



**SUBMITTAL TO THE BOARD OF DIRECTORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

351



FROM: Regional Park & Open-Space District

SUBMITTAL DATE:

4/4/11

SUBJECT: Approval of Lease Agreement between Riverside County Regional Park & Open-Space District and Cleveland Farms Inc.

RECOMMENDED MOTION: That the Board of Directors approves and:

1. Authorizes the Lease Agreement between the Riverside County Regional Park & Open-Space District (District) and Cleveland Farms Inc;
2. Authorizes the Chair to execute three (3) originals of the lease agreement on behalf of the District;
3. Directs the Clerk of the Board to return two (2) originals for the District to distribute; and
4. Authorizes the General Manager, or designee, to perform all duties necessary to administer the Lease Agreement.

BACKGROUND: (Continued on page 2)

Scott Bangle, General Manager

2011-028D-JS

FINANCIAL DATA N/A	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:

Positions To Be Deleted Per A-30

Requires 4/5 Vote

C.E.O. RECOMMENDATION:

APPROVE

BY:
Alex Gann

County Executive Office Signature

- Consent
- Policy
- Consent
- Policy

MINUTES OF THE REGIONAL PARK AND OPEN SPACE DISTRICT

On motion of Commissioner Benoit, seconded by Commissioner Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: April 26, 2011
 xc: Parks

Kecia Harper-Ihem
Clerk of the Board

By:
Deputy

DISTRICT

13.1

Prev. Agn. Ref. ATTACHMENTS FILED District: II
WITH THE CLERK OF THE BOARD

Agenda Number:

FORM APPROVED COUNTY COUNSEL
BY:
DATE: 4-12-11
SYNTHIA M. GUNZEL
Departmental Concurrence

Dept's Recomm.:
Per Exec. Ofc.:



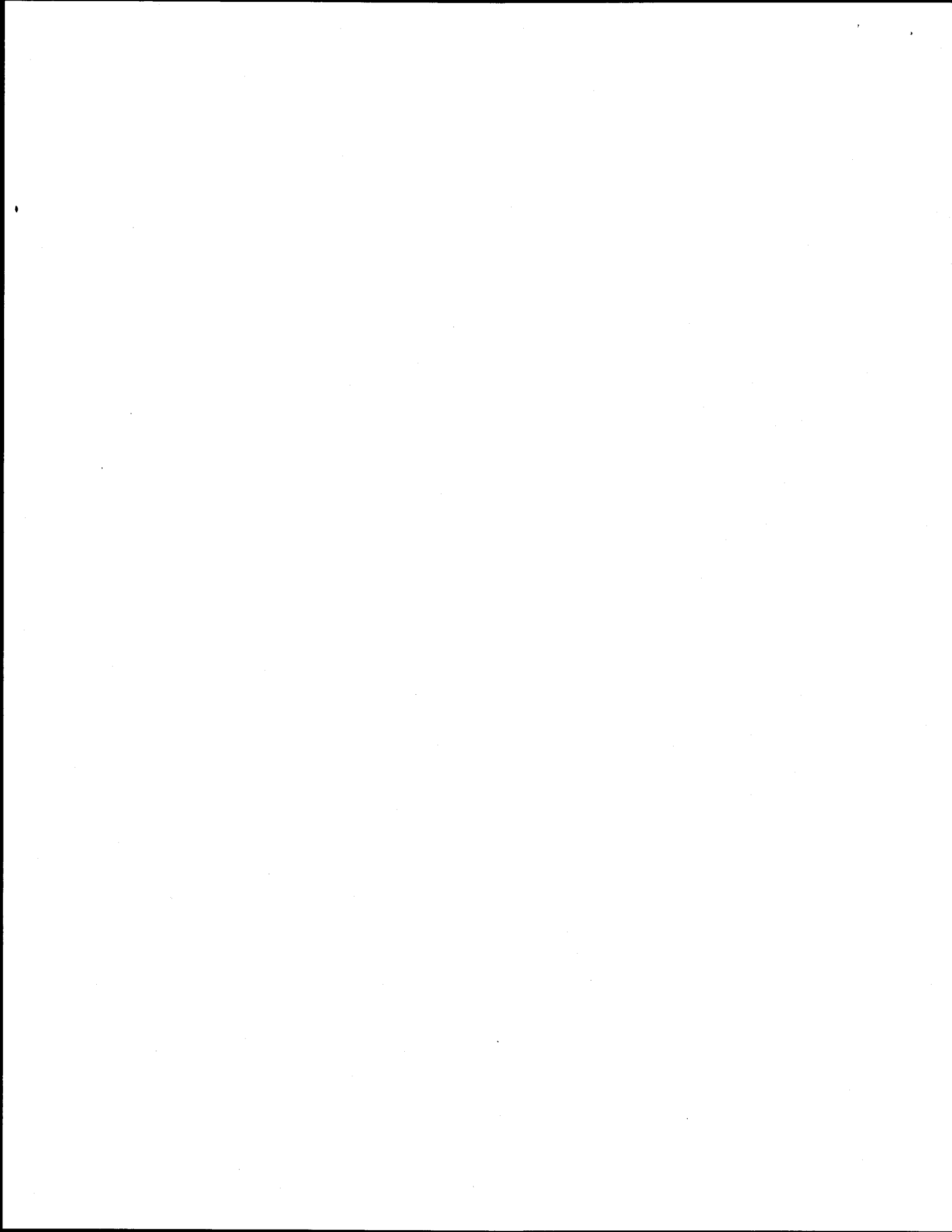
SUBJECT: Approval of Lease Agreement between Riverside County Regional Park & Open-Space District and Cleveland Farms Inc.

