FORM APPROVED COUNTY COUNSEL
BY: GREGORY P. PRIAMOS DATE 4/25/14

Departmental Concurrence

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

504

FROM: Riverside County Assessor-County Clerk-Recorder

SUBMITTAL DATE:

SUBJECT: Claims for Refund submitted by Balboa Management Group,, LLC [District 2] {$188,298.93]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Deny the Claims for Refund submitted by Balboa Management Group,LLC; and
2. Direct the Clerk of the Board to issue a letter, denying the claims, with the specified language identified below.

BACKGROUND:

Summary

On April 21, 2015, the Treasurer-Tax Collector received claims for refund from Balboa Management Group, LLC for the 2011-2012, 2012-2013, and 2013-2014 tax years. On or about April 21, 2015, the claims for refund were provided to the Assessor's office.

PETER ALDANA
Assessor-County Clerk-Recorder

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	$	$	$	$	Consent ☐ Policy ☒
NET COUNTY COST	$	$	$	$	

SOURCE OF FUNDS:

Budget Adjustment:

For Fiscal Year:

C.E.O. RECOMMENDATION: APPROVE

BY: Samuel Wong 7/8/15
Samuel Wong

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

☐ Positions Added ☐ Change Order
☐ A-30 ☐ 4/5 Vote

Prev. Agn. Ref.: | **District: 5** | **Agenda Number:** 3-7

BACKGROUND:
Summary (continued)

Balboa Management Group, LLC requests a refund of taxes of for the 2011-2012 tax year, the 2012-2013 tax year, and the 2013-2014 tax year, totaling $188,298.93, for their interest in properties located in the City of Norco and commonly known as Assessor's Parcel Numbers 009618830-5, 000818830-0, and 053153529-1.

After reviewing the claims for refund and the Assessor's records, the Assessor's office recommends the claims be denied. The Assessor's office recommends the following language be incorporated into the denial letter, to be sent out by the Clerk of the Board:

> The County has completed its review of your claim(s) for refund of taxes and/or penalties you filed with us on April 21, 2015.
>
> Your claim(s) was reviewed by the ASSESSOR. Based on the documentation you submitted, ASSESSOR has determined that your claim does not meet the provisions in the Revenue and Taxation Code for granting a refund. For this reason, your claim(s) for refund is denied effective June 30, 2015.
>
> Section 5141 of the State of California Revenue and Taxation Code allows you six months from the effective date of denial of your claim(s) to commence an action in the Superior Court to seek judicial review of this denial.

Assessor recommends this language be utilized in the denial, based upon the California Supreme Court case of *Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298.

Impact on Citizens and Businesses
N/A

SUPPLEMENTAL:
Additional Fiscal Information

Contract History and Price Reasonableness
N/A

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Los Angeles
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Ontario
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April 21, 2015

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Office of the Treasurer-Tax Collector
Riverside County
P.O. Box 12005
Riverside, CA 92502-2205

Re: Balboa Management Group, LLC
Assessment Numbers 009618830-5, 000818830-0, 053153529-1

Dear Sir or Madam:

Pursuant to Revenue and Taxation Code ("Code") Section 5097, this letter will serve as a formal protest and claim for a refund of property taxes imposed on Balboa Management Group, LLC ("Balboa" or "Tenant") with respect to Assessment Numbers 009618830-5, 000818830-0 and 053153529-1 ("Silverlakes Property") for periods prior to February 2015. For the reasons set forth below, we submit that the City of Norco did not have the legal authority to enter into a lease agreement with Balboa with respect to the Silverlakes Property until after February 6, 2015, thereby mitigating any possibility that Balboa's interest in the subject property gave rise to a taxable possessory interest. Notwithstanding the preceding argument, we also submit that Balboa did not maintain a taxable possessory interest within the meaning of Code Section 107 and Property Tax Rule 20 until February 26, 2015. Consequently, the imposition of property tax on Balboa prior to these dates is premature.

Enclosed herewith is check number 3024 in the amount of $188,298.93 representing the total amount of property tax due for each assessment number referenced above, plus all applicable penalties and fees. This protest and claim for a refund is timely submitted pursuant to Code Section 5097(a)(2) because it is filed within four (4) years after making payment of the property taxes imposed on Balboa that form the basis for the claim.

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FORM APPROVED COUNTY COUNSEL
BY KRISTINE BELL-VALDEZ 6/22/15 DATE

I. BACKGROUND

A. The Lease

On July 6, 2011, Balboa entered into a ground lease ("Lease") with the City of Norco ("City" or "Landlord") whereby Balboa leased from the City approximately one hundred twenty two (122) acres of land referred to herein as the Silverlakes Property for the purposes of developing thereon and operating an equestrian and sports facility with related amenities and a public park ("Project"). A copy of the Lease is attached hereto as Exhibit A.

The Lease provides for an "Interim Term" during which certain pre-construction activities may be undertaken by Balboa, and an "Original Term" that provides for the period of time in which Balboa's leasehold interest in the Silverlakes Property becomes effective. Specifically, Article 2.1 of the Lease provides that the "Interim Term" of the Lease is "the period of time which shall commence on the Effective Date [July 6, 2011] and shall terminate on the date on which all conditions precedent set forth on Exhibit C, attached hereto, have been waived or satisfied pursuant to the provisions of said Exhibit C (the 'Term Commencement Date')." Further, Article 2.4 of the Lease provides that the "Original Term of this Lease shall commence on the Term Commencement Date and shall terminate at 11:59 pm on the day prior to the thirtieth (30th) anniversary thereof ..." Thus, pursuant to Article 2.4, the Lease does not commence until the Term Commencement Date, which as defined by the Lease, begins on the date in which the conditions precedent contained in Exhibit C have been satisfied. As explained in more detail below, the conditions precedent were not satisfied until February 26, 2015. Consequently, the Original Term of the lease, and the period of time in which Balboa's leasehold interest in the Silverlakes Property is effective, did not commence until February 26, 2015.

1. Interim Term

During the Interim Term, Balboa is granted a license by the City "to enter upon the Leased Premises and immediately surrounding property owned or controlled by the City ... for the purposes of conducting ... tests, inspections, evaluations, and pre-construction activities (including demolition of existing structures, removal of weeds, debris, and existing structures, or installations; construction of temporary construction fencing, and disking of certain areas) on the Leased Premises as Tenant shall require in its assessment of the Leased Premises to potential lenders, or investors and/or to mobilize for constructions."[1] Further, Balboa is not required to pay rent during the Interim Term. Rather, Article 3.1 of the Lease provides that Balboa's obligation to pay rent begins "as of the Term Commencement Date (assuming fulfillment or waiver of the

[1] *See* Lease at Article 2.2.

conditions precedent contained in Exhibit C shall occur) but in no event later than January 3, 2012, and continue until the expiration or earlier termination of this Lease."

In a letter dated March 8, 2012 from Beth Groves, City Manager of the City to Richard Brandes of Balboa ("March 2012 Letter"), the City indicated that it is authorized to release up to $2.7 million of funds from "Water and Sewer Bond proceeds ... during the months of April and May, 2012, for work covered by the 'earthwork package' as necessary for the preparation and installation of water and sewer infrastructure." However, in order for the funds to be released and for Balboa to receive access to the funds, the March 2012 Letter provides that, among other items, "[t]he first rent payment of $396,480 must be received on April 2, 2012. Half of this amount is a security deposit and the other half is six months of rent." The March 2012 Letter further provides that "[n]either Balboa's commencement of the Work – nor the City's authorization of the work – will constitute a waiver of, or satisfaction with, any condition set forth in the [Lease]." A copy of the March 2012 Letter is attached hereto as Exhibit B. Thus, although Balboa did not have an obligation to pay rent during the Interim Term, as a requirement for the receipt of funds from the Water and Sewer Bonds, Balboa made a payment of $396,480 to the City. Further, notwithstanding the label of the payment as "rent," the payment, in substance, was not rent. Rather, the payment is properly classified as an inducement payment and requirement of the City to receive funding from the Water and Sewer Bonds. This is expressly provided in the March 2012 Letter. Moreover, the March 2012 Letter expressly provides that the City or Balboa have not waived the conditions precedent contained in the Lease. As a result, because the conditions precedent were not satisfied or waived, payments made by Balboa during the Interim Term did not constitute rent payments for the use of the Silverlakes Property.

The Effective Date, and therefore the commencement of the Interim Term, was July 6, 2011. Moreover, the Interim Term continued until February 26, 2015 when all conditions precedent were either satisfied or waived. Thus, during the Interim Period, Balboa merely had a license to enter the Silverlakes Property. Its property interest in the Silverlakes Property did not rise to the level of leasehold interest during the Interim Term, and any payments made during this period were not rent payments.

2. Conditions Precedent

Exhibit C to the Lease provides that the commencement "of the Original Term of the Lease (i.e., the Term Commencement Date) and Tenant's obligations to otherwise perform under this lease shall be subject to fulfillment or waiver of the conditions precedent listed below, which conditions shall be determined to have been fulfilled or waived by Tenant, in the exercise of Tenant's sole discretion and upon written notice delivered to Landlord..." Further, in all events, "the Tenant may extend a deadline to January 2, 2012 (herein, the 'Outside Date') in

order to facilitate the fulfillment or satisfaction of a condition, at which time … the condition must either be waived, deemed satisfied or this Lease shall terminate."

The "Second Tranche of Conditions" contained in Exhibit C provides that, among other conditions, "[t]enant shall be satisfied that adequate sources of capital exist to finance its development and operation of the Silverlakes Property. The financing contingency may include: (1) Tenant's identification of equity participant and formation of entity to act as assignee of Tenant's rights hereunder; (2) agreement on bond financing for on-site improvements (including identification of financed improvements); (3) procurement of equity financing and/or bond monies." Thus, a condition precedent to Balboa's performance under the Lease, and the commencement of the Original Term of the lease, is obtaining sufficient financing to finance its development and operation of the Silverlakes Property. As indicated in the Closing Memorandum for the California Statewide Communities Development Authority Revenue Bonds, attached hereto as Exhibit C, financing was obtained on February 26, 2015. Consequently, because all conditions precedent were not satisfied or waived until February 26, 2015, the Lease did not become effective until such time.

Finally, Exhibit C of the Lease provides that in the event that a condition precedent contained in Exhibit C fails, "the Party whose favor said condition exists, must elect, upon the giving of 10 days prior written notice to the other party, either (i) to terminate this Lease, which termination shall be the sole recourse of the terminating Party; or (ii) to proceed and waive all damages against the other."[2] Thus, because Balboa did not receive financing for its development and operation of the Silverlakes Property until February 26, 2015, the failure of this condition is in favor of Balboa. That is, Balboa's obligation to perform under the Lease was not triggered until this condition was satisfied. Further, as a result of the failure of the condition, Balboa had the option of terminating the Lease or proceeding with its obligations and waiving all damages against the City. Balboa did not elect either course of action. Rather, no action was taken by Balboa. Consequently, due to the inaction on the part of Balboa, the party in whose favor the financing condition existed, coupled with the actions of the City, including, but not limited to, the acknowledgement that the conditions precedent have not been satisfied in the March 2012 Letter, the Outside Date of January 2, 2012 was mutually extended until February 26, 2015, the date on which the financing condition was satisfied.

B. Transfer of the Silverlakes Property by the Norco Community Redevelopment Agency

Prior to June 30, 2011, the Silverlakes Property was owned by the Norco Community Redevelopment Agency ("RDA"). Furthermore, in connection with the statewide elimination of redevelopment agencies such as the RDA, the California legislature passed Assembly Bill 26 that

[2] *See* Exhibit C of the Lease at Section 3.

prohibited redevelopment agencies from engaging in new business, established mechanisms and timelines for dissolution of redevelopment agencies, and created successor agencies and oversight boards to oversee dissolution of redevelopment agencies and redistribution of assets owned by such agencies. Assembly Bill 26 was signed into law on June 28, 2011, and is codified in the Health and Safety Code beginning with Section 34161.

Specifically, and pertinent to the discussion at hand, Health and Safety Code Section 34167.5 provides, in pertinent part, that –

> "...the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city of county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets ... the Controller shall order the available assets to be returned to the redevelopment agency, or ... the successor agency ... The Legislature hereby funds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not be in the furtherance of the Community Redevelopment Law and is thereby unauthorized"

Pursuant to this authority, the State Controller's Office ("SCO") reviewed the asset transfers made by the RDA after January 1, 2011 ("Asset Transfer Review"). The Asset Transfer Review included a review of real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights and rights to payments of any kind from any source. A copy of the Asset Transfer Review is attached hereto as Exhibit D.

The Asset Transfer Review concluded that on June 30, 2011, the RDA entered into a Purchase and Sale Agreement with the City to transfer the Silverlakes Property, consisting of parcel numbers 152-060-004-0, 152-070-011-07, and 152-070-002-9, to the City. This transfer was not permitted pursuant to Health and Safety Code Section 34167.5. Further, pursuant to the Asset Transfer Review, the City was ordered to reverse the transfer of the Silverlakes Property, and turn over the asset to the Successor Agency. Finally, on November 20, 2014, the Oversight Board adopted OB Resolution No. 2014-08, directing the Successor Agency (i.e., the City of Norco Successor Agency or "Agency") to transfer ownership of the Silverlakes Property to the City. The Asset Transfer Review further provides that, "...the Department of Finance must approve the

Oversight Board's decisions and resolutions." Thus, although OB Resolution No. 2014-08 directed the transfer of the Silverlakes Property to the City, this transfer was not legally effective until approved by the Department of Finance.

This approval was granted on, and is documented in a letter dated, February 6, 2015 from Justyn Howard, Program Budget Manager at the Department of Finance, to Andy Okoro, City Manager of the City ("February 2015 DOF Letter"). A copy of the February 2015 DOF Letter is attached hereto as Exhibit E. Therefore, the City was not legally authorized to enter into a lease agreement with Balboa with respect to the Silverlakes Property until February 6, 2015.

C. Property Tax Assessment

On June 18, 2013, a "Final Notice" issued by the County of Riverside Treasurer and Tax Collector provides that Balboa is delinquent on the payment of taxes for Assessment Number 009618830-5 in the amount of $44,279.03. A copy of this notice is attached hereto as Exhibit F. On June 24, 2013, Lien No. 0418167 was executed against Balboa for fiscal year 2012-2013 with respect to Assessment Number 009618830-5, for unpaid taxes of $40,182.32, plus penalties of $4,018.22. Additional costs of $37.50, and a recording fee of $23.00 were also imposed with respect to this assessment. A copy of the Certificate of Lien is attached hereto as Exhibit G. Further, Bill Number 201338591, relating to Assessment Number 000818830-0, provides that Lien Number 0427688 has been recorded against Balboa for tax year 2013-2014. The Property Data on this bill indicates "unpaid taxes from 009618830-5." A copy of this Property Tax Bill is attached hereto as Exhibit H.

On June 1, 2012, a Notice of Supplemental Assessment was issued for Supplemental Assessment Number 053153529-1 as a result of a "change in ownership" dated July 6, 2011. The new full taxable value indicated on this notice was $3,700,200. A copy of this notice is attached hereto as Exhibit I. On June 24, 2013, Lien No. 0417299 was executed against Balboa for fiscal year 2011-2012 with respect to Assessment Number 053153529-1, for unpaid taxes of $36,998.02, plus penalties of $3,699.80. Additional costs of $37.50, and a recording fee of $23.00 were also imposed with respect to this assessment. A copy of the Certificate of Lien is attached hereto as Exhibit J. Coincidentally, the date on which a change of ownership occurred, as contained in the Notice of Supplemental Assessment, is the Effective Date of the Lease entered into between Balboa and the City.

In the event that Balboa were to make payment by April 30, 2015, the total amount owed, including penalties, is $188,298.93.

Finally, in an e-mail dated January 3, 2013 from Wendy Alvarado, Supervising Appraiser in the Total Property Division of the Riverside County Assessor's Office, Ms. Alvarado indicates that "[w]e have determined that based on the agreements, all elements have been met to create a possessory interest ... Based on the fact that there is an agreement to allow entrance to the property for pre-construction activities and also the installation of the infrastructure, the effective date of the possessory interest is the date the ground lease was signed, 7/6/2011. Also, rent has been paid to the City of Norco over this time." A copy of this e-mail is attached hereto as Exhibit K. Thus, based on this correspondence, along with our interpretation of the notices and bills discussed above, property tax was imposed on Balboa as a result of the Riverside County Assessor's office determination that Balboa's interest in the Silverlakes Property rose to the level of a taxable possessory interest.

We have reviewed the relevant sections of the Code and the property rules promulgated thereunder by the Board of Equalization and believe that Balboa did not have a legally enforceable property interest in the Silverlakes Property until after February 6, 2015. Further, the interest granted to Balboa pursuant to the Lease did not create a taxable possessory interest until February 26, 2015. This position is based on the following analysis.

II. THE CITY DID NOT HAVE LEGAL AUTHORITY TO LEASE THE SILVERLAKES PROPERTY TO BALBOA UNTIL AFTER FEBRUARY 6, 2015

As indicated in Section I.B. above, the RDA made an unauthorized transfer of the Silverlakes Property to the City on June 30, 2011, and pursuant to an Order of the Controller, the City was required to reverse the transfer, and turn the Silverlakes Property over to the Agency. Further, although OB Resolution No. 2014-08, adopted by the Oversight Board, directs the Agency to transfer the Silverlakes Property to the City, this resolution must be approved by the Department of Finance. Thus, until approval by the Department of Finance, the transfer of the Silverlakes Property pursuant to a lease could not be effective.

As a result of the City's lack of legal ownership of the Silverlakes Property until February 6, 2015, the City could not have legally entered into a lease agreement with Balboa for the lease of the Silverlakes Property. Consequently, because the Lease is not effective until the date on which the City became the legal owner of the Silverlakes Property, a taxable possessory interest could not have been created until such time, and property taxes should not have been imposed on Balboa. This position is not altered by the fact that Balboa made "rent" payments to the City. As indicated in Section I.A.1. above, these payments were not rent payments, but were rather inducement payments and a requirement imposed by the City to receive funding from the Water and Sewer Bonds. Thus, any imposition of property taxes on Balboa prior to February 6, 2015 is premature.

III. BALBOA'S INTEREST IN THE SILVERLAKES PROPERTY DID NOT CREATE A TAXABLE POSSESSORY INTEREST UNTIL FEBRUARY 26, 2015

In addition to the lack of legal authority to enter into the Lease with Balboa, as discussed above, all elements required to establish a taxable possessory interest were not present until February 26, 2015.

A. General Rules – Taxable Possessory Interest

Property Tax Rule 20 defines a taxable possessory interest as a "possessory interest in publicly-owned real property." A "possessory interest" is defined as an interest in real property that exists as a result of one of the following: (a) a possession of real property that is independent, durable and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or (b) taxable improvements on tax-exempt land.[3] Therefore, to demonstrate that the first type of possessory interest exists it is necessary to establish that the possessor has possession of the land and/or improvements that is independent, durable, exclusive *and* which provides the possessor with a private benefit. On the other hand, to demonstrate that the second type of possessory interest exists it need only be shown that an improvement on tax-exempt land is taxable.

While neither the statute nor the regulations defining a possessory interest provide further guidance on what constitutes a "taxable improvement" for purposes of (b) above, the Board of Equalization's Handbook ("Handbook") provides that a taxable improvement on tax-exempt land refers to:

> "[p]rivately owned improvements constructed or owned by the possessor (i.e., not the public owner) on the land subject to the taxable possessory interest. According to this provision a possessory interest includes all improvements constructed pursuant to a possessory interest in land that become the property of the public owner at the termination of the possession, whether the improvements are constructed at the possessor's or the public owner's expense. However, improvements owned by the possessor that do not become the property of the public owner at the end of the term of possession fail the ownership test of Rule 20(a)(1) and, thus, are not taxable possessory interests."

[3] Cal. Rev. & Tax Code §107(a) and (b); *and* 18 CCR §20(a)(1) and (3).

In other words, two things must be true for an improvement on tax-exempt land to be a possessory interest. First, the land on which such improvement is constructed must be a taxable possessory interest. Second, even if the land is a taxable possessory interest, the improvement owned by the possessor must become the property of the public owner at the end of the term of possession. Balboa did not construct improvements on the Silverlakes Property during the Interim Term. Rather, Balboa's activities with respect to the Silverlakes Property during the Interim Term including pre-construction activities such as inspections, demolition of structures, and removal of weeds, debris, and existing structures. Consequently, because Balboa did not erect any improvements of the Silverlakes Property during the Interim Term, the second type of possessory interest is not applicable to Balboa.

Further, it is our position that the first type of possessory interest is not created by the Lease until February 26, 2015. Specifically, with respect to the first type of possessory interest, the relevant statutory and regulatory provisions provide that for a possessory interest in real property to exist, the possessor must have possession that is independent, durable, exclusive *and* which provides the possessor with a private benefit. That is, in order for the first type of possessory interest to exist all four elements must be present. For the reasons stated below, it is our position that all elements were not present prior to February 26, 2015, the date on which the conditions precedent in Exhibit C were satisfied, and the Term Commencement Date of the Lease.

B. Balboa did not have Possession of the Silverlakes Property until February 26, 2015

"Possession" of real property means actual physical occupation.[4] Further, "possession" requires more than incidental benefit from the public property, but requires actual physical occupation of the property pursuant to rights not granted to the general public.[5]

As indicated in Article 2.1 of the Lease, Balboa was merely granted a license to enter the Silverlakes Property during the Interim Term, solely for the purposes of conducting pre-construction activities such as surveys, tests, inspections, and evaluations. Balboa was also permitted to remove certain structures, weeds, and debris on the Silverlakes Property in an effort to make the Silverlakes Property more attractive to potential lenders or investors. However, Balboa did not have actual physical occupation of the Silverlakes Property during the Interim Period. Rather, it merely had a license to enter the Silverlakes Property, and conduct certain activities. It did not have control of the Silverlakes Property, and did not have the ability to exclude others from the Silverlakes Property. Thus, contrary to the position taken by Ms. Alvarado, the license to enter the Silverlakes Property during the Interim Term does not give rise to sufficient possession of the Silverlakes Property to satisfy this requirement of a taxable possessory interest.

[4] Property Tax rule 20(c)(2).
[5] *Id.*

Balboa's possession of the Silverlakes Property rose to the level of actual physical occupation on February 26, 2015, once all conditions precedent included on Exhibit C of the Lease had been satisfied. Prior to this date, Balboa had not received financing to develop the Silverlakes Property, as required by Section 1(b)(ii) of Exhibit C of the Lease. Consequently, because the conditions precedent had not been satisfied, the Term Commencement Date of the Lease did not occur until February 26, 2015. At this time, the Lease commenced, and Balboa was entitled to physical occupation of the Silverlakes Property. Note, that as indicated in Section I.A.1. above, notwithstanding the label ascribed to any payments made by Balboa to the City during the Interim Term, such payments are not rent payments. That is, Article 3.1 of the Lease expressly provides that Balboa is not required to pay rent during the Interim Term, and as indicated above, the Outside Date of January 2, 2012 was mutually extended to February 26, 2015, the date by which the financing condition was satisfied. As a result, payments by Balboa to the City during the Interim Term, and prior to the satisfaction of all conditions precedent contained in Exhibit C of the Lease, do not establish any basis for concluding that Balboa had possession of the Silverlakes Property during the Interim Term.

C. Balboa's Possession of the Silverlakes Property was not Durable

A possession is durable if it is for "a determinable period with a reasonable certainty that the . . . possession . . . will continue for that period."[6] A plain reading of the Lease, including the time in which the Term Commencement Date of the Lease began, clearly indicates that the Lease commences on the Term Commencement Date, and expires on the day prior to the thirtieth (30th) anniversary therefor, unless otherwise extended or terminated. Thus, we do not dispute that possession of the property is durable during the Original Term of the Lease. That is, beginning on February 26, 2015, Balboa's possession of the Silverlakes Property was for a determinable period of time of thirty (30) years. However, because Balboa did not have sufficient possession prior to February 26, 2015, its possession of the Silverlakes Property cannot be durable. Consequently, because this element is lacking for the time period prior to February 26, 2015, Balboa does not have a taxable possessory interest prior to this date.

D. Balboa did not have Independent Possession of the Silverlakes Property

Possession of property is independent if it is "sufficiently autonomous to constitute more than a mere agency."[7] Further, to be sufficiently autonomous to constitute more than a mere agency, Property Tax Rule 20 provides that the possessor must have the "ability to exercise authority and exert control over the management or operation of the property or improvements,

[6] Cal. Rev. & Tax Code §107(a)(2); *see also* 18 CCR §20(c)(6).
[7] Cal. Rev. & Tax Code §107(a)(1); *see also* 18 CCR §20(c)(5).

separate and apart from the policies, statutes, ordinances, rules and regulations of the public owner of the property or improvements."[8]

Balboa did not have independent possession of the Silverlakes Property until the Original Term of the Lease commenced on February 26, 2015. Rather, during the Interim Term (i.e., July 6, 2011 through February 26, 2015), Balboa merely had a license to enter the Silverlakes Property to undertake certain pre-construction activities described in Article 2.2 of the Lease. In fact, the primary activities performed by Balboa during the Interim Term related to tough grading for utility purposes. The issuance of a license to enter the Silverlakes Property to undertake these activities does not permit Balboa to exercise authority and control over the management or operation of the Silverlakes Property.

