintenance for any permanent structural alterations or improvements made by the Tenant. City agrees to perform and/or provide the following, subject to available funding:

- a. to furnish adequate irrigation water for the upkeep and maintenance of any trees, shrubs and grass within the leased area;
- b. to mow and edge all lawns within the leased area;
- c. to trim and fertilize the trees and shrubs located within the leased area and to replace any trees thereon;
- d. to make only those interior and exterior structural repairs which are necessary for the health, welfare and safety of the public as determined by the City;
- e. to maintain handicap lift in good operating condition;
- f. to maintain exterior lighting; and
- g. to make all major repairs to furnace and air-conditioner.

Tenant agrees to holdback a minimum of 5% of gross annual revenue specifically for facility maintenance, repair, or restoration projects. The planned allocation amount for each year must be itemized in the annual budget and actual expenditure amounts shown in the annual financial statements. Revenue is defined as including but not limited to: member dues, tours, events, gift shop sales, facility rentals, and donations. Tenant may allocate a higher percentage of gross revenue to maintenance, repairs, or restoration projects, but shall not allocate less than 5.0% without City approval each and every year of this lease.

Tenant may elect to use their funds to pay or partially pay for repair or maintenance items that the City cannot complete due to lack of funding. Tenant shall, at all times, cooperate with City to keep the Leased Premises in a neat, clean and orderly condition, and shall prevent the accumulation of and shall maintain the Leased Premises free from any refuse or waste materials which might constitute a fire hazard or public or private nuisance. Tenant shall also make all non-structural repairs occasioned by the fault of Tenant or its agents. Tenant also agrees to provide for all necessary maintenance inside the house museum and shall also furnish necessary janitorial care therein.

4. In all other regards, the Lease shall be and remain in full force and effect.

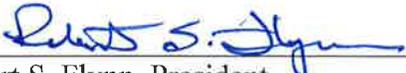
SIGNATURES APPEAR ON NEXT PAGE

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

CITY OF FRESNO,
a California municipal corporation

MEUX HOME CORPORATION,
a California non-profit corporation

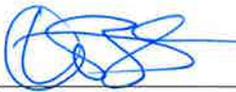
By: 
Bruce A. Rudd, Director
Parks, After School, Recreation
And Community Services Department

By: 
Robert S. Flynn, President
Board of Directors

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: 
Deputy 9/5/13

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By:  8/19/13
Deputy Date

Addresses:

CITY:
City of Fresno
PARCS Department
848 "M" Street, Third Floor
Fresno CA 93721

TENANT:
Meux Home Corporation
P. O. Box 70
Fresno, CA 93707