BACKGROUND: On May 28, 1974, by resolution, the Board of Supervisors approved the agreement between the County of Riverside, State of California, Department of Fish & Game for the operation and maintenance of 171 acres of land in the Santa Ana River Regional Park, identified as Hidden Valley Wildlife Area. Term of the agreement is fifty (50) years, ending on May 27, 2024.

On May 28, 1975, by resolution, the Board of Supervisors authorized execution of Amendment No. 1 to the lease with the State of California for the premises known as Hidden Valley Wildlife Park for the purposes of grazing and farming. Terms of this agreement require the District to plant a minimum of fifty (50) acres of grain forage for the migrating Great Basin Canada Geese.

As an ongoing project, the District solicited bids for qualified farmers for the farming lease of the Hidden Valley Wildlife Area. Only one (1) farmer responded and is a qualified bidder. Due to the difficulty in attracting farmers to the Hidden Valley Wildlife Area, it was not surprising that the District did not receive a larger response. A good faith effort was made to receive bids but, unfortunately most were not interested.

The term of the lease agreement is for a period of one (1) year. This lease agreement shall automatically renew each year unless terminated earlier pursuant to the terms of the Lease.



Subject/Property: Hidden Valley Wildlife Area
Parties: Riverside County Regional Park & Open Space District and Cleveland Farms Inc
Date: March 14, 2011

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

LEASE AGREEMENT
for
THE HIDDEN VALLEY WILDLIFE AREA

Between

**RIVERSIDE COUNTY REGIONAL
PARK & OPEN-SPACE DISTRICT**

And

CLEVELAND FARMS, INC.



GROUND LEASE

1 THIS GROUND LEASE ("Lease") is made as of _____, by and between
2 Riverside County Regional Park and Open-Space District, a park and open-space district,
3 ("Park District") and Cleveland Farms, Inc., a California corporation, ("Lessee").

4 1. Recitals.

5 A. By virtue of certain Agreement dated (May 28, 1976, as amended on
6 October 21, 1975, with the Department of Fish and Game, State of California, Park
7 District operates and maintains certain real property within District boundaries, known as
8 the Hidden Valley Wildlife Area, located at 11401 Arlington Ave, Riverside, CA 92505.

9 B. By virtue of Paragraph 16 of said Agreement, as amended, Park
10 District is authorized to permit farming and grazing of animals within the Hidden Valley
11 Wildlife Area.

12 2. Description.

13 A. The premises leased hereby consist of a portion of the Hidden
14 Valley Wildlife Area identified as Parcels A, B, C, D, E, F & G, ("Leased Premises"), as
15 more particularly shown on Exhibit "A", which is attached hereto and by this reference
16 made a part hereof. Leased Premises consists of approximately 164.31 farmable,
17 noncontiguous acres.

18 B. Upon written request from Lessee, the Leased Premises hereunder
19 may be increased subject to Park District's prior written consent.

20 3. Use of Land. The premises are leased hereby for the following purposes:

21 A. Farm on Parcels A, B, C, D, E, F & G; grazing is permitted upon
22 Park District written approval.

23 B. No storing of manure will be allowed on the site, although soil
24 amendments may be used by the Lessee. A request for such amendments must be made,
25 in writing, to the Park District. Such requests must include the source, nature, and

1 amount of material to be used. Any desired chemical amendments to soils will be
2 submitted, in writing, to the Park District for approval prior to their application.

3 C. Storing of farming equipment and machinery used in the current
4 farming operations shall be permitted in the area of the old maintenance building and
5 kennel. Storing of equipment not directly used at Hidden Valley Wildlife Area is not
6 allowed.

7 D. Spreading a maximum of twelve (12) tons of manure per acre per
8 year in the area used for farming; provided, however, that water quality considerations
9 may restrict this use.