Additionally, pursuant to an Agreement Regarding Partial Removal and Replacement of Levee between the City and Chino Basin Desalter Authority ("Levee Agreement"), Norco permitted Chino Basin Desalter Authority ("Authority") to remove a portion of a levee owned by the City located along the San Ana River in furtherance of the Authority's installation of subterranean pipelines. A copy of the Levee Agreement is attached hereto as Exhibit L. The activities conducted by the Authority pursuant to the Levee Agreement required access to a portion of the Silverlakes Property. Further, during the period commencing on August 6, 2012 and ending on February 14, 2014, the City stored pipes, appurtenances, and other materials on the Silverlakes Property in connection with a project involving the widening of Hamner Avenue. Thus, Balboa did not have independent possession during these periods.

Finally, Balboa's rights were limited to pre-construction activities, and any work undertaken by Balboa during the Interim Term belonged to the City, and not Balboa. Thus, as a result of Balboa's lack of authority and control over the Silverlakes Property during the Interim Term, Balboa's possession of the Silverlakes Property was not independent within the meaning of Property Tax Rule 20.

E. Balboa's Possession of the Silverlakes Property was not Exclusive

A possession is exclusive if the possessor has "the enjoyment of an exclusive use of real property, . . . together with the ability to exclude from possession by means of legal process others who may interfere with that enjoyment."[9] However, both the statute and Property Tax Rule 20 provide that if the use of real property does not contain one of the following elements, then the use will be rebuttably presumed to be nonexclusive:

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[8] Id.
[9] 18 CCR §20(c)(7).

1. Sole occupancy or use of real property.

2. Use as a cotenant.

3. Concurrent use by a person who has a primary or prevailing right to use the real property.

4. Concurrent uses by persons making qualitatively different uses of the real property.

5. Concurrent use by persons engaged in similar uses that diminish the quantity or quality of the real property.

6. Concurrent use that does not diminish the quantity or quality of the real property, if the number of those concurrent use grants is restricted.

We do not dispute that Balboa had the exclusive use of the Silverlakes Property beginning on February 26, 2015. However, during the Interim Term, Balboa only maintained a mere license to enter the property. Thus, Balboa did not have sole occupancy or use of the Silverlakes Property during the Interim Term. Rather, as indicated in Section III.D. above, the Authority had access to the Silverlakes Property in connection with the Levee Agreement. In addition, the City used the Silverlakes Property, without seeking or necessitating the approval of Balboa, to store materials on the Silverlakes Property in connection with the project involving the widening of Hamner Avenue. In addition, Balboa's possession of the Silverlakes Property is not as a co-tenant since its access to the Silverlakes Property during the Interim Term is a mere license rather than a lease. Further, even if the use of the Silverlakes Property by Balboa and the City is concurrent, such concurrent use does not rise to the level of the types of concurrent use, as identified in numbers 3-6, that establish the exclusivity element. First, Balboa's use of the Silverlakes Property is not primary or prevailing to the City's use of the Land. Second, Balboa's use of the Silverlakes Property during the Interim Term, pre-construction activities, is not qualitatively different than the City's use of the Silverlakes Property. Rather, the Silverlakes Property is parcel of land that is being developed into an equestrian, sports facility and a public park. Balboa's use of the Silverlakes Property during the Interim Term, undertaking certain pre-construction activities, is similar to use of the Silverlakes Property by the City. Third, Balboa's use of the Silverlakes Property does not diminish the quantity or quality of the Silverlakes Property. Rather, it enhances the quality of the Silverlakes Property as a result of the grading, surveys, inspections, and other pre-construction activities. Finally, Balboa's concurrent use of the Silverlakes Property is not restricted. Rather, it has a license to enter the Silverlakes Property during the Interim Term is not limited or restricted in any manner.

Based on the preceding, we believe that because the City did not legally own the Silverlakes Property prior to February 6, 2015, it could not have entered into a legally enforceable lease agreement with Balboa, and therefore Balboa's interest in the Silverlakes Property could not have given rise to a taxable possessory interest. Further, we also believe that the Lease did not create a taxable possessory interest in the Silverlakes Property prior to February 26, 2015. Balboa's interest in the Silverlakes Property during the Interim Term was merely a license. All elements required for Balboa's interest to be treated as a taxable possessory interest are lacking.

We respectfully request that you review and consider the foregoing analysis and advise us of your position with respect to our conclusions. Please do not hesitate to contact us should you have any questions or need further information. We look forward to your response and thank you in advance for your prompt consideration of this matter.

Sincerely,

Isabel C. Safie
of BEST BEST & KRIEGER LLP

cc: Scott Anderson, Supervising Appraiser (via e-mail)
Bicky Ross (via e-mail)

VERIFIED BY:

BALBOA MANAGEMENT GROUP, LLC

By: _____

Its: Rebecca Ross COO/CFO

Date: 4/21/15

NORCO SILVERLAKES GROUND LEASE

BY AND BETWEEN

THE CITY OF NORCO

("LANDLORD")

AND

BALBOA MANAGEMENT GROUP, LLC
("TENANT")

TABLE OF CONTENTS

List of Exhibits:

NORCO SILVERLAKES GROUND LEASE

This Norco Silverlakes Ground Lease ("**Lease**") is dated for identification purposes as of the 6th day of July, 2011 ("**Effective Date**") and is entered into by and between the following (each sometimes referred to herein as the "Party" and collectively as the "**Parties**"), THE CITY OF NORCO, a municipal corporation ("**City**" or "**Landlord**" herein) and BALBOA MANAGEMENT GROUP, LLC or its assignee as hereinafter permitted ("**Tenant**") a Delaware limited liability company, with reference to the following facts:

RECITALS

WHEREAS, the City owns approximately 122 contiguous acres of land in the City of Norco, County of Riverside, State of California, commonly known as Silverlakes (herein "**Silverlakes**" or "**Silverlakes property**") and more particularly described in **Exhibit A**, attached hereto and made a part hereof, so as to facilitate the City's desire to construct certain planned park-related capital improvements on or benefitting the Silverlakes property; and

WHEREAS, the City wishes to lease the Silverlakes property to Tenant so that Tenant can undertake additional development thereon and thereafter operate an equestrian and sports facility with related amenities and a public park, all as more particularly described herein ("**Project**"); and

WHEREAS, on August 19, 2011, City Ordinance No. 934 (the "**Enacting Ordinance**") became effective and evidenced the City's approval of (i) that certain Development Agreement (herein, "**Development Agreement**") dated as of July 6, 2011 by and between the City and Tenant and governing, among other things, the planned construction and development by Landlord and Tenant of the Silverlakes property, (ii) the CUP (as defined below); (iii) the Shared Use Agreement (defined below), and (iv) that certain Funding, Construction and Acquisition Agreement (herein, "**Funding Agreement**") dated as of July 6, 2011 by and between the City and Tenant by which the City will finance certain improvements which Tenant causes to be constructed and in such amounts as are more particularly described therein; and

WHEREAS, the Lease and Development Agreement are consistent and in compliance with, and in satisfaction of, the terms and conditions of that certain Memorandum of Understanding for the Redevelopment of the Silverlakes Property dated as of January 16, 2008, and as subsequently amended (herein, the "**MOU**"), which agreement shall be deemed terminated and superseded by this Lease on the Term Commencement Date (as hereinafter defined); and

WHEREAS, on March 4, 2009, the City Council adopted Resolution No. 2009-07 which approved the Environmental Impact Report and Resolution No. 2008-08, which approved Conditional Use Permit (herein, the "**CUP**") No. 2008-09 for the Project and imposed certain Conditions of Approval. This Lease is consistent and in compliance with said Resolutions and the CUP.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, hereby agree as follows:

ARTICLE 1. LEASED PREMISES

1.1 Leased Premises

Subject to the provisions of this Lease, Landlord (i) agrees to lease to Tenant, and Tenant agrees to lease from Landlord the Silverlakes property and all existing improvements thereon (also known herein as the "**Leased Premises**") and (ii) represents that the Silverlakes property consists of a combined total of approximately 122 contiguous acres of real property comprised of the following five parcels:

(a) Parcel A: That certain 24.35 acres of land identified by County of Riverside Assessor Parcel Number 152-060-004-0 more particularly described in the legal description attached hereto as **Exhibit A** and shown and depicted as the area labeled "**Parcel A**" in the attached **Exhibit B** together with all buildings, structures, improvements, and fixtures now or hereafter erected thereon;

(b) Parcel B: That certain 33.69 acres of land identified by County of Riverside Assessor Parcel Number 152-060-011-6 more particularly described in the legal description attached hereto as **Exhibit A** and shown and depicted as the area labeled "**Parcel B**" in the attached **Exhibit B** together with all buildings, structures, improvements and fixtures now or hereafter erected thereon;

(c) Parcel C: That certain 19.50 acres of land identified by County of Riverside Assessor Parcel Number 152-070-001-8 more particularly described in the legal description attached hereto as **Exhibit A** and shown and depicted as the area labeled "**Parcel C**" in the attached **Exhibit B** together with all buildings, structures, improvements and fixtures now or hereafter erected thereon;

(d) Parcel D: That certain 16.02 acres of land identified by County of Riverside Assessor Parcel Number 152-070-011-7 more particularly described in the legal description attached hereto as **Exhibit A** and shown and depicted as the area labeled "**Parcel D**" in the attached **Exhibit B** together with all buildings, structures, improvements and fixtures now or hereafter erected thereon;

(e) Parcel E: That certain 28.15 acres of land identified by County of Riverside Assessor Parcel Number 152-070-002-9 more particularly described in the legal description attached hereto as **Exhibit A** and shown and depicted as the area labeled "**Parcel E**" in the attached **Exhibit B** together with all buildings, structures, improvements and fixtures now or hereafter erected thereon.

1.2 No Third Party Rights.

On or before the Term Commencement Date as defined below, Landlord shall have terminat any third party tenancies and shall deliver the Leased Premises to Tenant free of all tenancies a encroachments and without any residents, tenants, licensees, occupants and/or trespasse thereon. Any costs of relocating persons or encroachments on the Leased Premises as of the da hereof shall be borne by Landlord at its cost. Landlord agrees to indemnify, defend and ho Tenant harmless from any and all claims, damages, costs and expenses or whatsoever kind o nature arising from evictions, lease terminations, unlawful detainer actions or other acts o dispossession or reclamation undertaken by Landlord (including counterclaims of thir parties in response thereto) in order to deliver the Leased Premises free of claims o possession by third parties and/or rights of possession or access to the Leased Premises including but not limited to the alleged right of ingress and egress on the Leased Premise which John A. Summerfield and Linda C. Summerfield have to maintain, repair and operate th water wells on the Leased Premises, as reflected on that certain Fourth Amendment t Preliminary Title Report, dated February 11, 2010, Order No.: 820035005-K26 prepared b Chicago Title Company (Attn: Kelly McDole) ("**PTR**"), attached hereto as **Exhibit D-1**. Relative to the purported rights of the Summerfields (above-referenced), the City agree either to remove the encumbrance from title or provide Tenant, no later than the Term Commencement Date, with an indemnification (in a form reasonably acceptable to Tenant) which protects and indemnifies Tenant from the entry and activities on or about the Leased Premises by the holders of the encumbrance rights and from any and all claims, costs, expenses, damages and the like related to or arising therefrom.

ARTICLE 2. TERM; CONDITIONS; EXTENSIONS

2.1 Interim Term.

The "**Interim Term**" of this Lease is defined as the period of time which shall commence on the Effective Date and shall terminate on the date on which all conditions precedent set forth on **Exhibit C**, attached hereto, have been waived or satisfied pursuant to the provisions of said **Exhibit C** (the "**Term Commencement Date**").

2.2 License for Entry.

Landlord hereby grants Tenant, its employees, agents, contractors, surveyors and consultants, a license to enter upon the Leased Premises and immediately surrounding property owned or controlled by the City during the Interim Term for the purpose of conducting such surveys, tests, inspections, evaluations, and pre-construction activities (including demolition of existing structures, removal of weeds, debris, and existing structures, or installations; construction of temporary construction fencing, and disking of certain areas) on the Leased Premises as Tenant shall require in its assessment of the Leased Premises, to present the Leased Premises to potential lenders, or investors and/or to mobilize for construction. Tenant shall provide Landlord with reasonable prior notice of any physical testing of the Leased Premises and Landlord shall have the right to be present at any such testing. Tenant agrees to pay all of the costs and expenses associated with its investigation and testing and to repair any damage to the Leased Premises to the extent arising from or related to Tenant's investigations or testing, at Tenant's expense. Tenant shall carry liability insurance (naming Landlord as an additional insured) covering its activities or indemnify and hold Landlord

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On or before the Term Commencement Date as defined below, Landlord shall have terminated any third party tenancies and shall deliver the Leased Premises to Tenant free of all tenancies and encroachments and without any residents, tenants, licensees, occupants and/or trespassers thereon. Any costs of relocating persons or encroachments on the Leased Premises as of the date hereof shall be borne by Landlord at its cost. Landlord agrees to indemnify, defend and hold Tenant harmless from any and all claims, damages, costs and expenses or whatsoever kind or nature arising from evictions, lease terminations, unlawful detainer actions or other acts of dispossession or reclamation undertaken by Landlord (including counterclaims of third parties in response thereto) in order to deliver the Leased Premises free of claims of possession by third parties and/or rights of possession or access to the Leased Premises, including but not limited to the alleged right of ingress and egress on the Leased Premises which John A. Summerfield and Linda C. Summerfield have to maintain, repair and operate the water wells on the Leased Premises, as reflected on that certain Fourth Amendment to Preliminary Title Report, dated February 11, 2010, Order No.: 820035005-K26 prepared by Chicago Title Company (Attn: Kelly McDole) ("**PTR**"), attached hereto as **Exhibit D-1**. Relative to the purported rights of the Summerfields (above-referenced), the City agrees either to remove the encumbrance from title or provide Tenant, no later than the Term Commencement Date, with an indemnification (in a form reasonably acceptable to Tenant) which protects and indemnifies Tenant from the entry and activities on or about the Leased Premises by the holders of the encumbrance rights and from any and all claims, costs, expenses, damages and the like related to or arising therefrom.

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harmless from all costs, expenses and liabilities arising to the extent out of such inspections and attributable to Tenant's negligence or willful misconduct or that of its employees, agents, consultants or contractors in performing its evaluation of the Leased Premises. Landlord shall provide with copies of all environmental reports in its possession concerning the Leased Premises.

2.3 Mutual Cooperation; Construction/Building Permits.

In order to aid Tenant in meeting governmental requirements for the construction and operation of the Project contemplated by Tenant as permitted herein and consistent with the Development Agreement (as amended from time to time), Landlord (in its capacity as landlord and fee owner of the Leased Premises and without impairing the City's right to act as a municipal agency in reviewing and issuing building or other permits) shall execute such construction applications, variances or requests as may be necessary for or required of it or them as the owner and/or master tenant (as applicable) of the Leased Premises and shall provide any non-proprietary information in the possession of either of them which may be necessary in completing applications, submittals or requests to the City or other governmental authorities having jurisdiction over development of the Leased Premises. Landlord will cooperate with Tenant in Tenant's procurement of all required building and operational permits associated with Tenant's construction and for all use and operational/business licenses and permits, including but not limited to conditional use, hazardous materials, and County health permits, if any, associated with Tenant's operations from the Leased Premises.

2.4 Term Commencement; Original Term.

The Original Term of this Lease shall commence on the Term Commencement Date and shall terminate at 11:59 p.m. on the day prior to the thirtieth (30th) anniversary of thereof (the "**Original Term**") unless extended as provided in Section 2.5 below or sooner terminated as provided for in this Lease. Upon Tenant's and Landlord's notification of their respective satisfaction or waiver of their conditions precedent to the effectiveness of this Lease contained in **Exhibit C**, either party may require the other to execute the Memorandum of Ground Lease (**Exhibit E** hereto) ("**Memorandum**") which shall be recorded promptly following the Term Commencement Date. Landlord agrees it shall be responsible for causing the Memorandum to be recorded in the Riverside County Recorder's office and for paying all recording costs associated with recording the Memorandum, including any and all documentary transfer tax attributable to this Lease.

2.5 Option to Extend Lease.

Landlord hereby grants to Tenant the option to extend this Lease (the "**Option to Extend**") for thirteen (13) additional periods of five (5) years each and one additional period of four (4) years (for a maximum lease duration of ninety-nine (99) years) (each referred to herein as the "**Extended Term**") following the expiration of the Original Term. As extended, the Original Term and each exercised Extended Term is referred to herein as the "**Term.**" Tenant shall exercise each Option to Extend by giving Landlord written notice (the "**Option Notice**") thereof at least twelve (12) months prior to the expiration of the then current Term. If Tenant timely exercises the Option to Extend, the rights, duties and obligations of the Parties during the applicable Extended Term shall be governed by and subject to all of the terms, covenants and conditions contained in this Lease. In the event Tenant fails to timely deliver written notice of its exercise of the Option to

Extend to Landlord at least twelve (12) months prior to the expiration of the then current Term, Landlord shall give Tenant written notice, and Tenant shall have 30 days within which to exercise the Option to Extend; thereafter Landlord shall be free to lease the Leased Premises to any third party free and clear of any rights of Tenant hereunder. Any and all rights conferred to Tenant by this Section 2.5 shall be deemed of no force or effect in the event a material uncured Event of Default (as defined in Section 13.1) exists at the time Tenant delivers the Option Notice to Landlord or at the commencement of the applicable Extended Term.

2.6 Possession; Risk of Loss; Covenant of Quiet Enjoyment.

From and after the Term Commencement Date, all risk of loss associated with the Leased Premises described herein shall pass to Tenant, but only to the extent herein provided. Subject to the terms of this Lease and the Shared Use Agreement to be entered into as contemplated by **Exhibit C**, Landlord covenants and warrants that Tenant shall peacefully have and enjoy the sole possession of the Leased Premises during the Original Term and any Extended Term free from the adverse claims of any persons, firms, corporations or the public whatsoever, and Landlord will fully protect Tenant in the full, complete and absolute possession of the Leased Premises. No exclusive uses, rights or privileges shall be granted by Landlord to the public or to other third persons which affect the use of the Leased Premises without the written consent of Tenant and unless subject to the Shared Use Agreement. Landlord agrees to execute access easements or rights of way on, over or under the Leased Premises and the land immediately adjacent to the Leased Premises to the extent owned by the Landlord at Tenant's request which are or may be needed or required by Tenant in conjunction with Tenant's and/or the public's access, use and enjoyment of the Leased Premises and consistent with the CUP granted to Tenant. Landlord agrees not to file, support or cause any zoning change or variance to be made that would adversely affect Tenant's use of the Leased Premises as herein allowed without the prior written approval of Tenant.

2.7 Environmental Condition; As-is Condition.

2.7.1 Tenant's Hazardous Materials Indemnity. Except as caused or permitted by Landlord or its or their affiliates, agents, invitees, the public, vendors and/or contractors and/or its or their officers, directors, members, shareholders and employees (collectively herein "**Landlord Parties**") or as otherwise permitted or not prohibited under Applicable Laws, Tenant and its affiliates, agents, invitees, vendors and/or contractors and/or its or their officers, directors, members, shareholders and employees (collectively herein "**Tenant Parties**") shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of the Tenant Parties, the installation of Hazardous Materials (as defined in Section 15.12(k) below) in or on the Leased Premises or a release of Hazardous Materials onto or from the Leased Premises in violation of Environmental Laws (as defined in Section 15.12(k) below); provided, however, that Tenant shall not be responsible for any Hazardous Materials currently on or under the Leased Premises or for any migration of Hazardous Materials onto the Leased Premises from surrounding property or a release caused by a third party who is not a Tenant Party. Prior to the surrender of the Leased Premises by Tenant, Tenant shall remove any and all Hazardous Materials (including without limitation any inventory and merchandise for which a disposal permit is required and/or asbestos containing materials) which a Tenant Party has brought onto the Leased Premises or otherwise utilized, stored or disposed of in the Leased Premises in violation of Environmental Laws. Tenant shall be solely responsible for and shall defend, indemnify and hold all Landlord Parties harmless from and against all claims, costs, damages, judgments, penalties, fines, losses, liabilities and expenses, including attorneys' fees and costs

(collectively, "**Claims**"), to the extent arising out of or in connection with Tenant's breach of its obligations contained in this Section 2.7 (including, without limitation, consultant and expert fees). Tenant shall be solely responsible for and shall defend, indemnify and hold Landlord, its agents, affiliates and employees harmless from and against any and all Claims, to the extent arising out of or in connection with removal, cleanup and restoration work and materials necessary to return the Leased Premises to their condition existing prior to the discovery of Hazardous Material released in, on or about the Leased Premises caused by Tenant. Notwithstanding anything else set forth herein, Tenant's obligations under this Section 2.7 shall survive the expiration or earlier termination of this Lease; provided, however, that Tenant's indemnification obligations under this Section 2.7 shall apply only to Claims of which Tenant receives notice in writing within two (2) years after termination of the Lease. Tenant shall notify Landlord promptly in the event of any spill or Hazardous Substance upon the Leased Premises during the Term and shall promptly forward to Landlord copies of all orders, notices, permits, applications or other communications and reports in connection with any such spill or any other matters relating to Environment Laws that affect the Leased Premises.

2.7.2 Landlord's Hazardous Materials Indemnity. Except as otherwise permitted or not prohibited under Applicable Laws or as caused by any Tenant Party, a Landlord Party shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of Landlord, the installation of Hazardous Materials in or on the Leased Premises or a release of Hazardous Materials onto or from the Leased Premises. Landlord shall be solely responsible for and shall defend, indemnify and hold the Tenant Parties harmless from and against all Claims (including consequential and punitive damages) which arise during or after the Term to the extent arising out of or in connection with contamination which a Landlord Party causes and to the extent attributable to: (a) Landlord's breach of its obligations contained in this Section 2.7 (including, without limitation, attorney, consultant and expert fees) and/or (b) Landlord's removal, cleanup and restoration work stemming from contamination caused by Landlord. Notwithstanding anything else set forth herein, Landlord's obligations under this Section 2.7 shall survive the expiration or earlier termination of this Lease; provided, however, that Landlord's indemnification obligations under this Section 2.7 shall apply only to Claims of which Landlord receives notice in writing within two (2) years after termination of the Lease. Provided, however, that Landlord shall not be responsible for indemnifying Tenant for any Hazardous Materials currently on or under the Leased Premises which was disclosed to Tenant in writing prior to the Term Commencement Date. In the event it is determined that a Release (as defined in Section 15.12(k) below) occurred at, upon, under or within the Leased Premises prior to the Term Commencement Date, Landlord shall, so long as the Release is remediable within a time frame agreeable to Tenant, commence to clean-up such Release and diligently pursue such clean-up to completion in which event this Lease shall remain in full force and effect except that the Annual Minimum Rent shall be abated during such clean-up period in proportion to that portion of the Leased Premises not usable by Tenant (as reasonably determined by the Parties).

2.7.3 As-Is Condition. Subject to the performance of Landlord's construction work on or about the Leased Premises as set forth herein and in the Development Agreement (as defined in **Exhibit C),** and except as otherwise specifically provided in this Lease, Tenant agrees that: (i) it shall lease the Leased Premises in an "as-is" condition as of the Term Commencement Date, subject to all facts, circumstances, conditions and defects; (ii) Landlord has no obligation to repair or correct any facts, circumstances, conditions or defects in the Leased Premises or to compensate Tenant for the same; (iii) Tenant shall have undertaken all such physical inspections

and examinations of the Leased Premises which Tenant deems necessary or appropriate, under the circumstances, and that, based upon the same, Tenant is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own agents and officers; and (iv) except as expressly provided in this Lease, Landlord is not making and has not made any warranty or representation with respect to the physical condition or the fitness for any particular purpose of any part of the Leased Premises as an inducement to Tenant to enter into this Lease. Tenant agrees that it is relying solely on its own inspections and not on any representation of Landlord, except as otherwise expressly set forth in this Lease, in determining to waive the conditions precedent contained in **Exhibit C**.