10 4. **Period of Performance.** This Lease shall be effective upon execution of
11 this Lease Agreement by both parties ("Effective Date") and continue in effect through
12 February 28, 2012, this Lease Agreement shall automatically renew each year unless
13 terminated earlier pursuant to the terms of this Lease. Lessee shall commence
14 performance and use the property for the purposes permitted upon the Effective Date of
15 this Lease and shall diligently and continuously perform thereafter.

16 5. **Consideration.**

17 A. Maintenance of habitat for the Great Basin Canada Geese and
18 other waterfowl at Hidden Valley is of prime importance, especially since habitat will
19 continue to diminish as urbanization increases. Canada Geese are most numerous at
20 Hidden Valley between December and February as they are attracted to the barley crop
21 that is grown during the winter.

22 B. As part of the consideration for entering into this Lease, Lessee
23 shall provide and plant a minimum of 50 acres annually of field grain forage for
24 waterfowl within the Leased Premises consistent with said Area Management Plan
25 Exhibit B-1 (November 1977) and Exhibit B-2 (July 1995) between December 1 and
26 March 15 during the term of this Lease and any extension thereof.

27 C. In like manner, in the event that flooding or any other Act of God

1 renders the Leased Premises, or a portion thereof, unusable for farming and Lessee elects
2 to restore said premises, Lessee shall notify Park District in writing of Lessee's intention
3 and the cost of his restoration. Upon receipt of this information, Park District will advise
4 Lessee whether or not and to what extent the Park District will participate in the
5 restoration.

6 D. At all other times Lessee at its sole cost and expense and to the
7 satisfaction of Park District shall (a) maintain the premises and improvements in a clean
8 and good condition, (b) make all necessary repairs and improvements to include, but not
9 limited to, the restoration of the ponds, channels and existing irrigation systems to allow
10 for proper water flow and irrigation (c) make all repairs necessary to keep the
11 improvements in good operational condition and (d) at reasonable time intervals remove
12 all debris from the premises.

13 E. Lessee shall pay the Park District \$150.00 per acre per year as
14 follows: Parcel C: 27.61 acres @ \$150.00 per acre per year; Parcel D: 7.81 acres @
15 \$150.00 per acre per year; Parcel E: 19.56 acres @ \$150.00 per acre per year Parcel F:
16 26.89 @ 150.00 per acre per year. Parcel G: 32.44 acres is included and a part of this
17 Lease, however, Parcel G is considered additional farmable land and upon written
18 approval by both parties may be farmed for the amount of \$150.00 per acre. Parcel A:
19 23.78 acres and Parcel B: 26.22 acres for a total of 50 acres shall be farmed with grain
20 forage for the Great Basin Canada Geese. Payments shall be made on a semi-annual
21 basis with the first payment due on or before September 1, 2011 and second payment on
22 or before March 1, 2012. Amounts due at each "Payment Due Date" shall be calculated
23 using the unit amount multiplied by the number of acres specified above and any
24 additional farmable acreage approved as allowed in this paragraph including Parcel A and
25 Parcel B, if applicable.

26 F. Following the migratory season and upon written approval by both
27 parties, Lessee is free to harvest and (or) plant on Parcel A and Parcel B – total 50 acres

1 for its purposes in the amount of \$150.00 per acre, provided such crops are harvested in
2 time to allow planting and maturation of fodder for the following migratory season.
3 "Payment Due Date" for Parcel A & B shall be made on a semi-annual basis and included
4 with the payments as described in section "E" above.

5 G. Lessee shall remit all payments to:
6 Riverside County Regional Park & Open Space District
7 4600 Crestmore Road
8 Riverside, CA 92509

9 **6. Additional Work.**

10 A. In the event of additional work requested by the Park District, a
11 work request order by the Park District shall be provided to the contractor, work request
12 shall be approved, in writing by both parties. Work request shall include a detailed
13 description of work to be performed, date, hours and area. Work performed shall include
14 all labor, materials, equipment, transportation and necessary appurtenances required to
15 complete the work in its entirety and to the Park District's satisfaction.

16 B. Upon written request and approval (s) for services that include and
17 not limited to the maintenance of roads and paths, Park District shall pay Lessee
18 \$120.00 per hour for such services. The Park District shall not be liable for any
19 additional work performed without prior written approval by both parties.

20 **7. On-Site Improvements by Lessee.**

21 A. Any improvements, alterations or installation of fixtures to be
22 undertaken by Lessee shall have the prior written consent of Park District General
23 Manager after Lessee has submitted proposed plans for such alterations, improvements or
24 fixtures to Park District in writing. Such consent by Park District shall not be
25 unreasonably withheld. In addition, Lessee understands and agrees that such
26 improvements, alterations and installation of fixtures may be subject to Riverside County
27 Ordinance Nos. 348 and 457, as well as other applicable county ordinances, and that

1 Lessee shall fully comply with such ordinances prior to the commencement of any
2 construction in connection therewith.

3 B. All alterations and improvements to be made, and fixtures
4 installed, or caused to be made and installed, by Lessee shall become the property of Park
5 District with the exception of trade fixtures as such term is used in Section 1019 of the
6 Civil Code. Within ninety (90) days after the expiration of this Lease, Lessee may
7 remove such trade fixtures; provided, however, that such removal does not cause injury
8 or damage to the Leased Premises, or in the event it does, Lessee shall restore the
9 premises to their original shape and condition as nearly as practicable. In the event such
10 trade fixtures are not removed, Park District may, at its election, either: (1) remove and
11 store such fixtures and restore the premises for the account of Lessee, and in such event,
12 Lessee shall within thirty (30) days after billing and accounting therefore reimburse Park
13 District for the costs so incurred, or (2) take and hold such fixtures as its sole property.

14 **8. Maintenance.** Lessee shall maintain the Leased Premises and the
15 improvements thereon in a neat, safe, orderly and attractive condition and in good
16 working condition and repair. Lessee shall provide for the sanitary handling and disposal
17 of all refuse accumulated as a result of Lessee's use of the Leased Premises. Lessee shall
18 not undertake any improvements without providing Park District with all required
19 approvals by any government agency.

20 **9. Inspection of Premises.** Park District, through its duly authorized agents,
21 shall have, at any time during normal business hours, the right to enter the Leased
22 Premises for the purpose of inspecting, monitoring and evaluating the obligations of
23 Lessee hereunder and for the purpose of doing any and all things which it is obligated and
24 has a right to do under this Lease **Park Setting.** Lessee understands that Hidden Valley
25 Wildlife Area is a public park, and as such, is responsible for insuring any and all park
26 visitors will be free from unsafe conditions by virtue of the farming operations. Such
27 safety issues could include, but are not limited to, maintaining safety fencing and barriers

1 around water catchment basins and the safe operations of vehicles and equipment.

2 **10. Water.**

3 A. Although it is expected that water is available for farming
4 operations, no guarantee is hereby made, expressed or implied, as to the availability of
5 water. Any improvements made for water delivery for farming operations will be made
6 at the sole expense of the Lessee. Lessee understands that water cannot be withdrawn at
7 such a rate as to cause visitor ponds to dry-up or become substantially reduced.

8 **11. On-Site Residence.** Lessee is encouraged to have one of its employees

9 live on the premises for security purposes. Only one such strategically located residence
10 may be used, solely at the option of Lessee. Residence, if used, must be portable, must
11 be free of serious defects or dangerous conditions and comply with all applicable State
12 and local health, safety, sanitation and habitability standards. There must be adequate
13 water supply and liquid/solid waste removal systems available and in use at all times.
14 Resident must dispose of all household trash on a regular basis.

15 **12. Protection & Damage.** The Lessee shall be responsible for the protection

16 of all existing vegetation, equipment and facilities and shall, at his/her own expense,
17 repair or restore any damages caused by the actions or negligence of his/her employees,
18 within a 48 hour period. If he fails or refuses to make such repairs or restorations, the
19 Park District may have the work accomplished under separate contract and require the
20 Lessee to pay for such damages. The Lessee shall take all precautions necessary for the
21 protection against injury of all persons engaged at the site in the performance of the
22 contract. He shall observe all pertinent safety practices and comply with any applicable
23 safety regulations.

24 **13. Communication.** Lessee shall contact on the first day of each month, the

25 onsite Park District Ranger or Manager to apprise them of the current conditions and
26 situations relevant to the Farming operations.

27 **14. Compliance with Government Regulations.** Lessee shall, at Lessee's sole

1 cost and expense, comply with the requirements of all local, state and federal statutes,
2 regulations, rules, ordinances and orders now in force or which may be hereafter in force,
3 pertaining to the Leased Premises. The final judgment, decree or order of any Court of
4 competent jurisdiction, or the admission of Lessee in any action or proceedings against
5 Lessee, whether Lessee be a party thereto or not, that Lessee has violated any such
6 statutes, regulations, rules, ordinances, or orders, in the use of the Leased Premises, shall
7 be conclusive of that fact as between Park District and Lessee.

8 **15. Financial Report.**

9 A. Not later than July 30 of each year during the term of this Lease,
10 and any extension thereof, and within thirty (30) days after the termination of this Lease,
11 Lessee shall submit a financial report to Park District based on accounting records and
12 supporting documents for the preceding Lease year relating to farming operations on
13 Leased Premises, and such report shall include, without limitation, market value and
14 tonnage of all crops harvested and the cost of operating such uses.

15 B. Park District and State of California shall have the right to
16 examine, inspect and audit such accounting records and supporting documents referred to
17 in Paragraph 16(a) above subject to reasonable notice, in writing, to Lessee.