ARTICLE 3. RENT

3.1 Rent Commencement Date.

Tenant shall have no obligation to pay Rent (as hereinafter defined) during the Interim Term. Tenant's obligation to pay Rent shall begin as of the Term Commencement Date (assuming fulfillment or waiver of the conditions precedent contained in **Exhibit C** shall occur) but in no event later than January 3, 2012, and continue until the expiration or earlier termination of this Lease. Notwithstanding the foregoing or anything to the contrary herein contained, should Landlord not complete its work (as such work described in Section 5.1.2 below and/or in the Development Agreement and within the prescribed time frames, including as set out in the Schedule of Performance defined in the Development Agreement and so long as delays affect (i) Tenant's prosecution of its work, and/or (ii) the issuance of a final certificate of occupancy for the Leased Premises; and/or (iii) the date of substantial completion for any phase of the Public Infrastructure Improvements (as defined in the Development Agreement, **Exhibit G-2** herein and as scheduled in the Schedule of Performance), Tenant's obligation to pay Rent shall be abated day for day until Landlord's work is complete. All Rent shall be paid without invoice, deduction, abatement, off set, prior notice or demand, except as herein stated. All payments of rental shall be made to Landlord as they become due in lawful money of the United States of America at such place as is designated herein by Landlord for the receipt of notices or such other place as shall be designated to Tenant by Landlord in writing from time to time. The term "**Rent**" or "**rental**" as used in this Lease includes the Annual Minimum Rent defined in Section 3.2 and all other sums required to be paid by Tenant under this Lease. Annual Minimum Rent due under this Lease shall be due on the first (1st) day of each calendar month. If the Term Commencement Date is on a day other than the first (1st) day of the month, then in such event the Rent for that period until the first of the succeeding month shall be prorated daily at the rate of the initial monthly rental rate until the end of that month with such rent due and payable by the first (1st) day of the following calendar month.

3.2 Annual Minimum Rent.

The "**Annual Minimum Rent**" payable for the first five (5) years from and after the Term Commencement Date shall be THREE HUNDRED NINETY-SIX THOUSAND FOUR HUNDRED AND EIGHTY DOLLARS ($396,480.00). The Annual Minimum Rent shall be paid in twelve (12) equal monthly installments payable in advance on or before the first day of each calendar month. For purposes hereof, the first "**Lease Year**" of the Term is that 365 day period measured from the Term Commencement Date, and thereafter each 365 day period from the anniversary date of the Term Commence Date. The Annual Minimum Rent shall be subject to adjustment as follows (and each date on which as adjustment occurs is herein, an "Adjustment Date"):

(a) On the first day of the 6th Lease Year, the Annual Minimum Rent shall be increased by 8% of the Annual Minimum Rent in effect as of the Term Commencement Date;

(b) On the first day of the 16th Lease Year, the Annual Minimum Rent shall be increased by 8% of the Annual Minimum Rent in effect immediately prior to the 16th year Adjustment Date;

(c) On the first day of the 26th Lease Year, the Annual Minimum Rent shall be increased by 8% of the Annual Minimum Rent in effect immediately prior to the 26th year Adjustment Date, and

(d) On first day of the 31st Lease Year and on each 5 year anniversary thereof occurring throughout the Extended Term, the Annual Minimum Rent shall be adjusted by the percentage change in the Consumer Price Index ("**Index**") measured from the immediately preceding Adjustment Date to the instant Adjustment Date (as measured pursuant to the procedure described below), but in no event shall an increase be more than 10% or less than 3% of the Annual Minimum Rent in effect immediately prior to the applicable Adjustment Date.

As used herein, the Index shall mean the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers U.S. City Average, Subgroup "All Items" (1982-84 =100), and if available, such index shall be specific to the Los Angeles/Anaheim/Riverside region. The procedure for making such adjustments shall be to adjust the Annual Minimum Rent by a percentage equal to the percentage increase, if any, in the Index for the month which is three (3) months prior to the beginning of the applicable five (5) year period as compared to the Index for the month which is three (3) months prior to the applicable adjustment date, subject to the percentage limitations set forth above. If the Index is not published for a particular month, then the closest subsequent month thereto shall be used. In no event shall the Minimum Annual Rent, as adjusted, be less than the Minimum Annual Rent in effect prior to the effective date of the adjustment. If at any time the Index does not exist in the format described herein, Landlord and Tenant shall reasonably agree on a comparable government index that measures inflationary trends.

3.3 Pre-paid Rent; Security Deposit.

Tenant shall deposit with Landlord the sum of $396,480.00 on the Term Commencement Date, which amount shall as applied as follows: (a) One-half of said amount ($198,240.00) shall be deemed pre-paid rent for the first six months of the Lease Term assuming, and following, the Term Commencement Date; and (b) the remaining $198,240.00 shall constitute the security deposit (herein, the "**Security Deposit**") for the full and faithful performance of this Lease to be performed by Tenant, subject to the early release and return to Tenant as hereinafter stated. If Tenant breaches any provision of this Lease following the giving of notice and expiration of applicable cure periods, Landlord may use all or any part of this Security Deposit for the payment of Rent or to compensate Landlord for costs reasonably expended in the cure of Tenant's default. If any portion of said Security Deposit is so used or applied, Tenant shall, within ten (10) days after written demand, deposit cash with Landlord in an amount sufficient to restore the Security Deposit to its full amount. Landlord shall not be required to keep the security deposit in trust, segregate it or keep it separate from Landlord's general funds, but

Landlord may commingle the security deposit with its general funds and Tenant shall not be entitled to interest on such deposit. Notwithstanding the foregoing, Landlord agrees it shall return the Security Deposit to Tenant on the completion of the Phase II Project Improvements (as set out in the Development Agreement).

3.4 Interest and Late Charge.

Any Rent not paid within ten (10) days after the date the payment is due and following five (5) days written demand to Tenant for payment of the same shall bear interest at the Default Rate as defined herein from the date due until the date of payment by Tenant.

Acceptance of rental without the late charge will not constitute a waiver of Tenant's default with respect to such nonpayment of the late charge by Tenant, nor prevent Landlord from exercising all other rights and remedies available under the Lease. Landlord's failure to require or collect the late charge in any one or more instances shall not constitute a waiver of the right to collect subsequent late charges.

The "**Default Rate**" as used herein shall mean interest at the rate of two percent (2%) per annum in excess of the Prime Rate in effect from time to time calculated on the balance of rental and other amounts from time to time outstanding. As used herein the "Prime Rate" means the highest announced "prime rate" of Citibank, New York, New York, for 90 day commercial loans or if the practice of such bank of announcing "prime rates" is discontinued, then the highest rate of interest charged by such bank (or by the largest [measured by total assets] bank in the continental United States, if Citibank ceases to exist or to make such loans) for 90 day commercial loans to its most credit worthy large corporate borrowers, as such rate may change from time to time. Any change in said interest rate shall become effective on the first day of each calendar month and for such calendar month shall be based on the prime rate in effect on the last day of the immediately preceding calendar month.

None of the terms or provisions of this Lease shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the Applicable Laws, if any, of the State of California. Tenant shall never be required to pay interest on any amount in Default under this Lease at a rate in excess of the maximum interest rate that may be lawfully charged under the Applicable Laws, if any, of this State. and the provisions of this paragraph shall control over all other provisions in this Lease which may be in apparent conflict with this paragraph. If Landlord shall collect monies which are deemed to constitute payments in the nature of interest which would otherwise exceed the maximum rate permitted to be charged by Applicable Laws. if any, of this State, all such sums deemed to constitute interest in excess of such maximum rate shall, at the option of Landlord, be credited to the payment of sums lawfully owing or returned to Tenant. Nothing herein shall be construed to submit this Lease or the payment of any sums hereunder to the application of any usury or other laws which would not otherwise apply but for the provisions hereof.

3.5 No Implied Partnership.

Nothing in this Lease shall be construed to render Landlord, a partner, joint venturer, or associate in any relationship or for any purpose with Tenant, other than that of Landlord and Tenant, nor shall this Lease be construed to authorize either to act as agent for the other.

3.6 [Reserved]

ARTICLE 4. USES

4.1 Use of the Leased Premises.

It is expressly agreed that the Leased Premises may be used for those uses which are set forth in **Exhibit F** attached hereto and made a part hereof ("**Permitted Uses**"). Subject to the terms hereof, Tenant, its agents, employees, customers, and invitees shall have free and unobstructed right to use the Leased Premises. Tenant shall specifically have the right to access the water wells on-site and to use water produced therefrom on-site free of charge. Tenant shall also be permitted, subject to the Development Agreement and Landlord's prior written approval of all plans and specifications, which said approvals will not be unreasonably withheld, and subject to Tenant's compliance with all Applicable Laws, to develop, construct and improve the Leased Premises with those improvements contemplated by **Exhibit G** (herein "**Tenant Improvements**") and the "**City Facilities**" (as defined in Section 5.1.1 below) and generally where indicated on the site plan (herein, "**Site Plan**") attached as **Exhibit L** (herein collectively "**Initial Improvements**" and such related and permitted future alterations and additions as are allowed by Applicable Laws and subject to Section 5.5 hereof (collectively "**Improvements**").

4.2 Applicable Laws; Plans.

The term "**Applicable Laws**" (or words of like import) as used herein shall mean and include any or all federal, state, or local laws, statutes, ordinances, codes, decrees, rulings, regulations, writs, injunctions, orders, rules, conditions of approval or authorizations of any governmental entity, agency or political subdivision, now in force or which may hereinafter be in force pertaining to the Leased Premises or Tenant's use thereof. The term "**Plans**" as used herein shall mean and be defined as the Concept Plans (as defined below), all preliminary and final drawings, grading plans, site map plans, architectural plans, specifications, elevation plans and renderings, landscape plans, parking plans and any and all other approved plans for the Improvements to be constructed on the Leased Premises.

Subject to Landlord's representations and warranties herein contained and subject to the Development Agreement, Tenant shall comply with and abide by all Applicable Laws and, following the validation action as contemplated by **Exhibit C** hereto, the Deed Restriction (defined in Section 15.12 below) governing its use of the Leased Premises. Furthermore, Tenant shall not maintain, commit, or permit the maintenance or commission on the Leased Premises, or any portion thereof, of any nuisance, public or private, as now or hereafter defined by any statutory or decisional law applicable to the Leased Premises, or any portion thereof.

4.3 Public Access; Shared Use Agreement; and Public's Use of Leased Premises.

The public's right to use the Leased Premises shall be specified in the Shared Use Agreement to be entered into with the City (as set forth in **Exhibit C**). Landlord specifically acknowledges that:

(a) Except during those occasions when Tenant requires the exclusive use of the totality Leased Premises for scheduled events (and the procedure for establishing

Tenant's exclusive use schedule shall be set forth in the Shared Use Agreement). the public shall have the right (subject to payment of the fees contemplated by the Shared Use Agreement) to use those areas of the Leased Premises as set forth in the Shared Use Agreement. The grass and synthetic fields are to be used by the public for the playing of typical field sports (e.g. soccer) under the sports programs organized or controlled by the City's Department of Parks and Recreation. Parking shall be in such areas as are designated by Tenant.

(b) Certain buildings, improvements and areas of the Leased Premises (including but not limited to caretaker cottage, guard stations, Tenant's on-site offices, certain corrals and stables) will not be open to the public.

(c) Tenant assumes no responsibility for the security or policing of the public's use of the Leased Premises. Tenant has no obligation to provide security or medical services to the public. All the same immunities as protect the City and/or apply to a City park shall protect and apply to Tenant the Leased Premises when the City is allowing the public to use the Leased Premises. Tenant's responsibility with respect to the areas used by the public on the Leased Premises shall be limited to maintaining the landscaping and hardscape thereon (once established) in a condition generally consistent with public recreational parks in Riverside County and keeping the same generally free of debris. Persons accessing the Leased Premises will be required to acknowledge that Leased Premises are proximate to open areas, that wildlife may be present onsite, and that certain natural conditions and risks associated with horses and sporting activities will be present. Unless arising from Tenant's gross negligence or willful misconduct in the maintenance of the Leased Premises, the City shall defend, indemnify and hold Tenant (and its directors, officers, agents, employees, partners, members, assignees and transferees) harmless from any claims, costs, expenses, liabilities, causes of action or the like asserted by the public or any third party arising from the condition or security of the portions of the Leased Premises being used by the public.

(d) Tenant reserves the right to restrict the public's right of access in order to prevent any claim of adverse possession and/or to protect the Leased Premises.

4.4 Santa Ana River Trail.

The public seeking to access the "Santa Ana River Trail" for purposes of day hiking, walking, biking, jogging or horseback riding will have the non-exclusive right to access such trail at the "trail head" area and located on the Leased Premises. Such visitors are to park in the parking area of the Leased Premises as from time to time specified by Tenant. Tenant agrees that the public shall have the right to utilize such areas, subject to the terms and conditions of this section and such reasonable, posted rules and regulations as are from time to time promulgated for so long as there is a public trail system for walking, biking and horseback riding located on the land lying to the east of and adjacent to the Leased Premises. Except for overnight camping of horse riders as and to the extent permitted by the Shared Use Agreement, no overnight parking shall be permitted in the trail head area or any other location in the Leased Premises. Parking may be subject to the fees contemplated by the Shared Use Agreement. Landlord shall retain all liability associated with the public's use of the Leased Premises (including specifically the trail head area and other public areas of the Silverlakes property designated or dedicated for public use) and/or the surrounding public trails. The Landlord agrees that those portions of the Leased Premises utilized by the public during events sponsored by the City shall be deemed property which is

sublet or licensed by the City and shall be considered part of the City's public park system for purposes of the risk of loss, liability and the public's right of access. It is specifically acknowledged that Tenant assumes no responsibility for the security or policing of the Santa Ana River Trail or the trail head area. Unless arising from Tenant's gross negligence or willful misconduct in the discharge of its obligations specified herein, the Landlord shall defend, indemnify and hold Tenant (and its directors, officers, agents, employees, partners, members, assignees and transferees) harmless from any claims, costs, expenses, liabilities, causes of action or the like asserted by the public or any third party arising from the condition or security of (i) the Santa Ana River trail, (ii) any other trail system and public portions of the Leased Premises and/or (iii) the public's use thereof. Subject to Tenant's right to close the Leased Premises, including the trail head area, due to reasonable safety concerns (such as flooding and fire risks) or to stop any claim of adverse possession, Tenant agrees to allow the public access to the trail head area as more particularly specified in the Shared Use Agreement.

4.5 Flooding.

Tenant acknowledges the Leased Premises is located in a flood plain and adjacent to the Santa Ana River basin; portions of the property may be subject to seasonal inundation. No abatement of Rent shall occur due to flooding of the Leased Premises.

4.6 Signage; Advertising.

Subject to a signage program to be prepared by Tenant and approved by Landlord, Tenant shall have the right to erect permanent pylon and monument signage and place temporary signage, including advertising banners, subject to the signage program approved by Landlord. Tenant shall have the right to install directional and traffic signage on or about the Leased Premises. Tenant shall have the right, from time to time to place banners on and about the Leased Premises which advertise and announce coming events and programs and to allow advertisers, sponsors and promoters to place portable electronic and/or static signage, banners, flags on and about the Leased Premises consistent with the signage program approved by Landlord.

4.7 Non-Discrimination.

Tenant, for itself, its successors and assigns and all persons claiming under or through it, covenants that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Leased Premises, nor shall Tenant or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of tenants, licensees, employees or vendees in the Leased Premises or the improvements thereon. The foregoing covenants shall run with the land. Tenant has been informed of the compliance requirements set forth in the City's E-Verify Ordinance No. 927.

ARTICLE 5. CONSTRUCTION AND REIMBURSEMENT BY TENANT

5.1 Construction of Improvements; Landlord's Cooperation.

5.1.1 Tenant's Work. Following the Term Commencement Date and pursuant to the Development Agreement and Funding Agreement, Tenant shall, at Tenant's sole cost and expense, construct (a) those certain Tenant Improvements on the Leased Premises which are required by **Exhibit G** to be constructed and (b) those public improvements to be constructed by Tenant and funded by the City as set forth in the Funding Agreement (identified therein and herein as the "**City Facilities**"). Tenant shall have the discretion to construct those Tenant Improvements contemplated by **Exhibit G** which area denoted as being optional. The City Facilities are preliminarily identified on **Exhibit G-1** hereto and are subject to change as and to the extent provided in the Funding Agreement. Tenant intends to construct its Improvements in phases, and the same shall be constructed and completed in accordance with the terms and conditions set forth below, the Development Agreement (including the Schedule of Performance attached thereto) and provisions of all Applicable Laws. Landlord (in its capacity as fee owner and landlord) agrees to process and execute, as applicable, any documents reasonably necessary to facilitate governmental approvals for the Improvements and to reasonably cooperate with Tenant and all governmental authorities in securing all Tenant's requisite approvals, permits and certificates necessary for the construction of the Improvements and Tenant's use of the Leased Premises (including, without limitation, use or zoning approvals, signage approvals, and ingress and egress). In conjunction with the construction and operation of Improvements, Landlord covenants to timely dedicate and grant all rights of way and easements on the Leased Premises which are reasonably necessary for Tenant's construction and use of Improvements.

5.1.2 Landlord's Work. As contemplated hereby and by the Development Agreement, Landlord agrees that it shall: (i) construct the Public Infrastructure Improvements as defined in Section 5.6.2 below and listed on **Exhibit G-2**; and (ii) subject to the Reimbursement Agreement for demolition, clearing and grubbing, by and between Landlord and Tenant dated as of January 26, 2010 (herein, "**Reimbursement Agreement**"), deliver the Leased Premises cleared of brush, debris, weeds, fence posts and railings and other structures as contemplated by said Reimbursement Agreement. Landlord shall provide access to the Leased Premises as is reasonably required by Tenant to commence and expeditiously complete its construction activities within the timeframes established. Landlord shall complete the Public Infrastructure Improvements on or before the dates established in the Schedule of Performance attached to the Development Agreement and in all events prior to or concurrent with Tenant's completion of the Phase I improvements identified in the Development Agreement. It is agreed that Tenant may elect to include the "Work" identified in the Reimbursement Agreement, along with any minor grading that Landlord and Tenant may agree is most expeditiously performed by Landlord, as an element of work which may be financed by Landlord under the Funding Agreement so long as such inclusion does not cause the dollar cap described in said Funding Agreement to be exceeded. Landlord represents that all its work will be constructed in accordance with all applicable laws and permits.

5.2 Plans and Specifications.

It is Landlord's and Tenant's intent to ensure that all Improvements (including the Public Improvements) are of high quality and good appearance. Therefore, before Tenant or Landlord begins construction of the Improvements, and before any building materials are delivered to the Leased Premises by either Party, the Parties shall have complied with all of the requirements set forth in this Section 5.2.

5.2.1 Submission and Approval of Plans and Specifications.

(a) Concept Plans. Landlord acknowledges that it has approved those conceptual renderings, drawings and layouts of the Improvement collectively attached hereto as **Exhibit O** (herein "**Concept Plans**") and the Site Plan.

(b) Design Review. Tenant shall submit to the City's Planning Commission those renderings and submissions required for the City's design review process ("**Design Review Documents**"), which Design Review Documents are to be in sufficiently final form so that the City staff may deem them complete and process the same promptly following receipt. The Design Review Documents are to generally reflect the aesthetics and conceptual elements of the Project as contemplated by the Concept Plans.

(c) Tenant's Construction Drawings. Consistent with the timing for submission of plans as set forth in the Schedule of Performance contained in the Development Agreement, but in no event later than ninety (90) days following City's approval of the Design Review Documents (and assuming that the Exhibit C conditions precedent intended to be fulfilled on or before such date have been waived or satisfied), Tenant shall prepare design, engineering and construction drawings and specifications for Phase I of the Initial Improvements and the City Facilities (herein, **"Plans and Specifications")** consistent with the Design Review Documents and submit the same to the City for approval; City agrees not to object to the construction drawings to the extent the same are materially consistent with the approved Design Review Documents and the Project's entitlements (but reserving the City's right as an administrative agency to review the same for conformity to the City's building ordinances in affect at the time of Tenant's submittal). Landlord (both as Landlord and as an approving agency) shall approve or disapprove modifications to the Plans and Specifications and any other submissions by Tenant within sixty (60) days of their submission. In the event that Landlord, as required, fails to approve or disapprove the proposed change or other submission within said sixty (60) day period, then any of Tenant's deadlines set forth in the Development Agreement shall be extended by a period of time equal to the time between the expiration of said sixty (60) day period and the City's subsequent approval or disapproval of said proposed Plans and Specifications or other submissions. In the event of any disapproval, the City shall inform Tenant in detail and in writing (the "**Disapproval Notice**") of the reasons for disapproval and the required changes to the Plans and Specifications or other submissions to make them consistent with the previously approved Design Review Documents. Tenant shall revise such Plans and Specifications or other submissions and resubmit

them to the Landlord within sixty (60) days after receipt of the Disapproval Notice, unless the, nature of such changes requires a longer period of time, in which case Tenant shall resubmit said Plans and Specifications or other submissions as soon as possible. Any resubmissions by Tenant shall be approved or disapproved and revised within the times set forth herein with respect to the initial submission. Notwithstanding the above time periods, if the Landlord deems it appropriate or necessary to hold a public meeting or a meeting of the City Council of the City, or any agency or commission thereof, before the action specified is to be taken, the period for such action by the Landlord shall be extended by a reasonable amount of time, not to exceed thirty (30) days, in each case, for the holding of such public meeting; provided, that, to the extent that the time required to hold such public meeting(s) is not already factored into and/or reflected on any time table that is set forth in the Development Agreement as may from time to time be amended (herein "**Schedule of Performance**"), the period of delay attributable to said public meeting shall extend said time table by a period of time equal to the period of delay caused by that public meeting. Further, in all events, should the issuance of building permits be delayed beyond sixty (60) days following submission of properly corrected Plans and Specifications due to a delay by Landlord (including delays arising out of public hearings), Tenant's obligation to pay Rent shall be abated and delayed day for day for each day beyond the sixty (60) days that the building permits fail to issue.

(d) Mechanics. Any decision by the City Council shall be deemed a final decision of said entities. Any item, once approved, shall not be subject to subsequent disapproval. During the preparation of the construction drawings or any revisions to the approved Plans and Specifications or the preparation of any other submissions, the Landlord and Tenant shall hold progress meetings to coordinate the preparation, submission and review thereof by the Landlord. Landlord and Tenant shall communicate and consult informally as frequently as is necessary to ensure that the formal submission of all documents and plans to the approving agencies can receive reasonably prompt and speedy consideration.

5.2.2 Submission of Evidence of Construction Contracts. By the deadlines specified (if any) in the Development Agreement and its Schedule of Performance (or Funding Agreement relative to the City Facilities), otherwise promptly following issuance of building permits, Tenant shall have delivered to Landlord written commitments (the "**Construction Contract Commitments**") for the Improvements in Phase I of the Initial Improvements. Each such Construction Contract Commitment shall contain the representation of a reputable and financially responsible general contractor(s) ("**General Contractor**"), capable of being bonded, licensed in California and with experience in completing the type of Improvements contemplated by this Lease, that it is obligated and has agreed, subject to final documentation consistent with the Construction Contract Commitment, to commence and complete the development and construction of the Improvements in accordance with this Lease and for a cost not to exceed that stated in the Construction Contract Commitment. Tenant agrees that it will deliver to Landlord a copy of the construction contract(s) with its General Contractor(s) for Phase I of the Initial Improvements and City Facilities ("**Tenant's Construction Contract(s)**") as soon as the same are executed, which shall not, in any case, be later than thirty (30) days after approval of the final Plans and Specifications by the City and issuance of building permits.

Tenant's Construction Contracts shall give the Landlord the right, but not the obligation, following Tenant's default hereunder and the giving of at least 30 days prior written notice thereof and lapse of opportunity to cure (and subject to such other terms as the Party's shall agree to in writing), to cause the assignment of the applicable Construction Contract and to perform the Tenant's obligations and rights under the contract; provided, that Landlord's right to cause the assignment of a Tenant's Construction Contract shall be subject to the right, if any, of Tenant's Lender (as defined in Section 7.1 below)to an assignment of said contract. Should Tenant dispute Landlord's right to declare a default and/or cause the assignment of Tenant's Construction Contract, the reference process set forth in **Exhibit K** shall apply.

It is agreed that Landlord's work for the Public Infrastructure Work shall be coordinated with the performance of Tenant's work hereunder and Tenant's General Contractor shall coordinate the master schedule for all work performed on-site.

5.2.3 Builder's Risk and Other Insurance. Prior to the commencement of construction under Section 5.1.1, Tenant shall have obtained (and delivered insurance certificates therefor to Landlord) for all construction period insurance required under Article 11 of this Lease, including the "builder's risk" and worker's compensation insurance prescribed by Section 11.3 of this Lease in connection with any work on the Leased Premises.

5.2.4 No Construction Before Notice; Notice of Nonresponsibility. Tenant or its General Contractor shall have provided Landlord with written notice of the intended commencement of construction of the Improvements or delivery of its building materials to the Leased Premises at least ten (10) days prior to the earlier of commencement of construction under the Lease of those improvements or commencement of the delivery of those building materials to the Leased Premises. Landlord shall, at any and all times during the Term of this Lease, have the right to posit and maintain on the Leased Premises and to record as required by law any notice or notices of nonresponsibility provided for by the mechanics' lien laws of the State of California. The work for which said ten (10) days written notice is required shall include, in addition to actual construction work, any site preparation work, installation of utilities, or any grading or filling of the Leased Premises.

5.3 Completion of Improvements and Other Work; Compliance With Law And Quality.

Tenant and Landlord represent and warrant that the Improvements, and all other construction undertaken by it pursuant to this Lease, when undertaken, while in progress and as completed: (i) will comply with all Applicable Laws; (ii) will be located where sited on the approved Plans and will not encroach upon the land of others or any recorded easement or rights-of-way; (iii) will not violate any Permitted Exception; and (iv) will comply in all material respects with the final Plans and Specifications approved for the Improvements. All work performed on the Leased Premises pursuant to this Lease, or authorized by this Lease, shall be done in a good workmanlike manner and only with materials of good quality.