18 **16. Non-Discrimination.** Lessee shall not discriminate in the provision of
19 services, allocation of benefits, accommodation in facilities, or employment of personnel
20 on the basis of ethnic group identification, act, religious creed, color, national origin,
21 ancestry, physical handicap, medical condition, marital status or sex in the performance
22 of this Lease, and, to the extent they shall be found to be applicable hereto, shall comply
23 with the provision of the California Fair Employment Practices Act (commencing with
24 Section 1410 of the Labor Code), the Federal Civil Rights Act of 1964 (P.L. 88-352), and
25 the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.).

1 **17. Termination by Park District.** Park District shall have the right to
2 terminate this Lease forthwith:

3 A. In the event a petition is filed for voluntary or involuntary
4 bankruptcy for the adjudication of LEASE as a debtor.

5 B. In the event that Lessee makes a general assignment or Lessee's
6 interest hereunder is assigned involuntarily or by operation of law, for the benefit of
7 creditors.

8 C. In the event of abandonment of the Leased Premises by Lessee.

9 D. In the event Lessee fails or refuses to perform, keep or observe any
10 of Lessee's duties or obligations hereunder except its rental obligations; provided,
11 however, that Lessee shall have thirty (30) days in which to correct Lessee's breach or
12 default after written notice thereof has been served on Lessee by Park District.

13 E. In the event Lessee fails, or refuses, to meet its rental obligations,
14 or any of them, hereunder or as otherwise provided by law.

15 **18. Termination by Lessee.**

16 A. Lessee shall have the right to terminate this Lease in the event Park
17 District fails to perform, keep or observe any of its duties or obligations hereunder;
18 provided, however, that Park District shall have thirty (30) days in which to correct its
19 breach or default after written notice thereof has been served on it by Lessee; provided,
20 further, however, that in the event such breach or default is not corrected, Lessee may
21 elect to terminate this Lease in its entirety or as to any portion of the premises affected
22 thereby, and such election shall be given by an additional fifteen (15) days' written notice
23 to Park District.

24 B. In the event any future modifications or changes to the Area
25 Management Plan (Exhibit B) disrupts, or otherwise interferes, with Lessee's uses of the
26 Leased Premises to the extent that it cannot conduct such uses in a reasonably,
27 commercial manner, Lessee may terminate this Lease subject to thirty (30) days' written

1 notice thereof to Park District.

2 **19. Eminent Domain.** If any portion of the Leased Premises shall be taken
3 by eminent domain and a portion thereof remains which is usable by Lessee for the
4 purposes set forth in Paragraph 3 herein, this Lease shall, as to the part taken, terminate
5 as of the date title shall vest in the condemnor, or the date prejudgment possession is
6 obtained through a court of competent jurisdiction, whichever is earlier, and the rent
7 payable hereunder shall abate pro rata as to the part taken; provided, however, in such
8 event Park District reserves the right to terminate this Lease as of the date when title to
9 the part taken vests in the condemnor or as of such date of prejudgment possession. If all
10 of the Leased Premises are taken by eminent domain or such part to be taken so that the
11 Leased Premises are rendered unusable for the purposes set forth in Paragraph 3 herein,
12 this Lease shall terminate. If a part or all of the Leased Premises be so taken, all
13 compensation awarded upon such taking shall be payable to Park District and Lessee
14 shall have no claim thereto, and the Lessee hereby assigns to Park District any right to
15 compensation for damages, or both, to which Lessee may be entitled by reason of such
16 taking.

17 **20. Continuation of Lease after Abandonment.** In the event that Lessee has
18 abandoned the Leased Premises, this Lease shall continue in effect for so long as Park
19 District does not terminate Lessee's right to possession and Park District may enforce all
20 of its rights and remedies under this Lease, including, but not limited to, the right to
21 recover rent as it becomes due hereunder. For the purposes of this Paragraph 19, acts of
22 maintenance or preservation or efforts by Park District to relet the premises, or the
23 appointment of a receiver or initiative of Park District to protect its interest under this
24 Lease do not constitute a termination of Lessee's right to possession.

25 **21. Hold Harmless.**

26 A. Lessee shall indemnify and hold harmless the Park District, County
27 of Riverside, its Agencies, Districts, Special Districts and Departments, their respective

1 directors, officers, Board of Supervisors, elected and appointed officials, employees,
2 agents and representatives from any liability, claim, damage or action whatsoever, based
3 or asserted upon any act or omission of Lessee, its officers, employees, sublessees, agents
4 or representatives arising out of or in any way relating to this Lease, including but not
5 limited to property damage, bodily injury, or death. Lessee shall defend, at its sole cost
6 and expense, including but not limited to attorney fees, cost of investigation, defense and
7 settlements or awards, the Park District, County of Riverside, its Agencies, Districts,
8 Special Districts and Departments, their respective directors, officers, Board of
9 Supervisors, elected and appointed officials, employees, agents and representatives in any
10 such action or claim. With respect to any action or claim subject to indemnification
11 herein by Lessee, Lessee shall, at its sole cost, have the right to use counsel of its own
12 choice and shall have the right to adjust, settle, or compromise any such action or claim
13 without the prior consent of Park District; provided, however, that any such adjustment,
14 settlement or compromise in no manner whatsoever limits or circumscribes Lessee's
15 indemnification of Park District. Lessee's obligations hereunder shall be satisfied when
16 Lessee has provided to Park District the appropriate form of dismissal (or similar
17 document) relieving the Park District from any liability for the action or claim involved.
18 The specified insurance limits required in this Lease shall in no way limit or circumscribe
19 Lessee's obligations to indemnify and hold harmless the Park District.

20 B. In the event there is conflict between this clause and California
21 Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782.
22 Such interpretation shall not relieve the Lessee from indemnifying the Park District to the
23 fullest extent allowed by law.

24 **22. Insurance.**

25 A. Without limiting or diminishing the Lessee's obligation to
26 indemnify or hold the Park District harmless, Lessee shall procure and maintain or cause

1 to be procured and maintained, at its sole cost and expense, the following insurance
2 coverages during the term of this Lease:

3 **B. Workers' Compensation** - If the Lessee has employees as
4 defined by the State of California, the Lessee shall maintain statutory Workers'
5 Compensation Insurance (Coverage A) as prescribed by the laws of the State of
6 California. Policy shall include Employers' Liability (Coverage B) including
7 Occupational Disease with limits not less than **\$1,000,000** per person per accident. The
8 policy shall be endorsed to waive subrogation in favor of the PARK DISTRICT , and, if
9 applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

10 **C. Commercial General Liability** - Commercial General Liability
11 insurance coverage, including but not limited to, premises liability, contractual liability,
12 products and completed operations liability, personal and advertising injury, and cross
13 liability coverage, covering claims which may arise from or out of Lessee's performance
14 of its obligations hereunder. Policy shall name the Park District, its directors, officers,
15 employees, elected or appointed officials, agents or representatives as Additional
16 Insureds. Policy's limit of liability shall not be less than \$1,000,000 per occurrence
17 combined single limit. If such insurance contains a general aggregate limit, it shall apply
18 separately to this Lease or be no less than two (2) times the occurrence limit.

19 **D. Vehicle Liability** - If vehicles or mobile equipment are used in
20 the performance of the obligations under this Lease, then Lessee shall maintain liability
21 insurance for all owned, non-owned or hired vehicles so used in an amount not less than
22 \$1,000,000 per occurrence combined single limit. If such insurance contains a general
23 aggregate limit, it shall apply separately to this Lease or be no less than two (2) times the
24 occurrence limit. Policy shall name the Park District, its directors, officers, employees,
25 elected or appointed officials, agents or representatives as Additional Insureds.

26 **E. Professional Liability Insurance** - If applicable, Lessee shall
27 maintain Professional Liability Insurance providing coverage for the Lessee's

1 performance of work included within this Lease, with a limit of liability of not less than
2 \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Lessee's Professional
3 Liability Insurance is written on a claims made basis rather than an occurrence basis,
4 such insurance shall continue through the term of this Lease and Lessee shall purchase at
5 his sole expense either (i) an Extended Reporting Endorsement (also known as Tail
6 Coverage); or (ii) Prior Dates Coverage from new insurer with a retroactive date back to
7 the date of, or prior to, the inception of this Lease; or (iii) demonstrate through
8 Certificates of Insurance that Lessee has maintained continuous coverage with the same
9 or original insurer. Coverage provided under items; (i), (ii) or (iii) will continue for a
10 period of five (5) years beyond the termination of this Lease.

11 **F. General Insurance Provisions - All lines**

12 1) Any insurance carrier providing insurance coverage
13 hereunder shall be admitted to the State of California and have an A M BEST rating of
14 not less than A: VIII (A:8) unless such requirements are waived, in writing, by the Park
15 District's Risk Manager. If the Park District's Risk Manager waives a requirement for a
16 particular insurer such waiver is only valid for that specific insurer and only for one
17 policy term.

18 2) The Lessee's insurance carrier(s) must declare its insurance
19 self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence
20 such retentions shall have the prior written consent of the Park District Risk Manager
21 before the commencement of operations under this Lease. Upon notification of self
22 insured retention unacceptable to the Park District, and at the election of the Park
23 District's Risk Manager, Lessee's carriers shall either; 1) reduce or eliminate such self-
24 insured retention as respects this Lease with the Park District, or 2) procure a bond which
25 guarantees payment of losses and related investigations, claims administration, and
26 defense costs and expenses.