5.4 Mechanic's, Materialman's, Contractor's, or Subcontractor's Liens.

Tenant and Landlord covenant that they will permit no mechanic's or materialman's liens to be filed against the Leased Premises in connection with their respective construction activities. In the event any such lien is filed against the Leased Premises as a result of any construction by Landlord or Tenant, then and in that event, the Party responsible for the lien shall immediately (but in no event later than thirty (30) days after the filing of such lien) cause said lien to be discharged; provided, however, if said Party desires to contest the validity or amount of any such lien, it may do so without payment of disputed amounts, so long as it shall cause such lien to be bonded in an amount and in such manner that a reputable title insurance company would insure over such lien. The failure to do so shall, at the option of the other Party, constitute a breach hereof and said Party shall have the right to pay, discharge or bond around the lien at the other Party's cost and expense, and the costs thereof, if not reimbursed within thirty (30) days of demand therefore shall, in the case of Tenant be deemed Rent and incur interest at the Default Rate, and in the case of Landlord entitle Tenant to offset said amount, together with interest at the Default Rate, from Rent thereafter coming due.

On completion of any work of improvement during the term of this Lease, Tenant shall file or cause to be filed a notice of completion.

5.5 Alterations, Modifications or Replacements of Improvements.

Following development of the Phase II Improvements, Tenant shall not add new enclosed, permanently constructed buildings on the Leased Premises in excess of the number of permanent buildings approved in connection with the approved Design Review Documents and/or CUP or materially increase the footprint of a previously constructed building (collectively, "**Change**") without Landlord's prior approval, which approval not be unreasonably withheld or delayed (but subject to Planning Commission approval and/or CEQA review, if applicable). It shall be reasonable for Landlord to withhold its approval if the proposed Change will, in Landlord's reasonable judgment, result in a material reduction in the value of the Leased Premises or Landlord's interest therein. Any such approved Change shall be commenced and completed in a timely manner and otherwise in accordance with all of the requirements imposed in connection with construction of the initial Improvements in Sections 5.2.3, 5.2.4, 5.3 and 5.4 of this Lease, and any such Change shall be commenced and completed in accordance with the plans and specifications approved therefor.

No Landlord approval shall be required in connection with Tenant's installation of temporary, removable or mobile improvements or installations necessary for the conduct of events (such as, but not limited to, tents, tables, seating, bleachers, fencing, corrals, restroom facilities, goal posts, nets and other sports equipment). Further, notwithstanding anything to the contrary contained herein, Tenant shall not be required to secure any Landlord approvals in connection with changes that involve interior alterations or those not visible from Hamner Avenue so long Tenant complies with all Applicable Law, including all building and safety and life safety rules or codes. Changes meeting the requirements set forth in the preceding sentence are sometimes hereinafter referred to as "**Minor Changes.**" Changes other than Minor Changes are sometimes hereinafter referred to as "**Major Changes.**"

All work required in connection with any Changes shall be performed only by competent and financially responsible contractors, duly licensed as such under the laws of the State of California, and shall be performed pursuant to written contracts with such contractors.

For all Major Changes to be performed on the Leased Premises, Tenant shall furnish Landlord with a true copy of Tenant's contract with the general contractor(s) performing such Changes. Said contract shall give Landlord the right but not the obligation to assume Tenant's obligations and rights under that contract if Tenant should default; provided that such right to assume that contract shall be subject to the right, if any, of Tenant's Lender under a Leasehold Mortgage financing the construction of such improvements to an assignment of said contract.

After the construction of Phases I and II as contemplated by the Development Agreement and in connection with any Major Changes costing in excess of $200,000 (which amount shall increase yearly by increases in the CPI Index), and before construction thereof commences, Tenant shall, at Landlord's option, furnish Landlord with a performance bond in an amount not less than one hundred percent (100%) of the anticipated cost of such construction work on the Leased Premises, and a payment bond guaranteeing the completion of the improvements free from liens of materialmen, contractors, subcontractors, mechanics, laborers, and other similar liens. Said bonds shall be bonds of a responsible surety company, licensed to do business in California with a financial strength and credit rating reasonably acceptable to Landlord, and shall remain in effect until the entire cost of the work has been paid in full and the new improvements have been insured as provided in this Lease. Any such bonds shall be in a form reasonably satisfactory to Landlord. Landlord may accept such alternative or other security for the completion of such construction as it may approve in its sole discretion.

5.6 Ownership Of Improvements.

5.6.1 Tenant Improvements. Any and all Improvements erected on the Leased Premises as permitted by this Lease, as well as any and all alterations or additions thereto or any other improvements, and any fixtures on the Leased Premises (but excepting the Public Improvements or any publically dedicated utility lines) shall be owned by Tenant until expiration of the Term or sooner termination of this Lease; provided, Tenant shall not waste or destroy any of the Improvements or remove, alter or modify any Improvements on the Leased Premises except as permitted or contemplated by this Lease. Upon the expiration or sooner termination of this Lease, all Public Improvements (and all alterations, additions or improvements thereto) and including parking lot lighting, permanent restrooms and trail head improvements shall be considered part of the real property of the Leased Premises and shall remain on the Leased Premises and become the property of Landlord. Except as otherwise expressly provided in this Lease, said improvements shall become Landlord's property free and clear of any and all rights to possession and all claims of ownership to them by Tenant or any third person or entity, and Tenant shall defend and indemnify Landlord, and its officers, directors, council members, board members, staff, committee members, planning and other commissioners, officials, employees, members, agents, principals, independent contractors, attorneys, accountants, representatives, predecessors, successors and assigns (collectively, "**Landlord Representatives**") against all liabilities and claims, losses, causes of action, charges, penalties, damages, costs or expenses (including reasonable attorneys' fees and costs), of whatsoever character, nature and kind, whether to property or person, whether by direct or derivative action, and whether known or unknown,

suspected or unsuspected, latent or patent, or existing or contingent, (collectively, "**Liabilities**"), to extent arising from a claim of ownership.

Notwithstanding the rights and duties pertaining to claims to or against the Improvements by Tenant or any third person or entity provided in this Section, Landlord shall take possession of all Improvements surrendered by Tenant in "As-Is" condition with respect to the condition and usability of the Improvements, upon the expiration or sooner termination of this Lease.

Further, notwithstanding anything to the contrary herein, Tenant shall retain ownership of all signs, personal property, furniture, trade fixtures, equipment, names, logos, and any temporary, portable or removable improvements installed by Tenant at its cost. Tenant may, at its option, surrender its personal property if Landlord so agrees in writing or remove the same at the expiration or earlier termination of this Lease. Tenant specifically acknowledges that Landlord may require the removal of the freeway-oriented electronic sign at the expiration or earlier termination of this Lease. In the event Tenant removes its personal property, Tenant agrees to repair any damage and to restore the land to a safe condition following the removal of the same.

5.6.2 Landlord Improvements. As stated above, Landlord will construct the certain public infrastructure improvements (which improvements are listed on **Exhibit G-2** and are herein called the "**Public Infrastructure Improvements**"). The Public Infrastructure Improvements and the City Facilities are herein collectively called the "**Public Improvements**", and the same will be the property of the Landlord following completion thereof, and such ownership shall survive the terms of this Lease. Tenant shall not waste or destroy any of the Public Improvements. To the extent Tenant desires to modify, alter or remove and Public Improvement, it shall first obtain the consent of Landlord, which consent shall not be unreasonably withheld.

5.7 Certificate of Completion.

5.7.1 Completion by Tenant. Promptly after completion by Tenant of all the Improvements to be initially constructed by it on the Leased Premises pursuant to this Lease and/or the Development Agreement, Landlord shall furnish Tenant with a Certificate of Completion for the Leased Premises upon Tenant's written request therefor. Landlord shall not unreasonably withhold any such Certificate of Completion. Such Certificate of Completion shall be in the form of **Exhibit H** attached hereto and shall conclusively establish that the Improvements required by Landlord to be constructed on the Leased Premises have been satisfactorily completed in full compliance with the terms of this Lease and the Development Agreement.

5.7.2 Failure to Issue Certificate of Completion. If Landlord refuses or fails to furnish a Certificate of Completion for the Leased Premises upon written request from Tenant, Landlord shall, within fifteen (15) days of receipt of said written request, provide Tenant or such other entity with a written statement of the reason for Landlord's refusal or failure to furnish a Certificate of Completion. The statement shall also contain Landlord's statement of the action that must be taken to obtain such Certificate of Completion.

5.7.3 Meaning of Certificate of Completion. A Certificate of Completion shall not be construed as a warranty by Landlord of compliance with or satisfaction of Applicable Laws or any obligation of Tenant to any holder of any encumbrance, or to any insurer of any such holder. A Certificate of Completion is not notice of completion as referred to in California Civil Code Section 3093.

ARTICLE 6 REPAIRS AND MAINTENANCE

6.1 Landlord's Nonresponsibility.

As is specified in the Funding Agreement, the City Facilities are to be owned by the City and maintained by the City unless otherwise indicated on **Exhibit G-1**. The Public Infrastructure Improvements are owned and maintained by the City. Except as may be specified herein, the Development Agreement, Shared Used Agreement and/or the Funding Agreement, Landlord shall not be required to maintain or make any repairs or replacements of any nature or description whatsoever to the Leased Premises or the Improvements thereon during the Term of this Lease. Except for repair of damage for which Landlord is responsible, Tenant hereby expressly waives the right to make repairs at the expense of Landlord as provided for in any statute or law in effect at the time of execution of this Lease, or in any other statute or law which may hereafter be enacted.

6.2 Tenant's Duty to Maintain Premises.

Except as specifically otherwise provided for herein, from and after the Term Commencement Date, Tenant shall, at Tenant's sole cost and expense, maintain the Leased Premises and the Tenant Improvements, now or hereafter located on the Leased Premises, in good condition and repair consistent with the condition customarily found in other recreational parks in Riverside County and in accordance with (i) all Applicable Laws and (ii) all applicable rules, laws, ordinances, orders, and regulations of any insurance company insuring all or any part of the Leased Premises or the improvements thereon or both. Tenant shall be responsible for the maintenance and repair of the on-site water wells for so long as it is using the water produced by such wells.

6.3 Repair; Destruction.

In the event of any damage or destruction to the Tenant Improvements and alterations thereto, Tenant will promptly cause the Leased Premises to be put in a safe condition and promptly reconstruct the Tenant Improvements to the extent reasonably feasible and subject to the receipt of insurance proceeds with a replacement improvement of a design, size and configuration and in such locations as Tenant deems, in Tenant's reasonable business judgment, appropriate for operation of Tenant's business, but consistent with the review, approval and permitting requirements of this Lease. To the extent that site conditions make it infeasible and/or impracticable to reconstruct a structure or improvement in its prior location, Tenant shall have the right to raze the damaged Improvement and if, practicable, to plant grass or otherwise landscape the affected area. Destruction of the Leased Premises shall not relieve the Tenant of the obligation to pay full rent; although, upon completion of the repairs pursuant to this Section 6.3, Tenant shall have the option to immediately terminate this Lease. Landlord shall be responsible for reconstructing and repairing the Public Improvements to a condition reasonably comparable to that which existed prior to the

damage or destruction. Any work of repair, replacement or restoration shall be commenced as soon as reasonably possible, but in no event later than one hundred eighty (180) days from the date of such damage or destruction, and shall thereafter be pursued to completion with diligence. Landlord shall not be required to furnish any, services or facilities or to make any repairs or Alterations of any kind in or on the Leased Premises in connection with such work by Tenant, other than to cooperate with Tenant in the procurement of necessary permits and approvals and to repair the Public Improvements. Any reconstruction performed by Tenant shall comply with all of the requirements imposed with respect to Changes to improvements set forth in Section 5.5 of this Lease; provided that no Landlord approvals (acting in its capacity as the landlord hereunder and not as the reviewing body for purposes of the administrative issuance of building permits) shall be required in connection with any repair, replacement or restoration work which constitutes a Minor Change.

Except as expressly provided in Section 6.4, no deprivation, impairment, or limitation of use resulting from any damage or destruction or event or work contemplated by this Section shall entitle Tenant to any offset, abatement, or reduction in rent, nor to any termination or extension of the Term hereof.

6.4 Damage or Destruction During Last Part of Term.

Notwithstanding Section 6.3 above, Tenant shall have the right to terminate this Lease if such substantial destruction occurs within the last three (3) years of the Original Term or at any time during any Extended Term, in which event Tenant shall be deemed to have elected not to exercise its right to extend the Term as provided in Article 2 above. Such termination shall be given by notice to Landlord prior to Tenant's election to raze and clear the existing Improvements and shall be effective upon the completion of such work. In the event Tenant elects not to rebuild the Improvements, Tenant shall retain that share of the insurance proceeds (if any) attributable to Tenant's "Unamortized Construction Costs" (as hereinafter defined) and Landlord shall be paid an amount equal to the balance of the proceeds. "**Unamortized Construction Costs**" shall mean Tenant's then unamortized value of the out-of-pocket, arms-length and documented actual capital hard costs paid by the Tenant to construct or subsequently improve the buildings and Improvements (exclusive of furniture, fixtures, equipment, and non-capital expenditures) and specifically including amounts financed under the Funding Agreement, calculated and amortized on a straight line basis over the Original Term of the Lease or otherwise amortized by the methodology sanctioned by generally accepted accounting principles ("**GAAP**") in the United States of America and used by Tenant (and reflected in its books). At any time after the issuance of the Certificate of Completion, Landlord may request, but in no event more often than once every calendar year, that Tenant provide Landlord with the total of such costs, together with reasonable backup of such costs.

ARTICLE 7. LEASEHOLD FINANCING

7.1 Definitions.

As used herein, "**Leasehold Mortgage**" shall mean any note and the mortgage, deed of trust, or other security instrument securing such note, or an assignment and leaseback, or such other commercially reasonable alternative method of leasehold financing, which constitutes a lien on the estate created by this Lease. Any construction loan(s) and permanent loan(s) are included within the definition of a Leasehold Mortgage, and any reference to a Leasehold Mortgage shall include a reference to such construction loan(s) and permanent loan(s).

"**Tenant's Lender and/or Leasehold Mortgagee**" shall mean the owner and holder of any Leasehold Mortgage. Notwithstanding anything to the contrary herein contained, Landlord acknowledges and agrees that Tenant shall have the right to pursue bond financing in such amounts as its operations will support and/or the Improvements warrant to facilitate the construction of the same, and they agree to reasonably cooperate in procuring the same.

7.2 Requirements; Terms.

No Leasehold Mortgage shall be binding upon Landlord in the enforcement of its rights and remedies herein and by law provided, unless and until an executed counterpart thereof, together with the address of the, shall have been delivered to Landlord. Landlord agrees that if it shall encumber the Leased Premises as permitted in Section 8.1 below, such encumbrance shall be subordinate to the Leasehold Mortgage. If a Leasehold Mortgagee shall, within thirty (30) days of the execution of the Leasehold Mortgage held by such Leasehold Mortgagee, send to Landlord a true copy thereof, together with written notice specifying the name and address of such Leasehold Mortgagee and the pertinent recording data with respect to such Leasehold Mortgage, Landlord agrees that so long as any such Leasehold Mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the holders thereof to Landlord, the provisions of this Article 7 shall apply. Specifically, Landlord agrees as follows:

(a) Notice. Landlord will give the Leasehold Mortgagee a copy of any notice from either of them to Tenant at the time of giving such notice or communication to Tenant. Landlord will not exercise any right, power or remedy with respect to any default hereunder, and no notice to Tenant of any such default and no termination of this Lease in connection therewith shall be effective, until Landlord shall have so given to the Leasehold Mortgagee written notice or a copy of its notice to Tenant of such default or any such termination, as the case may be so that Leasehold Mortgage may exercise its rights hereunder.

(b) Cure. Landlord will not exercise any right, power or remedy with respect to any default hereunder if the Leasehold Mortgagee within the cure period provided in this Lease shall give to Landlord written notice that it intends to undertake the correction of such default and thereafter cures the Tenant's default within such stated cure period.

(c) Performance. Within the time periods specified herein, any Leasehold Mortgagee may make any payment or perform any act required hereunder to be made or performed by Tenant with the same effect as if made or performed by Tenant.

(d) Transfer. Upon any rejection of this Lease by any trustee of the Tenant in any bankruptcy, reorganization, arrangement or similar proceeding which would, if it were not for this Article 7, cause this Lease to terminate, without any action or consent by Landlord, Tenant or any Leasehold Mortgagee ("**Bankruptcy Termination**"), the transfer of Tenant's interest hereunder to such Leasehold Mortgagee or its nominee shall automatically occur ("**Deemed Transfer**"). The Leasehold Mortgagee may terminate this Lease following a Deemed Transfer upon giving notice thereof to Landlord no later than thirty (30) days after the Bankruptcy Termination. Upon any such termination, the Leasehold Mortgagee shall have no further obligations hereunder (including any obligations which may have accrued prior to such termination) except in the event that said Leasehold Mortgagee shall request a new lease ("**New Lease**"), in which event all prior obligations accruing to the effective date of the new lease shall be payable at the

date of its effectiveness notwithstanding the earlier rejection and termination.

(e) New Lease. In the event of a Bankruptcy Termination of this Lease and should the Leasehold Mortgagee request a New Lease pursuant to the provisions of subsection (d) above, the Landlord will enter into such New Lease of the Leased Premises with the Leasehold Mortgagee for the remainder of the term, effective as of the date of the Bankruptcy Termination, at the rent and additional rent and upon the covenants, agreements, terms, provisions and limitations herein contained, provided:

(i) such Leasehold Mortgagee makes written request upon the Landlord for such New Lease within thirty (30) days from the date of the Bankruptcy Termination and such written request is accompanied by payment to the Landlord of all amounts then due to the Landlord; and

(ii) such Leasehold Mortgagee appoints an operator with experience in equestrian and sports park operations/businesses similar to that of Tenant's and pays or causes to be paid to the Landlord at the time of the execution and delivery of said New Lease any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination, and pays or causes to be paid any and all expenses, including reasonable counsel fees, court costs and disbursements incurred by the Landlord in connection with any such default and termination as well as in connection with the execution and delivery of such new lease.

(f) Intervention. The Parties hereto shall give the Leasehold Mortgagee notice of any condemnation proceedings affecting the Leased Premises, and such Leasehold Mortgagee shall have the right to intervene and be made a party to any such condemnation proceedings in the place and stead of Tenant. The Tenant's interest in any award or damages for such taking is hereby set over, transferred and assigned to the Leasehold Mortgagee to the extent that such transfer and assignment is provided for by the terms of any such Leasehold Mortgage.

(g) Awards. The Parties hereby agree that the Leasehold Mortgagee shall be given notice of any arbitration or judicial proceedings by or between them and shall have the right to intervene therein and be made a party to such proceedings and shall receive notice of and a copy of any award or decision made in such proceedings.

(h) Naming Mortgagee. Landlord agrees that the name of the Leasehold Mortgagee may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant hereunder on condition that the insurance proceeds are to be applied (either by Tenant or by any such Leasehold Mortgagee) in the manner specified in this Lease.

(i) No Personal Liability. No Leasehold Mortgagee shall become personally liable under the agreements, terms, covenants or conditions of this Lease or any New Lease entered into in accordance with the provisions of subsection (e) above unless and until it becomes, and then only for as long as it remains, the owner of the leasehold estate. Upon any assignment of this Lease or the aforesaid new lease by any owner of the leasehold estate whose interest shall have been acquired by, through or under any Leasehold Mortgage or from any holder thereof, the assignor shall be relieved of any further liability which may accrue under this Lease or the aforesaid new lease from and

after the date of such assignment provided that the assignee shall execute and deliver to Landlord a recordable instrument of assumption wherein such assignee shall assume and agree to perform and observe the covenants and conditions in this Lease or the aforesaid new lease contained on Tenant's part to be performed and observed, it being the intention of the Parties that once the Leasehold Mortgagee shall succeed to Tenant's interest under this Lease or the aforesaid new lease, any and all subsequent assignments (whether by such Leasehold Mortgagee, any purchaser at foreclosure sale or other transferee or assignee) shall effect a release of the assignor's liability under this Lease or the aforesaid new lease, provided, however, nothing contained herein shall be deemed to release the original named Tenant of its liabilities hereunder.

(j) No Merger. There shall be no merger of this Lease nor of the leasehold estate created by this with the fee estate in the Leased Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (i) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in any such leasehold estate and (ii) the fee estate in the Leased Premises or any part thereof or any interest in such fee estate, and no such merger shall occur unless and until all corporations, firms and other entities, including any Leasehold Mortgagee, having any interest in (1) this Lease or the leasehold estate created by this Lease and (2) the fee estate in the Leased Premises or any part thereof or any interest in such fee estate shall join in a written instrument effecting such merger and shall duly record the same.

(k) Tenant's Duty. It shall be Tenant's obligation to ensure that its Leasehold Mortgagee consents to any cancellation, surrender or modification of this Lease or attornment of any subtenant.

(l) Acknowledgement. Landlord shall, upon request, execute, acknowledge and deliver to the Leasehold Mortgagee making such request an agreement prepared at the sole cost and expense of Tenant, in form reasonably satisfactory to Landlord and such Leasehold Mortgagee, between Landlord, Tenant and such Leasehold Mortgagee, agreeing to all of the provisions of this Article 7. The term "**Leasehold Mortgage**," whenever used herein, shall include whatever security instruments are used in the locale of the Leased Premises, including, without limitation, deeds of trust, security deeds and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial code. The term "Mortgage" whenever used herein, shall also include any instruments required in connection with a sale-leaseback transaction and the term "**Leasehold Mortgagee**," in connection with a sale-leaseback or similar type transaction shall include not only the mortgagees but any intervening parties to such a transaction.

(m) Further Modification. Landlord agrees to execute such further modifications or amendments of this Lease (except with respect to the provisions for payment of fixed rent and additional rent and any other term affecting Landlord's interests, rights or obligations hereunder and subject to Norco City Council approval and CEQA review, if applicable) as such Leasehold Mortgagees may reasonably require, so long as such modifications or amendments shall not decrease Tenant's obligations hereunder or increase or decrease Landlord's rights, title and obligations hereunder.

7.3 Encumbrance of Personal Property.

Notwithstanding any other provision contained in this Lease to the contrary, Tenant may grant to Tenant's Lender a security interest in the personal property owned by Tenant on or about the Leased Premises including, without limitation, any portion of the Improvements considered to be Tenant's personal property, and Landlord agrees to join in the execution of any security agreements, UCC-1's or other security instruments ("**Security Agreement**"), containing such terms and provisions as are acceptable to Landlord, as are sufficient to subject any interest of Landlord in such personal property to any lien created under any such Security Agreement, or Landlord shall execute a Landlord's Consent and Waiver, on terms and provisions acceptable to Landlord, affirming the right of a secured party to remove the personal property collateral covered by such Security Agreement from the Leased Premises provided that such secured party (i) in writing notifies Landlord of any default under any Security Agreement and of its intention to remove such personal property no sooner than thirty (30) days after the date of such notice to afford Landlord reasonable opportunity to cure any such default, and (ii) shall, upon removal of such personal property, be responsible for any damages caused to the Leased Premises as a result of such removal.

Neither Landlord's right to cure any default nor any exercise of such a right shall constitute an assumption of liability under the Security Agreement. In the event Landlord makes any payment hereunder, Tenant shall, on or before the first day of the next calendar month following such payment, reimburse Landlord for the full amount of such payment, together with interest thereon at the Default Rate from the date of payment by Landlord until the date of repayment by Tenant, and the above obligation of Tenant to reimburse Landlord shall be treated as and become a part of Tenant's obligation to pay rent under this Lease.

ARTICLE 8. ASSIGNMENT AND TRANSFER

8.1 Landlord Assignments; Subordination, Attornment and Non-Disturbance; Assignment.

(a) Landlord's Assignment. Until Landlord's work defined in Section 5.1.2 above is complete and all monies required to be disbursed under the Funding Agreement are received by Tenant, Landlord shall not transfer, sell, assign, pledge lease, sublease, license, franchise, gift, hypothecate, mortgage, or otherwise encumber ("**Transfer**") either (i) this Lease and its or their rights hereunder including all rental payments; and/or (ii) Landlord's fee interest and/or the leasehold interest created hereby. Thereafter, any Transfer by Landlord shall be subject to Tenant's prior approval which approval shall not be unreasonably withheld or delayed; it being agreed however that it shall be reasonable for Tenant to deny consent if:

(1) the Transfer is other than to a governmental agency that agrees to assume all the Landlord's obligations under this Lease, Development Agreement, Funding Agreement, Shared Used Agreement and such other agreements which City and Tenant are a party (herein collectively, "**Silverlakes Documents**") and provided further such governmental agency is either the County of Riverside, State of California or a local municipal government, none of whom shall be governed by a joint powers authority or by a board (unless such joint powers authority or board is comprised of publically elected officials or public entities); or

(2) Tenant reasonably believes the Transfer will materially impair

Tenant's entitlements to use and operate the Leased Premises (e.g. violate the terms of the Deed Restriction) or its or Tenant's Mortgagee's right, title, interest or obligations under this Lease, other Silverlakes Documents and/or the Leasehold Mortgage (e.g., cause the possessory interest tax or any real property tax to increase).

Landlord acknowledges and agrees that Tenant is entering into this Lease because the Leased Premises are to be jointly used, subject to the Shared Use Agreement, for public purposes and a Transfer by Landlord could jeopardize and/or frustrate Tenant's use and operation of the Leased Premises. The person or entity receiving any permitted Transfer is referred to in this Lease as a "**Transferee.**" Landlord's Transferee shall assume all of its or their obligations under the Silverlakes Documents in writing; provided, however, nothing herein shall change or release the obligations of the City. In the event that, at the time Landlord Transfers the Leased Premises to any party, Landlord is in default under this Lease, Tenant shall continue to have all rights and remedies against the Transferee, as the successor landlord, with respect to such default and against the assigning Landlord with respect to such default as accrued to the date of assignment, except as Tenant shall otherwise be estopped by an estoppel letter to such successor Landlord. Subject to the rights of Tenant under the prior sentence, Tenant shall not be required to make any payment to such Transferee Landlord until twenty (20) days after Tenant has received written notice of such assignment and evidence of the Transferee's assumption of all Landlord's obligations hereunder.

(b) Subordination. Pursuant to Section 7.2, any financing by Landlord shall be subordinate to Tenant's Leasehold Mortgage.

(c) Right of First Refusal. Landlord has represented that fee title to the Leased Premises would only be sold or transferred if the property is declared to be "surplus" property under state and local laws. Notwithstanding the unlikely determination that the Leased Premises would ever be found to be surplus or that same would be sold to a private third party or non-governmental entity, Landlord has agreed to grant Tenant a right of first refusal to buy the Leased Premises subject to the terms of **Exhibit N**, attached hereto and made a part hereof.

8.2 Tenant's Assignment or Subletting.

Tenant shall be entitled, without Landlord's consent but with thirty (30) days advance written notice to City, to: (i) assign this Lease or sublet any portion of the Leased Premises to any entity that is owned or controlled by, or under common control with, Tenant (an "**Affiliate**") with evidence reasonably satisfactory to the City that such entity is owned, controlled by or under common control of Tenant, (ii) assign this Lease to any successor company or entity that acquires all or substantially all of Tenant's assets or into which Tenant is merged ("**Successor Tenant**"), (iii) assign this Lease to an entity formed in connection with the initial financing of the Leasehold as contemplated by **Exhibit C**, (iv) to sublet or license the areas intended for RV and trailer parking (including the trail head parking area) to an operator experienced in monitoring and running RV facilities which provide temporary housing for event attendees and/or their employees; (v) sublease or license a portion of the Leased Premises to limited duration concessionaires or licensees of the Tenant (e.g. in connection with an event being conducted on-site) whose uses are consistent with the primary use of the originally named Tenant; and/or (vi) to enter into a Leasehold Mortgage (the foregoing sub-points (i)-(vi) shall be

referred to herein as "**Tenant's Permitted Assignments**"). Any other assignment or subletting of the entirety of the Leased Premises shall be subject to the prior written approval of the Landlord, which consent shall not be unreasonably withheld, provided that the transferee has similar experience in operating large recreational and sports facilities; it being agreed that Landlord shall be able to take into consideration the fact that Tenant's qualifications are of particular concern to Landlord, and Landlord has entered into this Lease in reliance upon Tenant's qualifications. Any purported assignment or subletting which is prohibited by this Section 8.2 shall be ipso facto null and void, and no voluntary or involuntary successor to any interest of Tenant under such a transfer shall acquire any rights pursuant to this Lease. These restrictions on Transfer shall be binding on any successors, heirs or permitted transferee of Tenant.

(a) Transfer of the Lease, the Leased Premises, or Improvements to be Constructed Thereon. In the event of any approved assignment of this Lease or the Leased Premises (other than for security purposes), said assignee shall expressly assume liability with Tenant for the obligations of Tenant under this Lease to the extent of said assignee's interest, and, notwithstanding any such assignment, Tenant shall not be released from liability hereunder absent Landlord's agreement. Provided, however, should Tenant wish to be released from liability, the Landlord must agree and expressly approve that Tenant's proposed assignee has the experience, financial resources and capacity to operate and manage the Project.

(b) Transfer of Control of Tenant; Retention of Management Entity and Transfer of Interest Therein.

(i) The term "**ownership and/or control**" as used herein includes, without limitation, all voting rights and beneficial ownership with respect to all classes of stock, interests in partnerships and/or beneficial interests under a trust, as may be applicable to the type of entity which is prohibited from making the particular Transfer in question. For purposes of this Section 8.2, the term "**Third Party**" shall mean and include any person or entity that has acquired or hereafter acquires any interest in Tenant, or any person or entity that is a joint venturer or affiliate of Tenant with respect to all or any portion of the Leased Premises and/or this Lease, or any person or entity that is or becomes a limited and/or general partner of any such joint venturer or affiliate of Tenant with respect to all or any portion of the Leased Premises and/or this Lease.

(ii) Except as permitted in the first paragraph of this Section 8.2, Tenant shall not suffer or permit the Transfer of more than forty-nine percent (49%) of its present ownership and/or control, in the aggregate taking all Transfers into account on a cumulative basis (but without double counting of successive Transfers by Third Parties of the same interest in the ownership and/or control of Tenant), without the prior written consent of Landlord, which shall not be unreasonably withheld. The failure of the Landlord to consent to any proposed Transfer of the ownership and/or control of Tenant shall be deemed to be reasonable if the proposed Transferee is not (1) financially responsible, (2) of good standing and repute, and (3) able to demonstrate the capability to manage developments of the size and character of the improvements located on the Leased Premises. Provided, however, so long as R.J. Brandes or any affiliated company, trust or partnership which R.J. Brandes controls, is the managing

member of Transferee and/or he or it controls the day to day operations of either Transferee or the Management Entity (defined below). then Landlord's consent shall not be required for any Transfer of the ownership and/or control of Tenant.

(iii) It is expressly agreed that, notwithstanding anything to the contrary herein contained, an inter vivos or testamentary transfer of all or any portion of the ownership and/or control of Tenant, or any general partner or managing member of Tenant or its manager (e.g. R.J. Brandes), to one or more family members of the holder of such ownership interest or a trust in which all of the beneficial interest is held by one or more family members of the holder of such ownership interest or a partnership or limited liability company in which a majority of the capital and profits interests are held by one or more family members of the holder of such ownership interest, shall **not** be deemed to be a Transfer by Tenant, provided that: (1) such inter vivos transfer of all or any portion of the ownership interests in the Tenant, or such general partner or managing member of Tenant, is made in connection with bona fide, good faith estate planning; and (2) the person(s) with voting control of Tenant or the management of the Premises are either the same person(s) who had such voting control and management rights immediately prior to the transfer in question or are family members of such person. For purposes hereof, "family members" are defined to include the spouse, children and grandchildren and any lineal descendants. Moreover, notwithstanding anything to the contrary in this Section 8.2, the transfer of shares of stock of, or membership interests in, Tenant or its managing member which are: (x) among the members of the family of any member or shareholder, (y) to a living trust for estate planning purposes, or (z) by will or intestacy to any other family member shall not be deemed a Transfer.

(c) Management of Project. Unless the prior written consent of Landlord is obtained, which consent shall not be unreasonably withheld, Tenant shall not retain or authorize any unrelated third person or entity to perform any management and/or supervisory functions ("**Management Entity**") with respect to the development and/or operation of the Leased Premises or of any of the improvements thereon, provided, however, that Landlord's consent shall not be required in connection with the retention of a Management Entity if: (i) said entity is owned and controlled by R.J. Brandes or Tenant or an Affiliate of Tenant or R.J. Brandes or otherwise as permitted under Section 8.2 (b)(iii) above; or (ii) said entity or person is being retained for a period of five (5) years or less, and said entity is reputable and recognized as experienced in management of parking, recreation, equestrian and/or sports facilities of the size located on the Leased Premises. In the event that Tenant retains a Management Entity and such act requires Landlord's prior written consent, Tenant shall not permit said Management Entity or any person or entity which is a stockholder of or a general or limited partner in said Management Entity, or any person or entity which is a joint venturer or affiliate of said Management Entity to Transfer more than forty-nine percent (49%) of its present ownership or control in the aggregate, unless the prior written consent of Landlord is obtained, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Landlord hereby approves, as the Management Entity, Balboa Management Group, LLC or any entity in which R.J. Brandes or his trust is the manager or the managing member. Further, notwithstanding anything to the contrary herein, Tenant may enter into an agreement with a parking management company for the parking amenities.

(d) Investigation of Proposed Transferee; Costs. In the event that Tenant requests Landlord's written consent to a proposed Transfer pursuant to Section 8.2 of this Lease, Tenant agrees to provide Landlord with such information, including financial statements and tax returns, as Landlord may reasonably require in order to evaluate the solvency, financial responsibility and relevant business acumen and experience of any proposed Transferee. At the time of any request by Tenant for consent to a Transfer pursuant to Section 8.2, Tenant shall make such request in writing and shall submit to Landlord: (i) all binding agreements and documents evidencing and/or relating to the circumstances surrounding such Transfer, and (ii) a certificate setting forth representations and warranties by Tenant and the Transferee to Landlord sufficient to establish and insure that all requirements of Section 8.2 have been and will be met. With respect to a proposed assignment pursuant which requires Landlord's consent, Landlord agrees to make its decision on Tenant's request for consent to such an assignment, as promptly as possible, but in no event later than 30 days following request.

Except as otherwise provided in Section 8.2, if Landlord consents to any Transfer pursuant to that Section, such consent shall not be effective unless and until Tenant gives notice of the Transfer and a copy of any documents effecting and/or evidencing such Transfer to Landlord, and unless and until any such Transferee (other than a proposed sublessee, licensee or concessionaire) assumes all of the obligations and liabilities of Tenant under this Lease to the extent of its interest.

In order to enable Landlord to adequately investigate the proposed Transferee's qualifications, Tenant shall pay within five (5) days of Landlord's written request therefor, all actual, reasonable expenses incurred by Landlord in connection with the investigation of the proposed Transferee, including attorneys' fees and costs and all consultant fees, not to exceed $5,000 (which amount shall be increased by the annual increases in CPI).

ARTICLE 9. TAXES AND IMPOSITIONS

9.1 Tenant To Pay Impositions.

From and after the Term Commencement Date, Tenant agrees that it shall pay any and all taxes, assessments, including, without limitation, the possessory interest tax if any (collectively, "**Impositions**") levied subsequent to the Term Commencement Date and applicable to the Term hereof, levied or assessed by any governmental agency or entity on or against the Leased Premises or any portion thereof, or on or against Tenant's interest in the Leased Premises (including the leasehold interest created by this Lease), or any Tenant Improvements or other property (including against Tenant's personal property), in or on the Leased Premises. The timely reporting and payment of the above referenced assessments or other charges is a material term of this Lease. Tenant agrees to provide Landlord with evidence upon reasonable prior notice that the Impositions have been paid or waived by the taxing authorities. Landlord agrees it will not permit to be assessed against the Leased Premises any new community facilities district tax or assessment or any charge attributable to the Public Improvements.

If, by law, any such Imposition is payable, or may, at the option of Landlord or Tenant be paid, in installments, Tenant may pay the same, together with any accrued interest on the unpaid balance of such Imposition, in such installments as those installments respectively become due and before any fine, penalty, interest, or cost may be added thereto for the

nonpayment of any such installment and interest.

In no event shall Tenant be responsible for any Impositions, including but not limited to any increase in taxes on the Leased Premises, associated with any Transfer or "changes of ownership" stemming from Landlord's Transfer of all or any part of the Leased Premises or, should Landlord be a non-governmental entity, with income taxes or Impositions (if any) attributable to Tenant's payment of Rent or Landlord's receipt thereof.

9.2 Payment Before Delinquency.

Subject to Tenant's right to contest under Section 9.4, any and all Impositions and installments of Impositions required to be paid by Tenant under this Lease shall be paid by Tenant prior to delinquency, and copies of the official and original receipt for the payment of such Imposition or installment thereof shall immediately be given to Tenant.

9.3 Contest of Imposition.

Tenant shall have the right to contest, oppose, or object to the amount or validity of any Imposition levied on or assessed against the Leased Premises or any portion thereof and may in good faith diligently conduct any necessary proceeding to prevent or void or reduce the same; provided, however, that the contest, opposition, or objection must be filed before the Imposition at which it is directed becomes delinquent if such contest, opposition or objection is required to be made or filed prior to payment of the Imposition being challenged, and written notice of the contest, opposition, or objection must be given to Landlord at least thirty (30) days before the date the Imposition becomes delinquent.

Landlord agrees to reasonably cooperate and join in any proceeding or contest brought by Tenant. If the provisions of any law require that the proceeding or contest be brought by or in the name of Landlord or any owner of the Leased Premises, Landlord shall join in the proceeding or contest or permit it to be brought in Landlord's name but such action shall be without cost to Landlord and all costs, including attorneys' fees, shall be borne solely by Tenant.

9.4 Real Estate Tax Statements.

Tenant shall, as between Landlord and Tenant, have the duty of attending to, preparing, making, and filing any statement, return, report, or other instrument required or permitted by law in connection with the determination, equalization, reduction, or payment of any Imposition that is or may be levied on or assessed against the Leased Premises, or any portion thereof, or any interest therein, or any improvements or other property on the Leased Premises.

9.5 Indemnification.

Landlord shall indemnify, defend and hold Tenant, and its Representatives and Tenant's property (including the Leased Premises and any improvements now or hereafter located on the Leased Premises) free and harmless from any Liabilities resulting from any Impositions required by this Article 9 to be paid by Landlord, and from all interest, penalties, and other sums imposed thereon, and from any sale or other proceeding to enforce collection of any such Imposition.

9.6 Payment By Tenant.

Should Tenant fail to pay within the time specified in this Article any Impositions required by this Article to be paid by Tenant, Landlord may, upon reasonable prior written notice to Tenant pay, discharge, or adjust such Imposition for the benefit of Tenant. In such event, Tenant shall, on or before the first day of the next calendar month following any such payment by Landlord, reimburse Landlord for the full amount incurred by Landlord in so paying, discharging, or adjusting such Imposition, together with interest thereon at the Default Rate from the date of payment by Landlord until the date of repayment by Tenant, and the above obligation of Tenant to reimburse Landlord shall survive the expiration or earlier termination of this Lease.

9.7 Transient Occupancy Taxes to be Paid/Collected by Tenant.

To the extent that transient occupancy taxes (so called "bed taxes") are imposed on overnight RV camping and other overnight lodging, with the exception of caretaker lodging or as otherwise exempted by City transient occupancy tax regulations, on the Leased Premises, Tenant agrees to remit or cause the same to be paid to the Landlord as required by Applicable Law.

ARTICLE 10. UTILITY SERVICES.

10.1 Tenant's Responsibility.

During the term of this Lease and subject to the terms of the Development Agreement, Tenant shall pay, or cause to be paid, as herein specified and shall indemnify, defend and hold Landlord and the property of Landlord harmless from all charges for non-well water, sewage, gas, heat, air conditioning, light, power, steam, telephone service and all other services and utilities used, rendered or supplied to, on or in the Leased Premises; provided that Tenant shall permit access to the Leased Premises to the agents and representatives of any public utility serving the Leased Premises for inspection and repair purposes.

10.2 Water; Municipal Services.

As more particularly addressed in the Development Agreement and/or as set forth in the will service letter(s), the City agrees that Tenant shall have the right to access and utilize the water produced by the water wells on the Leased Premises for uses on the Leased Premises. Landlord shall not have the right to drill or explore for water on the Leased Property, except for the benefit of Tenant and as permitted by Tenant. Except as set forth in the Development Agreement, Landlord shall not be required to furnish to Tenant or any other occupant of the Leased Premises during the term of this Lease, any gas, heat, air conditioning, light, power, steam, telephone, or any other utilities, equipment, labor, materials or services of any kind whatsoever, except that City shall supply Tenant with municipal services (including reclaimed water subject to availability) with respect to the above items to the extent, and upon the terms and conditions, that such municipal services are supplied to the best and largest customers of the municipality. It is agreed that the costs of domestic potable water shall not exceed the City's promulgated rates and costs without additional profit markup, and that there shall be no charge for water produced from the on-site wells. Balboa shall not have the right to sell or receive proceeds from the sale of the non-potable water from the water wells on the Property.

10.3 Energy Generation Credits.

Any monetary, in-lieu, off-set, or similar credit provided to Tenant as an incentive for energy generated and/or energy generation equipment installed by Tenant on the Leased Premises shall be the property of the Tenant for the useful life of said equipment, or the term of this lease, whichever is less. To the extent that monetary, in-lieu, off-set, or similar credits are provided upon installation of said equipment the entire credit shall be the property of the Tenant. Under no circumstances shall Tenant's acceptance of credits obligate Landlord or Tenant to operate said equipment beyond the then current term or sooner termination of this Lease.

ARTICLE 11. INSURANCE

11.1 Fire and Extended Coverage Insurance.

Throughout the term of this Lease, Tenant, at no cost or expense to Landlord, shall keep or cause to be kept, for the mutual benefit of Landlord and Tenant, a policy of standard fire insurance, with extended coverage and vandalism and malicious mischief endorsements (but exclusive of flood and earthquake), insuring all enclosed, permanent structures located on or used in connection with and appurtenant to the Leased Premises. In no event shall Tenant be required to carry insurance on any of the Public Improvements. Tenant shall not be obligated to carry flood or earthquake insurance on the Tenant Improvements, but may elect to procure such insurance for the buildings if available at commercially acceptable rates. Unless otherwise agreed by Landlord, the amount of insurance required hereunder shall in no event be less than one hundred percent (100%) of the full replacement cost of the permanent buildings on the Leased Premises, with such reasonable deductibles as Tenant shall determine. For so long as Landlord is a municipal agency and immune from liability, and except as Landlord may be insuring the surrounding public or redevelopment lands from damage, destruction or liability therein, Landlord shall not be obligated to carry property or casualty insurance.

Should Landlord transfer the Property to a third party, private person or entity, then Tenant shall have the right to require (and this Lease shall be amended to reflect) that such Transferee shall be obligated to carry all such insurance as the parties reasonably agree, but in no event less than is commercially reasonable or as are imposed on Tenant hereunder.

Prior to the commencement of any construction by the Tenant or its entry onto the Leased Premises and in all events by the date of the Interim Term, Tenant shall provide evidence to Landlord that it is carrying the insurance required by this Section 11.1 insuring all enclosed, permanent structures located on or used in connection with and appurtenant to the Leased Premises.

11.2 Cooperation in Obtaining Proceeds of Fire and Extended Coverage.

Landlord shall, at no cost or expense to Landlord, cooperate fully with Tenant to obtain the largest possible recovery under all policies required by Section 11.1. The proceeds shall be deemed to be held in trust by the recipient to the extent of the uses and purposes prescribed by this Lease.

11.3 Builder's Risk and Worker's Compensation Insurance.

Before commencement of any demolition or construction work on the Leased Premises, Tenant shall procure, and shall maintain in force until completion and acceptance of the work (i) "all risks" builder's risk insurance, including coverage for vandalism and malicious mischief, in a form and amount and with a company reasonably acceptable to Landlord, and (ii) worker's compensation insurance covering all persons employed in connection with work on the Leased Premises and with respect to whom death or bodily injury claims could be asserted against Landlord or the Leased Premises. Said builder's risk insurance shall cover improvements in place and all material and equipment at the job site furnished under contract.

11.4 Commercial General Liability Insurance.

Tenant, commencing on the earlier of commencement of any construction by the Tenant or its entry onto the Leased Premises and in all events by the date of the Interim Term, and continuing throughout the Term hereof, shall maintain, at no cost or expense to Landlord, with a reputable and financially responsible insurance company acceptable to Landlord, for the mutual benefit of Landlord and Tenant, comprehensive broad form commercial general liability insurance against claims and liability for personal injury, death, or property damage arising from Tenant's use, occupancy, misuse or condition of the Leased Premises, the Tenant Improvements thereon, which insurance shall provide combined single limit protection of at least Five Million Dollars ($5,000,000) for bodily injury or death to one or more persons, and at least Two Million Dollars ($2,000,000) for property damage, provided, that, at the beginning of Lease Year Ten (10), and every ten (10) years thereafter, the above prescribed minimum coverages shall be increased to the amounts customarily carried by developments of the size, character and nature of the development on the Leased Premises.

Prior to the commencement of any construction by the Tenant or its entry onto the Leased Premises and in all events by date of the Interim Term, Tenant shall provide evidence to Landlord that it is carrying the insurance required by this Section 11.4.

11.5 Policy Form, Content And Insurer.

All insurance required by the provisions of this Lease shall be carried only with responsible insurance companies licensed to do business in this state having a policyholder's rating from A. M. Best Company of at least A. If, during the Term of this Lease, such rating service ends, then Landlord shall reasonably select another comparable rating service which most closely approximates Best's Insurance Rating, with the view toward maintaining the same quality standard for determining a "secure and acceptable insurance company."

All such policies required by the provisions of this Lease shall be nonassessable and shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act or negligence of Landlord that might otherwise result in a forfeiture of the insurance, (ii) the insurer waives the right of subrogation against Landlord, (iii) against Landlord's Representatives, the policies are primary and noncontributing with any insurance or self-insured equivalent that may be carried by Landlord, (iv) the policies cannot be cancelled or materially changed except after thirty (30) days' notice by the insurer to Landlord, (v) Landlord shall not be liable for any premiums or assessments, and (vi) all policies shall name Landlord and its successors and assigns as additional insureds with respect to liability arising out of Tenant's leasehold created herein. Upon the Term Commencement Date, Tenant shall deliver to Landlord either certificates of insurance evidencing the insurance coverages specified in this Article 11 or a binder for such insurance, in a form reasonably satisfactory to Landlord, providing for the commencement of such insurance coverages as of the Term Commencement Date of this Lease. Tenant shall thereafter deliver to Landlord certificates of insurance evidencing the insurance coverages required by this Article upon renewal of any insurance policy. Tenant may provide any insurance required under this Lease by blanket insurance covering the Leased Premises and any other location or locations, provided that the specific policy of blanket insurance proposed by Tenant is reasonably acceptable to Landlord. Landlord's review of such policy of blanket insurance shall be only for the purpose of determining if it provides the coverages required by this policy and does not adversely affect Landlord's interest in the Leased Premises or its rights hereunder.

11.6 Indemnification.

Tenant shall indemnify, defend and hold Landlord and its Representatives, and the property of Landlord, including the Leased Premises and any improvements thereon, free and harmless from any and all Liabilities to the extent resulting from Tenant's use, occupancy or enjoyment of the Leased Premises by Tenant. The above indemnification includes, without limitation, any Liabilities arising by reason of:

(a) The death or injury of any Tenant Parties, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or by any person who is an employee or agent of Tenant, from any cause whatsoever while such person or property is on the Leased Premises or in any way connected with the Leased Premises or with any of the improvements or personal property on said premises;

(b) The death or injury of any Tenant Parties, including Tenant or any person who is an employee or agent of Tenant, or damage to or destruction of any property, including property owned by Tenant or any person who is an employee or agent of Tenant, caused or allegedly caused by either (i) the condition of the Leased Premises (other than Public Improvements) or some Improvement on said premises, or (ii) some act or omission on the Leased Premises caused by Tenant or any person in, on, or about the Leased Premises with the permission and consent of Tenant;

(c) Any work performed on the Leased Premises or materials furnished to the Leased Premises at the instance or request of Tenant or any person or entity acting for or on behalf of Tenant, other than Landlord's work hereunder; or

(d) Tenant's failure to perform any provision of this Lease or to comply with Applicable Law.

Landlord agrees to exonerate, protect, defend, indemnify and hold Tenant its officers, directors, stockholders, beneficiaries, partners, representatives, agents and employees harmless from and against any and all losses, damages, claims, suits or actions, judgments and costs (including reasonable attorneys' fees) arising out of (A) the Landlord Parties' use of the Leased Premises or its construction of the Public Improvements; (B) any Landlord Event of Default or (C) any injury to or death of persons or damage to property on or about the Leased Premises to the extent caused by the intentional or negligent acts or omissions of Landlord or its employees, agents or contractors.

Tenant's agreement to indemnify the Landlord Parties and Landlord's agreement to indemnify the Tenant Parties pursuant to this Section 11.6 are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried pursuant to the provisions of this Lease, to the extent such policies cover, or if carried, would have covered, the matters, subject to the parties' respective indemnification obligations; nor shall they supersede any inconsistent agreement of the parties set forth in any other provision of this Lease.

Notwithstanding any provision to the contrary contained in this Lease, nothing in this Lease shall impose any obligations on Tenant or Landlord to be responsible or liable to the other for, and each hereby releases the other from all liability for, consequential damages stemming from a breach of this Lease.