1 3) Lessee shall cause Lessee's insurance carrier(s) to furnish
2 the Park District with either 1) a properly executed original Certificate(s) of Insurance
3 and certified original copies of Endorsements effecting coverage as required herein, and
4 2) if requested to do so orally or in writing by the Park District's Risk Manager, provide
5 original certified copies of policies including all Endorsements and all attachments
6 thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and
7 policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30)
8 days written notice shall be given to the Park District prior to any material modification,
9 cancellation, expiration or reduction in coverage of such insurance. In the event of a
10 material modification, cancellation, expiration, or reduction in coverage, this Lease shall
11 terminate forthwith, unless the Park District receives, prior to such effective date, another
12 properly executed original Certificate of Insurance and original copies of endorsements
13 or certified original policies, including all endorsements and attachments thereto
14 evidencing coverage's set forth herein and the insurance required herein is in full force
15 and effect. *Lessee shall not commence operations until the Park District has been*
16 *furnished original Certificate (s) of Insurance and certified original copies of*
17 *endorsements and if requested, certified original policies of insurance including all*
18 *endorsements and any and all other attachments as required in this Section. An*
19 *individual authorized by the insurance carrier to do so on its behalf shall sign the*
20 *original endorsements for each policy and the Certificate of Insurance.*

21 4) It is understood and agreed to by the parties hereto that the
22 Lessee's insurance shall be construed as primary insurance, and the Park District's
23 insurance and/or deductibles and/or self-insured retention's or self-insured programs shall
24 not be construed as contributory.

25 5) If, during the term of this Lease or any extension thereof,
26 there is a material change in the scope of services; or, there is a material change in the
27 equipment to be used in the performance of the scope of work or use of the Leased

1 Premises which will add additional exposures (such as the use of aircraft, watercraft,
2 cranes, etc.); or, the term of this Lease, including any extensions thereof, exceeds five (5)
3 years the Park District reserves the right to adjust the types of insurance required under
4 this Lease and the monetary limits of liability for the insurance coverage's currently
5 required herein, if; in the Park District's Risk Manager's reasonable judgment, the
6 amount or type of insurance carried by the Lessee has become inadequate.

7 6) Lessee shall pass down the insurance obligations contained
8 herein to all tiers of subcontractors or authorized assignees working under this Lease.

9 7) The insurance requirements contained in this Lease may be
10 met with a program(s) of self-insurance acceptable to the Park District.

11 8) Lessee agrees to notify Park District of any claim by a third
12 party or any incident or event that may give rise to a claim arising from the performance
13 of this Lease.

14 23. **Assignment.** Lessee cannot assign, sublet, mortgage, hypothecate or
15 otherwise transfer in any manner any of its rights, duties or obligations hereunder to any
16 person or entity without the written consent of Park District being first obtained.

17 24. **Toxic Materials.**

18 A. Hazardous or Toxic Material and Environmental Impacts. Lessee
19 shall not store or allow toxic or hazardous materials in areas that may affect the Leased
20 Premises, including the surrounding County owned and riparian lands, except in
21 quantities permitted by applicable law and in accordance with applicable law. If Lessee
22 breaches the obligations stated herein, or if contamination by toxic materials otherwise
23 occurs for which Lessee is legally liable to Park District for damage resulting there from,
24 then Lessee shall indemnify, defend with counsel approved in writing by Park District,
25 and hold Park District and County harmless from any and all claims, attorneys' fees,
26 consultant fees, and expert witness fees that arise during or after the term of this Lease as
27 a result of such contamination. This indemnification includes, without limitation, costs

1 and penalties paid, if any, any cleanup, remediation, removal, or restoration work
2 required by any federal, state, or local governmental entity because of toxic or hazardous
3 materials being present in the soil or ground water and the presence of such materials in
4 the soil or ground water is determined to be proximately caused by the acts or omissions
5 of the Lessee, its indemnities, Lessees or guest. Lessee shall promptly take all actions at
6 its sole cost and expense as are necessary to clean, remove and restore the Leased
7 Premises to the condition prior to the introduction of such toxic or hazardous materials by
8 Lessee, provided Lessee shall first have obtained Park District's approval and the
9 approval of any necessary governmental entities.

10 B. Lessee may not use any chemicals or other substances in
11 connection with the uses contemplated hereunder until Lessee first obtains approval, in
12 writing, from Park District's General Manager, after Lessee has furnished Park District
13 with a list of such chemicals and/or substances.

14 C. Compliance with Government Regulations. Lessee shall, at
15 Lessee's sole cost and expense, comply with and abide by all federal, state, county,
16 municipal and other governmental statutes, ordinances, laws and regulations affecting the
17 Leased Premises, or any activity or condition on or in the Leased Premises.