11.7 Waiver of Subrogation.

Landlord and Tenant agree to have their respective insurance companies issuing property damage insurance waive any rights of subrogation that such companies may have against Landlord or Tenant, as the case may be, so long as the insurance carried by Landlord and Tenant, respectively, is not invalidated thereby. As long as such waivers of subrogation are contained in their respective insurance policies, Landlord and Tenant hereby waive any right that either may have against the other on account of any loss or damage to their respective property to the extent such loss or damage is insurable under policies of insurance for fire and all risk coverage, theft, public liability, or other similar insurance.

Each Party (the "**Releasor**") hereby releases the other Party (the "**Releasee**") from any and all liability or responsibility to the Releasor or anyone claiming through or under the Releasor by way of subrogation or otherwise for any incurred loss or damage to any person or property caused by fire or other insured peril or other such loss, damages, or other insured event or negligence of the Releasee, or anyone for whom such Releasee may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the Releasor's policy or policies of insurance shall contain a waiver of subrogation endorsement, to the effect that any such release shall not adversely affect or impair said policy or policies or prejudice the right of the Releasor to recover thereunder.

ARTICLE 12. CONDEMNATION

12.1 Definitions.

As used in this Article, the following words have the following meanings:

(a) Award. means the compensation paid for the Taking, as hereinafter defined, whether by judgment, agreement or otherwise.

(b) Taking: means the taking or damaging of the Leased Premises or any portion thereof as the result of the exercise of the power of eminent domain, or for any public or quasi-public use under any statute. Taking also includes a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation, in avoidance of an exercise of eminent domain, or while condemnation proceedings are pending.

(c) Taking Date: means the later of (i) the date on which the condemning authority takes actual physical possession of the Leased Premises or any portion thereof, as the case may be, or (ii) the date on which the right to compensation and damages accrues under the law applicable to the Leased Premises.

(d) Total Taking: means the taking of the fee title to all the Leased Premises and the improvements thereon.

(e) Substantial Taking: means the taking of so much of the Leased Premises or improvements thereon or both that the conduct of Tenant's business on the Leased Premises would be substantially prevented or rendered economically infeasible in Tenant's reasonable discretion.

(f) Partial Taking: means any Taking of the fee title that is not either a Total or a Substantial Taking.

(g) Notice of Intended Taking. means any notice or notification on which a prudent person would rely as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal. It includes but is not limited to the service of a condemnation summons and complaint on a party to this Lease.

12.2 Total or Substantial Taking of Leased Premises.

In the event of a Total Taking, except for a Taking for temporary use, Tenant's obligation to pay rent shall terminate on, and Tenant's interest in the Leased Premises shall terminate on, the Taking Date. In the event of a Taking, except for a Taking for temporary use, which Tenant, in the exercise of its reasonable judgment, considers to be a Substantial Taking, Tenant may, by notice to Landlord given within sixty (60) days after Tenant receives Notice of Intended Taking, notify Landlord of the Substantial Taking and Tenant shall equitably abate Rent in proportion to the amount of Land Taken until it elects to terminate (or it is decided that Tenant may terminate). If Tenant does not so notify Landlord, the Taking shall be deemed a Partial Taking. If Tenant gives such notice and, within ten (10) days following Tenant's notice, Landlord gives Tenant notice disputing Tenant's contention that there has been a Substantial Taking, the Parties shall resolve their dispute before a

court of competent jurisdiction or in such other manner as the Parties may mutually agree. If Landlord does not dispute Tenant's contention that there has been a Substantial Taking, or if it is determined, by order of the Court, that there has been a Substantial Taking, then the Taking shall be considered a Substantial Taking and Tenant shall be entitled to terminate this Lease effective as of the Taking Date if: (a) Tenant delivers possession of the Leased Premises to Landlord within thirty (30) days after determination that the Taking was a Substantial Taking, and (b) Tenant was not in default on the Taking Date under this Lease and has complied with all Lease provisions concerning apportionment of the Award. If these conditions are not met, the Taking shall be treated as a Partial Taking. The Parties agree that the widening by CalTrans of Schleisman Road as a connector to the I-15 and/or the widening of the I-15 shall be considered a Substantial Taking if it results in: (i) the taking of all or a part of the covered arena/multi-purpose building or other significant permanent structures proximate thereto (*e.g.*, the hay barn) as shown on the Site Plan; or (ii) the loss of 20% or more of the soccer field capacity of the Leased Property based on full sized soccer fields and the permitted configuration of the other Improvements on the Leased Property.

12.3 Apportionment And Distribution of Award.

In the event of a Total Taking or Substantial Taking, the Rent shall be paid up to that date with a proportionate refund by Landlord of any rent paid in advance and the Award shall be allocated between the Parties such that Tenant shall receive an award equal to Tenant's Unamortized Construction Costs (as defined above) together with the leasehold value of its estate. In the event of a Partial Taking, then in that event, this Lease will not terminate and Tenant will receive a rental reduction equitably attributable to the value of the area taken. In any case, each Party shall be entitled to claim and receive an award of damages for its losses, including Tenant's damages for the loss of its leasehold estate, suffered by it by reason of such taking or conveyance. Tenant shall be allowed to share in the award if only a single award is made for the taking of the Leased Premises or a part thereof. The Taking authority shall have the liability, following any partial condemnation that does not result in a termination of this Lease, to restore the Leased Premises as nearly as possible to the condition as existed immediately prior to such taking and rent shall equitably abate during such restoration.

12.4 Taking for Temporary Use.

If there is a Taking of the Leased Premises for temporary use (which is defined to mean a period of less than 60 days), this Lease shall continue in full force and effect, Tenant shall continue to comply with Tenant's obligations under this Lease, neither the Term nor the rent shall be reduced or affected in any way, but shall continue at the level of the last monthly rental paid prior to the Taking (including any subsequent rental adjustments in such monthly rental provided for under this Lease), and Tenant shall be entitled to any Award for the use or estate taken.

ARTICLE 13. DEFAULT

13.1 Events of Default.

The occurrence of any one or more of the following events shall, after the giving of a Notice of Default and expiration of the cure periods herein provided, constitute a default and breach of this Lease by Tenant or Landlord as applicable (**"Default(s)"** or **"Event(s) of Default"**):

(a) The failure by a Party to pay money when due (including the failure by Tenant to pay any Rent due under this Lease) to the other as herein specified and/or under the Funding Agreement, which failure continues for a period of ten (10) business days after receipt of written notice from the other Party that the same is overdue; or

(b) The failure by a Party to perform or observe any other term or condition of this Lease and such failure continues for a period of thirty (30) days (unless a shorter time frame is expressly set forth herein) after receipt of written notice thereof from the other Party (with notice shall include a reasonably detailed description of the default), provided however, that if the nature of such failure is such that the same cannot reasonably be cured within said thirty (30) day period (herein referred to as a **"excused delay"**), then the Party in default shall have such additional time as is reasonably necessary to cure such failure provided that such Party commences to cure such failure within said thirty (30) day period and proceeds to cure such failure with diligence and continuity (written notice by a Party under this Section 13.1 is hereinafter referred to as a **"Notice of Default"**); or

(c) The failure by either Party to timely complete its construction including Phase 2 and pursuant to the Schedule of Performance, subject to extension by excusable delay pursuant to Section 13.8 and assuming Landlord's delivery of the Leased Premises in the condition required by Section 5.1.2 hereof; or

(d) The failure of the Landlord to prevent or cause the dismissal with prejudice prior to the Term Commencement Date of any challenge or lawsuit brought or asserted by a third party arising out of the validity of the environmental impact report or assessment prepared in connection with the development of the Project.

At any time prior to receipt of a Notice of Default, Tenant may request by written notice that Landlord simultaneously send a copy of the Notice of Default to any mortgagee of Tenant at the address provided by Tenant and Landlord shall allow such mortgagee the opportunity to cure the Event of Default.

13.2 Remedies of Landlord.

Upon the occurrence of an Event of Default by Tenant, Landlord may seek injunctive relief or damages as provided by law, but except as otherwise provided in subsection (d) below, not including damages or relief provided under Cal. Civ. Code Section 1951.2(a)(3). Upon the occurrence of a material Event of Default by Tenant, Landlord shall have the right, by written notice to Tenant, to:

(a) Declare this Lease terminated and the term of the Lease ended, in which event this Lease and the term hereof shall expire, cease and terminate with the same force

and effect as though the date set forth in the notice of termination was the date originally set forth herein and fixed for the expiration of the Lease term, whereupon the Tenant shall vacate and surrender the Leased Premises and shall be liable for damages as provided in subsection (d) below;

(b) Repossess the Leased Premises, without termination of this Lease, whereby Tenant shall remain liable, subject to the limitations hereinafter set forth, for all ongoing obligations arising during the balance of the Original Term. Landlord may proceed to recover possession of the Leased Premises pursuant to applicable process of law and to dispossess Tenant and all other occupants therefrom and remove and store all property therein in a public warehouse or elsewhere at the cost and for the account of the Tenant. UPON REPOSSESSING THE LEASED PREMISES, LANDLORD SHALL USE REASONABLE EFFORTS TO MITIGATE DAMAGES AND RELET THE LEASED PREMISES AT THE HIGHEST RENT AND ON BEST TERMS AVAILABLE TO LANDLORD. Upon each such reletting all rentals and other sums due received by Landlord from such reletting shall be applied in the following order:

(i) to the payment of any indebtedness, other than Rent due or the repayment of amounts financed under the Funding Agreement for City Facilities (the terms of such repayment are specified in the Development Agreement (herein, "**Funding Repayments**"), hereunder from Tenant to Landlord;

(ii) to the payment of any reasonable costs and expenses of such reletting, including reasonable brokerage fees and costs of alterations and repairs (all of the aforementioned items in (i) and (ii) being collectively referred to as "**Other Damages**"); and

(iii) to the payment of Rent due and unpaid hereunder and then to the unpaid Funding Repayments; with the residue, if any, to be held by Landlord and applied in payment of future Rent as the same may become due and payable by Tenant hereunder. If such rentals and other sums received from such reletting during any month are less than the Rent to be paid during that month by Tenant hereunder, Tenant shall pay such deficiency to Landlord; if such rentals and sums shall be more than the Rent due from Tenant as herein stated, Tenant shall have NO right to be paid the excess provided, however, such excess shall be credited against Rent payable by Tenant (if any) and due in the future. Such deficiency shall be calculated and paid monthly; or

(c) Continue this Lease in full force and effect, whether or not Tenant shall have abandoned the Premises. The foregoing remedy shall also be available to Landlord pursuant to California Civil Code Section 1951.4, and any successor statute thereof, in the event Tenant has abandoned the Premises. If Landlord elects to continue this Lease in full force and effect pursuant to this subsection (c), then Landlord shall be entitled to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due. Landlord's election not to terminate this Lease pursuant to this Section 13.2 or pursuant to any other provision of this Lease, at law or in equity, shall not preclude Landlord from subsequently electing to terminate this Lease or pursuing any of its other remedies.

(d) Notwithstanding subsection (a) above, for purposes of Landlord's election

to terminate, the Parties agree that a "**material Event of Default**" must be one that is not capable of being cured by Landlord's resort to its right of self help under Section 13.4 below (provided that Landlord shall not be obligated to spend in excess of the then current year's Annual Minimum Rent in the exercise of such self-help rights) and be of such a nature that actually materially and adversely affects the public's right to use the public portions of the Leased Premises. Before Landlord elects to terminate the Lease, Landlord shall be required to provide Tenant with a second Notice of Default (following the giving of the initial Notice of Default and lapse of Tenant's time to cure). The second Notice of Default shall specifically detail the nature of Tenant's default, propose an acceptable cure, and advise Tenant of Landlord's intent to terminate by a date certain (but not less than four (4) months) following the date of the second Notice of Default. Upon receipt of the second Notice of Default, Tenant shall have ten (10) business days within which to commence to cure or Tenant shall have the option of disputing whether a material Event of Default has occurred by requesting a Reference Procedure as such procedure is described in **Exhibit K**.

Should Tenant not thereafter timely prosecute the cure and Landlord is permitted to terminate this Lease, then Landlord may recover from Tenant:

(i) The worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus

(ii) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Tenant proves reasonably could have been avoided; plus

(iii) The worth at the time of award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves reasonably could be avoided; plus

(iv) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course would be likely to result therefrom; and plus

(v) At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California Law.

As used in this Section, the "**worth at the time of award**" is computed by allowing interest at the Default Rate. As used in (iii) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%), provided however, in no event shall such amount determined pursuant to (iii) exceed an amount equal to three (3) years' worth of Annual Minimum Rent due for the period following the date of termination plus Landlord's reasonable attorney's fees and costs, which shall be separately reimbursed by Tenant..

(e) The receipt by Landlord of less than the full Rent due shall not be

construed to be other than a payment on account of Rent then due, nor shall any statement on Tenant's check or any letter accompanying Tenant's check be deemed an accord and satisfaction, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of the Rent due or to pursue any other remedies provided in this Lease. The acceptance by Landlord of Rent hereunder shall not be construed to be a waiver of any breach by Tenant of any term, covenant or condition of this Lease. No act or omission by Landlord or its employees or agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by Landlord. Failure by Landlord to enforce its rights with respect to any one Event of Default shall not constitute a waiver of its rights with respect to any subsequent Event of Default. Failure of Landlord to declare any default immediately upon its occurrence, or delay in taking any action in connection with an event of default, shall not constitute a waiver of such default, nor shall it constitute an estoppel against the Tenant, and Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease.

13.3 Landlord's Lien; Redemption.

(a) Waiver of Landlord's Liens. LANDLORD HEREBY SPECIFICALLY DISCLAIMS, WAIVES AND DISAVOWS ANY STATUTORY, CONTRACTURAL OR COMMON LAW LIEN OR RIGHT OF DISTRAINT, IF ANY, ATTACHING OR RELATING TO TENANT'S PERSONAL PROPERTY, INCLUDING WITHOUT LIMITATION, ALL EQUIPMENT, FURNITURE, INVENTORY OR TRADE FIXTURES.

(b) Tenant's Waiver of Redemption. Tenant hereby waives, for itself and all persons claiming by and under Tenant, all rights and privileges which it might have under any present or future law to redeem the Leased Premises following termination of this Lease or to continue this Lease after being dispossessed or ejected from the Leased Premises by Landlord as and to the extent allowed hereunder or otherwise as directed by the court.

13.4 Self -Help Cure Rights.

If either Party shall default in the performance or observance of any condition in this Lease on its part to be performed or observed, and shall not cure such default within thirty (30) days (or ten (10) days for monetary default) after notice from the other Party specifying the default (or if such Party does not within such period commence to cure the default and thereafter prosecute the curing of the default to completion with due diligence), the non-defaulting Party may, at its option, without waiving any claim for damages for the default, at any time thereafter cure such default for the account of the defaulting Party, and any reasonable amount paid or any reasonable contractual liability incurred by the non-defaulting Party in so doing shall be deemed paid or incurred for the account of the defaulting Party, and the defaulting Party agrees to reimburse the non-defaulting Party therefor and save the non-defaulting Party harmless therefrom. At any time during the term of this Lease, the non-defaulting Party may cure any such default prior to the expiration of the thirty (30) day period, or prior to notice to the defaulting Party, if the curing of the default prior to notice or to the expiration of the thirty (30) day period is reasonably and immediately necessary due to an emergency to protect the Leased

Premises or the Party's interest therein, or to prevent injury or damage to persons or property. The non-defaulting Party shall submit an invoice to the defaulting Party for the costs incurred by the non-defaulting Party to cure a default of the defaulting Party, and if the defaulting Party fails to pay the costs so invoiced, together with interest as hereinafter provided, within fifteen (15) days after receipt of an invoice for the same, the non-defaulting Party shall have the right to deduct such costs, and interest therein, from the amounts then owed (including from any Rent due) by the non-defaulting Party to the defaulting Party. Any sums expended or expenses incurred by the non-defaulting Party to cure any default shall bear interest at the Default Rate until paid in full. No such act shall constitute a waiver of any Default or of any remedy for Default or render the non-defaulting Party liable for any loss or damage resulting from its act of self-help.

13.5 Landlord's Default; Tenant's Remedies.

Upon the occurrence of an Event of Default by Landlord, Tenant may (a) seek injunctive relief or damages as provided by law; or (b) terminate this Lease if it is a "material Event of Default" on the part of Landlord. A "**material Event of Default**" must be one that either delays the start of Tenant's construction or is not capable of being cured by Tenant's resort to its right of self-help under Section 13.4 above (provided that Tenant shall not be obligated to spend in excess of the then current year's Annual Minimum Rent in the exercise of such self-help rights) or be of such a nature that actually materially and adversely affects the Tenant's right to use the Leased Premises for its intended purposes. Before Tenant elects to terminate the Lease, Tenant shall be required to provide Landlord with a second Notice of Default (following the giving of the initial Notice of Default and lapse of Landlord's time to cure). The second Notice of Default shall specifically detail the nature of Landlord's default, propose an acceptable cure, and advise Landlord of Tenant's intent to terminate by a date certain (but not more than nine (9) months) following the date of the second Notice of Default. Upon receipt of the second Notice of Default, Landlord shall have ten (10) business days within which to cure or Landlord shall have the option of disputing whether a material Event of Default has occurred by requesting a Reference Procedure as such procedure is described in **Exhibit K**.

13.6 Remedies Cumulative

Except as herein stated or as prohibited by Applicable Law, each right and remedy of Landlord and Tenant provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or the beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord or Tenant of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

13.7 Waiver.

Landlord's or Tenant's failure to enforce any provision of this Lease with respect to a Default hereunder shall not constitute a waiver of Landlord's or Tenant's right to enforce such provision or any other provision with respect to any future Default. The acceptance of rent by Landlord shall not be deemed a waiver of Landlord's right to enforce any term or provision hereof. The waiver of any term or condition of this Lease shall not be deemed to

be a waiver of any other term or condition hereof or of any subsequent failure of any term or condition hereof.

13.8 Delays in Performance; Force Majeure.

The time within which the Parties hereto shall be required to perform any act under this Lease, other than the payment of rent, taxes, insurance, or other obligations to pay money that are treated as rent (except if otherwise allowed to abate), shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an act of God, supernatural causes, strikes, lockouts, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, severe weather, court order, delays caused by compliance with governmental requirements, or similar events which are reasonably beyond that Party's control. The additional grace period or extension of time provided above shall be equal to the period of delay caused by the above-described event, which period shall commence to run from the time of the commencement of the cause for delay and shall terminate upon termination of that cause. A Party wishing to invoke this Section shall: (a) notify the other party in writing of the delay promptly following the event giving rise to such delay; (b) use commercially reasonable efforts to avoid such delay; and (c) diligently pursue completion of the activity which was delayed. Nothing in this Section 13.8 is meant to be duplicative of force majeure delays and/or notices required under the Development Agreement.

ARTICLE 14. EXPIRATION; TERMINATION

14.1 Tenant's Duty To Surrender.

At the expiration or earlier termination of this Lease, Tenant shall surrender to Landlord the possession of the Leased Premises free and clear of all liens and encumbrances other than those, if any, created by Landlord or which Landlord approves in writing at the time of said expiration or earlier termination. Surrender or removal of improvements, fixtures and trade fixtures shall be as directed in Section 5.6. Tenant shall leave the Leased Premises and any other property surrendered in working condition and repair, reasonable wear and tear excepted. All property that Tenant is required to surrender shall become Landlord's property at termination or expiration of this Lease. All property that Tenant is not required to surrender shall be removed by Tenant at Tenant's cost within 30 days after the expiration or earlier termination of this Lease, but if Tenant abandons such property by failure to remove said property within thirty (30) days after the expiration or earlier termination of this Lease, said property shall, at Landlord's election, become Landlord's property.

Landlord shall have the right, at the expiration or earlier termination of this Lease, to demand the removal from the Leased Premises of all advertising or identification signage at Tenant's sole cost and expense. A demand for the removal of said improvement(s) shall be made by notice given at the time of the expiration, or at the time of the earlier termination, of this Lease, and Tenant shall comply with said notice no later than sixty (60) days after the expiration or earlier termination of this Lease.

If Tenant fails to surrender the Leased Premises at the expiration or sooner termination of this Lease, Tenant shall indemnify, defend and hold Landlord and its Representatives, and the property of Landlord harmless from all Liabilities resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from Tenant's failure to surrender.

If requested to do so, Tenant shall, upon the expiration or earlier termination of this Lease, execute, acknowledge and deliver to Landlord such instruments of further assurance as in the opinion of Landlord are necessary or desirable to confirm or perfect Landlord's right, title and interest in and to the Leased Premises, and any other property surrendered to Landlord pursuant to this Lease, free and clear of any claim by Tenant.

ARTICLE 15 MISCELLANEOUS

15.1 Tenant's Representations and Warranties.

Tenant covenants, represents and warrants to Landlord, as of the date of execution of this Lease, as follows:

(a) Tenant is a Delaware limited liability company, duly organized, qualified and validly existing and in good standing under the laws of California, and has all requisite power and authority to own and operate its properties and to carry on its business as now and whenever conducted and to enter into and perform its obligations under this Lease.

(b) The execution, delivery and performance of this Lease have been duly authorized by all necessary action of Tenant's managing member. All consents, approvals and authorizations of all applicable governmental authorities (including, without limitation, all consents or approvals, if any, required under applicable Securities Laws), and all consents or approvals of Tenant's managing member required in connection with the execution, delivery and performance by Tenant of this Lease have been obtained and delivered to the Landlord on or before the Effective Date of this Lease.

(c) Tenant has duly obtained and maintained, and will continue to obtain and maintain all material licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate its respective businesses and properties as now owned and hereafter owned.

(d) With respect to the financial condition of Tenant:

(i) On or before January 2, 2012, Tenant shall provide to Landlord a bank letter acceptable to Landlord showing Tenant's capacity to specifically fund and commit such funds to the Phase I Initial Improvements and to pay the Annual Minimum Rent under the Lease.

(ii) Tenant shall provide to City, and maintain, a complete list of Managing Member(s) and Member(s) of Balboa Management Group, LLC and a percentage of ownership of each Managing Member and each Member.

(e) All filings, reports and tax returns of Tenant which are required to be made or filed with any governmental authority have been and will continue to be duly made and filed, and all taxes, assessments, fees and other governmental charges upon Tenant, or upon any of its respective properties, assets, income or franchises, which are due and payable, have been, and will continue to be, paid when due, other than those which are presently payable without penalty or interest, or which Tenant is contesting in good faith.

(f) There are no suits, other proceedings or investigations pending or threatened against, or affecting the business or the properties of Tenant or any of its shareholders, other than as previously disclosed to Landlord, which would materially impair Tenant's ability to perform under this Lease nor is Tenant or any of its shareholders in violation of any laws or ordinances.

(g) There are no facts now in existence which would, with the giving of notice or the lapse of time, or both, constitute an Event of Default hereunder.

(h) Tenant has not received any notice from any governing jurisdiction of any violation of laws or ordinances, nor any notice requiring any improvements or alterations to be made in connection with the Improvements to be constructed on the Leased Premises.

(i) Tenant does not know or have any reason to know, except as disclosed to Landlord, of any adverse conditions, circumstances, or pending or threatened litigation, governmental action, or other condition which could prevent or materially impair Tenant's ability to develop the Leased Premises as contemplated by the terms of this Lease.

(j) This Lease and all other instruments to be executed in connection herewith will, as of the date of their execution, have been duly and validly executed by Tenant, and each such document constitutes, or will, as of the date executed, constitute, a legally valid, binding and fully enforceable obligation of Tenant thereto, in accordance with each and every term and condition stated therein. Tenant assumes due and valid execution of this Lease by Landlord in making the above representations.

15.2 Estoppel Certificate.

Within twenty (20) days after request by Landlord or Tenant (which request may be from time to time as often as reasonably required by Landlord or Tenant), Landlord or Tenant shall execute and deliver to the other, without charge, a statement in the form of **Exhibit I**, attached hereto, or in such other similar form as Landlord or Tenant may reasonably request. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer of the Leased Premises or of all or any portion of the development of which

the Leased Premises are a part. Tenant's or Landlord's failure to deliver such statement within ten (10) days of a written request therefor shall be a binding agreement of Tenant or Landlord (i) that this Lease is in full force and effect without modification except as may be represented by the Party requesting said statement, (ii) that there are no uncured defaults in the requesting Party's performance hereunder, (iii) that there have not been any payments of advance rent other than as provided in the provisions of this Lease, and (iv) that such purchaser or encumbrancer may rely upon the truth of such other matters as are contained in such statement.

15.3 Notices and Deliveries.

All notices, consents or waivers required or permitted in this Memorandum shall be in writing and be deemed to have been duly given: (i) when delivered personally; or (ii) on the next business day after delivery to a reputable overnight courier service, prepaid, marked for next day delivery, addressed to the addressee at its address set forth below; or (iii) on the day or receipt, if received during business hours of the recipient on a business day, and otherwise on the next business day, if delivered by facsimile transmission to the FAX number of the receiving party listed below, but only if a duplicate copy of the notice is sent on the same day as provided in clause (ii) above. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Notices given by counsel to the other party(ies) shall be deemed given by the party on whose behalf the notice is sent. As used herein, "**Business Day**" shall mean any day other than a Saturday, Sunday or California or federal holiday on which national banks in Los Angeles, California are customarily closed.

If to Landlord:

City of Norco
2870 Clark Ave
Norco, CA 92860
Attention: City Manager
Fax No.:(951) 270-5622

With a copy to its counsel:

Harper & Burns, LLP
453 S. Glassell St.
Orange, CA 92866
Attn: John Harper
Fax No.: (714) 744-3350

If to Tenant (prior to Tenant's occupancy of the Leased Premises):

Balboa Management Group, LLC
P.O. Box 609
San Juan Capistrano, CA 92693
Attn: R.J. Brandes
Facsimile No.: (949) 488-9291

After Tenant's occupancy of the Leased Premises:

Balboa Management Group, LLC
c/o Silverlakes Equestrian and Sports Park
[Address to be supplied]
Norco, CA 92860
Attn: R.J. Brandes
Facsimile No.: To be provided

With a copy to its counsel:

Nancy N. Kennerly, Esq.
Kennerly, Lamishaw & Rossi, LLP
707 Wilshire Blvd., Suite 1400
Los Angeles, CA 90017
Fax No.: (213) 312-1266

15.4 Attorneys' Fees.

In the event that either Party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Lease or as a consequence of any breach by the other party of its obligations under this Lease, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees and out-of-pocket expenditures paid by the losing party.

15.5 Headings.

The headings used in this Lease are inserted for reference purposes only and do not affect the interpretation of the terms and conditions hereof.

15.6 Rights of Successors.

All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of their respective heirs, successors and assigns; provided, however, that nothing in this Section 15.6 shall limit the provisions of Article 8 hereof.

15.7 Amendments in Writing.

This Lease cannot be orally amended or modified. Any modification or amendment hereof must be in writing and signed by the party to be charged.

15.8 Time of Essence.

Time is of the essence with respect to each provision in this Lease.

15.9 Interpretation.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The term person as used in this Agreement means a natural person,

corporation, association, partnership, organization, business, trust, individual, or a governmental authority, agency, instrumentality or political subdivision, and whenever the word "**day**" or "**days**" is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Section of this Agreement, it shall mean and include all subsections and subparts thereof.

15.10 Applicable Law; Severability.

The interpretation and enforcement of this Lease shall be governed by the laws of the State of California. Should any part, term, portion or provision of this Lease, or the application thereof to any person or circumstances be held to be illegal or in conflict with Applicable Laws, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, portions or provisions, or the application thereof to other persons or circumstances, shall be deemed severable and the same shall remain enforceable and valid to the fullest extent permitted by law.

15.11 Exhibits.

All exhibits referred to in this Lease are attached hereto and incorporated herein by reference.

15.12 Landlord Representations and Warranties.

As a material inducement to Tenant to enter into the Lease and as a condition to the effectiveness thereof, Landlord hereby warrants, represents and covenants to Tenant as follows:

(a) Authority. Landlord (i) is a lawfully constituted municipal body, duly organized, validly existing, and in good standing under the laws of the State of its incorporation, qualified to do business in the State of California, and (ii) has the authority and power to execute and enter into this Lease and to consummate the transaction contemplated herein as the same applies to it. Upon execution hereof, Landlord will be legally obligated to Tenant in accordance with the terms and provisions of this Lease;

(b) Title and Characteristics of Leased Premises. Landlord is the owner of the Leased Premises and hold fee simple absolute title thereto. The Permitted Exceptions and that certain deed restriction imposed by Judge David O. Carter and contained in Exhibit "B" to that certain Quitclaim Deed executed by TLC Investments & Trade Co. in favor of the City recorded on June 14, 2002 as Document No. 2002-328613 (herein the "**Deed Restriction**"), which Quitclaim Deed transferred the Leased Premises to the City, are the only restrictive covenants, easements or other encumbrances presently affecting the use of the Leased Premises. Landlord represents that the parcels comprising the Leased Premises are separate legal lots and that neither the Leased Premises nor this Lease violates the Subdivision Map Act;

(c) Conflicts. The execution and entry into this Lease, the execution and delivery of the documents and instruments to be executed and delivered by Landlord by the Term Commencement Date, and the performance by Landlord of Landlord's duties and obligations under this Lease and of all other acts necessary and appropriate

for the full consummation of the lease of the Leased Premises as contemplated herein, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Landlord is a party or which affect the Leased Premises. Consistent with the entitlements governing the Leased Premises, all necessary and appropriate action has been taken by Landlord authorizing and approving the execution of and entry into this Lease, the execution and delivery by Landlord of the documents and instruments to be executed by Landlord by the Term Commencement Date, and the performance by Landlord of Landlord's duties and obligations under this Lease and of all other acts within Landlord's control and subject to its discretionary authority necessary and appropriate for the consummation of the lease of the Leased Premises as contemplated herein;

(d) Condemnation. As of the Effective Date, Landlord has received no written notice of any pending, threatened or contemplated action by the City or any governmental authority or agency having the power of eminent domain, which might result in any part of the Leased Premises being taken by condemnation or conveyed in lieu thereof. Provided, however, Landlord is aware of the possible creation of Schleisman Road as a connector road to the I-15 Freeway and a Taking by CalTrans or the Riverside County Transportation Commission along or near the Leased Premises northern border. Landlord agrees to keep Tenant apprised of all Condemnation or Taking activities affecting the Leased Premises;

(e) Litigation. As of the Effective Date, Landlord has received no written notice of, nor to the best of Landlord's knowledge, is Landlord aware of any action, suit or proceeding pending or threatened by or against or affecting Landlord or the Leased Premise, which does or will involve or affect the Leased Premises, the easements appurtenant to the Leased Premises, or title. Landlord will, promptly upon receiving any such notice, give Tenant notice thereof;

(f) Assessments and Taxes. Landlord agrees that it shall pay in full all delinquent taxes affecting the Leased Premises as of the Effective Date;

(g) Boundaries. Landlord represents and warrants that there is no dispute involving or concerning the location of the property or boundary lines and/or corners of the Leased Premises;

(h) No Violations. Landlord has received no written notice of violations of state or federal law, municipal or county ordinances, or other legal requirements with respect to the Leased Premises, or any legal requirements with respect to the Leased Premises. In the event Landlord receives notice of any such violations prior to the Term Commencement Date affecting the Leased Premises, Landlord shall promptly notify Tenant thereof, and Landlord shall promptly and diligently defend any prosecution thereof and take any and all necessary actions to eliminate said violations;

(i) Prior Agreements. No prior agreements, options, rights of first refusal, licenses, use agreements or the like have been granted by Landlord or the City to any third parties to purchase , use, possess or lease any interest in the Leased Premises, or any part thereof, which are effective as of the date of this Lease.

(j) No Bankruptcy. There are no actions, voluntary or otherwise, pending or threatened against Landlord or the City under the bankruptcy, reorganization, moratorium or similar law of the United States, any state thereof or any other jurisdiction;

(k) No Options; Leases or Similar Rights. As of the Effective Date, no person other than Tenant shall have any right to acquire or to ground lease the Leased Premises or any part thereof, or to obtain any interest therein. There are no outstanding rights of first refusal, rights of reverter or options to purchase relating to the Leased Premises. From and after the Effective Date, Landlord shall have no right to enter into license, agreements, or leases or otherwise grant or extend any rights of possession or occupancy; and

(l) Hazardous Materials. Except as disclosed and delivered to Tenant pursuant to this Lease:

(i) To the best of Landlord's knowledge, other than as disclosed in that Phase One report dated April 25, 2002, prepared by Ceres Technologies, Inc., Project Number 3391-01, copies of which have been provided to Tenant, the Lease Premises are, as of the Effective Date, free from contamination by Hazardous Materials in violation of any Environmental Laws (as defined below).

(ii) Definitions. For purposes of this Section 2.4 and this Agreement:

(1) "**Environmental Laws**" shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations, orders, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered Sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered Sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety and Health Act (29 U.S.C. Section 655 et seq.); (xiii) the

Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 1100 et seq.).

(2) "**Hazardous Materials**" means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include:

(A) "**Hazardous Substance(s)**" as defined in CERCLA, the Superfund Amendments and Reauthorization Act of 1986, or Title III of the Superfund Amendment and Reauthorization Act, each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes, any petroleum or petroleum-derived waste or product or related materials and any items defined as hazardous, special or toxic materials, substances or waste;

(B) "**Hazardous Waste**" as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder;

(C) "**Materials**" as defined as "Hazardous Materials" in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder;

(D) "**Chemical Substance or Mixture**" as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder;

(3) "**Governmental Authorities**" means the United States, the State of California and any political subdivision thereof, and any and all agencies, departments, commissions, boards, bureaus, bodies, councils, offices, authorities, or instrumentality of any of them, of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence; and

(4) "**Release**" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, discarding, burying, abandoning, or disposing into the environment.

(m) No Facts Constituting an Event of Default. There are no facts of which Landlord is aware now in existence which would, with the giving of notice or the lapse of time, or both, constitute an Event of Default hereunder.

15.13 Attornment by Tenant.

In the event that Landlord assigns its interest in the Leased Premises or the Lease if and to the extent herein permitted, Tenant shall attorn to the assignee of Landlord, and shall recognize same as Landlord under this Lease as and to the extent specified in Section 8.1.

15.14 [RESERVED.]

15.15 Rights of Inspection.

Landlord and its authorized agents and representatives shall have the right at any time and from time to time to enter upon the Leased Premises for purposes of: (a) inspecting the same, (b) making any necessary repairs thereto pursuant to this Lease or taking such other actions as may be authorized by the provisions hereof, or (c) posting notices of non-responsibility in accordance with its rights under this Lease. If either party, in its reasonable discretion, determines that any work or materials are not in conformity with any Plans approved pursuant to this Lease, Applicable Laws, or any other provisions of this Lease, said party shall notify the other and the non-conforming party shall stop its work and order correction of any such work or materials. Inspection by Landlord of the Leased Premises or by either party of the other's work is for the sole purpose of protecting the rights of the inspecting party and is not to be construed as an acknowledgment, acceptance or representation by the inspecting party that there has been compliance with any Plans or that the Leased Premises or any improvements thereon will be free of faulty materials or workmanship. Any holder of any encumbrance on any portion of the Leased Premises shall make or cause to be made such other independent inspections as permitted by this Lease and as it deems necessary for its own protection. Nothing contained herein shall be construed as requiring Landlord or Tenant to construct or supervise construction of any improvements on the Leased Premises or any portion thereof not otherwise its responsibility to construct. Where any of the foregoing requires access to Tenant's Buildings, such entry shall be during normal business hours and Landlord shall provide written notice at least twenty-four (24) hours in advance to Tenant notifying Tenant of the proposed entry. Notwithstanding anything to the contrary herein, any access given to Landlord or Landlord's authorized agents to enter the Leased Premises shall be subject to Tenant's confidentiality and security rules and regulations. Tenant reserves the right to accompany Landlord at all times during any entry by Landlord.

15.16 Nonmerger of Fee and Leasehold Estates.

If both Landlord's and Tenant's estates in the Leased Premises become vested in the same owner, this Lease shall not be terminated by application of the doctrine of merger except at the express election of the fee owner and with the consent of any Lender(s) on a Leasehold Mortgage.

15.17 Nonliability of Landlord Representatives.

No individual representative of the Landlord shall be personally liable to Tenant, or any successor in interest, in the event of any default or breach by the Landlord, or for any amount which may become due to the Tenant or successor, or on any obligation under the terms of this Lease.

15.18 Counterparts.

This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

15.19 [Reserved].

15.20 Proprietary Rights of Tenant.

Landlord and all persons or entities claiming an interest in, or right of occupancy in or use of any portion of the Leased Premises shall be deemed, by virtue of executing this Lease and/or accepting such ownership, leasehold interest or making such use, to have covenanted and agreed that (a) the trade names, trademarks, service marks (including, without limitation, all logos, emblems, designs or designating words or names) utilized by Tenant, Balboa Management Group, LLC, and/or its or their affiliated companies ("**Balboa**"), in connection with the Leased Premises or the conduct of its business there at, are registered and/or the proprietary property of Tenant or its affiliates; (b) except as provided below, no usage of those marks or names will be made in naming or referring to any activity within or without the Leased Premises; and (c) no usage of such marks or names shall be made without the prior written consent of Tenant and Tenant's legal counsel. Balboa and Tenant reserve the right to require any person or entity to whom it may grant a written right to use a given name or mark to enter into a formal written license agreement and to charge a fee or royalty therefor.

15.21 Operational Rights; Seasonality of Events.

Landlord acknowledges that Landlord shall have the right to schedule its hours of operation and to hold such events, tournaments, invitationals, exhibitions and the like on such dates and at such times as are appropriate in the reasonable exercise of its business discretion. Landlord further acknowledges the seasonal nature of sporting and equestrian events and nothing herein creates any obligation on Tenant to operate or hold daily events or activities on the Leased Premises, except for the rights of the public as contained in the Shared Use Agreement.

END OF TEXT

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first above written.

TENANT:

BALBOA MANAGEMENT GROUP, LLC
a Delaware limited liability company

By: _____
Richard J. Brandes
Its: Manager

LANDLORD:

CITY OF NORCO
a municipal corporation

By: _____
Name: Berwin Hanna
Its: Mayor

Approved as to form:

_____
John R. Harper, City Attorney

Attest:

_____
Brenda K. Jacobs, CMC, City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF LEASED PREMISES

Parcel A -Assessor's Parcel No: 152-060-004-0:

Parcel 1: That portion of Lot Q of Fuller Rancho, in the City of Norco, County of Riverside, State of California, as shown by map on file in Book 16, Pages 94 through 97 of maps in the office of the County Recorder of said county, described as follows:

Beginning at the most Southerly corner of that certain parcel of land as conveyed to Earle F. Hoover and Dorothy L. Hoover, husband and wife, by deed filed for recorded July 18, 1951 as shown by map on filed in Book 1288, Page 238, of maps, records of Riverside County, California;

Thence Southerly 0°10'45" East on the Easterly line of State Highway right of way line a distance of 521.67 feet to the Northwesterly corner of that certain parcel of land conveyed to Wildan P. Thomas by deed recorded July 25, 1956 in Book 1948, Page 490, records of Riverside County, California; thence Easterly along the Northerly line of said Thomas Parcel of land to a point in the Easterly line of said Lot Q; thence Northerly along said Easterly line of Lot Q to the Southeast corner of that certain parcel of land conveyed to Steve Polopolus and Diana Polopolus, husband and wife, by deed for recorded, October 18, 1956 in Book 1987, Page 367, records of Riverside County, California; thence Southerly 63°18'15" West along the South line of said Hoover and Polopolus Parcels of land to the point of beginning.

Excepting therefrom that portion of Lot Q of Fuller Rancho as shown by map on file in Book 16, Pages 94 through 97 of maps, records of Riverside County, California, described as follows:

Beginning at the Southwest corner of that certain parcel of land conveyed to Earle F. Hoover and Dorothy L. Hoover, husband and wife, as shown by map on file in Book 1288, Page 238 of maps, records of Riverside County, California; thence South 0°10'45" East along the Easterly line of State Highway, a distance of 21.67 feet; thence Northerly 89°61'43" East, a distance of 500.00 feet; thence Northerly 0°10'45" West a distance of 271.51 feet to the Southerly line of said parcel conveyed to Earle F. Hoover, et ux; thence Southerly 63°18'15" West along the Southerly line of said parcel conveyed to Earle F. Hoover, et ux, a distance of 558.79 feet to the point of beginning.

Parcel 2:

All that portion of Lot Q Fuller Rancho, in the City of Norco, County of Riverside, State of California, as shown by map on file in Book 16, Pages 94 through 97 of maps, in the office of the County Recorder of said county, described as follows:

Beginning at the Southwest corner of that certain parcel of land conveyed to Earle F. Hoover and Dorothy L. Hoover, husband and wife, as shown by map on file in Book 1288, Page 238 of maps, records of Riverside County, California; thence South 0°10'45" East

along the Easterly line of State Highway, a distance of 21.67 feet; thence Northerly 89°51'43" East, a distance of 500.00 feet; thence Northerly 0°10'45" West a distance of 271.51 feet to the Southerly line of said parcel conveyed to Earle F. Hoover, et ux., a distance of 558.79 feet to the point of beginning.

Parcel B - Assessor's Parcel No: 152-060-011-6:

That portion of the Southeast of the Northwest quarter and the Southwest quarter of the Northwest quarter of fractional Sectional 31, Township 2 South, Range 6 West, as per map of the Jurupa Rancho, in the City of Norco, County of Riverside, State of California, as shown by map on file in Book 9, Page 33 of maps, in the office of the County Recorder of San Bernardino County, California, which lies Westerly of the following described line:

Beginning at the North quarter corner of said fractional section said corner being marked by a 4 inch by a 4 inch stake as set by parmley and finkle in 1889 and as shown on licensed survey map on file in Book 10, Page 35 of maps, records of survey, records of Riverside County, California; thence South 0°07'14" East along the North and South centerline of said fractional section, 1324.58 feet to a 3/4 inch iron pipe marking the Northeast corner of the Southeast quarter of the Northwest quarter of said fractional section; thence South 89°35'15" West 1.11 feet, to a 3/4 inch iron pipe; thence South 0°52'35" West 1.13 feet, to a 2 inch by 2 inch stake; thence South 89°26'05" East 28.20 feet; to a 2 inch stake; thence South 30°49'10" West, 321.76 feet to a 3/4 inch iron pipe set on the East and West centerline of said fractional section, at a point which bears South 89°43'33" West 221.40 feet from a 1 1/2 inch iron pipe marking the center of said fractional section, as said center of fractional section 31 was re-established and shown on said licensed survey map.

Excepting therefrom the Northerly 30.00 feet.

Also excepting therefrom that portion thereof conveyed to the State of California by final order of condemnation recorded September 10, 1986 as Instrument/file No. 220516 of Official Records of Riverside County, California.

Also excepting therefrom that portion of said land conveyed to K. Hovnanian Companies of Southern California, Inc., a California Corporation by grant deed recorded March 16, 2000 as Instrument No. 2000-096935 of Official Records.

Parcel C - Assessor's Parcel No: 152-070-001-8:

The Southerly 664.2 feet of Lot Q of Fuller Rancho, City of Norco, County of Riverside, State of California, County as shown by map on file in Book 16, Pages 94 through 97 of maps, in the office of the County Recorder of said county, California, described as follows:

The Northerly line of said parcel being parallel with the Southerly line of Lot "Q", excepting therefrom that portion conveyed to the State of California by deed from Motor Transit Terminal

Corporation recorded November 29, 1941 as shown by map on file in Book 525. Page 160 of maps, records of Riverside County, California.

Parcel D – Assessor's Parcel No: 152-070-011-7

The Northeast quarter of the Southwest quarter of Section 31, Township 2 South, Range 6 West, San Bernardino Meridian, in the City of Norco, County of Riverside, State of California, as shown by sectionized survey of the Jurupa Rancho, records of San Bernardino County, California

Excepting therefrom that portion thereof conveyed to the State of California by final order of condemnation recorded September 10, 1986 as Instrument/File No. 220516 of Official Records of Riverside County, California.

Also excepting therefrom that portion of said land conveyed to K. Hovnanian Companies of Southern California Inc., a California Corporation by grant deed recorded March 16, 2000 as Instrument No. 2000-096935 of Official Records.

Parcel E - Assessor's Parcel No: 152-070-002-9:

The South half of the Northwest quarter of the Southwest quarter and the Northwest quarter of the Southwest quarter of the Southwest quarter of Section 31, Township 2 South, Range 6 West, as shown by sectionized survey of the Jurupa Rancho, in the City of Norco, County of Riverside, State of California, as per map recorded in Book 9, Page 33 of maps, in the office of the County Recorder of San Bernardino County.

Except the Westerly 60.00 feet of the South half of the Northwest quarter of the Southwest quarter and the Northwest quarter of the Southwest quarter of the Southwest quarter of said Section 31.

EXHIBIT B

MAP OF LEASED PREMISES

[Attached as the immediately following page.]

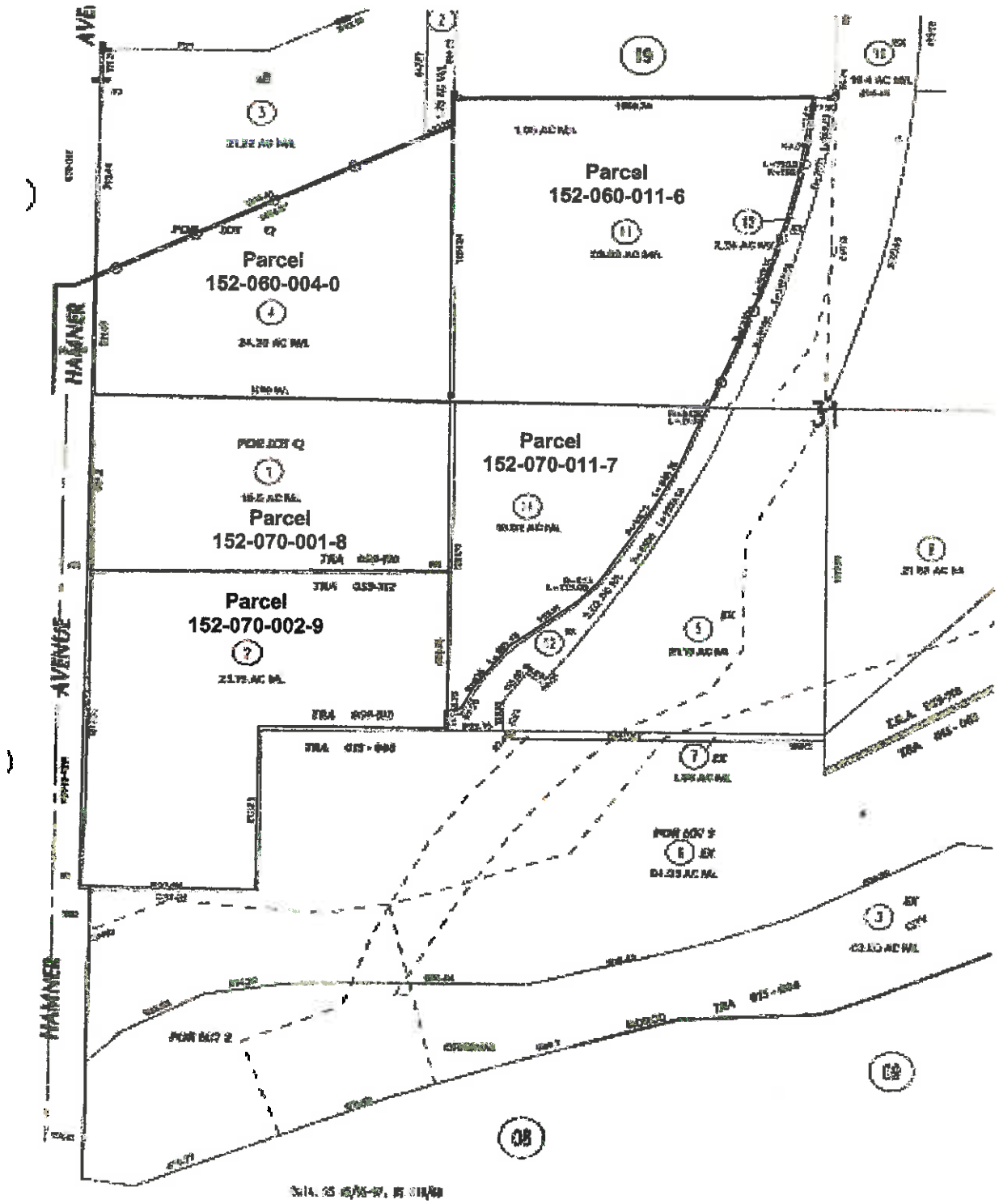
Parcel
152-060-004-0
Parcel
152-060-011-6
Parcel
152-070-011-7
Parcel
152-070-001-8
Parcel
152-070-002-9
HAMNER AVENUE
HAMNER AVENUE

EXHIBIT C

CONDITIONS PRECEDENT

1. Tenant's Conditions Precedent. The commencement of the Original Term of the Lease (i.e. the Term Commencement Date) and Tenant's obligations to otherwise perform under this Lease shall be subject to fulfillment or waiver of the conditions precedent listed below, which conditions shall be determined to have been fulfilled or waived by Tenant, in the exercise of Tenant's sole discretion and upon written notice delivered to Landlord, on or before the dates specified below; provided, in all events the Tenant may extend a deadline to January 2, 2012 (herein, **"Outside Date"**) to order to facilitate the fulfillment or satisfaction of a condition, at which time (and without any extension for a delay under Section 13.8) the condition must either be waived, deemed satisfied or this Lease shall terminate:

(a) First Tranche of Conditions. The following conditions precedent are intended to fulfilled, if at all, no later than ninety (90) days following the Effective Date (or such sooner date as is specified below):

(i) Within thirty (30) days of the Effective Date, Landlord and Tenant shall have entered into a shared use agreement substantially in the form of **Exhibit "M"** attached hereto (the **"Shared Use Agreement"**);

(ii) Within thirty (30) days of the Effective Date, Tenant shall have received a letter in satisfactory form from the City's Finance Director confirming the availability and dedication of funds sufficient to cover City's obligations under the Funding Agreement;

(iii) Tenant shall be reasonably satisfied that all Governmental Approvals (as herein defined) shall issue assuming Tenant's submission of Plans and Specifications or other necessary documentation. For purposes of this subsection (iv), **"Governmental Approvals"** shall mean all approvals required by municipal, county, state and federal authorities, to permit Tenant's construction and use of the Leased Premises for the purposes herein stated at a cost Tenant deems to be economic and with conditions that Tenant deems to be reasonable, including, but not limited to, the following: site plan and development plan review and approvals, tract map or subdivision map approval, site design review and approval, drainage or storm water management approvals, environmental and wetlands approvals, road and highway access and curb cut approvals; impact and off-site improvements approvals; fire protection approvals; architectural, historic preservation or other design or landscaping approvals; and building permits for planned improvements including approval for construction of utilities. Tenant may consider all requirements imposed on Tenant as conditions to obtain such approvals and permits; all charges and fees imposed on Tenant to obtain such approvals and permits, and all development plans submitted to, and development agreement with, the City pertaining to or affecting the Leased Premises and the Project;

(iv) Within thirty (30) days of the Effective Date, Landlord shall have caused Chicago Title Company to issue (or be committed to issue) as of the Term

Commencement Date an owner's policy of leasehold title insurance, with such endorsements as Tenant may reasonably require, or a commitment therefor (the **"Title Policy"**) in an amount equal to $6,608,000 and in form and substance satisfactory to Tenant subject only to those exceptions as are noted on **Exhibit D-2** (**"Permitted Exceptions"**). Landlord agrees to pay for the costs of the Title Policy, in an amount not to exceed $4,000; and

(v) On or before the Effective Date of this Lease, Landlord shall have fulfilled or performed those obligations contained in Section 4.19 of the Development Agreement regarding the Restated Conditions of Resolution No. 2009-08.