18 D. Lessee agrees that it will not commit or permit waste upon the
19 Leased Premises.

20 **25. Free from Liens.** Lessee shall not encumber, create a lien, mortgage or
21 otherwise encumber the Leased Premises. Lessee shall promptly discharge or remove by
22 bond or otherwise prior to foreclosure thereof, any and all mechanics', materialmen's and
23 other liens for work or labor done, services performed, materials, appliances, teams or
24 power contributed, used or furnished to be used in or about the Leased Premises for or in
25 connection with any operations of Lessee, any alterations, improvements, repairs or
26 additions which Lessee may make or permit or cause to be made, or any work or
27 construction by, for or permitted by Lessee on or about the Leased Premises, and to save

1 and hold Park District and all of the Leased Premises and all buildings and improvements
2 thereon free and harmless of and from any and all such liens and claims of liens and suits
3 or other proceedings pertaining thereto.

4 **26. Employees and Agents of Lessee.** It is understood and agreed that all
5 persons hired and engaged by Lessee shall be considered to be employees of agents of
6 Lessee and not of the Park District.

7 **27. Binding on Successors.** Lessee, its assigns and successors in interest,
8 shall be bound by all the terms and conditions contained in this Lease, and all of the
9 parties thereto shall be jointly and severally liable hereunder.

10 **28. Waiver of Performance.** No waiver by Park District at any time of the
11 terms and conditions of this Lease shall be deemed or construed as a waiver at any the
12 thereafter of the same or of any other terms or conditions contained herein or of the strict
13 and timely performance of such terms and conditions.

14 **29. Severability.** The invalidity of any provision in this Lease as determined
15 by a Court of competent jurisdiction shall in no way affect the validity of any other
16 provision hereof.

17 **30. Venue.** Any action at law or in equity brought by either of the parties
18 hereto for the purpose of enforcing a right or rights provided for by this Lease shall be
19 tried in a Court of competent jurisdiction in the County of Riverside, State of California,
20 and the parties hereby waive all provision of law providing for a change of venue in such
21 proceedings to any other County.

22 **31. Attorneys' Fees.** In the event of any litigation between Lessee and Park
23 District to enforce any of the provisions of this Lease or any right of either party hereto,
24 the unsuccessful party to such litigation agrees to pay to the successful party all
25 reasonable costs and expenses, including reasonable attorneys' fees, incurred therein by
26 the successful party, all of which shall be included in and as a part of the judgment or
27 award rendered in such litigation.

1 **32. Notices.** Any notices required or desired to be served by either party upon
2 the other shall be addressed to the respective parties as set forth below:

3 PARK DISTRICT	4 LESSEE
5 Riverside County Regional Park	6 Cleveland Farms Inc.
7 & Open-Space District	8 16379 Chino-Corona Road
9 4600 Crestmore Road	10 Chino, CA 91708
11 Riverside, CA 92509-6858	

12 **33. Permits, Leases and Taxes.** Lessee shall secure, at its expense, all
13 necessary permits and leases as it may be required to obtain and Lessee shall pay for all
14 fees and taxes levied or required by any authorized public entity. Lessee recognizes and
15 understands that this Lease may create a possessory interest subject to property taxation
16 and that Lessee may be subject to the payment of property taxes levied on such interest.

17 **34. Paragraph Headings.** The paragraph headings herein are for the
18 convenience of the parties only, and shall not be deemed to govern, limit, modify or in
19 any manner affect the scope, meaning or intent of the provisions or language of this
20 Lease.

21 **35. Park District's Representative.** Park District hereby appoints the Park
22 District General Manager, or his designee, as its authorized representative to administer
23 this Lease.

24 **36. Entire Lease.** This Lease is intended by the parties hereto as a final
25 expression of their understanding with respect to the subject matter hereof and as a
26 complete and exclusive statement of the terms and conditions thereof and supersedes any
27 and all prior and contemporaneous leases, agreements and understanding, oral or written,
in connection therewith. This Lease may be changed or modified only upon the written
consent of the parties hereto.

1 IN WITNESS WHEREOF, the parties hereto have caused their duly authorized
2 representatives to execute this Lease.

WHEN DOCUMENT IS FULLY EXECUTED RETURN
CLERK'S COPY
to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147
Thank you.

4 **PARK DISTRICT**
5 Riverside County Regional Park
6 & Open-Space District
7 4600 Crestmore Road
8 Riverside, CA 92509

LESSEE
Cleveland Farms Inc.,
16379 Chino-Corona Road
Chino, CA 91708

9
10 Signature: *John J. Benoit*
11 Print Name: **JOHN J. BENOIT**
12 Title: Chairman, Board of Directors
13 Dated: APR 26 2011

Signature: _____
Print Name: _____
Title: _____
Dated: _____

14 ATTEST:
15 KECIA HARPER-IHEM, Clerk
16 By *Kecia Harper-Ihem*
DEPUTY

17
18 APPROVED AS TO FORM:
19 COUNTY COUNSEL
20 Pamela J. Walls

21
22 By: *Synthia M. Gunzel*
23 **Synthia M. Gunzel**
24 **Deputy County Counsel**