(b) Second Tranche of Conditions. The following conditions precedent are intended to fulfilled, if at all, on or before the dates hereinafter stated but no later than the Outside Date:

(i) Within one hundred eighty (180) days of the Effective Date, Tenant shall be satisfied (1) that fees such as the Transportation Uniform Mitigation Fee (TUMF), the Multiple Species Habitat Conservation Plan (MSHCP) and any development impact fees (DIF) are not applicable to the Leased Premises and (2) with the amounts and/or caps on other fees such as (if relevant in Norco) Entitlement Application Fees, Plan Check Fees, Onsite permit fees, Offsite permit fees (if Tenant required to share in costs of construction thereof), Water District fees (for City of Norco or Western Municipal Water District -- including water impact fees, drainage impact fees, Plan check fee, Facility charges, water meter fees, installation costs, Sewer Facilities Fee, Inspection Fees), County Endangered Species Mitigation Fee). The City agrees to assist Tenant and to meet with the County of Riverside and its departments (including making application on Tenant's behalf) in an effort to have County fees declared inapplicable to the Leased Premises;

(ii) Tenant shall be satisfied that adequate sources of capital exist to finance its development and operation of the Silverlakes property. The financing contingency may include: (1) Tenant's identification of equity participant and formation of entity to act as assignee of Tenant's rights hereunder; (2) agreement on bond financing for on-site improvements (including identification of financed improvements); (3) procurement of equity financing and/or bond monies;

(iii) Within one hundred eighty (180) days of the Effective Date, Tenant shall be satisfied with the amount of the Impositions (e.g., real property taxes), including any possessory interest tax, attributable to and assessable against the Leased Premises. The City agrees to assist Tenant and to meet with the County of Riverside and its departments, such as the County Tax Collector and Tax Assessor (including making application on Tenant's behalf) in an effort to have the taxes as low as possible;

(iv) Within one hundred eighty (180) days of the Effective Date (unless extended by mutual consent of the parties) or such earlier date as is specified in the Development Agreement, Landlord shall have fulfilled or performed, with

results satisfactory to Tenant, those obligations contained in Sections 4.4, 4.5, 4.6, 4.9, 4.11, 4.14 and 4.17 of the Development Agreement;

(v) Within one hundred eighty (180) days of the Effective Date, the issuance of a lot line adjustment to create a separate legal lot encompassing, in such configuration as Tenant shall require, the multi-purpose building and selected areas surrounding the same and providing access thereto, provided that Tenant shall have filed an application therefore on or before January 2, 2012.

(vi) Within one hundred eighty (180) days of the Effective Date, Tenant shall have reached a reasonably satisfactory arrangement with the County Sherriff's department for the providing police department services to the Project;

(vii) By the date of the last Condition Precedent to be fulfilled, Landlord having performed and complied with all of the terms of this Lease to be performed and complied with by it or them prior to the Term Commencement Date; and

(viii) The representations and warranties of Landlord set forth in the Lease and/or below being true and accurate in all material respects when made and on the date the last of the aforesaid conditions precedent are fulfilled or waived, as if made on such date.

(ix) Within one hundred eighty (180) days of the Effective Date, Tenant's Design Review Documents (submitted by Tenant and deemed complete within 90 days of the Effective Date of this Agreement) have been reviewed and approved by the City and the Planning Commission;

2. City's Conditions Precedent. The commencement of the Original Term of the Lease (i.e. the Term Commencement Date) and Landlord's obligations thereafter to perform under this Lease shall be subject to fulfillment or waiver of the conditions precedent listed below, which conditions shall be determined to have been fulfilled or waived by Landlord, in the exercise of Landlord's sole discretion and upon written notice delivered to Tenant, on or before the dates specified below:

(a) Within thirty (30) days of the Effective Date, Landlord and Tenant shall have entered into the "Shared Use Agreement");

(b) Within the timeframes set forth in Section 5.2.1(b) and (d) of the Lease, Tenant shall have submitted Design Review Documents and engineering plans consistent with the Concept Plans;

(c) Tenant having performed and complied with all of the terms of this Lease to be performed and complied with by it prior to the Term Commencement Date unless otherwise mutually extended by the Parties; and

(d) The representations and warranties of Tenant set forth in the Lease being true and accurate in all material respects when made and on the date the last of the aforesaid conditions precedent are fulfilled or waived, as if made on such date.

(e) Within one hundred eighty (180) days of the Effective Date, Tenant shall have provided a Bank Letter showing sufficient tangible assets to construct the Phase I improvements.

3. Failure of Conditions Precedent. Should a condition precedent contained in this **Exhibit C** fail, the Party in whose favor said condition exists, must elect, upon the giving of 10 days prior written notice to the other Party, either (i) to terminate this Lease, which termination shall be the sole recourse of the terminating Party; or (ii) to proceed and waive all damages against the other. Upon the giving of a notice of termination as aforesaid, this Lease shall be deemed terminated and neither Party shall have any obligation to the other, save for indemnifications intended to survive the expiration or earlier termination of this Lease.

4. Failure of a Representation prior to the Term Commencement Date. If either Tenant or Landlord discovers prior to the Term Commencement Date that any of the representations by the other in the Lease was untrue when made, it shall immediately notify the other ("**Misrepresenting Party**") of the nature and extent of such discovery. If the misrepresentation is material and not (or cannot be) cured within ten (10) days of notification, the Party to whom the representation was made must elect, upon the giving of ten (10) days prior written notice to the Misrepresenting Party, (i) to terminate this Lease, whereupon, such the aggrieved party shall have all its rights at law and equity against the Misrepresenting; or (ii) to proceed and waive all damages against the Misrepresenting Party.

EXHIBIT D-1

PRELIMINARY TITLE REPORT

[Attached as the immediately following page.]

Chicago Title Company

560 East Hospitality Lane
San Bernardino, CA 92408
(800) 722-0824

Title Department:

Chicago Title Company
Attn: Kelly McDole
Email: McDoleK@CTT.com
Phone: (909) 381-6751
Fax: (909) 384-7893
Order No.: 820035005-K26

4th AMENDED PRELIMINARY REPORT

Property Address: Vacant, Norco

Dated as of: February 11, 2010 at 7:30 am

In response to the application for a policy of title insurance referenced herein, Chicago Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said Policy forms.

The printed Exceptions and Exclusion from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that se forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

SCHEDULE A

1. The estate or interest in the land hereinafter described or referred to covered by this report is:

   A Fee

2. Title to said estate or interest at the date hereof is vested in:

   Norco Redevelopment Agency, a municipal corportion

3. The land referred to in this report is situated in the State of California, County of Riverside and is described in the Legal Description, attached hereto:

END OF SCHEDULE A

LEGAL DESCRIPTION

PARCEL 1:

THAT PORTION OF LOT Q OF FULLER RANCHO, IN THE CITY OF NORCO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 16, PAGES 94 THROUGH 97 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND AS CONVEYED TO EARLE F. HOOVER AND DOROTHY L. HOOVER, HUSBAND AND WIFE, BY DEED FILED FOR RECORD JULY 18, 1951 AS SHOWN BY MAP ON FILE IN BOOK 1288, PAGE 238 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTHERLY 0° 10' 45" EAST ON THE EASTERLY LINE OF STATE HIGHWAY RIGHT OF WAY LINE A DISTANCE OF 521.67 FEET TO THE NORTHWESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO WILDAN P. THOMAS BY DEED RECORDED JULY 25, 1956 IN BOOK 1948, PAGE 490, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID THOMAS PARCEL OF LAND TO A POINT IN THE EASTERLY LINE OF SAID LOT Q; THENCE NORTHERLY ALONG SAID EASTERLY LINE OF LOT Q TO THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO STEVE POLOPOLUS AND DIANA POLOPOLUS, HUSBAND AND WIFE, BY DEED FOR RECORD, OCTOBER 18, 1956 IN BOOK 1987, PAGE 367, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE SOUTHERLY 63° 18' 15" WEST ALONG THE SOUTH LINE OF SAID HOOVER AND POLOPOLUS PARCELS OF LAND TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM THAT PORTION OF LOT Q FULLER RANCHO AS SHOWN BY MAP ON FILE IN BOOK 16, PAGES 94 THROUGH 97 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO EARLE F. HOOVER AND DOROTHY L. HOOVER, HUSBAND AND WIFE, AS SHOWN BY MAP ON FILE IN BOOK 1288, PAGE 238 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE SOUTH 0° 10' 45" EAST ALONG THE EASTERLY LINE OF STATE HIGHWAY A DISTANCE OF 21.67 FEET; THENCE NORTHERLY 89° 61' 43" EAST A DISTANCE OF 500.00 FEET; THENCE NORTHERLY 0° 10' 45" WEST A DISTANCE OF 271.51 FEET TO THE SOUTHERLY LINE OF SAID PARCEL CONVEYED TO EARLE F. HOOVER, ET UX; THENCE SOUTHERLY 63° 18' 15" WEST ALONG THE SOUTHERLY LINE OF SAID PARCEL CONVEYED TO EARLE F. HOOVER, ET UX, A DISTANCE OF 558.79 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

ALL THAT PORTION OF LOT Q FULLER RANCHO, IN THE CITY OF NORCO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 16, PAGES 94 THROUGH 97 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED TO EARLE F. HOOVER AND DOROTHY L. HOOVER, HUSBAND AND WIFE, AS SHOWN BY MAP ON FILE IN BOOK 1288, PAGE 238 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE SOUTH 0° 10' 45" EAST ALONG THE EASTERLY LINE OF

LEGAL DESCRIPTION
(continued)

STATE HIGHWAY A DISTANCE OF 21.67 FEET; THENCE NORTHERLY 89° 51' 43" EAST A DISTANCE OF 500.00 FEET; THENCE NORTHERLY 0° 10' 45" WEST A DISTANCE OF 271.51 FEET TO THE SOUTHERLY LINE OF SAID PARCEL CONVEYED TO EARLE F. HOOVER, ET UX; THENCE SOUTHERLY 63° 18' 15" WEST ALONG THE SOUTHERLY LINE OF SAID PARCEL CONVEYED TO EARLE F. HOOVER, ET UX, A DISTANCE OF 558.79 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

THE SOUTHERLY 664.2 FEET OF LOT Q OF FULLER RANCHO, CITY OF NORCO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, COUNTY AS SHOWN BY MAP ON FILE IN BOOK 16, PAGES 94 THROUGH 97 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS, THE NORTHERLY LINE OF SAID PARCEL BEING PARALLEL WITH THE SOUTHERLY LINE OF LOT "Q", EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY DEED FROM MOTOR TRANSIT TERMINAL CORPORATION RECORDED NOVEMBER 29, 1941 AS SHOWN BY MAP ON FILE IN BOOK 525, PAGE 160 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL 4:

THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF FRACTIONAL SECTION 31, TOWNSHIP 2 SOUTH, RANGE 6 WEST, AS PER MAP OF THE JURUPA RANCHO, IN THE CITY OF NORCO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 9, PAGE 33 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, WHICH LIES WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE NORTH QUARTER CORNER OF SAID FRACTIONAL SECTION, SAID CORNER BEING MARKED BY A 4 INCH BY A 4 INCH STAKE AS SET BY PARMLEY AND FINKLE IN 1889 AND AS SHOWN ON LICENSED SURVEY MAP ON FILE IN BOOK 10, PAGE 35 OF MAPS, RECORDS OF SURVEY, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA; THENCE SOUTH 0° 07' 14" EAST, ALONG THE NORTH AND SOUTH CENTERLINE OF SAID FRACTIONAL SECTION, 1324.58 FEET, TO A 3/4 INCH IRON PIPE MARKING THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID FRACTIONAL SECTION; THENCE SOUTH 89° 35' 15" WEST 1.11 FEET, TO A 3/4 INCH IRON PIPE; THENCE SOUTH 0° 52' 35" WEST 1.13 FEET, TO A 2 INCH BY 2 INCH STAKE; THENCE SOUTH 0° 52' 35" WEST 649.13 FEET, TO A 2 INCH STAKE; THENCE SOUTH 89° 26' 05" EAST 28.20 FEET, TO A 2 INCH BY 2 INCH STAKE; THENCE SOUTH 10° 05' 35" WEST 405.10 FEET, TO A 2 INCH BY 2 INCH STAKE; THENCE SOUTH 30° 49' 10" WEST, 321.76 FEET TO A 3/4 INCH IRON PIPE SET ON THE EAST AND WEST CENTERLINE OF SAID FRACTIONAL SECTION, AT A POINT WHICH BEARS SOUTH 89° 43' 33" WEST 221.40 FEET FROM A 1 1/2 INCH IRON PIPE MARKING THE CENTER OF SAID FRACTIONAL SECTION, AS SAID CENTER OF FRACTIONAL SECTION 31 WAS RE-ESTABLISHED AND SHOWN ON SAID LICENSED SURVEY MAP;

EXCEPTING THEREFROM THE NORTHERLY 30.00 FEET;

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA BY FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 10, 1986 AS

LEGAL DESCRIPTION
(continued)

INSTRUMENT/FILE NO. 220516 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO K. HOVNANIAN COMPANIES OF SOUTHERN CALIFORNIA, INC., A CALIFORNIA CORPORATION BY GRANT DEED RECORDED MARCH 16, 2000 AS INSTRUMENT NO. 2000-096935 OF OFFICIAL RECORDS.

PARCEL 5:

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 6 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF NORCO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY SECTIONALIZED SURVEY OF THE JURUPA RANCHO, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA;

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA BY FINAL ORDER OF CONDEMNATION RECORDED SEPTEMBER 10, 1986 AS INSTRUMENT/FILE NO. 220516 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

ALSO EXCEPTING THEREFROM THAT PORTION OF SAID LAND CONVEYED TO K. HOVNANIAN COMPANIES OF SOUTHERN CALIFORNIA, INC., A CALIFORNIA CORPORATION BY GRANT DEED RECORDED MARCH 16, 2000 AS INSTRUMENT NO. 2000-096935 OF OFFICIAL RECORDS.

PARCEL 6:

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 6 WEST, AS SHOWN BY SECTIONALIZED SURVEY OF THE JURUPA RANCHO, IN THE CITY OF NORCO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 9, PAGE 33 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY;

EXCEPT THE WESTERLY 60.00 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31.

END OF LEGAL DESCRIPTION

SCHEDULE B

At the date hereof, items to be considered and exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

A. Property taxes, including any assessments collected with taxes, for the fiscal year 2010 - 2011 that are a lien not yet due.

B. Said land is shown as exempt on the Riverside County Tax Roll for the fiscal year 2009-2010

Assessors Parcel Number: 152-060-004-0, 152-060-011-6, 152-070-001-8, 152-070-011-7 & 152-070-002-9

C. Said property has been declared tax defaulted for non-payment of delinquent taxes for fiscal year 2001 - 2002.

Amounts to redeem for the above stated fiscal year (and subsequent years, if any) are:

Amount:	$72,765.22 By January 2008
Amount:	$73,356.61 By February 2008
Affects:	Parcel 6

D. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Part 0.5, Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring prior to date of policy.

1. The rights of the public in and to that portion of the herein described Land lying within the boundaries of any road, street or highway.

2. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Reserved by:	Stearns Ranchos Company and Jurupa Land and Water Company
Affects:	rights of way for ditches, canals or pipelines for irrigation of any other lands in the Jurupa Rancho, or for supplying of the main canal with water, provided that said ditches shall, when practicable, follow the lines of the surveyed subdivisions of the Jurupa Rancho

The exact location and extent of said easement is not disclosed of record.

SCHEDULE B
(continued)

3. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	Either or Both Pole Lines, Conduits or Underground Facilities
Recorded:	June 09, 1913 as Instrument No. Book 377, Page 99 of Deeds
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

4. INTENTIONALLY DELETED

5. The Right of Ingress and Egress on Said Property Necessary or Required for The Property Maintenance, Repair and operation of water well and the Pump or Pumps therefor as granted to John a, Summerfield and Linda C. Summerfield, husband and wife, as joint tenants.

6. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	Public Utilities
Recorded:	October 15, 1948 as Instrument No. Book 1019, Page 233 of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

7. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	Electric Lines, Telephone Lines, and Cables
Recorded:	February 10, 1953, as Instrument No. Book 1440, Page 326 of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

8. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	Electric Lines, Telephone Lines, and Cables
Recorded:	June 17, 1970 as Instrument No. 57617 of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

SCHEDULE B
(continued)

9. INTENTIONALLY DELETED

10. The fact that the ownership of said land does not include rights of access to or from the street, highway, or freeway abutting said land, such rights having been relinquished by that certain document

Recorded:	September 10, 1986 as Instrument No. 220516, of Official Records
Affects:	That portion of said land as described in the document attached hereto.

11. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	Public Utilities
Recorded:	November 19, 1987 as Instrument No. 331830 of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

12. INTENTIONALLY DELETED

13. The Effect of a Lot Line Adjustment No. 4204, Recorded February 29, 2000 as Instrument no. 2000-073632, Official Records.

14. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Purpose:	Public Utilities
Recorded:	August 04, 2001 as Instrument No. 2001-248042 of Official Records
Affects:	That portion of said land as described in the document attached hereto.

Reference is hereby made to said document for full particulars.

SCHEDULE B
(continued)

15. Covenants, conditions and restrictions (but omitting any covenant or restrictions, if any, based upon on race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law) as set forth in the document

    Recorded: June 14, 2002 as Instrument No. 2002-328613, and July 6, 2004 as Instrument No. 521744, both of Official Records

    Note: Section 12956.1 of the government code provides the following: "If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

16. INTENTIONALLY DELETED

17. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

    Purpose: Sewer Pipeline, Together with Easement Roads and Appurtenances, Cable for Communication Purposes and Ingress and Egress
    Recorded: December 06, 2004 as Instrument No. 2004-0967499 of Official Records
    Affects: That portion of said land as described in the document attached hereto.

18. INTENTIONALLY DELETED.

19. INTENTIONALLY DELETED

20. INTENTIONALLY DELETED

21. INTENTIONALLY DELETED

22. INTENTIONALLY DELETED

END OF SCHEDULE B

INFORMATIONAL NOTES

Note No. 1: Section 12413.1, California Insurance Code became effective January 1, 1990. This legislation regulates the disbursement of funds deposited with any title entity acting in an escrow or sub-escrow capacity. The law requires that all funds be deposited and collected by the title entity's escrow and/or sub-escrow account prior to disbursement of any funds. Some methods of funding may be subject to a holding period, which must expire before any funds may be disbursed. In order to avoid any such delays, all funding should be done via wire transfer. Funds deposited with the Company via wire transfer may be disbursed upon receipt. Funds deposited by cashiers checks, certified checks, and teller's checks is one business day after the day deposited. Other checks may require hold periods from two to five business days after the day deposited, and may delay your closing. The Company may receive benefits from such banks based upon the balances in such accounts. Such benefits will be retained by the Company as part of its compensation for handling such funds.

Note No. 2: The charge where an order is cancelled after the issuance of the report of title, will be that amount which in the opinion of the Company is proper compensation for the services rendered or the purpose for which the report is used, but in no event shall said charge be less that the minimum amount required under Section 12404.1 of the Insurance Code of the State of California. If the report cannot be cancelled "no fee" pursuant to the provisions of said Insurance Code, then the minimum cancellation fee shall be that permitted by law.

Note No. 3: California Revenue and Taxation Code Section 18668, effective January 1, 1991, requires that the buyer in all sales of California Real Estate, withhold 3-1/3% of the total sales price as California State Income Tax, subject to the various provisions of the law as therein contained, and as amended.

Note No. 4: Wire Transfers

In the event your transaction is being escrowed by a Chicago Title office, contact should be made with the office to obtain correct wiring instructions. Failure to do so could result in a delay in the receipt of funds and subsequent closing of your transaction.

Chicago Title will disburse by wire-out only collected funds or funds received by confirmed wire-in.

The Company's wire-in instructions are:

Bank:	Union Bank 2001 Michelson Drive. Irvine, CA 92714
Bank ABA No.:	122000496
Account Name:	Chicago Title Company, C&I/Subdivision-Inland
Account No.:	9120052850
For Credit To:	Chicago Title Company 560 East Hospitality Lane San Bernardino, CA 92408
Order No.:	820035005-K26

INFORMATIONAL NOTES
(continued)

LENDER NOTE: On the DATE you fund the Loan and WIRE Funds to Chicago Title and reference the above Order Number, you must send written NOTICE to the Title Officer's Unit by messenger or E-Mail that you sent the Funds.

Chicago Title will send an E-Mail acknowledging receipt of the funds as soon as practicable.

Chicago Title will NOT be responsible for any delay in Closing and Recording the transaction, nor will Chicago Title be liable for any claim of lost Interest unless such written Notice is sent the day of Funding and Chicago Title has acknowledged receipt of funds.

Note No. 5: Your application for title insurance was placed by reference to a street address or assessor's parcel number. Based upon our records, we believe that the description in this report covers the parcel that you requested.

To prevent errors, we require written confirmation that the legal description contained herein covers the parcel that you requested.

Note No. 6: The plat, (map), which is attached to this report, is to assist you in locating land with reference to streets and other parcels. While this plat is believed to be correct, the Company assumes no liability for any loss occurring by reason of reliance thereon.

Note No. 7: The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance coverage.

Note No. 8: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the amount, if any, set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.

INFORMATIONAL NOTES
(continued)

ATTACHMENT ONE

PRIVACY STATEMENT

IMPORTANT INFORMATION:

For those of you receiving this report by electronic delivery the Privacy Statement and Exclusions From Coverage are linked to this report. Please review this information by selecting the link. For those of you who are receiving a hard copy of this report, a copy of this information has been submitted for your review.

EXHIBIT D-2

PERMITTED TITLE EXCEPTIONS

[Attached as the immediately following page.]

SCHEDULE B

At the date hereof, items to be considered and exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

A. Property taxes, including any assessments collected with taxes, for the fiscal year 2010 - 2011 that are a lien not yet due.

B. Said land is shown as exempt on the Riverside County Tax Roll for the fiscal year ~~2009-2010~~ 2010 - 2011

Assessors Parcel Number: 152-060-004-0, 152-060-011-6, 152-070-001-8, 152-070-011-7 & 152-070-002-9

C. ~~Said property has been declared tax defaulted for non-payment of delinquent taxes for fiscal year 2001 – 2002.~~

~~Amounts to redeem for the above stated fiscal year (and subsequent years, if any) are:~~

~~Amount: $72,765.22 By January 2008~~
~~Amount: $73,356.61 By February 2008~~

~~Affects: Parcel 6~~

D. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Part 0.5, Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring ~~prior to~~ after the date of policy.

1. The rights of the public in and to that portion of the herein described Land lying within the boundaries of any road, street or highway.

2. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

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Affects:	rights of way for ditches, canals or pipelines for irrigation of any other lands in the Jurupa Rancho, or for supplying of the main canal with water, provided that said ditches shall, when practicable, follow the lines of the surveyed subdivisions of the Jurupa Rancho

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SCHEDULE B
(continued)

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Purpose:	Either or Both Pole Lines, Conduits or Underground Facilities
Recorded:	June 09, 1913 as Instrument No. Book 377, Page 99 of Deeds
Affects:	That portion of said land as described in the document attached hereto.

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